



NSW Department of Industry
Liquor & Gaming NSW

APPLICATION NO:	APP-0002361011
APPLICATION FOR:	Producer Wholesaler licence with a Drink on Premises Authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	FRENCHIES BISTORY & BREWERY PTY LTD
LICENCE NAME:	Frenchie's Bistro and Brewery
PREMISES ADDRESS:	61-71 Mentmore Ave ROSEBERY NSW 2018
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

Frenchies Bistro and Brewery

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 liquor licence with a drink on premises authorisation, application number APP-0002361011.

On 26 April 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. Restricted trading & NYE - Drink on-premises authorisation

Good Friday	12:00 noon – 10:00 PM
Christmas Day	12:00 noon – 10:00 PM
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
3. The premises are to be operated at all times in accordance with the Plan of Management dated 7 April 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.

4. 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.
5. 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.
6. No amplified music is to be provided at the premises after 9.30pm.
7. The licensee or its representative must join and be an active participant in the local liquor accord.
8. The Drink on Premises Authorisation must operate with its principal purpose being that of a restaurant as defined by the Liquor Act. At all times when the restaurant is operating the licensee/manager is to ensure that kitchen staff are present and on duty and that the kitchen is operational with substantial meals available.
9. CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to: (i) principal entrances and exits (ii) all areas within the premises occupied by the public excluding toilets (iii) the area within a 10m radius external to the public entrances to the premises. Suitable and clearly visible signage shall be displayed at the principal entrances to the premise and in a prominent position on each floor in lettering not less than 50mm in height with the words 'closed circuit television in use on these premises' All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution. CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of council or police either immediately or within 24 hours of the request being made. All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system shall not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander or delegate. The CCTV recording device shall be secured within the premise and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises are operating there must be at least one staff member present at the premises who is authorised to assess the CCTV system and able to immediately review recording and produce copies. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
10. Beer produced on site must be produced for in-house consumption and wholesale purposes only, with no take-away sales.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 8 November 2016 (DOC16/148292)
- (2) Application form for a Drink On-premises Authorisation lodged 14 November 2016 (DOC16/150447)
- (3) Certificate of Advertising declaration by applicant on 8 November 2016 (DOC16/150464)
- (4) Plan of Management dated 7 April 2017 (DOC17/064227)
- (5) Notice of Determination – Development Application No: D/2016/1502 dated 1 March 2017 (DOC17/044768)
- (6) Submission from Redfern Local Area Command received 19 December 2016 with no objections that proposes a number of conditions (DOC17/017534)
- (7) A Submission from Compliance was received on 15 November 2016 with no objection but asks for the imposition of a few conditions (DOC16/151411)
- (8) Plan at grant of proposed premises lodged with application and amended on 24 March 2017 (DOC17/064233 and DOC17/064234)
- (9) ASIC Record of Registration for Business Name ‘Frenchies Bistro & Brewery Pty. Ltd.’ dated 11 February 2016 (DOC17/059169)
- (10) Email correspondence dated 11 November 2016 (DOC16/148364), from the Authority to the applicant requesting additional information, and subsequent requests on 14 November 2016 (DOC16/149310), 9 and 12 December 2016 (DOC16/169783 and DOC16/170580), 16 and 27 March 2017 (DOC17/055281 and DOC17/064284), 5 April 2017 (DOC17/066558) and 24 April 2017 (DOC17/088537)
- (11) Email correspondence from the applicant dated 14 November 2017 (DOC16/150446), 12 December 2016 (DOC16/170579), 4 January 2017 (DOC17/002107), 6 March 2017 (DOC17/044767), 24 March 2017 (DOC17/064225), 27 March 2017 (DOC17/064352), 7 April 2017 (DOC17/074914) and 25 April 2017 (DOC17/088842) in response to the requests for additional information and supporting documentation.

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 Rosebery, and the "broader community" of the City of Sydney LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a producer wholesaler liquor licence with drink on other premises authorisation is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) Development consent is in place for the proposed fitout and use of Tenancy 6 as restaurant and bar, brewery and deli.
- (3) Redfern Local Area Command raised no objections to the grant of the licence, however recommend a number of conditions to be imposed on the licence which were duly considered.
- (4) The Delegate of the Secretary did not raise any objections, however recommend a number of conditions to be imposed on the licence.
- (5) 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 restaurant and bar, brewery and deli 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

The proposed restaurant and bar, brewery and deli with maximum patron capacity of 100 persons offers a Parisian bistronomy culture where patrons can share the applicant's passion for delicious cuisine, expertly brewed craft beer and great times.

The producer wholesaler with drink on premises authorisation poses low risk to the local or broader community and has been supported by appropriate development consent.

(2) Negative impacts

There have been no objections to the granting of this licence. The Plan of Management provided by the applicant and 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: 26 April 2017

Santina Causa
C/ordinator 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>