

NSW Department of Industry
Liquor & Gaming NSW

DOC16/163388

APPLICATION NO: 1-4205342213
APPLICATION FOR: Packaged liquor licence (online)
TRADING HOURS: 9:00 AM to 5:00 PM Monday to Saturday
10:00 AM to 5:00 PM Sunday
APPLICANT: Saddler's Creek Wines Pty Ltd
APPOINTED MANAGER: Brett Woodward
LICENCE NAME: Saddlers Creek Wines
PREMISES ADDRESS: 15 Marrowbone Rd, POKOLBIN, NSW 2320
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)
SADDLERS CREEK WINES**

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 with conditions the following licence application number: 1-4205342213.

On 13 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 3:00 AM and 9:00 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 24 th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 st	Normal trading

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3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing 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 must be operated at all times in accordance with the Plan of Management dated 10 April 2017, as may be varied from time to time after consultation with the Local Area Commander, NSW Police Force.
6. 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, and other relevant material:

- (1) Application form for packaged liquor licence, lodged 9 February 2016 (DOC16/022708)
- (2) Category A Community Impact Statement (CIS), dated 9 February 2016 (DOC16/030005)
- (3) Development Application No. 118/689/59 granted by Cessnock City Council on 15 June 1989 approving the use of the premises as winery/cooperage, office/sales and tasting facility (DOC16/022741)
- (4) Submission from Cessnock City Council dated 21 December 2015 advising that Council has no objections to the application (DOC16/022741)
- (5) Copy of the applicant's identification and NSW National Police Certificate (DOC16/022745, DOC16/022746)
- (6) Plan of the premises (DOC17/024178)
- (7) Certificate of Advertising Application, signed and dated on 31 October 2016 (DOC16/163121)
- (8) A submission from the Compliance team of Liquor & Gaming NSW, raising no objections to the application, dated 20 April 2016 (DOC16/038751)
- (9) Email correspondence from the Authority to the applicant requesting further information (DOC16/134886, DOC16/163179, DOC17/023332, DOC17/029806, DOC17/032958, DOC17/052585, DOC17/058016, DOC17/063977, DOC17/079935)
- (10) Email correspondence from the applicant to the Authority, including applicant's consent to the imposition of the licence conditions (DOC16/163119, DOC17/023215, DOC17/024178, DOC17/032956, DOC17/052584, DOC17/057911, DOC17/058047, DOC17/058047, DOC17/075203, DOC17/079771)
- (11) Plan of Management, dated 10 April 2017 (DOC17/079772)
- (12) Photograph of the premises (DOC16/163123)
- (13) ASIC Certificate of Registration of Business Name for "Saddler's Creek Wines", dated 27 October 2016 (DOC16/134786)
- (14) ASIC extract for "Saddler's Creek Wines", listing the directors and shareholders as at 17 March 2017 (DOC17/057954)

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:
 - 4.2.1. the grant or removal of a small bar licence (where required),
 - 4.2.2. a packaged liquor licence (limited to telephone/internet sales),
 - 4.2.3. 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 Pokolbin 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 significant increase in alcohol-related harms in the local community.
- (2) 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.
- (3) The development consent for the premises approves the use of the premises as a winery/cooperage and office/sales. The licensed area comprises of the office, at which online orders will be received and processed. Customers will not be able to attend the licensed premises.
- (4) A submission from Cessnock City Council advising that Council raises no objection to the granting of the liquor licence, provided that all conditions of the relevant development consent are adhered to.
- (5) A submission was received from the Compliance team of Liquor & Gaming NSW, raising no objections to the application.
- (6) No other submissions were received in respect of this application.

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- (7) The licence will be exercised in accordance with a Plan of Management detailing measures to be employed to ensure the responsible service of alcohol.
- (8) I am satisfied that the applicant has provided consent to the conditions imposed on the licence.
- (9) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

No objections were received in respect of this application. 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. 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) 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 liquor licence application with conditions.

Decision Date: 13 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 online 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>