



Mr Ken Wong  
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22 October 2019

Dear Mr Wong

<b>Application for</b>	Review of a decision made by a delegate of the Independent Liquor & Gaming Authority under section 45 of the <i>Liquor Act 2007</i>
<b>Applicant</b>	Gazad Liquor Holdings Pty Ltd
<b>Ref for decision under review</b>	APP-0004537017
<b>Licence type</b>	On-premises (catering service) licence
<b>Licence name</b>	Burnham Grove Estate
<b>Licence number</b>	LIQO660034808
<b>Premises</b>	332 Cawdor Road Cawdor NSW 2570

**Review of decision by a delegate of the Independent Liquor & Gaming Authority  
Burnham Grove Estate, Cawdor**

I refer to the application above to the Independent Liquor & Gaming Authority ("Authority"), seeking review of a decision made by a delegate of the Authority in granting an on-premises (catering service) licence for Burnham Grove Estate, Cawdor.

The Authority considered the application and decided on 15 May 2019 to **vary** the decision under review, pursuant to section 36A(4) of the *Gaming and Liquor Administration Act 2007*, to replace the following condition imposed on the licence granted (Condition 3040):

*The Licensee will ensure that accredited RSA marshals and Licensed Security guards are employed at all bars within the licensed area to monitor the responsible service of alcohol in line with current industry standards of 2 for the first 100 persons and 1 for each 100 persons thereafter*

with the condition below:

*The Licensee will ensure that two accredited RSA marshals are employed for the first 100 patrons at the premises, and one additional marshal is employed for every 100 patrons thereafter, at all bars within the licensed area to monitor the responsible service of alcohol.*

*The Licensee will also ensure that one licensed security guard is employed, from three hours before the closure of the premises until all patrons have left the vicinity of the premises, to conduct regular patrols of the immediate vicinity of the premises and ensure that patrons leave the area without causing disturbances to the neighbourhood.*

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

If you have any questions, please contact the case manager at  
[aileen.zheng@liquorandgaming.nsw.gov.au](mailto:aileen.zheng@liquorandgaming.nsw.gov.au).

Yours faithfully

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

## Statement of reasons

### The review application

1. On 26 February 2019, Gazad Liquor Holdings Pty Ltd (“Review Applicant”) lodged an application (“Review Application”) with the Independent Liquor & Gaming Authority (“Authority”), seeking review of a decision made by a delegate of the Authority on 6 February 2019 (“Decision”).
2. In the Decision, a Licensing Coordinator of Liquor & Gaming NSW (“Delegate”) granted an on-premises licence relating to a catering service (“Licence”), under section 45 of the *Liquor Act 2007* (“Liquor Act”), for the premises at 332 Cawdor Road, Cawdor proposed to be trading as Burnham Grove Estate (“Premises”).
3. The Review Applicant, as the original licence applicant and current licensee, did not contest the grant of the Licence, but sought variation of one of the conditions imposed as part of the grant (“Condition”). The Condition is recorded as Condition 3040 of the Licence, and states:  
*The Licensee will ensure that accredited RSA marshals and Licensed Security guards are employed at all bars within the licensed area to monitor the responsible service of alcohol in line with current industry standards of 2 for the first 100 persons and 1 for each 100 persons thereafter.*
4. The Review Applicant sought to remove the security guard component of the Condition, contending that the requirement is costly and unnecessary given the nature of the licensed business at the Premises, and the other harm minimisation measures in place.
5. On 25 March 2019 the Authority wrote to the stakeholders who made submissions in respect of the original licence application, inviting their comments on the Review Application. A copy of the original licence application file, including documents setting out the reasons for the Delegate’s decision, was provided to these stakeholders and the Review Applicant.
6. On 30 April 2019 the Review Applicant made a further submission in support of the Review Application.
7. To date no submission has been received from any other stakeholders.

### Material considered and relevant legislative provisions

8. In considering the Review Application, the Authority has had regard to the following material:
  - a) Bundle of material before the Delegate at the time of the Decision.
  - b) Statement of reasons for the Decision.
  - c) Review Application material and the Review Applicant’s further submission.
9. A list of the material considered by the Authority is set out in Schedule 1.
10. The Authority’s power to review the Decision is set out in section 36A of the *Gaming and Liquor Administration Act 2007* (“GALA Act”). Section 36A(4) of the GALA Act provides that the Authority may, in determining an application for review, confirm, vary or revoke the decision under review.

