

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

APPLICATION NO:	APP-0002454208
APPLICATION FOR:	On-premises liquor licence for a restaurant with catering service.
TRADING HOURS:	Monday to Saturday: 10:00 AM to 11:00 PM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	Amelia Arantz
LICENCE NAME:	Racine Restaurant and Bakery
PREMISES ADDRESS:	42 Lake Canobolas Road NASHDALE NSW 2800
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

Racine Restaurant and Bakery

The Independent Liquor & Gaming Authority (the Authority) may grant a liquor licence pursuant to section 45 of the *Liquor Act 2007* (the Act). This application seeks an on-premises liquor licence for a restaurant and catering class. The Authority has delegated this function to Coordinator Licensing, Liquor & Gaming NSW (L&GNSW) pursuant to the *Gaming and Liquor Administration Act 2007*. The delegate has determined to grant the application relating to Racine Restaurant and Bakery (application number APP-0002454208). A list of the material that is before the delegate of the Authority is set out in Annexure A.

After careful consideration of the application and other material, the application is approved, 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.

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2. 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.

3. Consumption on premises - catering

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 the later

STATEMENT OF REASONS

1. 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:

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.

2. 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.

3. 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 the granting or removal of:
 - a. a small bar licence,
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an on-premises licence relating to a restaurant that, in the case of a new licence, includes an application for a primary service authorisation,
 - d. an on-premises licence relating to a karaoke bar, a catering service or a vessel,
 - e. an application for a producer/wholesaler licence that, in the case of a new licence, includes an application for a drink on-premises authorisation
 - f. an application for ongoing extended trading hours to permit the sale of liquor after midnight in relation to any of the above licence types.
- (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 Nashdale, and the “broader community” of the Cabonne Shire Council.

4. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence for a restaurant and catering class is unlikely to result in any significant increase in alcohol- related harm in the local community.
- (2) Police made a submission raising no objections to the application but had requested conditions to be imposed which have been considered by the delegate.

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- (3) The submission which was received from the Cabonne Council Council did not raise any objections to the granting of the licence.
- (4) I am satisfied that appropriate development consent which permits the proposed activity is in place.
- (5) Based upon the information provided in the application, I am satisfied that the licence will be exercised pursuant to practices which ensure the responsible service of alcohol is adhered to and that the operation of the premises will not impact detrimentally upon or detract from, the amenity of the neighbourhood. As detailed by the applicant, the venue has established itself as a fine-dining restaurant and as such large quantities of alcohol are not sold. Rather, high quality wine and cocktails accompanying meals or high end functions are served by the wait staff.
- (6) I am satisfied that the statutory advertising requirements have been met.

5. Overall social impact

(1) Positive benefits

This application is for a restaurant and catering class with 200 patron capacity located in a rural setting with scenic views. There were no adverse submissions received relative to this application. The granting of the licence will complement and enhance the services offered by the business. As provided, the risk of alcohol related harm is low given the business model of the venue and the practices in place to ensure the premises remains a fine dining restaurant and does not attract patrons who which to consume a high volume of alcohol quickly.

(2) Negative impacts

The conditions imposed on the licence provide a level of certainty that there are unlikely to be any major impacts on the local community.

6. 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 all relevant 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

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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 of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant with conditions the licence application.

Decision Date: 13 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>

Annexure A

Material before the ILGA delegate

- (1) Application form lodged 8 December 2016 (DOC16/170252)
- (2) Certificate of Advertising signed by the applicant 7 June 2017 (OUT17/1758)
- (3) Identification, Responsible Services of Alcohol certificate and National Police Certificate for the applicant, (DOC16/170257, DOC16/170256 and DOC17/098345 respectively)
- (4) Plan of proposed licensed premises (DOC17/117564)
- (5) Development Consent from Cabonne Council issued February 2006 (INW17/1642)
- (6) Submission from Cabonne Council dated 19 May 2017 with no concerns (DOC17/113721)
- (7) Submission from Canobolas Local Area Command although not objecting to the application, has requested conditions to be imposed on the licence which has been considered by the delegate (DOC17/042614)
- (8) Submission from Compliance, Liquor and Gaming NSW with no concerns (DOC16/178714)
- (9) Email correspondence from the Authority to the applicant requesting additional information in support of the application dated, 1, 2, 15 March 2017, 21, 28 April 2017, 12, 22 26 May 2017 (DOC17/042399, DOC17/042621, DOC17/086847, DOC17/086850, DOC17/092290, DOC17/104716, DOC17/113722, DOC17/117622).
- (10) Email correspondence from the applicant to the Authority in response to the requests for additional information, dated 4, 25 and 26 May 2017, and finally 7 June 2017, (DOC17/098342, DOC17/117493, DOC17/117559, DOC17/118945 and DOC17/128765)