

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

APPLICATION NO: 1-5420666778
APPLICATION FOR: Small bar liquor licence
TRADING HOURS: Monday to Saturday: 12:00 PM to 2:00 AM
APPLICANT: Robert Razmovski
LICENCE NAME: Natures Script
PREMISES ADDRESS: 1A, 452 Princes Highway
ROCKDALE NSW 2216
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 *Liquor Act 2007*

**ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE
NATURES SCRIPT**

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 a small bar liquor licence, application number 1-5420666778.

On 31 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

Good Friday	Not permitted
Christmas Day	Not permitted
December 31st	Normal trading

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. There is to be no stockpiling of drinks commonly known as shots ,shooters ,slammers or bombs that are designed to be consumed rapidly, or any alcoholic drinks that are mixed with

an energy drink. Not more than one of these types of drinks is to be served to a patron at the one time.

4. The LA 10 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 07:00am and 12:00 midnight and 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 07:00am. For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.
5. No live bands or DJ entertainment.
6. Signs clearly visible to patrons are to be affixed at the exits to the restaurant warning patrons of the need to leave the premises and the immediate vicinity quietly and quickly.
7. On nights when the premises trades on Friday and Saturday evenings the licensee shall engage one (1) licensed uniformed security guard from 10:00 PM until the last person has left the vicinity of the premises.
8. The licensee shall maintain an Incident Book and must be available to Council, Police and Liquor & Gaming NSW officers at all reasonable times. In addition to other matters, the licensee/manager shall record in the Incident Book, any complaints made directly to the management or staff of the hotel by local residents or business people about the operation of the hotel or the behaviour or its patrons.
9. CCTV:
 1. A camera must be located at the main entrance to the venue and be positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond a reasonable doubt when:
 - a) the person represents not less than 50% of screen height; and
 - b) there is an unobstructed view of the persons face.
 2. In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
 - a) all other public entrances and exits, whether or not in use at the time
 - b) staircases
 - c) all portions of the floor area accessible to the public where entertainment is provided
 - d) toilet external entrances
 - e) all general areas accessible by the public, excluding toilets and accommodation rooms
 - f) the footpath area directly adjacent to the premises; and
 - g) beer garden and smoking areas.
 3. The CCTV recordings of the cameras referred to in sub-condition 2 must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before when:
 - a) the person represents not less than 50% of screen height, and
 - b) there is an unobstructed view of the persons face.

4. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
5. Camera recordings must meet the standards set in sub-conditions 1 and 3 at all times, either by way of camera technology and settings, and/or by maintenance of lighting, camera positioning, camera shades or other environmental factors.
6. Recordings must:
 - a) be in digital format
 - b) record at a minimum of ten (10) frames per second; and
 - c) commence one hour prior to opening, and operate continuously until at least one hour after closure.
7. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
8. Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.
9. When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
10. Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, Office of Liquor, Gaming and Racing inspectors or other regulatory officers upon request.
11. The CCTV system shall be able to reproduce a copy of the recordings on Compact Disk, DVD, or USB memory stick and must, upon request, be provided immediately to NSW Police, Office of Liquor, Gaming and Racing inspectors or other regulatory officers.
12. Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the Licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable. A record of the notification along with remedial action is to be immediately recorded in the incident book.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application for small bar liquor licence, lodged on 19 December 2016 (DOC17/062468), and annexed covering letter (DOC17/062471)
- (2) Email correspondence from the applicant enclosing supplementary documentation in support of the application, received on 14 March 2017 (DOC17/052792)
- (3) Copies of the applicant's National Police History Check and identification (DOC17/064917, DOC17/073451)

- (4) Certification of Advertising Application (DOC17/073414)
- (5) Plan of the proposed licensed premises (DOC17/064915, DOC17/083570)
- (6) Photographs of the premises (DOC17/091063, DOC17/091064)
- (7) Copy of the food menu (DOC17/091065, DOC17/091066, DOC17/091067)
- (8) Development Consent No. DA-2009/65/A issued by Rockdale City Council on 6 February 2014 (DOC17/062472)
- (9) Email correspondence from Bayside Council, dated 31 March 2017 (DOC17/117742)
- (10) Submission from St George Local Area Command, received on 4 February 2017 (DOC17/023813, DOC17/023819, DOC17/023820)
- (11) Further submission from St George Local Area Command, received on 31 March 2017 (DOC/070429)
- (12) Liquor Plan of Management (DOC17/065209)
- (13) On-premises liquor licence LIQO660032137 (DOC17/122168)
- (14) Surrender liquor licence application LIQO660032137, dated 6 April 2017 (DOC17/122164)
- (15) Email correspondence from the Authority to the applicant requesting further information in support of the application, dated 23 and 29 March 2017; 5, 6, 7, 11, and 27 April 2017; and 29 May 2017 (DOC17/062670, DOC17/067096, DOC17/073578, DOC17/074860, DOC17/075701, DOC17/076320, DOC17/090514, DOC17/119572)
- (16) Email correspondence from the applicant to the Authority in response to the request for further information, dated 24 March 2017; 2, 5, 7, 10, 11 and 28 April 2017; and 31 May 2017 (DOC17/064907, DOC17/073897, DOC17/074899, DOC17/076124, DOC17/076630, DOC17/091028, DOC17/117746, DOC17/121436)

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 Rockdale, and the “broader community” of the Bayside LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a small bar liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) This application is for an existing business that was granted an on-premises liquor licence on 28 November 2014. The on-premises liquor licence will be surrendered upon grant of the small bar liquor licence. The proposed licensee is unchanged. The Authority is not aware of any adverse compliance history against the premises or licensee.
- (3) Rockdale City Council granted development consent for a health food store incorporating coffee shop in 2014. The applicant provided correspondence from the newly amalgamated Bayside Council advising that Council do not object to the premises being operated as a small bar, and further development consent is not required to permit the proposed activity. Further, Council noted that there is no record of any complaints received in connection to the use of the premises.
- (4) St George Licensing Police made a submission raising no objections to the application, however, Police did propose a number of licence conditions to mitigate the risks associated with granting the licence, following negotiations with the applicant. Police subsequently made a further submission objecting to the application on the basis that development consent for a small bar was not in place, however, the Authority is satisfied that further development consent is not required to permit the proposed activity, as per advice from the Senior Development Assessment Planner at Bayside Council.
- (5) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

This application is for an established restaurant located in Rockdale, which has held an on-premises liquor licence since 2014. The applicant is an experienced licensee and member of the local community, who believes that the granting of the licence will benefit the growing Rockdale community, which is presently undergoing rapid transformation. The applicant maintains that there are insufficient late trading venues to service the needs of the Rockdale community, and the applicant hopes to provide safe and welcoming venue for local residents.

(2) Negative impacts

Other than the Police objection on the basis of development consent, there have been no objections to the granting of this licence. The low risk nature of the licence, together with the 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 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: 31 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>