



**NSW Department of Justice
Liquor & Gaming NSW**

APPLICATION NO:	1-4061340812
APPLICATION FOR:	On-premises licence for a restaurant with primary service authorisation
PROPOSED TRADING HOURS:	10:00 AM to 10:00 PM Monday to Thursday 10:00 AM to 11:00 PM Friday and Saturday 10:00 AM - 10:00 PM Sunday
APPLICANT:	Antonio Zambarelli
PROPOSED LICENSED PREMISES NAME:	ReccoLab
PROPOSED PREMISES ADDRESS:	A4-A7 120 Terry Street, ROZELLE, NSW 2039
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 liquor licence for a restaurant, with primary service authorisation
LEGISLATION:	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION - APPLICATION FOR AN ON-PREMISES
LICENCE FOR A RESTAURANT WITH PRIMARY SERVICE AUTHORISATION
RECCOLAB**

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 Justice, has decided to grant with conditions the application 1-4061340812 for an on-premises liquor licence for a restaurant, with a primary service authorisation.

On 14 September 2016, 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 class

Good Friday	12:00 PM (noon) to 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
Christmas Day	12:00 PM (noon) to 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
December 31 st	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. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises are to be operated at all times in accordance with the Plan of Management dated September 2016 as may be varied from time to time in consultation with the Local Area Commander.
5. The premises must to operate with its principal business being that of a restaurant as defined by the Liquor Act and not as a bar.
6. The kitchen is to be open with substantive food available at all times that the premises is operating.
7. The licensee is to ensure that all patrons who are consuming liquor, must have a seat available to them.
8. The licensee is to ensure that the sale and supply of liquor ceases 30 minutes prior to the end of the permitted operating hours.
9. The licensee or its representative must join and be an active participant in the local liquor accord.
10. 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.

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) between 12:00 midnight and 07:00 am 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 7:00 AM.

11. Sufficient cameras should be in place to cover the external perimeter of the premises, all entrances and exits regularly used by patrons, all publicly accessible areas whether indoor or outdoor but excluding the toilets.
12. CCTV coverage of all entry/exit points recorded and retained for a minimum 30 days.
13. Physical and operational access to, and copies of recordings from the CCTV system are to be immediately made available upon request of NSW Police or Authorised Inspectors. A staff member present must be able to operate the system, so immediate playback of footage can be made available to Police and Authorised Inspectors.
14. No live entertainment is permitted at the venue.
15. The following drinks must not be sold or supplied: No shots, doubles or any drinks with alcohol mixed with an energy drink, that are designed for rapid consumption.
16. The licence cannot be exercised unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises is complete and ready to trade.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate had the Application, the accompanying community impact statement (CIS) and other relevant material:

- (1) Application form – lodged 8 February 2016
- (2) Community Impact Statement (CIS) document and supporting material that accompanies the Application, dated 5 February 2016. The CIS includes the following contentions on the social impact of granting the Application:
 - The principal business operation will be that of a restaurant.
 - The inclusion of a PSA will enhance the experience that patrons will have when dining or frequenting the restaurant.
 - It is unlikely that there will be any negative impacts as liquor will be served responsibly and predominantly in conjunction with meals.
- (3) Development Approval D/2015/608 dated 18 January 2016 and issued by Leichardt Council, approving the use of the proposed licensed premises as a restaurant and bakery with external seating.
- (4) Plan indicating boundary of proposed licensed area received 5 February 2016.
- (5) Plan of Management for the premises dated September 2016 and House Policy received 12 February 2016.
- (6) Certificate of Advertising Application dated 26 February 2016
- (7) RSA Competency card and National Police Certificate for the applicant, forwarded 8 February 2016.
- (8) ASIC Record of Registration for Business Name ReccoLab, dated 9 June 2016
- (9) Submission from the Secretary dated 10 May 2016 requesting conditions to be imposed on the licence
- (10) EVAT Report LA16/06371
- (11) Submission from Leichhardt Local Area Command requesting conditions to be imposed on the licence, submitted 29 March 2016
- (12) Applicant's response to submission from Gwynne Thompson Solicitors office, dated 8 June 2016
- (13) Risk rating report

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.
- (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 premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place, and
 - (c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under part 3A 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:
 - (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 State suburb of Rozelle and the "broader community" comprises the Leichardt Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence for a restaurant with a primary service authorisation in Rozelle. The main service proposed to be provided by the applicant at the premises is a food service establishment comprising of a restaurant, pizzeria, delicatessen and bakery, with ancillary liquor service and outdoor seating.
- (2) The seating capacity of the restaurant is limited to 100 patrons at any one time, under the Development Consent conditions.
- (3) The proposed licensed premises will be operated in compliance with the Plan of Management and a House Policy which addresses responsible service of alcohol and prevention of supply of liquor to minors.

6. Overall social impact

(1) Positive benefits

The applicant states that the venue will have a positive influence on the area, being a family-friendly restaurant and a social hub of a newly formed residential area.

(2) Negative impacts

Police and the Secretary delegate have requested conditions to be imposed on the licence concerning responsible service of alcohol and primary service authorisations, noise and CCTV coverage.

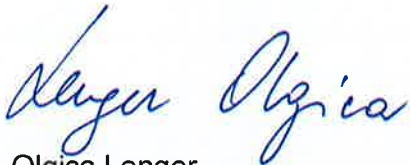
All submissions were duly considered and conditions have been imposed on the licence to assist with the mitigation of risk related to the proposed licensed premises, its location and the surrounding areas.

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. The interested parties are the licensee, Leichhardt Council, Leichhardt Local Area Command, and the nearby community.
- (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 Plan of Management and other related material, under section 45(3)(b) of the Act, I am satisfied that practices will be in place at the 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.
- (4) 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.
- (5) Having considered together the positive benefits and negative impacts that are likely to flow from granting the Application, I am satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.

- (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 with conditions the licence application.

Decision Date: 14 September 2016



Olga Lenger
Manager 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.justice.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.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>