



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

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**APPLICATION NO:** APP-0001679494

**APPLICATION FOR:** Producer/wholesaler licence with Drink on premises authorisation

**PROPOSED TRADING HOURS:** 10:00 AM to 10:00 PM Monday to Sunday

**APPLICANT:** Garry Baxter

**PROPOSED LICENSED PREMISES NAME:** Mount Panorama Estate Vineyard

**PREMISES ADDRESS:** Brooklyn 151 Mountain Straight, MOUNT PANORAMA, NSW 2795 AUSTRALIA

**ISSUE:** Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for liquor - packaged liquor licence (on-line).

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

**ILGA DELEGATED DECISION – APPLICATION FOR A  
PRODUCER/WHOLESALE LICENCE WITH A DRINK ON-PREMISES  
AUTHORISATION – Mount Panorama Estate Vineyard**

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 application for a producer/wholesaler licence with drink on premises authorisation, application number: APP-0001679494.

On 24 September 2016, 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) Retail sales  
Good Friday                      Normal trading  
Christmas Day                    Normal trading  
December 31<sup>st</sup>                      Normal trading

- (3) The licensee must conduct the licence at all times in accordance with the Plan of Management dated July 2016 as may be varied from time to time in consultation with the Local Area Commander.
- (4) The premises is not to operate during those times that the Mount Panorama Motor Racing Circuit is closed for motor racing events.

## 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 – dated 16 February 2016
- (2) Drink on premises authorisation application-dated 24 June 2016
- (3) Plan of proposed premises – lodged 16 February 2016
- (4) Development Application – Determination No. 990499 dated 11 May 1999 issued by Bathurst City Council for “use of part of existing restaurant for wine tasting and sales.”
- (5) Plan of Management for “Mount Panorama Estate Vineyard” dated July 2016.
- (6) Email confirmation dated 9 March 2016 that the application has been categorised as lower risk by the Automated Liquor Application Risk Matrix (ALARM)
- (7) Stamped Council notice relating to the Drink on premises authorisation notice.
- (8) Submission from Police, dated 2 March 2016, with no objection to the application providing that there would be no overlap between the existing on premises and the proposed producer wholesaler licensed boundaries.
- (9) Signed police notice relating to the Drink on premise authorisation notice, dated 21 June 2016
- (10) National Police Certificate issued by NSW police on 29 February 2016, RSA competency card (expiry date May 2021) and copies of ID for the applicant.
- (11) Premises photos to confirm that the venue is ready to trade, received 9 June 2016
- (12) Certificate of advertising signed by the applicant and dated 7 June 2016.
- (13) Email correspondence from the Authority to the applicant, applicant's response consenting to the imposition of conditions on the licence documents.
- (14) Surrender application for the current on premises liquor licence, LIQO624005010- Algona at Mt Panorama Estate Pty Ltd.

### 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:
- 4.2.1. the grant or removal of a small bar licence (where required),
  - 4.2.2. a packaged liquor licence (limited to telephone/internet sales),
  - 4.2.3. 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 State suburb of Mount Panorama and the "broader community" comprises Bathurst LGA.

## **5. Analysis of Submissions and other Materials**

- (1) Having reviewed all the material, I am satisfied that this application for a producer licence with a drink on premises authorisation is a low risk business model.
- (2) The applicant consulted with L&G NSW and forwarded a Drink on premises authorisation 24 June, in addition to lodging a surrender application for the on premises liquor licence LIQO624005010 currently relating to the premises.
- (3) The surrender of the existing on premises liquor licence (LIQO624005010-Algona at Mt Panorama Estate Pty Ltd) has been approved.

## **6. Overall social impact**

### **(1) Positive benefits**

The proposed licensed premises will be operated in compliance with a Plan of Management which details what measures are in place to ensure liquor is sold in a responsible manner.

### **(2) Negative impacts**

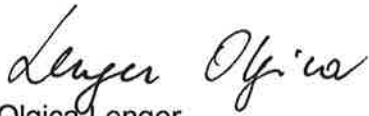
Police concerns relating to the overlapping of licensed boundaries has been answered in the lodgement of the surrender application for the current on premises licence.

## **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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (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 the packaged liquor licence application with conditions.

Decision Date: 24 September 2016



Olga Lenger  
Manager, Business Licensing  
Liquor & Gaming NSW  
**Delegate of the Independent Liquor & Gaming Authority**