

NSW Department of Justice
Liquor & Gaming NSW

APPLICATION NO:	APP-0002313937
APPLICATION FOR:	On-premises liquor licence for accommodation premises with restaurant and catering class
TRADING HOURS:	Restaurant, conference centre, and catering service: Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	Paul Francis Webb
LICENCE NAME:	Spa Village Travel Inn
PREMISES ADDRESS:	300 Warialda St MOREE NSW 2400
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
SPA VILLAGE TRAVEL INN

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-premise liquor licence for an accommodation premises with restaurant and catering class, application number APP-0002313937.

On 25 February 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

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. This licence authorises the sale of liquor for consumption on the licensed premises only – at any time on any day to a resident (or a guest of a resident while in the resident’s company) or to an employee of the licensee. Liquor must not be sold to a guest of a resident or to an employee of the licensee for consumption on the licensed premises, or to a resident for takeaway from the premises, between the hours of 4:00 AM and 10:00 AM. Liquor sold to a resident between the hours of 4:00 AM and 10:00 AM must only be sold or supplied for consumption in the room in which the resident is residing or staying.
4. 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 after consultation with the Local Area Commander NSW Police.
5. The Licensee is to ensure that no drinks commonly referred to as shots, shooters or slammers are to be sold or supplied at the premises, this includes all drinks that are prepared to be consumed rapidly.
6. The approved manager, or his/her representative, must be present during all functions where liquor is sold or supplied.
7. 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.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 21 October 2016 (DOC16/133196)
- (2) Development Application granted by Moree Plains Shire Council on 10 November 1982 approving the use of the premises as a tourist accommodation complex comprising of 25 motel units and 31 accommodation units, manager's residence & restaurant (DOC16/133197)
- (3) Amended Development Application granted by Moree Plains Shire Council on 9 September 1983 approving the use of the premises as a tourist accommodation complex comprising of 31 motel units and 29 accommodation units, manager's residence & restaurant Certificate of Advertising declaration by applicant on 29 November 2016 (DOC16/133197)
- (4) Plan at grant of proposed premises (DOC17/030954)
- (5) Additional information provided by the applicant at the time of lodging the application (DOC16/133200)
- (6) Copies of the applicant's National Police Certificate (DOC16/133201), identification (DOC16/133203) and Interim Certificate (DOC16/133202)
- (7) Plan of Management dated September 2016 (DOC16/133204)
- (8) Local Consent Authority Notice completed by a representative of Moree Plains Shire Council, indicating that development consent is required and in place (BA83-131) (DOC16/140471)
- (9) Certification of Advertising Application, signed and dated by the applicant on 16 November 2016 (DOC17/030921)
- (10) ASIC Current Organisation Extract for the business and premises owner, Spa Village Pty Ltd (ACN 614 076 309) (DOC17/030921)
- (11) Email correspondence dated 3 February 2017 (DOC17/025793), from the Authority to the applicant requesting additional information, and a second request on 15 February 2017 (DOC17/031046)
- (12) Email correspondence from the applicant dated 10 February 2017 (DOC17/030918), and 15 February 2017 (DOC17/031203) in response to the request for additional information and supporting documentation.

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 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 Moree, and the "broader community" of the Moree Plains Shire Council Local Government Area.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed licensed premises is an accommodation facility with restaurant and function centre. Appropriate development consent is in place.
- (3) Moree Plains Shire Council raised no objections to the grant of the licence for the premises. This is supported by a signed Local Consent Authority Notice.
- (4) No other submissions were received.
- (5) The licence will be exercised in accordance with a Plan of Management that details measures to be employed to ensure the responsible service of alcohol.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

This application relates to an existing business. No objections to this application have been received. A number of conditions have been imposed on the licence. The licence

will be operated in accordance with harm minimisation measures prescribed by those conditions and outlined in the Plan of Management provided by the applicant.

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 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: 25 February 2017



Santina Causa
A/Coordinator 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>