



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

APPLICATION NO:	APP-0002130208
APPLICATION FOR:	Producer wholesaler liquor licence with a drink on-premises authorisation
TRADING HOURS:	Monday to Thursday: 10:00 AM - 10:00 PM Friday to Saturday: 10:00 AM - 12:00 AM Sunday: 10:00 AM - 10:00 PM
APPLICANT:	Michael Devey
LICENCE NAME	Wins Creek Meadery
PREMISES ADDRESS:	18 East St, MURRUMBATEMAN, NSW 2582
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
Wins Creek Meadery**

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 Industry, has decided to grant the application for a producer wholesaler liquor licence with a drink on-premises authorisation, application number APP-0002130208.

On 1 April 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. Retail sales
Good Friday Normal trading
Christmas Day Normal trading
December 31st Normal trading
3. The premises must be operated at all times in accordance with the Plan of Management dated February 2017, as may be varied from time to time after consultation with the Local Area Commander, NSW Police Force.



4. No drinks commonly known as shots, shooters, slammers, and/or bombs, or any alcoholic drink mixed with an energy drink that is designed to be consumed rapidly, are to be sold or supplied.
5. The licensee is to maintain an approved Incident Register with incidents and details of the action taken, to be recorded in the Incident Register at all times.
6. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing injury to a person on the premises, the person must:
 - a. Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline issued by NSW Police Force, and
 - b. Make direct and personal contact with the Local Area Commander, NSW Police Force or his/her delegate, and advise the Commander or delegate of the incident, and
 - c. Comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 29 August 2016 (DOC16/094759)
- (2) Certificate of Advertising declaration by applicant on 14 September 2016 (DOC16/106079)
- (3) Plan of Management dated 14 February 2017 (DOC17/043459)
- (4) Notice of Determination – Development Application 5.2016.173.1 issued by Yass Valley Council on 25 August 2016 (DOC16/094760)
- (5) National Police Certificate for the applicant Michael Devey issued 8 September 2016 (DOC16/108463)
- (6) Applicant ID, forwarded 30 August 2016 (DOC16/094763)
- (7) Responsible Services of Alcohol Competency Card forwarded 30 August 2016 (DOC16/094765)
- (8) Plan at grant of proposed premises amended on 22 March 2017 (DOC17/061645)
- (9) Surrender application for current on-premises liquor licence, LIQO624009391, Wins Creek Meadery, forwarded 13 September 2016 (DOC16/106083)
- (10) Letter from Yass Valley Council dated 20 February 2017 (DOC17/043460) and signed Council notice (DOC17/057058), in support of the application
- (11) Email correspondence dated 21 January 2017 (DOC17/015780), 25 February 2017 (DOC17/039584) and 18 March 2017 (DOC17/057061), from the Authority to the applicant requesting additional information.
- (12) Email correspondence from the applicant dated 13 February 2017 (DOC17/030256), 2 March 2017 (DOC17/043457) and 21 March 2017 (DOC17/061639, DOC17/061641), in response to the Authority requests 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 village of Murrumbateman, and the "broader community" of Yass Valley Council.

5. Analysis of Submissions and other Materials

- (1) The proposed producer wholesaler application with a drink on premises authorisation is located in an historic building, constructed in 1879 within the village of Murrumbateman.
- (2) A current on-premises liquor licence for a restaurant with a primary services authorisation has been surrendered, to enable the current licence to take effect.
- (3) The applicant intends to operate a cellar door in addition to a restaurant on site. He wishes to offer local wine in addition to mead produced at the premises to patrons.
- (4) Having reviewed all the material, I am satisfied that this application for a producer wholesaler liquor licence application with a drink on-premises authorisation, has a current development consent in place.
- (5) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

The licence application poses low risk to the local or broader community and has been supported by appropriate development consent. There have been no objections to the granting of this licence.

The licence will be exercised in accordance with the Plan of Management and licence conditions that define practices for responsible service of alcohol, and provide measures to

ensure that the operation of the premises contributes to, and does not detract from the amenity of community life.

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: 1 April 2017



Olgica Lenger
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>