

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

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<b>APPLICATION NO:</b>	APP-0004821306
<b>APPLICATION FOR:</b>	Small bar liquor licence
<b>TRADING HOURS:</b>	Monday to Sunday: 12:00 PM to 2:00 AM
<b>APPLICANT:</b>	Gualdi, Andrea
<b>LICENCE NAME:</b>	Maybe Sammy
<b>PREMISES ADDRESS:</b>	Shop 3, 109-111 Harrington Street THE ROCKS NSW 2000
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
<b>LEGISLATION:</b>	Section 45(1) of the <i>Liquor Act 2007</i>

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

**Maybe Sammy**

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 small bar liquor licence, application number APP-000821306.

On 21 November 2018, 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. 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.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate

CM9 Ref: DF18/018672

- (1) Application for small bar liquor licence, dated 17 October 2018
- (2) Receipt of lodgement of Development Application, dated 10 August 2018
- (3) Email from the applicant dated 10 August 2018 to NSW Police, L&GNSW Compliance enclosing Notice of Development Application
- (4) Plan of the proposed licensed premises
- (5) National Police Certificate for the applicant, dated 18 November 2018
- (6) Three forms of identification documents for the applicant
- (7) Notice of Determination from City of Sydney Council, D/2018/917 dated 10 October 2018
- (8) Declaration: liquor licence application by proposed licensee signed 17 October 2018
- (9) ASIC Record of registration for business name: Maybe Sammy dated 3 October 2018
- (10) ASIC extract for Maybe Sammy Pty Ltd ABN 68 622 677 052 dated 20 September 2018
- (11) Notification and confirmation of surrender of liquor licence LIQO624003684 for current premises
- (12) Email correspondence from L&GNSW to the applicant requesting additional information sent 7 November 2018
- (13) Email correspondence from the applicant to L&GNSW in responding to requisitions dated 13 November 2018
- (14) Certification of Advertising Application signed 8 November 2018
- (15) Plan of Management for the venue dated 5 April 2018
- (16) Revised plan of the proposed licensed area excluding the outdoor area.

### 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

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- (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.

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- (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 The Rocks, and the “broader community” of the Council of the City of Sydney LGA.

### 5. Analysis of Submissions and other Materials

- (1) This application is for a new small bar with a patron capacity of 70 patrons (indoors), located at The Rocks. The venue will be providing background music, including the occasional acoustic/jazz band in the indoor area. The venue will not be serving liquor in the outdoor area.
- (2) The small bar will be a ‘funky cocktail bar’ tapping mid-century Hollywood chic, it’ll continue the moniker snatching approach of Maybe Frank (a city spin-off from Surry Hills’ well-reviewed pizza destination).
- (3) The premise previously licensed as an on-premises restaurant LIQO624003684 was surrendered on 5 November 2018.
- (4) Appropriate development consent is now in place for use of the premises as a small bar. The development consent restricts trading hours to 1:00AM Monday to Sunday, however is permitted to operate for a 12 month ‘trial’ period until 2:00AM. Although the liquor licence will be endorsed with the standard small bar trading hours permitted by the *Liquor Act 2007*, the licence must be exercised in accordance with the lesser hours prescribed by the local consent authority.
- (5) No submissions were received in respect of the application.

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- (6) The Compliance branch of L&GNSW raise no objection to the application.
- (7) It is not expected that the venue will cause noise disturbances given the location. Further, the venue will not be utilising any outdoor area.
- (8) I am satisfied that the statutory advertising requirements have been met.

### 6. Overall social impact

#### (1) Positive benefits

The granting of the licence will contribute to the diversity of small low risk venues in The Rocks, which will enable patrons to enjoy a drink with or without a meal in a safe and sophisticated setting.

#### (2) Negative impacts

A range of factors suggest that the small bar is unlikely to have any significant negative impact on the local or broader community. Further, the Plan of Management and licence conditions will serve to mitigate any potential negative impacts.

### 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: 21 November 2018



Manager, 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.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>