

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

APPLICATION NO:	APP-0001829572
APPLICATION FOR:	On-premises liquor licence (catering class)
PROPOSED TRADING HOURS:	11:00 AM to 12:00 AM Monday to Saturday 11:00 AM to 10:00 PM Sunday
APPLICANT:	Emelia Georgia Ferguson
PROPOSED LICENSED PREMISES NAME:	Kimo Estate
PREMISES ADDRESS:	1218 Nangus Rd GUNDAGAI NSW 2722
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.
LEGISLATION:	Section 45(1) of the Liquor Act 2007

**ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR
LICENCE (CATERING CLASS) – KIMO ESTATE**

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 number APP-0001829572.

On 14 September 2016, and 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. Consumption on premises
Good Friday 12:00 noon - 10:00 PM (liquor can only be served with
or ancillary to a meal in a dining area)

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 at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. The premises are to be operated at all times in accordance with the Plan of Management dated September 2016 as may be varied from time to time in consultation with the Local Area Commander.
4. 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.
5. The licensee must ensure that no shots, shooters or slammers are served to any patron at any time.
6. The licence cannot be exercised unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises is complete and ready to trade.

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 lodged 10 May 2016
- (2) Development Application 150/2016 dated 18 April 2016 issued by Gundagai Shire Council
- (3) Plan of Management for the Premises dated September 2016
- (4) EVAT report submitted by the Director of Compliance, Liquor & Gaming NSW dated 6 June 2016
- (5) Plan of proposed premises received 6 September 2016
- (6) Email correspondence from the Authority to the applicant including applicant's consent to the imposition of the licence conditions received 6 September 2016
- (7) Premises are not ready to trade and applicant has consented to a condition that the licence cannot be exercised until evidence has been provided that the premises is complete and ready to trade.

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. Analysis of Submissions and other Materials

The application is for an on-premises licence with catering class. The proposed venue will host wedding and corporate events in a rural setting. Development consent from Gundagai Shire Council permits use of the premises as a function centre. There were no submissions opposing the grant of this licence.

The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol and harm minimisation measures.

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

5. Overall social impact

Positive benefits

The venue is on a rural property in the small town of Gundagai located 314 kilometres from Sydney. Kimo Estate will hold premium wedding and corporate functions on the premises.

Negative impacts

No identified negative impacts have been identified. There were no issues raised by key stakeholders during the consultation period.

6. Conclusion

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.

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.

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.

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.

I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.

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: 14 September 2016



Santina Causa
Senior Licensing Officer, 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>