



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

APPLICATION NO:	1-7506947715, 1-7538425907
APPLICATION FOR:	Removal of a Producer wholesaler liquor licence in addition to a drink on premises authorisation
TRADING HOURS:	Producer/wholesaler Monday to Sunday: 12:00 PM to 10.00 PM Drink on premises authorisation Monday to Sunday: 12:00 PM to 10.00 PM
APPLICANT:	Christian Wood
LICENCE NAME:	Jervis Bay Brewing Co-LIQW880015081
PREMISES ADDRESS:	The liquor licence is being removed from 33 Currumbene St, HUSKISSON, NSW 2540 to the new address at 3 Durambah Dr, HUSKISSON NSW 2540
ISSUE:	Whether a delegated Liquor, Gaming & Racing employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a Producer/wholesaler with a drink on premises authorisation
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
Producer/wholesaler removal with a drink on premises authorisation
Jervis Bay Brewing**

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 Customer Services, has decided to grant the removal application for a Producer/wholesaler liquor licence application number in addition to granting a drink on premises authorisation for the same venue, application numbers, 1-7538425907 and 1-7506947715

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On 09 December 2019 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 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. **Restricted trading & NYE (std)- Producer wholesaler retail packaged sales**

Good Friday	Normal Trading
Christmas Day	Normal Trading
December 31 st	Normal Trading

3. **Restricted trading & NYE (std)-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. From 12 :00 PM the licensee must ensure that the following drinks are not sold or supplied on licensed premises:

- (a) any drink (commonly referred to as a "shot" or a "shooter") that is designed to be consumed rapidly,
- (b) any drink containing more than 50% spirits or liqueur,
- (c) any ready to drink beverage with an alcohol by volume content of more than 5%,
- (d) any drink prepared on the premises that contains more than one 30 ml nip of spirits or liqueur.

5. **CCTV condition**

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
- (b) recordings must be in digital format and at a minimum of six (6) frames per second,
- (c) any recorded image must specify the time and date of the recorded image,
- (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,

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- (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
- (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

6. Crime Scene Preservation

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, the person must:

1. Take all practical steps to preserve and keep intact the area where the act of violence occurred
2. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
3. Make direct and personal contact with the Police Area Command or his/her delegate and advise the Commander or delegate of the incident and
4. 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 (DF19/0160086)

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

- (1) Application forms lodged on 28 August 2019
- (2) Plan of proposed licensed area
- (3) Certification of Advertising
- (4) Plan of management for the premises

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- (5) Council Approval DA119 1568, issued 2/9/2019 approving change of use to artisan food and drink industry. A modification to this DA (DS19/1472) was issued 12 November 2019 has also been forwarded.
- (6) A submission has been received from Nowra Licensing Police which requests conditions to be imposed on the licence, if granted.
- (7) One public submission has been received which has been duly considered by the delegate
- (8) Email correspondence from Liquor & Gaming NSW to the applicant requesting additional information and consent to conditions.
- (9) Email correspondence from the applicant in response
- (10) Evidence of completion of the relevant tiered industry training

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,

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- (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 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.
 - d. the proposed approved manager/licensee has completed the relevant tiered industry training as per legislative requirements.

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

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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 Huskisson and the "broader community" of Shoalhaven City Council

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a removal of a Producer/wholesaler 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 RSA practices provided to the Authority.
- (3) Development consent is in place for the proposed use of the venue.
- (4) I have duly considered the public and police submissions which have been forwarded regarding this application. Although Police did request the following;
 - a plan of management condition and
 - a condition which restricts the quantity of liquor sold to individual patrons,

I have not imposed these two conditions as I consider that the primary purpose of the venue will be a producer/wholesaler and not a general bar. Satisfactory Responsible Services of Alcohol practices will be in place and the venue will be limited to 100 patrons.

- (5) I am satisfied that the proposed licensee has completed the relevant licensee/approved manager tiered industry training as per legislative requirements.

6. Overall social impact

(1) Positive benefits

The proposed licensee will produce beer on-site which will be sold to both retail and wholesale customers. It is proposed to provide customers with a craft food and drink experience by having a drink on premises authorisation attached to the brewery. door being operated. It is also anticipated that liquor will be sold at Industry shows, Producers /Farmers' markets.

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(2) **Negative impacts**

The imposition of conditions in addition to the responsible service of alcohol guidelines outlines in the plan of management will ensure that there will be no negative impact 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 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 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.



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Decision Date: 09 December 2019

A handwritten signature in black ink, appearing to read 'W. Yeung'.

Wendy Yeung Wye Kong

A/Manager 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.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>