



**NSW Department of Industry
Liquor & Gaming NSW**

APPLICATION NO:	APP-0004265038
APPLICATION FOR:	Liquor – on-premises licence for a theatre, cinema public entertainment and music venue with restaurant and catering service Consumption on-premises - Theatre/Cinema Public Entertainment Indoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM Consumption on-premises - Music Venue Indoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM Outdoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM
TRADING HOURS:	Consumption on-premises - Restaurant Indoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM Outdoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM Consumption on-premises - Catering Service Indoor Hours Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10:00 PM Outdoor Hours Monday to Saturday: 10:00 AM to 12:00 AM



Sunday: 10.00 AM to 10:00 PM

APPLICANT:

Tania Wendy McGarrity

LICENCE NAME:

LENNOX COMMUNITY CENTRE

PREMISES ADDRESS:

1 Mackney Lane LENNOX HEAD

ISSUE:

Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on-premises licence for a theatre, cinema public entertainment and music venue with restaurant and catering service

LEGISLATION

Section 45(1) of the *Liquor Act 2007*

ILGA DELEGATED DECISION – APPLICATION FOR

AN ON-PREMISES LIQUOR LICENCE

Lennox Community Centre

Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the *Gaming and Liquor Administration Act 2007*, a designated Public Service employee or other Public Service employee of Liquor & Gaming NSW in the Department of Industry, has decided to grant the application for an on-premises licence for a theatre/cinema public entertainment and music venue with restaurant and catering service, application number APP-0004265038.

On 31 August 2018, and after careful consideration of the application and other material, the delegate decided to approve the application, subject to the following conditions:

Conditions imposed:

1. Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Consumption on-premises - restaurant
Good Friday 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

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Christmas Day	12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. Consumption on-premises - catering

Good Friday	Normal trading
Christmas Day	Normal trading
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

- No drinks commonly referred to as shots, shooters, slammers, and/or bombs, or any drink designed for rapid consumption are to be sold or supplied.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

- The premises are to be operated at all times in accordance with the Plan of Management approved by the Commander Richmond Police District and as may be varied from time to time after consultation with the Richmond Police District Commander of NSW Police.
- The business of providing the Catering Service must be for fee, gain or reward. Functions held pursuant to the Catering Service must be pre-booked. A Catering Service booking register must be maintained.
- Liquor may only be sold / supplied to persons attending the licensed premises for the purpose of functions, events, performances, films and conferences, whether by invitation or payment of an entry fee. Where the event is a theatre performance or cinema, liquor will only be sold ancillary to the event for one (1) hour prior to the event and at

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intermission. Liquor will not be sold at the conclusion of the theatre, performance or cinema event.

9. Conditions of hire: a) An accredited security guard is to be engaged for any event on the premises with more than 100 patrons. An additional guard is to be engaged for each additional 100 patrons thereafter. b) Notice of the event and details of the security staff hired is to be lodged with the local police prior to the event.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/007649)

The decision made by the delegate had the application and other relevant material:

- (1) Application form lodged on 03 May 2018 (DOC18/093500)
- (2) Plan of proposed licensed premises (DOC18/093501)
- (3) Plan of management (DOC18/156800)
- (4) Certification of Advertising (DOC18/167294)
- (5) Council Approval (DOC18/157092)
- (6) Applicant's consent to conditions (DOC18/169204)
- (7) Notices and Letters of Intention (DOC18/093502)

2. Legislative framework, statutory objects and considerations

In determining the application, the delegate has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which state:

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

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- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including the harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

3. Statutory tests

- (1) In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:
 - a. the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
 - b. practices will be in place as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the
 - c. premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place, and
 - d. if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 4 Division 4.1 or Part 5.1 of that Act is required), to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.

4. Community impact test

- (1) Under section 48(5) of the *Liquor Act 2007*, the delegate must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regards to the Community Impact Statement, where required, and any other matter the delegate is made aware of during the Application process, that the overall impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.
- (2) The test applying under section 48(5) relates to delegated decisions in relation to:

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- a. the grant or removal of a small bar licence (where required),
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.
- (3) The Community Impact Statement provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.
- (4) Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant "local community" is the community within the suburb of Lennox Head, and the "broader community" of Ballina Shire Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence for a theatre/cinema public entertainment and music venue with restaurant and catering service is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The licence will be exercised in accordance with the Plan of Management provided to the Authority.
- (3) The Authority notes that the Applicant did not receive any adverse comments or communities in question. Police do not object to the Application, but propose nine licence conditions. Further, Ballina Shire Council supports the Application. On this basis, and noting that the use of the Premises will be regulated by the development consent, that it has been operating as a theatre and event space on a longstanding basis, the Authority is satisfied that granting this Application is consistent with the "expectations, needs and aspirations of the community
- (4) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (5) I am satisfied that the statutory advertising requirements have been met.

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6. Overall social impact

(1) Positive benefits

The proposed licensed venue is for an on-premises licence for a theatre/cinema public entertainment and music venue with restaurant and catering service. The granting of the licence will provide some substantial benefits to members of the local and broader community participating in a range of social and entertainment functions facilitated by this venue.

(2) Negative impacts

There have been no objections to the granting of this licence. The Plan of Management provided by the applicant and conditions imposed on the licence provide a level of certainty that there are unlikely to be any major impacts on the local community.

7. Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether or not to grant the application, as all of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision.
- (2) In accordance with section 45(3) (a) of the Act I am satisfied that the proposed licensee is a fit and proper person to carry on the business or activity to which the proposed licence relates.
- (3) Having considered the venue management plan and related material, under section 45(3) (b) of the Act, I am satisfied that practices will be in place at the
- (4) premises as soon as the licence is granted that ensure, as far as reasonably practicable, that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.
- (5) Consistent with section 45(3) (c) of the Act requiring development consent from the local council, I am satisfied that the required development consent or approval is in force.
- (6) In making this decision under delegation from of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant the liquor licence application with conditions.



Decision Date: 31 August 2018

A handwritten signature in black ink, appearing to read 'W. Yeung'.

Wendy Yeung Wye Kong

A/Coordinator, Licensing (Business Licensing)

Liquor & Gaming NSW

Delegate of the Independent Liquor & Gaming Authority

Important Information:

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2008, this decision is reviewable by ILGA.

The licence applicant and persons who were required to be notified of the application and who made a submission can apply for an application for review. An application for a review must be lodged with ILGA within 28 days of the date of the publication of this decision. An application fee applies. For original applicants, the review application fee is the same as the initial application fee. For non-original applicants, the application fee is \$100.

For ILGA reviews of delegated decisions, make an application for review via the Liquor and Gaming Application Noticeboard at: <https://www.liquorandgaming.nsw.gov.au/Pages/public-consultation/online-application-noticeboard/online-application-noticeboard.aspx>. The Review Application form can be accessed on line via the Application Number hyperlink.

Further information can be obtained from the Reviews page on the Liquor & Gaming website at: <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>