



**NSW Department of Justice
Liquor & Gaming NSW**

APPLICATION NO: 1-4504048141
APPLICATION FOR: On premises, restaurant with Catering class
PROPOSED TRADING HOURS: Monday-Sunday 10:00 AM-10:00 PM

APPLICANT: D EIGHT PTY LTD
PROPOSED LICENSED PREMISES NAME: DUST BAKERY

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on premises licence with catering class and impose conditions for that licence.

LEGISLATION S 45(1)

ILGA DELEGATED DECISION - APPLICATION FOR ON-PREMISES LIQUOR LICENCE – DUST BAKERY

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 following licence application 1-4504048141

On 6 September 2016, and after careful consideration of the Application and other material, the delegate decided to approve the Application.



Conditions imposed:

Restaurant Class

- 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.
- Consumption on premises

Good Friday	12:00 noon - 10:00 PM
Christmas Day	12:00 noon - 10:00 PM (liquor can only be served with or ancillary
	to a meal in a dining area)
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

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.

- The premises are to be operated at all times in accordance with the Plan of Management dated June 2016 as may be varied from time to time in consultation with the Local Area Commander.
- 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.
- The licensee must cease providing food and beverages at the premises 30 minutes prior to the required closing time.
- The licensee or its representative must join and be an active participant in the Local Liquor Accord
- The licence cannot be exercised unless and until Liquor and Gaming NSW has been provided with evidence that the premises at this location is complete and ready to trade.
- The licence cannot be exercised unless and until Liquor and Gaming NSW has granted a transfer of the licence to a suitably qualified person or a manager is approved and appointed to manage the premises.

Catering class

- Consumption on premises

Good Friday	Normal trading
Christmas Day	Normal trading
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later.
- The business of providing the Catering Service must be for fee, gain or reward. Functions held pursuant to the Catering Service must be pre-booked. A Catering Service booking register must be maintained.

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 for on premises licence and catering service, lodged on 3 June 2016
2. ASIC search for D EIGHT PTY LTD (applicant)
3. Plan of proposed licensed premises
4. Submission from Sydney City Council dated 31 May 2016
5. Submission from NSW Police Force dated 15 June 2016
6. Business Name Registration for Dust Bakery
7. Responses from Applicant to request for additional information dated 3 August 2016
8. Plan of Management forwarded by Applicant dated 3 August 2016.
9. Risk assessment report for the venue.

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

3.1 In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:

- 3.1.1 the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
- 3.1.2 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
- 3.1.3 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. Analysis of Submissions and other Materials

The application is for an on premises with catering service for a restaurant within the Harold Park Tramsheds development in Forest Lodge NSW 2037. The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, management of patron behaviour and prevention of liquor service to minors. There were no submissions opposing the grant of this licence and I am satisfied that the statutory advertising standards have been met.

5. Overall social impact

No public submissions have been received opposing the grant of this application. Council, has not raised any concerns relating to the application. Police have not objected to the application but have requested conditions to be imposed on the licence if granted. To maintain consistency with the previous applications which were granted for the Tramsheds Development, all of the police requested conditions have not been included within the licence.

6. Conclusion

6.1 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. The interested parties are NSW Police, the Licensee and (other parties who may be affected).

- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 Having considered together the positive benefits and negative impacts that I am satisfied are likely to flow from granting the Application, I am satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
- 6.6 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 with conditions the licence application.

Decision Date: 6 September 2016



Senior Licensing Officer
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-](https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx)

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