

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

APPLICATION NO:	APP-0002305654
APPLICATION FOR:	On-premises liquor licence for an accommodation premises with catering service
TRADING HOURS:	Catering service: Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	Jacqueline Kent Alley
LICENCE NAME:	Noonaweena Lodge
PREMISES ADDRESS:	1442 George Downes Dr KULNURA NSW 2250
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
NOONAWEEENA LODGE**

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 with accommodation and catering class, application number APP-0002305654.

On 10 March 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. The 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 4:00AM 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 August 2016 as may be varied from time to time after consultation with the Local Area Commander NSW Police.
5. 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.
6. The licensee is to ensure that no drinks commonly referred to as shots, shooters or slammers etc are to be sold or supplied at the premises, this includes all drinks that are prepared to be consumed rapidly.
7. The licensee, or his/her representative, must be present during all functions where liquor is sold or supplied.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 20 October 2016 (DOC16/132817)
- (2) Additional information in support of the application, provided by the applicant upon lodgement of the application (DOC16/132828)
- (3) Development Application 751/98, granted by the consent authority on 23 October 1998, approving the use of the premises as a tourist accommodation (DOC16/132818)
- (4) Development Application DA/26/2012, granted by the consent authority on 3 April 2012, approving the change of use of the manager's residence to a guest house (DOC16/132819)

- (5) Submission dated 9 February 2017 from the licensing officer at Tuggerah Lakes Local Area Command, NSW Police Force, advising that there is no objection to the application (DOC17/027488)
- (6) Plan of the premises (DOC16/132822)
- (7) ASIC Current Organisation Extract for the premises and business owner, dated 10 August 2016 (DOC16/132823)
- (8) ASIC business name extract for Noonaweena Lodge, dated 19 May 2016 (DOC16/132824)
- (9) National Police Certificate and identification for the applicant (DOC16/132825, DOC16/132826)
- (10) Plan of Management, dated August 2016 (DOC16/132827)
- (11) Certificate of Advertising, signed and dated by the applicant on 7 February 2017 (DOC17/039080)
- (12) Email correspondence, dated 8 February 2017, from the Authority to the applicant requesting additional information (DOC17/026972)
- (13) Email correspondence from the applicant, dated 20 February 2017, in response to the requests for additional information and supporting documentation (DOC17/039061)

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 Kulnura, and the “broader community” of the Wyong Shire Council LGA.

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 a luxury accommodation facility and function centre overlooking Yengo National Park. Appropriate development consent is in place.
- (3) Police raised no objections to the grant of the licence for the premises.
- (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

(1) Positive benefits

Noonaweena Lodge is a luxury accommodation and function venue located in the Central Coast of NSW, hosting events such as weddings, engagements and corporate conferences. The granting of the licence will bring numerous benefits to the region, including increased employment and tourism.

The venue poses low risk to the local or broader community and has been supported by appropriate development consent.

(2) Negative impacts

There have been no objections to the granting of this licence. 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: 10 March 2017



Joanne Zammit
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>