

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

APPLICATION NO:	APP-0002723774
APPLICATION FOR:	Producer wholesaler liquor licence with drink on-premises authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 10:00 PM Sunday: 10:00 AM to 8:00 PM
APPLICANT:	SAUCECO PTY LTD
APPROVED MANAGER:	Michael Clarke
LICENCE NAME:	Sauce Brewing Co
PREMISES ADDRESS:	1A Mitchell Street (aka 2 153-155 Victoria Road) MARRICKVILLE NSW 2204
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
SAUCE BREWING CO**

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 drink on-premises authorisation, application number APP-0002723774.

On 11 July 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. Retail sales

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

3. 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

4. Crime Scene Condition. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence. Police are to be contacted as soon as practicable. The person must comply with Police directions surrounding the preservation of the area where the incident has occurred.

STATEMENT OF REASONS

1. Material before the ILGA delegate

RM8 Ref: DF17/003740

- (1) Application for producer wholesaler liquor licence, received on 27 February 2017
- (2) Application for drink on-premises authorisation, received on 27 February 2017
- (3) Additional information in support of the application as provided by the applicant at the time of lodgement
- (4) Certification of Advertising Application, signed and dated on 30 May 2017
- (5) Appointment of Manager Notice, appointing Mr Michael Clarke to manage the licence, signed and dated 15 June 2017
- (6) A copy of packaged liquor licence LIQP770016987
- (7) Surrender liquor licence application, signed and dated 15 June 2017
- (8) ASIC Current Organisation Extract for the applicant and business owner, SAUCE CO PTY LTD
- (9) Plan of the proposed licensed premises
- (10) Plan of Management and House Policy for the operation of the venue
- (11) Complying Development Certificate No. P20160094 issued by Vast Certification on 9 February 2017 for use of the premises as a craft beer micro-brewery and tasting area, with ancillary office and warehouse
- (12) Submission from City of Sydney Council advising that the premises falls within the consent area of Inner West Council, received on 1 March 2017

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- (13) Submission from Inner West Council advising that an Occupation Certificate has not been issued for the premises as yet, received 22 March 2017
- (14) Submission from Marrickville Local Area Command advising that Police have no objection to the application being granted and proposing 16 licence conditions, received 28 March 2017
- (15) Five submissions received from local residents/businesses objecting to the application
- (16) Applicant's submission in response, including a Statutory Declaration and photographs of the Site Notice on display at the premises
- (17) Email correspondence from the Authority to the applicant requesting additional information in support of the application dated 7 June and 11 July 2017
- (18) Email correspondence from the applicant to the Authority in response to the request for additional information, dated 22 June and 20 July 2017

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 Marrickville, and the “broader community” of the Inner West LGA.

5. Analysis of Submissions and other Materials

- (1) This application is for a producer wholesaler licence with drink on-premises authorisation for a new craft beer microbrewery with 200 patron capacity located in Marrickville.
- (2) The business presently holds a packaged liquor licence at another premises, which will be surrendered upon the grant of the producer wholesaler liquor licence.
- (3) I am satisfied that appropriate development consent permitting the proposed activity is in place.
- (4) Marrickville Licensing Police made a submission which raised no objection to the application being granted, however, did propose 16 licence conditions, which were duly considered by the Authority and applicant.
- (5) Council made a submission advising that an Occupation Certificate has not been issued for the premises as yet. At time of the granting the licence the premises was still under construction. The applicant cannot exercise the licence until the premises is complete and ready to trade.
- (6) Five objections were received from four local residents/businesses. The submitters claimed that appropriate development consent is not in place and that occupiers of surrounding buildings were not notified of the liquor licence application, as required by legislation. The submitters also raised concerns that the granting of the licence would negatively impact the amenity of the local community by way of antisocial behaviour, noise, lack of parking, waste disposal, and the proximity of the premises to a school. The submitters also made raised concerns regarding the construction works.
- (7) The applicant made a detailed submission in response addressing the concerns raised by the local community. I am satisfied that appropriate development consent is in place, and that the statutory advertising requirements have been met. The applicant described the measures that will be in place at the venue to ensure that the operation of the premises does not detract from the amenity of community life. Liquor & Gaming NSW does not have any authority over the construction works at the premises and so these claims could not be considered when deciding whether to grant or refuse the licence application.
- (8) Having reviewed all the material, I am satisfied that this application for a producer wholesaler liquor licence with drink on premises authorisation is unlikely to result in any significant increase in alcohol-related harm in the local or broader community.

6. Overall social impact

(1) Positive benefits

The granting of the licence will contribute to the development of the growing microbrewery industry in NSW, as well as to the diversity of venues in the vibrant and thriving community in Sydney's Inner West.

(2) Negative impacts

The Plan of Management and House Policy provided by the applicant adequately addresses measures that will be put in place to minimise harm and ensure that the operation of the venue will not detract from the amenity of community life.

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: 31 July 2017



Joanne Zammit
Coordinator, Licensing (Business Licensing) Olgica Lenger

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>