

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

APPLICATION NO: APP-0002543788

APPLICATION FOR: Liquor – On- Premises Restaurant and
Catering classes

TRADING HOURS: Restaurant
Monday to Sunday: 10:00 AM -10:00 PM
Function centre
Monday-Thursday: 10:00 AM -10:00 PM
Friday-Saturday: 10:00 AM -12:00 AM
Sunday: 10:00 AM -10:00 PM

APPLICANT: Ms Marina McMillan

LICENCE NAME: Clifton House & Gardens

PREMISES ADDRESS: Clifton 875 Henry Lawson Way YOUNG
NSW 2594

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 liquor licence with Restaurant and
Catering classes

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

**ILGA DELEGATED DECISION – APPLICATION FOR AN ON PREMISES-
RESTAURANT WITH CATERING**

Clifton House & Gardens

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 the application for an on premises liquor licence application number APP-0002543788.

On 23 June 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. Consumption on premises-Catering service

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 later.

3. Consumption on premises-Restaurant

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.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate based on the application and other relevant material:

- (1) Application form lodged 4 January 2017 (DOC17/000627)
- (2) Certificate of Advertising dated 28 April 2017 (DOC17/122077)
- (3) Plan of the proposed licensed area (DOC17/133998)
- (4) Development consent DA 2016/DA-00087, issued by Hilltops Council 10 August 2016, for use of the property and existing buildings as a farm stay, function centre/ restaurant/café, and for food processing with an ancillary farm shop. (DOC17/133818).
- (5) Plan of Management forwarded 31 May 2017 (DOC17/122079)
- (6) A submission from the Secretary to Liquor and Gaming NSW, dated 12 January 2017 with no concerns (DOC17/008033)
- (7) A submission from Cootamundra Police Licensing Office advising that NSW Police has no objection to the application, dated 12 January 2017 (DOC17/008637).
- (8) National Police Certificate for the applicant, Marina McMillan, issued 1 June 2017 (DOC17/137713)
- (9) Email correspondence from L&GNSW requesting and providing additional information, dated 5 April 2017 (DOC17/073081), 25 May 2017 (DOC17/116937), 5 June 2017 (DOC17/124993) and finally 19 June 2017 (DOC17/134030).
- (10) Email correspondence from the applicant, in response to L&GNSW requisitions, dated 31 May 2017 (DOC17/122074), 5 June 2017 (DOC17/124938), 13 June 2017 (DOC17/133769) and finally 22 June 2017 (DOC17/137693).

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 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.

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:
 - 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.
- (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 Young and the “Broader Community” is Hilltops Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on premises restaurant and catering classes licence is unlikely to result in any significant increase in alcohol-related harm in the local community.
- (2) Development consent is in place for the proposed use of the venue as a restaurant and function centre.

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- (3) Hilltops Police have not objected to the application.
- (4) The Secretary to Liquor and Gaming NSW has no issues regarding the application to the application.
- (5) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

Clifton Gardens is a unique and historic original stone homestead, set on a working farm which holds a restaurant, event and function centre catering for garden weddings and receptions with a patron capacity of 100.

(2) Negative impacts

No objections were received relative to this application.

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 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.

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Decision Date: 23 June 2017



Mary Butterfield

A/Manager Licensing (Business 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>