



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

APPLICATION NO:	APP-0003865748
APPLICATION FOR:	Liquor - Producer / Wholesaler licence with a Drink on Premises authorisation Drink on Premises Sunday to Thursday: 10:00 AM to 10:00 PM Friday & Saturday: 10.00 AM to 11.59 PM
TRADING HOURS:	Retail sales Sunday to Thursday: 10:00 AM to 10:00 PM Friday & Saturday: 10.00 AM to 11.00 PM
APPLICANT:	SBC Venues Pty Ltd
LICENCE NAME:	SBC Venues Pty Ltd
PREMISES ADDRESS:	23-25 Cadogan St MARRICKVILLE NSW 2204
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a Producer / Wholesaler licence with a Drink on Premises authorisation
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
Producer / Wholesaler licence with a Drink on Premises authorisation**

SBC Venues Pty Ltd

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 a Producer / Wholesaler licence with a Drink on Premises authorisation, application number APP-0003865748.

On 25 May 2018, and after careful consideration of the application and other material, the delegate decided to approve the application, subject to the following conditions:



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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 04:00 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. Retail sales

Good Friday	Normal trading
Christmas Day	Normal trading
December 31st	Normal trading
3. Drink on-premises authorisation

Good Friday	12:00 noon - 10:00 PM
Christmas Day	12:00 noon - 10:00 PM
December 31 st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
4. 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.
5. 0003020 Crime scene preservation

Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing injury to a person on the premises, the person must:

 - a) Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police, and
 - b) Make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and



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- c) Comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.
6. Only liquor products manufactured on the premises are to be retailed from the industrial retail outlet with no retailing of any other liquor products being carried out on the premises whatsoever.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/001656)

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

- (1) Application form lodged on 5 February 2018
- (2) Plan of proposed licensed area
- (3) ASIC extract for SBC Venues Pty Ltd
- (4) Complying Development Certificate
- (5) Council Development Approval
- (6) Notices of intent
- (7) Council Submission
- (8) Police Submission
- (9) Plan of management
- (10) Email correspondence from the Authority to the applicant requesting additional information in support of the application dated 7 February and 15 March 2018
- (11) Email correspondence from the applicant to the Authority in response to the request for additional information, dated 27 February and 28 March 2018
- (12) Certification of Advertising
- (13) SBC Venues Statement of Operation
- (14) Drink on Premises authorisation application and plan
- (15) Appointment of Manager Notice, appointing Mr Jason Soto to manage the licence

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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 4 Division 4.1 or Part 5.1 of that

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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 suburb of Marrickville and the “broader community” of Inner West Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for a Producer / Wholesaler liquor licence with a Drink on Premises authorisation 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.

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- (3) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (4) I am satisfied that the statutory advertising requirements have been met.
- (5) Police raised no objections to the grant of the licence for the premises. They have requested conditions be imposed on the licence.
- (6) The licence will be exercised in accordance with a Plan of Management that addresses 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. Overall social impact

(1) Positive benefits

The granting of the licence will contribute to the development of the growing microbrewery industry in NSW and contribute particularly to Sydney's Inner west microbrewery hub.

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

(2) Negative impacts

The Plan of Management and Statement of Operation provided by the applicant and conditions imposed on the licence adequately addresses measures that will be put in place to minimise harm and ensure that the operation of the venue will not detract from the amenity of community life.

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.



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- (3) Having considered the venue management plan, statement of operation 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 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: 25 May 2018

Matt Weber

Manager 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>