Liquor & Gaming NSW

V2.0

NSW Department of Customer Service

Liquor & Gaming NSW

Application number:	APP-0007765214	
Application for:	Liquor – online packaged liquor licence	
Trading hours:	Monday to Saturday Sunday	10am to 12am 10am to 11pm
Applicant:	LIANA SANGSTER	
Licence name:	Dungeon Wines	
Premises address:	UNIT 1 28 DENING ST, DRUMMOYNE, NSW 2047	
Issue:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a Liquor – online packaged liquor licence.	
Legislation:	Section 45(1) of the *Liquor Act* 2007	

Liquor – Online packaged liquor licence

Dungeon Wines

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 Customer Services, has decided to grant the application for a Liquor – online packaged liquor licence, application number APP-0007765214

After careful consideration of the application and other material, the delegate decided to approve the application, subject to conditions listed in table 1.

Decision Date: 19 October 2020

Kieran McSherry

A/Senior Licensing Officer, New Applications and Special Events
Liquor, Gaming NSW
Delegate of the Independent Liquor & Gaming Authority

STATEMENT OF REASONS

Analysis of Submissions and statutory requirements

(1) No submissions have been received objecting to the application

(2) consent not required home office for the use of the premises as a Liquor - packaged liquor licence on-line

(3) I am satisfied that the applicant has been provided with an opportunity to consider and comment upon the conditions contained in the licence document.

(4) I am satisfied that the statutory advertising requirements have been met.

(5) Having reviewed all the material, I am satisfied that granting this application for an online packaged liquor licence will not be detrimental to the local or broader community.

(6) Plan of Management supplied

Overall social impact

(1) Positive benefits

The proposed licence will provide convenient access to liquor by taking orders online, by phone, fax or mail order, and delivery to customers via courier, No sales will be made in person at the licensed premises and members of the public will not be permitted to attend the premises to place or collect their orders, within the suburb of **DRUMMOYNE**

(2) Mitigation of potential negative impacts

I am satisfied that the business model, conditions imposed, and any other information contained in the application will provide that the lawful operation of the premises will not be detrimental to the local or broader community.

In particular, the Plan of Management and licence conditions will serve to mitigate any potential negative impacts

Conditions considered by the ILGA delegate DF20/011890

All requests to impose conditions on the licence are reviewed on a case by case basis and a merit-based assessment is conducted.

In considering whether a proposed condition has merit, delegates consider: (a) whether the need for the condition has been adequately established (b) whether the benefits of imposing the condition are likely to outweigh the costs and (c) whether the proposed condition is proportionate to the potential harm identified.

Table 1 sets out the conditions which I have decided to impose on the licence, and the Table 2 sets out conditions put forwarded for consideration which I have decided not to impose, and the reasons for that decision.

TABLE 1 - Proposed conditions imposed on the licence:	
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 04:00 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 (std)** Retail sales Good Friday Not permitted December 24th Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday Christmas Day Not permitted December 31st Normal trading.
3.	**No walk-up** The licensee must ensure that the sale of liquor is limited to taking orders over the telephone or by facsimile or mail order, or through an Internet site.
4.	The licensee must ensure that no tastings are conducted on the premises.
5.	No advertising or promotional material relating to liquor is to be displayed outside the premises
6.	No liquor products for sale under this licence are to be delivered or stored at the licensed premises
7.	Licensee training must be completed no later than 12 months from the date of grant of the liquor licence

TABLE 2 – Proposed conditions not imposed on the licence:		Proposed by:	Reason code (see table 9)
1.	N/A		
2.			

Materials considered by the ILGA delegate

TABLE 3: Submissions analysis
Stakeholder submissions

1.	**NSW Police** • Did Not Submit
2.	**Local consent authority** • Did Not Submit
3.	**Public** • Did Not Submit

TABLE 4: Document analysis		
Details		**Dated received/comment**
1.	Application form	Lodged 17/09/20
2.	Plan of proposed licensed area	DOC20/141017 30/09/20
3.	Certification of Advertising	DOC20/141016 30/09/20
4.	Plan of management	DOC20/141018 30/09/20
5.	National Police Certificate ID	DOC20/ 141020 30/09/20
6.	licensee training	DOC20/141026 30/09/20 Applicant has consented to Licensee Training Condition
7.	Development consent	N/A
8.	Correspondence from DOC20/141026 30/09/20	

Conclusion

(1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether to grant the application. 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 decision was made

by the delegate having reviewed the application statement, business model and risk analysis, stakeholder submissions and other relevant material.

(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 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 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 liquor licence application with conditions.

TABLE 5: Relevant extracts from the Liquor Act 2007
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.

TABLE 6: 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 4 Division 4.1 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. (d) the proposed approved manager/licensee has completed the relevant tiered industry training as per legislative requirements.

TABLE 7: 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: a. the grant or removal of a small bar licence (where required), b. a packaged liquor licence (limited to telephone/internet sales), c. 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. 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.

TABLE 8: 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 online 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

TABLE 9: - Reasons for not imposing requested conditions.	
A	Do not impose. Already covered by the Liquor Act.
B	Do not impose. Already covered/already a condition in the DA.
C	Do not impose. Not a relevant condition for this licence type. Condition sought is generally only imposed on high risk licence type or in exceptional circumstances. Exceptional circumstances have not been sufficiently made out by the person putting forward the condition.
D	Do not impose. This condition would be more restrictive than similar venues in Kings Cross which remains subject to the lockout laws in 2020.
E	Do not impose. Small Bars are considered low risk. 2016 Review of Small Bars found Venues with a small bar licence have a lower incidence of alcohol-related violence than venues operating as a small bar under another type of liquor licence. Smaller bars have a lower incidence of alcohol-related violence than other types of licensed venue.
F	Do not impose. Already covered in the Plan of Management. Plan of management condition has been imposed.
G	Do not impose. Not in alignment with the business type, risk associated and would impose disproportionate unnecessary financial and operational burden (small business).
H	Do Not Impose. Being part of a liquor accord is not compulsory / on a voluntary basis only. Exceptional circumstances for imposing condition have been sufficiently made out by the person putting forward to the condition.
I	Do not impose – wording not consistent with ILGA/L&GNSW standard conditions – ILGA/L&GNSW standard condition wording has been imposed instead.