

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

APPLICATION NO:	APP-0002499246
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 Saturday: 10:00 AM to 10:00 PM
APPLICANT:	Anthony Peter Plati
LICENCE NAME:	Universal Cafeteria
PREMISES ADDRESS:	Shops 7 & 8, Building 6 702-730 Harris Street ULTIMO NSW 2007
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
UNIVERSAL CAFETERIA**

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-premise liquor licence for a restaurant with catering service, Primary Service Authorisation, and Sale on Other Premises Authorisation, application number APP-0002499246.

On 22 May 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 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
 - Christmas Day 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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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. Consumption on premises – catering service

Good Friday	Normal trading
Christmas Day	Normal trading
December 31 st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
4. 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.
5. 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.
6. 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.
7. 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.
8. Alcohol is not to be provided unless food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied.
9. The licensee is to be responsible for the provision of food when utilising the Sale on Other Premises Authorisation.
10. The licensee must ensure that all patrons must have an allocated seat when served or supplied alcohol, or while consuming alcohol. This condition does not apply to functions booked pursuant to the catering service.
11. The primary purpose of the premises is as a restaurant with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation.
12. CCTV System
 - (i) CCTV surveillance cameras (with video recording facilities) shall be installed and maintained in the premises with coverage of the foyer, entrances/exits and any area where liquor is served
 - (ii) All video equipment and cameras are to be of a high quality so as to facilitate identification and adjudication of patrons and incidents occurring within the premises.

(iii) CCTV recording discs or hard drive recording shall be retained for 30 days before being reused, destroyed or deleted. The time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD copy, or other electronic copy of recorded footage. Copies of discs or footage, must be handed to Police Officers or Special Inspectors on request or within a reasonable time.

(iv) There shall be adequate monitoring of the system by the licensee and his/,her staff when the premises are trading to ensure as far as practicable that patrons do not a) move the cameras so as not to give adequate coverage of the room or b) cover or obstruct the cameras so as to prevent surveillance of the room.

13. Crime Scene Preservation

a. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises or in the vicinity of the premises, the person must:

- i. Take all practical steps to preserve and keep intact the area where the act of violence occurred
- ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
- iii. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and
- iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 15 December 2016 (DOC16/174725)
- (2) Category A Community Impact Statement and accompanying annexures, signed and dated by the applicant on 6 December 2016 (DOC16/174726)
- (3) Certification of Advertising Application, signed and dated by the applicant on 29 March 2017 (DOC17/085689)
- (4) Identification and National Police Certificate for the applicant (DOC16/174730, DOC16/174731)
- (5) Correspondence from the applicant in respect of the National Police Certificate (DOC17/085692)
- (6) Plan of the proposed licensed premises (DOC17/085695)
- (7) Section 96 Modification of Development Application No. D/1996/561/A, granted by the City of Sydney Council on 17 March 2017 (DOC17/085690)

- (8) Submission from the City of Sydney Council, dated 6 September 2016 (DOC16/174729)
- (9) Further submission from the City of Sydney Council, dated 15 December 2016 (DOC16/174883)
- (10) Submission from Sydney City Local Area Command, received 13 February 2017 (DOC17/029943)
- (11) Liquor Plan of Management, dated October 2016 (DOC17/085691)
- (12) Email correspondence from the Authority to the applicant's legal representative requesting additional information in support of the application, dated 19 December 2016 and 28 March 2017 (DOC16/174732, DOC17/065254)
- (13) Email correspondence from the applicant's legal representative to the Authority in response to the requests for additional information, dated 18 and 20 April 2017, and 5 May 2017 (DOC17/085658, DOC17/087069, DOC17/098943)

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.

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- (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 Ultimo, and the “broader community” of the City of Sydney 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 and catering service is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) Police made a submission raising no objections to the on-premises liquor licence and Sale on Other Premises Authorisation, however, Police objected to the Primary Service Authorisation. The applicant adequately addressed Police concerns in a submission in response.
- (3) Two submissions were received from the City of Sydney Council, neither of which raised any objections to the granting of the licence.
- (4) I am satisfied that appropriate development consent which permits the proposed activity is in place.
- (5) The licence will be exercised in accordance with licence conditions that address the responsible service of alcohol, and provides measures to ensure that the operation of the premises does not impact detrimentally upon or detract from, the amenity of the neighbourhood.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

This application is for a restaurant and catering service with 320 patron capacity located in the University of Technology Sydney. The business has been operating at this location for a number of years. The granting of the licence will complement and enhance the services offered by the business.

(2) Negative impacts

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.

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- (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 May 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>