



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

APPLICATION NO:	APP-0004238955
APPLICATION FOR:	Liquor – on-premises restaurant with primary service authorisation and catering service with sale on other premises authorisation
TRADING HOURS:	Restaurant Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM Primary Service Authorisation Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM Catering Service Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM Sale on other premises Authorisation Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	Mr Erby, Matthew Norman
LICENCE NAME:	Green Moustache
PREMISES ADDRESS:	Level 10 Northpoint Tower 100 Miller Street NORTH SYDNEY NSW 2060
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
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
On-premises Liquor Licence**

Green Moustache

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



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decided to grant the application for an on-premises liquor licence, application number APP-0004238955.

On 30 July 2018, 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. Restricted trading & NYE - restaurant

Consumption on premises

Good Friday	12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
Christmas Day	12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. Restricted trading & NYE – catering service

Consumption on premises

Good Friday	Normal trading
Christmas Day	Normal trading
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later.

4. No drinks commonly referred to as shots, shooters, slammers, and/or bombs, or any drink designed for rapid consumption are to be sold or supplied.
5. The premise is to operate with its principal business being that of a restaurant as defined by the Liquor Act and not as a bar, with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation.
6. The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.



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) Application forms lodged on 10 May 2018
- (2) Plan of proposed licensed area
- (3) Notices
- (4) Pending Development consent notification
- (5) National Criminal Check for Applicant dated 20 April 2018
- (6) Identification documentation for Applicant
- (7) Responsible Service of Alcohol competency card CCH10060704 with an expiry of 2 April 2022
- (8) Additional information to accompany application
- (9) Community Impact Statement (Category A) signed and dated 9 May 2018
- (10) Plan of Management dated April 2018
- (11) Council Submission during CIS process dated 18 April 2018
- (12) ASIC Organisation extract for NP (North Sydney) Pty Limited A.C.N 622 334 678 dated 27 April 2018 (Business Owner)
- (13) ASIC Organisation extract for Cromwell Seven Hills Pty Limited A.C.N 128 764 125 dated 9 April 2018 (Premises Owner)
- (14) Council Submission received 16 May 2018
- (15) Police Submission from North Shore PAC received 25 May 2018
- (16) Development Consent 17/18 determined 30 May 2018
- (17) Email correspondence from L&GNSW to the applicant requesting additional information
- (18) Email correspondence from the applicant to L&GNSW
- (19) Certification of Advertising

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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

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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 North Sydney, and the “broader community” of North Sydney 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, restaurant, primary service authorisation, catering service with a sale on other premises authorisation is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed restaurant is to be located at Northpoint Tower complex which is currently undergoing extensive redevelopment. In addition to the existing multi-

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storey commercial office tower, the re-development of the podium area will include a supermarket, various specialty retail premises, a number of food and drink premises, a Vibe accommodation hotel with over 180 rooms, and other associated facilities. Northpoint was designed to meet the retail, dining and leisure needs of the ever-growing professional population in the area. The upper level of the podium will be dedicated to dining and leisure with an “Eat Street” concept.

- (3) The sale of liquor will be limited to patrons attending the restaurant with and/or without a meal and for functions and events where the applicant will be engaged on premises that are not currently licensed.
- (4) The Sydney East Region Joint Regional Planning Panel has granted Development Consent 443/14 for re-configuration of podium levels and new hotel tower, including alterations and additions to the podium to include a supermarket, retail and food premises with a new hotel.
- (5) Further Development Consent DA73/18 has been granted for the fitout and use of the premises as a restaurant and bar.
- (6) I am satisfied that appropriate development consent is in place.
- (7) The licence will be exercised in accordance with standard RSA practices that will be in place at the licensed premises to ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises, and that the operation of the premise does not impact detrimentally upon or detract from, the amenity of the neighbourhood. For that purpose all staff serving alcohol will have current RSA certification.
- (8) The applicant has provided a plan of management to control various aspects of the operations of the Restaurant.
- (9) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (10) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of the licence will provide additional dining choice to the professional population in the area and to enable those seeking the same dining experience to be able to utilise their catering service for functions and events.



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(2) Negative impacts

No objections have been received in respect of this licence application. Having reviewed all of the material, I am satisfied that the granting of this licence is unlikely to result in any significant increase in alcohol-related harm in 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: 30 July 2018

Wendy Yeung Wye Kong
A/Coordinator (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.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.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>