

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

APPLICATION NO:	1-4577338167
APPLICATION FOR:	Producer wholesaler application with a drink on premises authorisation
TRADING HOURS:	Monday to Sunday: 11:00 AM to 6:00 PM
APPLICANT:	United Investment Australia Holding Pty Ltd
APPROVED MANAGER	Helen Wilkinson (LIQXA911014369)
LICENCE NAME:	Tellace Wines
PREMISES ADDRESS:	356 Tuckers Lane North ROTHBURY NSW 2335
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

TELLACE 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 the application for a producer wholesaler application with a drink on premises authorisation, application number 1-4577338167.

On 15 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 5:00 AM and 11:00 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. Drink on-premises authorisation
 - Good Friday 11:00 AM - 06:00 PM
 - Christmas Day 11:00 AM - 06:00 PM
 - December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
4. The premises must be operated at all times in accordance with the Plan of Management dated December 2016, as may be varied from time to time after consultation with the Local Area Commander of NSW Police Force.
5. No shots, shooters, slammers, bombs or any drink that is designed to be consumed rapidly or mixed with energy drinks is to be sold or supplied at the premises.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 22 June 2016 (DOC16/067168)
- (2) Drink on premises authorisation application form dated 23 May 2016 (DOC16/080547)
- (3) Certificate of Advertising declaration signed by applicant and dated 23 March 2017 (DOC17/064051)
- (4) Plan of Management dated December 2016 (DOC17/070815)
- (5) Premises plan at grant (DOC16/080550)
- (6) Signed Cessnock City Council notice confirming consent in place for both the producer /wholesaler and drink on premises authorisation applications (DOC16/067170)
- (7) Notice of Determination – Development Application DA 8/2002/1352/1 dated 25 November 2003 (DOC17/064049)
- (8) Submission from Hunter Valley LAC dated 14 January 2017 with no concerns (DOC17/010770)
- (9) A submission from the Secretary of the Department of Industry dated 21 December 2016, raising no concerns (DOC16/177134)
- (10) ASIC Current Organisation Extract for the organisation licensee forwarded 22 June 2016 (DOC16/067172)
- (11) Appointment of manager notice forwarded 28 July 2016 (DOC16/080561)
- (12) Email correspondence dated 17 December 2016 (DOC16/174680), 25 February 2017 (DOC17/039583), 13 March 2017 (DOC17/051336), 25 March 2017 (DOC17/064059) and finally 3 April 2017 (DOC17/070821) from the Authority to the applicant requesting additional information.
- (13) Email correspondence from the applicant in response to the requests for additional information and supporting documentation, dated 25 February 2017 (DOC17/040597), 13 March 2017 (DOC17/051321), 24 March 2017 (DOC17/064045/46 and DOC17/064050) and finally 3 April 2017 (DOC17/070770).

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 town of Rothbury, and the "broader community" of the Cessnock City Council.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a producer wholesaler with a drink on premises authorisation has appropriate Development Consent in place.
- (2) Police raised no objections to the grant of the licence for the premises and agree with the implementation of the conditions included in the Plan of Management.
- (3) The Cessnock City Council raised no objections to the grant of the licence for the premises. This is supported by a signed Council notice.
- (4) The Secretary's delegate has forwarded a submission with no concerns..
- (5) The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, and provides measures to ensure that the operation of the premises does not impact detrimentally upon or detract from, the amenity of the neighbourhood.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The proposed producer/wholesaler premises will operate as a cellar door venue and will be available as a function venue within a rural scenic location, for weddings, special occasions, birthdays etc.

The premises 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. The Plan of Management provided by the applicant and conditions imposed on the licence provide a level of certainty that there are unlikely to be any amenity impacts on the local and broader 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 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: 15 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>