



Michael Marr
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24 February 2022

Dear Mr Marr

Application No.	APP-0009265454
Applicant	Bryony Geraldine Proctor
Application for	Packaged liquor licence
Licence name	Marilynas Cellars
Premises	Unit 3, 64 Harbord Road Freshwater NSW 2096
Trading hours	Monday to Saturday 10 am – 12 midnight Sunday 10 am – 10 pm
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45, 48, and 114E-114G of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence (delivery only) – Marilynas Cellars**

The Independent Liquor & Gaming Authority considered the application above, and decided on 16 February 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

The Authority notes that the grant of the delivery only packaged liquor licence is conditional on the surrender of packaged liquor licence no. LIQP770016907.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10 am.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager, Jason Owston, at jason.owston@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

Philip Crawford
Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**

Concise statement of reasons

Key facts

Application No.	APP-0009265454
Applicant	Bryony Geraldine Proctor
Application for	Packaged liquor licence
Licence name	Marilynas Cellars
Premises	Unit 3, 64 Harbord Road Freshwater NSW 2096
Trading hours	Monday to Saturday 10 am – 12 midnight Sunday 10 am – 10 pm
Application date	6 October 2021
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	16 February 2022

Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application
- Category A Community Impact Statement
- Premises plan setting out the proposed boundaries of the licensed premises
- Plan of management for the licensed business
- Development consent for the premises
- Liquor & Gaming LiveData report
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 29-31: Specific provisions in respect of a packaged liquor licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Sections 114E-114G: Specific provisions relating to same day liquor deliveries.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Freshwater, and the broader community is the Local Government Area of Northern Beaches.

Positive social impacts

The Authority notes that the application is to licence a home office with deliveries to take place from a separate commercial storage facility. The Authority notes that the applicant currently holds an unrestricted packaged liquor licence which will be surrendered upon grant of the delivery only packaged liquor licence.

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased liquor access, choice and convenience.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- higher than average saturation of packaged liquor licences in the local and broader community
- higher than average level of alcohol-attributable hospitalisations in the broader community.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- the granting of the licence will not increase the density of packaged liquor licences in the local or broader communities as approval of the application is conditional on the surrender of an existing unrestricted packaged liquor licence
- relative socio-economic advantage in the local and broader community
- absence of any objections from agency stakeholders or members of the community
- lower than average level of alcohol-attributable deaths in the broader community
- lower than average crime rates in the local and broader community
- experience of the applicant as an operator of the Marilynas Cellars unrestricted packaged liquor licence since 2015
- the delivery-only business model and harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.



Philip Crawford
Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Schedule 1 – Licence conditions to be imposed Marilynas Cellars

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 six (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. Restricted trading & NYE (std)
Retail sales

Good Friday December 24 th	Not permitted Normal trading Monday to Saturday 8:00 AM to 12 midnight Sunday
Christmas Day December 31 st	Not permitted Normal trading
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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated November 2021 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. This licence is 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.
7. No liquor products for sale under this licence are to be delivered to, or stored at, the licensed premises.
8. The licensee must ensure that no tastings are conducted on the licensed premises.
9. No advertising or promotional material relating to alcohol is to be displayed outside the licensed premises.
10. Licensee training must be completed no later than six months from the date of grant of the liquor licence.