### Findings

11. For the purposes of section 36A of the GALA Act, the Authority is satisfied that the Decision, made in respect of an application for an on-premises licence relating to a catering service, is a reviewable decision pursuant to section 36A(1)(d) of the GALA Act and clause 6(a)(iii) of the Gaming and Liquor Administration Regulation 2016.
12. The Authority is also satisfied that the Review Applicant, as the original licence applicant, has standing under section 36A(2A) of the GALA Act to make the Review Application, and that the Review Application has been validly made and meets the procedural requirements under section 36A(2) of that Act.

13. The Authority has limited its review of the Decision to reviewing the appropriateness of the Condition, as this was what the Review Application sought, and the other aspects of the Decision were uncontested.
14. The Condition was proposed by NSW Police Force (“Police”) in its submission in response to the original licence application. Police requested the imposition of the Condition, along with four other conditions, on the basis of noise related issues at the Premises which led to complaints from members the public and noise abatements from the local council. Police also referred to some other issues arising from the operation of the Premises, including trading beyond authorised hours and patron intoxication.
15. The concerns raised by Police were echoed in three submissions from members of the public living near the Premises. These submissions referred to a “consistent and extensive history” of resident complaints about the Premises as “an ongoing concern”, citing instances of:
  - a) loud music played at the Premises and loud noises generated by patrons at the Premises, which often continued beyond the authorised opening hours of the Premises, and
  - b) alcohol-related anti-social behaviour and disturbances associated with patrons leaving the Premises.
16. The Review Applicant disputed these claims, contending that the operation of the Premises complied with all requirements of the development consent, and there had been no noise abatement orders or findings of breach against the Premises since the Review Applicant took over the business in 2014.
17. The Review Applicant argued that the security guard requirement of the Condition is:
  - a) unusual and costly for, and creates negative perceptions about, a venue with a patron capacity of 125 and used primarily for weddings and other private functions, and
  - b) unnecessary as adequate measures such as the employment of RSA marshals are already in place to ensure the responsible service of alcohol at the Premises, and there have not been any incidents of violence or intoxication requiring a security guard or police attendance since 2014.
18. The Authority accepts, on the basis of the information provided by the Review Applicant, that a range of harm minimisation measures have been implemented at the Premises to reduce the adverse social impacts associated with the operation of the Licence.
19. The Authority also notes the Review Applicant’s argument that Police and the three public submitters have not substantiated the incidents of non-compliance and complaints cited in their submissions with relevant records.
20. The Authority nevertheless finds the similar concerns raised by the public submitters and Police to be genuine and, considered cumulatively, suggest that some greater supervision over patron behaviour is warranted. The Authority also notes that Cawdor is a semi-rural area and has taken into consideration the expectations the local community may have of the quiet and good order of the neighbourhood.
21. The Condition in its current form requires two security guards to be present at all times at the Premises. The Authority accepts that the burden imposed by this requirement is disproportionate to the risk of alcohol-related harm associated with the operation of the Licence at the Premises, particularly during earlier times of the day.
22. In the Authority’s view, it would be more appropriate to require one security guard to be present for the final hours of functions held at the Premises, to ensure the orderly departure of patrons without undue disturbances to the amenity of the neighbourhood.
23. In reaching this conclusion the Authority has had regard to the statutory objects and considerations of the Liquor Act, as set out in section 3 of that Act, to regulate the sale, supply and consumption of liquor in a way that:
  - a) is consistent with the expectations, needs and aspirations of the community, and

b) does not detract from the amenity of community life.

24. Accordingly, the Authority has decided to vary the Decision under section 36A(4)(b) of the GALA Act, replacing the Condition with the following condition:

*The Licensee will ensure that two accredited RSA marshals are employed for the first 100 patrons at the premises, and one additional marshal is employed for every 100 patrons thereafter, at all bars within the licensed area to monitor the responsible service of alcohol.*

*The Licensee will also ensure that one licensed security guard is employed, from three hours before the closure of the premises until all patrons have left the vicinity of the premises, to conduct regular patrols of the immediate vicinity of the premises and ensure that patrons leave the area without causing disturbances to the neighbourhood.*



Philip Crawford  
Chairperson

## **Schedule 1 – Material considered by the Authority**

1. Original licence application dated 30 October 2018, and bundle of material in support of the application.
2. Submissions from three members of the public between 18 and 30 November 2018 in relation to the original licence application.
3. Submission from Camden Council on 26 November 2018 in relation to the original licence application.
4. Submission from Police on 12 December 2018 in relation to the original licence application.
5. Applicant's response to the submissions received in relation to the original licence application.
6. Application checklist dated 6 February 2019, used by the Delegate in determining the original licence application.
7. Statement of reasons for the Decision, dated 6 February 2019.
8. Completed application form dated 28 February 2019, with supporting documents attached, for the Review Application.
9. Further submission from Review Applicant on 30 April 2019.