



NSW Department of Justice
Liquor & Gaming NSW

APPLICATION NO: 1-4044905731

APPLICATION FOR: Producer/wholesaler licence with Drink on premises authorisation

PROPOSED TRADING HOURS: 10:00 AM to 9:00 PM Monday to Sunday

APPLICANT: Alexander Retief

PROPOSED LICENSED PREMISES NAME: URBAN WINERY SYDNEY

PREMISES ADDRESS: Se 6.01, Precinct 75, 73-75 Mary St, ST PETERS, NSW 2044

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for Liquor - packaged liquor licence (on-line).

LEGISLATION: Section 45(1) of the Liquor Act 2007

**ILGA DELEGATED DECISION – APPLICATION FOR A
PRODUCER/WHOLESALE LICENCE WITH A DRINK ON-PREMISES
AUTHORISATION – URBAN WINERY SYDNEY**

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 with conditions the application for a producer/wholesaler licence with drink on premises authorisation, application number: 1-4044905731.

On 12 September 2016, after careful consideration of the Application and other material, the delegate decided to approve the Application.

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) Retail sales

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| Good Friday | Not permitted |
| December 24 th | Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday |
| Christmas Day | Not permitted |
| December 31 st | Normal trading |

- (3) The premises must be operated at all times in accordance with the Plan of Management dated May 2016, as may be varied from time to time in consultation with the Local Area Commander. A copy of the Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council officers, Police officers and/or authorised officers of Liquor and Gaming NSW.
- (4) The licensee or its representatives must join and be an active participant in the local liquor accord
- (5) No amplified music, live music or entertainment is to be played in the premises at any time.
- (6) Whilstever it is a condition of the Council development consent, only goods manufactured on the premises may be sold on site with no retailing of any other goods being carried out from the premises.
- (7) Whilstever it is a condition of the Council development consent, the licence is not to be exercised on public holidays.
- (8) Whilstever it is a condition on the Council development consent, functions/events are restricted to a maximum of 1 function/event per calendar month.
- (9) The area used for the industrial retail outlet is to be restricted to a maximum of 44sqm with a maximum of 35 seats to be provided for patron use.
- (10) No more than 60 patrons are permitted on site at any one time without prior consent from Council.

STATEMENT OF REASONS

1. Material before the ILGA delegate

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

- (1) Application form – dated 3 February 2016
- (2) Plan of proposed premises – lodged 9 February 2016
- (3) Development Application – Determination No. 201500681 dated 30 March 2016 issued by Marrickville Council for alterations and additions to Suite 6.01 in Building 6 to create a tasting/sale area for wine products produced on site and ancillary use of the tenancy for events/functions relating to property situated at 73 Mary Street, ST PETERS
- (4) Plan of Management for the Operations of “Urban Winery Sydney” dated May 2016
- (5) Submission from Council, dated 18 March 2016, indicating that a DA application was under assessment
- (6) Submission from Police, dated 24 February 2016, requesting a plan of management condition to be imposed on the licence
- (7) Submission from an occupant of a neighbouring premises within 50m, dated 3 March 2016, objecting to the application on the basis that the site is unsuitable for the intended use.
- (8) Applicant’s response to submissions, dated 8 June 2016
- (9) National Police Certificate, RSA competency card and copies of ID for the applicant received 9 February 2016
- (10) Final Occupation Certificate No. 15/2389/01 issued by Steve Watson & Partners, dated 10 August 2016
- (11) Certificate of advertising signed by the applicant and dated 8 February 2015
- (12) Email confirmation dated 12 September 2016 that the application has been categorised as lower risk by the Automated Liquor Application Risk Matrix (ALARM)
- (13) Email correspondence from the Authority to the applicant, applicant’s response consenting to the imposition of conditions on the licence documents

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:
- 4.2.1. the grant or removal of a small bar licence (where required),
 - 4.2.2. a packaged liquor licence (limited to telephone/internet sales),
 - 4.2.3. 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 State suburb of St Peters and the "broader community" comprises the Marrickville LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a producer licence with a drink on premises authorisation is a low risk business model.
- (2) There was one public objection, raising concerns relating to functions at the venue and possible parking issues.
- (3) I am satisfied that the DA only permits one (1) function per month, that patron capacity is limited to 60, trading hours are limited to 9:00 PM each night and conditions have been imposed on the licence to ensure compliance with legislation.

6. Overall social impact

(1) Positive benefits

The proposed licensed premises will be operated in compliance with a Plan of Management which details what measures are in place to ensure liquor is sold in a responsible manner.

(2) Negative impacts

Additional controls have been put in place in relation to the primary purpose of the licence and potential adverse impact on the amenity of the neighbourhood have been addressed through licence conditions and the Plan of Management.

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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) 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 packaged liquor licence application with conditions.

Decision Date: 12 September 2016



Olga Lenger
Manager, Business Licensing
Liquor & Gaming NSW
Delegate of the Independent Liquor & Gaming Authority