

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

APPLICATION NO: 1-6345140995

APPLICATION FOR: Liquor – On-premises licence with Catering class

TRADING HOURS: Monday to Saturday : 11:00 AM – 10:00 PM
Sunday : 11:00 AM – 10:00 PM
Lot 100 'The Willows' site : 11:00 AM – 8:00 PM
(Monday to Sunday)

APPLICANT: Michelle Ann Stivens

LICENSEE: Michelle Ann Stivens

LICENCE NAME: Heifer Station Events

PREMISES ADDRESS: Lot 100 & 102, 1034 The Escort Way, Borenore
NSW 2800

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an On-premises liquor licence (with Catering class).

LEGISLATION Section 45(1) of the *Liquor Act 2007*

**ILGA DELEGATED DECISION – APPLICATION FOR
ON PREMISES LIQUOR LICENCE (CATERING CLASS)**

HEIFER STATION EVENTS

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 On-premises liquor licence (with Catering class), application number 1-6345140995.

On 22 November 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 04:00 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	Not Permitted
December 24 th	Normal trading Monday to Saturday 08:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 st	Normal Trading

3. The maximum number of temporary events is 52 (whether or not consecutive days) over a 12 month period. Approval given for 12 months from date of approval, 22 May 2017, and the temporary use must not have detrimental social, amenity or environmental impacts.
4. The hours of use for the event site on Lot 100 to be limited to 11:00 AM to 8:00 PM Monday to Sunday.
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.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate based on the application, the accompanying documentation and other relevant material:

- (1) Application form lodged 25 September 2017
- (2) Certificate of Advertising dated 2 November 2017
- (3) Plan of the proposed licensed area (home office and 3 permanent x event sites on property)
- (4) Notice of Determination: DA 2017/128, Land: Lots 100 & 102 DP 1031436, 1034 The Escort Way, Borenore. Proposed Development: Temporary Events (maximum number of temporary events is 52 whether or not consecutive days over a 12 month period), Issued: 22/05/17 (consent to lapse on 22 May 2018 - further approval required at the expiration of the 12 month period). Hours of Operation: 11:00 AM to 10:00 PM Monday to Sunday.
- (5) DA compliance inspection report dated 15/08/17 confirming applicant is abiding by all conditions imposed and that Council is satisfied that temporary events may proceed as approved.
- (6) Business Plan dated 2 November 2017

- (7) Email correspondence from the Authority to the applicant requesting additional information and/or documentation, and responses to public submissions.
- (8) Email correspondence from the applicant to the Authority in response to requests for additional information and/or documentation, and responses to public submissions.
- (9) Two Public submissions (Objections) were received from neighbouring properties during the advertising period. The applicant addressed these concerns in detail. Further, Council performed a DA compliance inspection on 15/08/17 to ensure applicant is abiding by all conditions imposed, confirming that Council is satisfied that temporary events may proceed as approved.

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 4 Division 4.1 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:
 - a. the grant or removal of a small bar licence (where required),
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. 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 Borenore, and the “broader community” of the Cabbone 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 with Catering class is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed licensed premises comprises of a home office on Lot 100, and 3 x event sites on the property at 1034 the Escort Way ('The Willows' - Lot 100, and 'The Cellar Door Greens' and 'The Bull Paddock' - Lot 102).
- (3) Council and Police have no objections to the application.
- (4) Objections were raised during the advertising period by two neighbours residing adjacent to the property, citing concerns with the likely increase in dust, fumes, noise (vehicular and patron), and light pollution (carpark, cellar door and vehicular). The applicant addressed these concerns in detail. Further, Council performed a DA compliance inspection on 15/08/17 to ensure applicant is abiding by all conditions imposed, confirming that Council is satisfied that temporary events may proceed as approved.
- (5) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The proposed licence will provide a flexible functions space in Borenore with the capacity to host up to 52 temporary events per year. Held on the Heifer Station vineyard, these functions will include those associated with Orange F.O.O.D Week, Orange Wine Festival, Banjo Patterson Festival, weddings, as well as lunch and dinner events promoting the Orange wine industry, generating economic benefits to the the Cabonne and greater Orange regions via tourism.

(2) Negative impacts

Although two public submissions with objections were received, the applicant has adequately addressed the issues raised by both.

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 application 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: 22 November 2017



Wendy Yeung Wye Kong
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>