



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

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DOC/16/079881

**Application no:** 1-4175061169

**Application for:** Packaged liquor licence (limited to telephone/internet sales)

**Proposed trading hours:** Monday to Saturday: 9:00 AM to 10:00 PM  
Sunday: 10:00 AM to 10:00 PM

**Applicant:** Allan Mohi Goodman

**Proposed licence premises name:** The Wine Bandits

**Issue:** Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for Liquor - packaged liquor licence (on-line).

**Legislation:** s45(1) of the *Liquor Act 2007*

**ILGA DELEGATED DECISION**

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 a packaged liquor licence (limited to telephone/internet sales), 1-4175061169.

On 18 August 2016, and after careful consideration of the Application and other material, the delegate decided to approve the Application.



**Conditions imposed:**

- 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.
- Retail sales
  - Good Friday            Not permitted
  - December 24            Normal trading
  - Christmas Day            Not permitted
  - December 31st            Normal trading
- 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.
- 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.
- The licensee must conduct the licence in accordance with its management plan dated July 2016 as may be varied from time to time in consultation with the Local Area Commander.
- The licensee or its representative must join and be an active participant in the local liquor accord.

## **STATEMENT OF REASONS**

### **1. Material before the ILGA delegate**

The decision made by the delegate had the Application, the accompanying community impact statement (CIS-Category A) and other relevant material:

- 1.1 Application form – lodged 3 March 2016.
- 1.2 Community Impact Statement (CIS) document and supporting material that accompanies the Application, dated 19 February 2016. The CIS includes contentions on the social impact of granting the Application.
- 1.3 Plan of Management for the Premises dated July 2016.
- 1.4 EVAT report submitted by the Director of Compliance with the Office of Liquor, Gaming and Racing dated 30 March 2016.
- 1.5 Plan of proposed premises (home based business for the purposes of taking orders) as consented to by the applicant on 25 July 2016.
- 1.6 Submission from NSW Police Force received 26 April 2016 which raised a number of concerns regarding the application and proposed a number of conditions to be imposed on the licence.
- 1.7 Submission from Council received by the applicant on 29 January 2016 which raised no objection to the application.



- 1.8 Under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the proposed business is classified as a "home business" and is permitted to operate without consent from Council. Therefore a DA was not required.
- 1.9 On 25 July 2016, photographs of the home office showing where orders will be taken online or over the phone were provided.
- 1.10 On 25 July 2016, the applicant provided consent to impose both statutory and Authority proposed conditions on the liquor licence
- 1.11 Responses to submissions were received by the applicant on 25 July 2016.

## **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**

3.1 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.

3.2 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**

In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:

- 3.1 the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
- 3.2 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



- 3.3 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**

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant "local community" is the community within the State suburb of North Bondi and the "broader community" comprises the Waverley LGA.

#### **5 Analysis of Submissions and other Materials**

Having reviewed all the material, I am satisfied that this application for an on-line packaged liquor licence is low risk. The sale of liquor is limited to by means of taking orders over the telephone or by facsimile or mail order, or through an internet site.

The proposed licensed premises is a home office within a residential area. Alcohol will not be stored on the proposed licenced premises and customers will not be able to attend the licensed premises.

The licence will be exercised in accordance with a Plan of Management that addresses the location, storage of liquor, hours of trade, signage requirements, responsible service of liquor, measures to ensure that minors are not sold or supplied liquor, delivery of liquor, and cooperation with the Authority, Police and Council.

A number concerns were raised in the Police submission in respect of the application. I am satisfied that the response received by the applicant's representative address the concerns

satisfactorily. I am similarly satisfied that the conditions imposed on the licence and the measures implemented in the Plan of Management also address all concerns raised in the Police submission.

The applicant has consented to joining the local liquor accord.

I am satisfied that the statutory advertising requirements have been met.

## **6 Overall social impact**

### **6.1 Positive benefits**

The licence will be operated from a residential location by internet and telephone during retail hours. Liquor is dispatched from a warehouse located in an industrial estate.

Customers will not be attending the premises as sales are limited to telephone, facsimile, mail order and Internet.

### **6.2 Negative impacts**

A number of concerns were raised by NSW Police to the liquor licence including minors buying alcohol via online shopping; age verification procedures on delivery; number of online packaged liquor licences in existence; and the Wine Bandits' business model (specifically liquor trading hours, pricing strategy, bulk sales, and projected turnover). The applicant addressed these concerns and I am satisfied that adequate measures will be put in place to ensure that the granting of the application will not be detrimental to the wellbeing of the local and broader community.

## **7 Conclusion**

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.



- 7.6 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 packaged liquor licence application with conditions.

Decision Date: 18 August 2016

Joanne Zammit  
Coordinator, 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>