



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

APPLICATION NO:	1-6808867792
APPLICATION FOR:	On-premises liquor licence
LICENCE CLASSES:	Club activity & support, sport facility, and catering service
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 11:00 AM to 10:00 PM
APPLICANT:	Narelle Blick
LICENCE NAME:	Nobbys Surf Life Saving Club
PREMISES ADDRESS:	35 Nobbys Road NEWCASTLE EAST NSW 2300
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a on-premises liquor licence.
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
ON-PREMISES LIQUOR LICENCE**

Nobbys Surf Life Saving Club

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 an on-premises liquor licence, application number 1-6808867792.

On 11 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 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with

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this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. **Consumption on premises: Sport facility, and club activity & support**

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. **Consumption on premises: catering service**

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. The licensee, or his/her representative, must be present during all functions where liquor is sold or supplied.
5. The following drinks must not be sold or supplied at any time
 - a) Any drink (commonly referred to as a "shot" that contains no more than 30ml of spirits or liqueur that is designed to be consumed rapidly.
 - b) Any drink containing alcohol is not to be mixed with an energy drink.
6. The following restrictions and conditions will apply upon the sale of alcohol after 10.00pm,
 - 1) No mixed drinks with any more than thirty (30) mls of alcohol.
 - 2) No RTD drinks with an alcohol volume greater than 5%.
 - 3) Not more than four drinks may be served to any one patron at one time.
7. Musical entertainment provided within the premises must be ancillary or incidental to the function occurring. The premises are not to be used or promoted as an entertainment venue.

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8. The licensee must employ a fully licensed security guard at a ratio of 1 security guard: 100 patrons, whenever the patron capacity of any function/event exceeds 100 persons.
9. Alcohol may only be sold or supplied when there is a pre-arranged function.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/008622)

The decision made by the delegate had the application and other relevant material:

- (1) Application form, lodged 4 June 2018
- (2) Application Notices
- (3) Plan of proposed licensed premises
- (4) Development Application No. DA2017/01324, granted by Newcastle City Council on 3 May 2018
- (5) Email correspondence between Liquor & Gaming NSW and Newcastle City Council regarding development consent, dated 5 June 2018, 15 June 2018, 18 June 2018
- (6) Email correspondence from Newcastle City Council enclosing signed surrender liquor licence application, dated 22 June 2018
- (7) Minutes of Nobbys Surf Life Saving Club 94th Annual General Meeting on 23rd July 2017
- (8) Limited liquor licence for Nobbys Surf Life Saving Club Inc, LIQL524005727
- (9) Signed surrender liquor licence application, surrendering LIQL524005727, dated 8 June 2018
- (10) Copy of the applicant's National Criminal History Check, dated 7 June 2018
- (11) Certificate of Advertising Application, signed and dated 7 June 2018
- (12) Nobbys Surf Life Saving Club Alcohol Management Plan
- (13) Submission from Newcastle City Council, dated 15 June 2018
- (14) Submission from NSW Police Force, dated 27 June 2018
- (15) Compliance detail report for Narelle Blick, generated 2 July 2018
- (16) Compliance detail report for limited licence LIQL524005727, generated 2 July 2018

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- (17) Email correspondence between Liquor & Gaming NSW and the applicant, dated 4 June 2018, 5 June 2018, 8 June 2018, 15 June 2018, and 28 June 2018

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

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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 Newcastle East, and the “broader community” of Newcastle LGA.

5. Analysis of Submissions and other Materials

- (1) This application is for an on-premises liquor licence, for Nobbys Surf Lifesaving Club, situated in Newcastle East.

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- (2) Nobbys Surf Lifesaving Club is currently the subject of a limited licence, which will be surrendered immediately upon the grant of the on-premises liquor licence. The intention of the on-premises liquor licence is to replace the limited liquor licence.
- (3) The proposed licensed area encompasses the function rooms only, which will be utilised for club functions, and hired out for weddings, and celebrations.
- (4) The proposed licensed premises will have a patron capacity of 120 persons.
- (5) The applicant is an experienced licensee, having been appointed as licensee of the limited liquor licence currently endorsed on the premises on 2 June 2014. A compliance detail report has been generated for both the applicant and the limited liquor licence, with nothing adverse detected.
- (6) Development consent has been granted by Newcastle City Council for use of the premises as a surf lifesaving club, with use of the clubhouse for functions.
- (7) A submission was received from NSW Police, who did object to the application, however, did propose certain licence conditions.
- (8) A submission was received from Newcastle City Council raising no objection to the application, and confirming that development consent is required and in place.
- (9) No other submissions were received.
- (10) The applicant has prepared a Plan of Management which addresses the practices will be in place at the licensed premises to ensure that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises.
- (11) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of the licence will enable Nobbys Surf Life Saving Club to replace its current limited liquor licence with a permanent on-premises liquor licence, thereby offering the Club greater flexibility in utilising the clubhouse for club functions, as well as hiring out the Club for functions for the purpose of fundraising.

(2) Negative impacts

The liquor licence will be managed by an experienced licensee, and will be operated in accordance to licence conditions and a Plan of Management which

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implements measures to ensure the responsible service of alcohol, and that the operation of the clubhouse does not impact on the amenity of 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: 11 July 2018



Wendy Yeung Wye Kong
A/Coordinator
Business Licensing
Liquor & Gaming NSW
Delegate of the Independent Liquor & Gaming Authority



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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>