

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

APPLICATION NO:	1-5497957895
APPLICATION FOR:	On-premises liquor licence for a restaurant with catering service, Primary Service Authorisation, and Sale on Other Premises Authorisation
TRADING HOURS:	Monday to Sunday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	ZCC Pty Ltd
LICENCE NAME:	Zigi's
APPROVED MANAGER:	Yossef Zigi Ozeri
PREMISES ADDRESS:	8 Shepherd Street, CHIPPENDALE NSW 2008
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

ZIGI'S

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 the application for an on-premise liquor licence for a restaurant with catering service, Primary Service Authorisation, and Sale on Other Premises Authorisation, application number 1-5497957895.

On 22 March 2017, 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 3:00 AM and 9:00 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. Restaurant:

Consumption on premises

Good Friday 12:00 noon - 10:00 PM

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 after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. Catering:

Consumption on premises

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

4. The premises are to be operated at all times in accordance with the Plan of Management dated 2 March 2017 as may be varied from time to time after consultation with the Local Area Commander NSW Police.
5. The licensee is to ensure that no drinks commonly referred to as shots, shooters or slammers etc are to be sold or supplied at the premises, this includes all drinks that are prepared to be consumed rapidly.
6. The licensee must ensure that all patrons must have an allocated seat when served or supplied alcohol, or while consuming alcohol.
7. The licensee must ensure that the number and location of tables and chairs provided for seated dining is in accordance with the approved floor plan at all times.
8. The premise is to operate with its principal business being that of a restaurant as defined by the Liquor Act and not as a bar, with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation.
9. The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.
10. The ground floor dining area must not exceed 32 patrons at any one time, while the first floor dining area must not exceed 18 patrons at any one time.
11. The business authorised by this licence must not operate with a greater overall levels of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the application and other information submitted in the process of obtaining this licence.
12. Service of liquor must cease 30 minutes prior to the authorised closing time.
13. CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:
 - (i) principal entrances and exits

(ii) all areas within the premises occupied by the public excluding toilets

(iii) the area within a 10m radius external to the public entrances to the premises.

Suitable and clearly visible signage shall be displayed at the principal entrances to the premise and in a prominent position on each floor in lettering not less than 50mm in height with the words 'closed circuit television in use on these premises'

All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.

CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of council or police either immediately or within 24 hours of the request being made.

All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system shall not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander or delegate.

The CCTV recording device shall be secured within the premise and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises are operating there must be at least one staff member present at the premises who is authorised to assess the CCTV system and able to immediately review recording and produce copies.

14. The sale on other premises authorisation can only be utilised for functions, occasions or events which are by invitation only or at prearranged public functions, occasions or events where the Local Consent Authority and local Police have been notified 28 clear days prior to the date of the event.
15. The licensee must after giving notification to local Police nearest to where the event/function is to be held, implement all recommendations by the commander or his delegate in relation to the running and operation of that event/function.
16. 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, or in the event of a public function, occasion or event, prearranged in consultation with the Local Consent Authority and local Police in accordance with the minimum timeframe outlined in condition 14. A Catering Service booking register must be maintained.
17. The licensee holder or any other person in charge of a function or event in a public space exercised under a liquor licence must ensure that the licensed area is defined and secured by fences, roped areas and security guards as per plans submitted for each public function or event.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 3 January 2017 (DOC17/005773)
- (2) Application for Primary Service Authorisation, signed and dated by the applicant on 10 November 2016 (DOC17/005788)
- (3) Sale on Other Premises Authorisation, signed and dated by the applicant on 10 November 2016 (DOC17/005794)
- (4) Category A Community Impact Statement, signed and dated by the applicant on 21 December 2017 (DOC17/005776)
- (5) Plan of the licensed premises (DOC17/044027)
- (6) Development Application D/2016/1646, approved by City of Sydney Council on 24 January 2017, granting development approval for a licensed restaurant (DOC17/023348)
- (7) Stamped plan of the premises, approved by City of Sydney Council on 24 January 2017 (DOC17/023347)
- (8) Submission from the licensing officer, Redfern Local Area Command, received on 1 March 2017, advising that Police do not object to the application, and proposing a number of conditions to be imposed on the licence (DOC17/041838), and a further submission dated 22 March 2017 amending one of the proposed licence conditions (DOC17/060612).
- (9) Email correspondence dated 21 March 2017 from the applicant consenting to the conditions proposed by Police (DOC17/060576)
- (10) Appointment of Manager Notice, appointing Yossef Zigi Ozeri as approved manager, signed and dated on 10 November 2016 (DOC17/005785)
- (11) National Police Certificate for Yossef Zigi Ozeri, dated 8 November 2016 (DOC17/005786)
- (12) Environment and Venue Assessment Tool (EVAT) Assessment Report, dated 9 January 2017 (DOC17/018997)
- (13) Certification of Advertising Application, signed and dated by the applicant on 2 March 2017 (DOC17/044024)
- (14) Alcohol Plan of Management, dated 2 March 2017 (DOC17/044025)
- (15) ASIC extract for ZCC Pty Ltd, dated 3 January 2017 (DOC17/044026)
- (16) Email correspondence from Liquor & Gaming NSW to the applicant, requesting further information and consent to proposed license conditions, dated 1 March 2017 (DOC17/041681)
- (17) Email correspondence from the applicant to Liquor & Gaming NSW, providing requested information and consenting to proposed licence conditions, dated 1 March 2017, 3 March 2017 and 21 March 2017 (DOC17/044022, DOC17/044093, and DOC17/060571)

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 the granting or removal of:
 - a. a small bar licence,
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an on-premises licence relating to a restaurant that, in the case of a new licence, includes an application for a primary service authorisation,
 - d. an on-premises licence relating to a karaoke bar, a catering service or a vessel,
 - e. an application for a producer/wholesaler licence that, in the case of a new licence, includes an application for a drink on-premises authorisation
 - f. an application for ongoing extended trading hours to permit the sale of liquor after midnight in relation to any of the above licence types.
- (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 Chippendale, and the "broader community" of the City of Sydney 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 is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed licensed premises is a restaurant with catering service, Primary Service Authorisation and Sale on Other Premises Authorisation. Development consent permitting the proposed activity is in place.
- (3) A submission was received from the licensing officer at Redfern Local Area Command advising that Police do not object to the application, and proposing a number of conditions to be imposed on the licence, all of which the applicant consented to.
- (4) No other submissions were received in respect of this application.
- (5) The licence will be exercised in accordance with a Plan of Management that details measures to be employed to ensure the responsible service of alcohol.
- (6) The Secretary's delegate has requested conditions to be imposed on the licence, all of which the applicant has consented to.
- (7) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The application is for a restaurant with a patron capacity of 50 persons, which will provide quality food, cheese and wine, as well as a catering service. Zigi's is an established business that was previously operating at another location in Chippendale.

The restaurant poses low risk to the local or broader community and has been supported by appropriate development consent.

(2) Negative impacts

There have been no objections to the granting of this licence. A number of conditions have been imposed on the licence. The licence will be operated in accordance with harm minimisation measures prescribed by those conditions and outlined in the Plan of Management provided by the applicant.

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 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) In making this decision under delegation 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: 22 March 2017



Joanne Zammit
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.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>