

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

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**APPLICATION NO:** 1-4839700598

**APPLICATION FOR:** Liquor - packaged liquor licence (online)

**TRADING HOURS:** Monday to Saturday: 08:00 AM to 10:00 PM  
Sunday: 10:00 AM to 10:00 PM

**APPLICANT:** Fighting Kangaroo Pty Ltd

**LICENCE NAME:** ozziewines.com.au

**Appointed Manager** Mr Milan Misljenovic

**PREMISES ADDRESS:** 24 Woodlawn Ave, MANGERTON, NSW  
2500

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

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

**ILGA DELEGATED DECISION – APPLICATION FOR PACKAGED LIQUOR  
LICENCE (ONLINE)**

**ozziewines.com.au**

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 a packaged liquor licence (online), 1-4839700598.

On 9 November 2016, 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 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. 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. The business authorised by this licence must not operate with a greater overall level of social impact on the well being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. Limited to the sale of liquor only by means of taking orders over the telephone or by facsimile or mail order, or through an Internet site.
5. The premises are to be operated at all times in accordance with the house policy dated June 2016 as may be varied from time to time in consultation with the Local Area Commander. A copy of the management plan must be maintained at the premises and shall be available for inspection at any time by police or persons authorised by legislation.
6. No liquor stock will be sold from or stored or on display at the licensed premise being the address of 24 Woodlawn Avenue Mangerton, 2500.
7. No advertising or promotional material relating to alcohol is to be displayed outside the premises.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate

The decision made by the delegate had the application, the accompanying community impact statement (CIS-Category A) and other relevant material:

- (1) Application form – Lodged 27 June 2016 (DOC16/092047)
- (2) Community Impact Statement (CIS) document and supporting material accompanying the application, dated 22 June 2016. (DOC16/092052)
- (3) Plan of Management for the Premises submitted to the Authority on June 2016 (DOC16/092055)
- (4) Fighting Kangaroo Pty Ltd ACN: 612 933 678 ASIC Extract (DOC16/092049)
- (5) Premises plan of the proposed licensed area (home office based business for the purposes of taking orders online or via internet) (DOC16/092054)
- (6) Submission from Wollongong City Council received 28 April 2016 which raised no objection and advised that “development consent is not required for the proposal.” (DOC16/092053)
- (7) Two submissions from members of the public received during the CIS process 27 April 2016 & 25 April 2016, which raised concerns in respect of the application (DOC16/092050 & DOC16/092051)
- (8) Photos of the premises showing that the premises is complete and ready to trade, received 7 November 2016. (DOC16/144423)
- (9) An email from the applicant consenting to the imposition of the proposed conditions, received 7 November 2016. (DOC16/144413)

### 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:

- 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 Mangerton and the Broader Community, the entire state of NSW. This is because the nature of the licence allows for convenient access to liquor by persons located anywhere in NSW.

## 5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an online packaged liquor licence is unlikely to result in any increase in alcohol-related harms in the local community. The sale of liquor will be limited to by means of taking orders over the telephone or by facsimile or mail order, or through an internet site.
- (2) The proposed licensed premises comprises of a home office, at which online orders will be received and processed. Alcohol will not be stored at the proposed licenced premises and customers will not be able to attend the licensed premises. A submission was received from Wollongong City Council confirming that development consent is not required to permit the proposed activity.
- (3) There were two public objections received. The first public objection raised concerns about the possibility that liquor advertising will be displayed outside the proposed licensed premises, deliveries will occur at the proposed licensed premises, the proximity of schools to the proposed licensed premises, an increase in the accessibility of liquor in the area and the possibility of minors accessing liquor by way of the proposed licence. The second public objection raised concern about the proposed licensed premises located in the residential area and that there is a liquor shop on main road.

- (4) The licence will be exercised in accordance with a detailed Plan of Management.
- (5) I am satisfied that the statutory advertising requirements have been met.

## 6. Overall social impact

### (1) Positive benefits

The licence will be operated from a home office by internet and telephone only. Customers will not be attending the premises as sales are limited to telephone, facsimile, mail order and internet.

### (2) Negative impacts

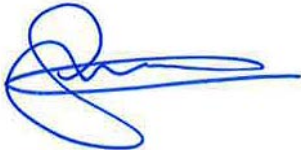
Two objections were received from members of the public, which raised some concerns. As this is an online business, no customers will be attending the premises in order to purchase liquor. The sale of liquor will be limited to by means of taking orders over the telephone or by facsimile or mail order, or through an internet site. There will be no advertising or promotional material relating to alcohol displayed outside the premises. There will be no liquor stock sold from or stored or on display at the licensed premise. The nature of the licence sought means that there are unlikely to be any amenity impacts on the Local Community.

## 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: 9 November 2016



Name: Joanne Zammit

Position: Coordinator, 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>