



Mr Jon Martin
JDK Legal
j.martin@jdklegal.com.au

15 January 2018

Dear Mr Martin

Application No.	APP-0002447382
Application for	Hotel (general bar) licence with an extended trading authorisation
Trading hours	<u>Internal area</u> Monday to Sunday 10:00 am – 12:00 midnight <u>External area</u> Monday to Sunday 10:00 am – 10:00 pm
Applicant	V Bar Speakeasy Pty Ltd
Licence name	Nick & Nora's
Premises	Level 26, Section C 45 Macquarie Street PARRAMATTA NSW 2150
Issue	Whether to grant a hotel (general bar) licence with an extended trading authorisation
Legislation	Sections 3, 11A, 12, 14-17, 40, 45, 48, 49 and 51 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a hotel (general bar) licence with an extended trading authorisation
Nick & Nora's**

The Independent Liquor and Gaming Authority ("Authority") has considered the Applicant's application for a hotel (general bar) licence with an extended trading authorisation. Pursuant to sections 45 and 49 of the *Liquor Act 2007*, the Authority has decided to **grant** the licence and the authorisation, subject to the following conditions:

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 this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)
Consumption on premises

Good Friday	12:00 noon – 10:00 pm
Christmas Day	12:00 noon – 10:00 pm (liquor can only be served with or ancillary to a meal in a dining area)
December 31 st	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 after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 am.

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 and extended trading authorisation.

4. The premises is to be operated at all times in accordance with the Plan of Management dated 20 October 2017 as may be varied from time to time after consultation with the Local Area Commander of 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 must join and be an active participant in the local liquor accord.
6. At any time the licensed premises is trading and the Approved Manager is not present on the premises, the licensee/approved manager must ensure that the premises are under the supervision of a Supervisor who has at least one year of experience working in liquor licensed industry.
7. The Approved Manager or the supervisor on duty must ensure that no live entertainment, DJ entertainment, nightclub entertainment, live bands or vocalists entertainment is to occur at the premise.

In this condition: Nightclub operation refers to times where the licensed premises, or any part of the licensed premises, is used to provide entertainment by way of live or recorded amplified music where there is a space offered to patrons for dancing. Typical features of a nightclub operation may include loud music played by a DJ, a dance floor area, low background lighting, and intermittent bright or coloured lighting effects

8. The licensee must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:
 - a. the name of any of the following motorcycle-related and similar organisations: Bandidos, Black Uhlands, Coffin Cheaters, Comanchero, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Highway 61 , Life & Death, Lone Wolf, Mobshitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix, Rebels, Hells Angels, Scorpions, Mongols, Notorious, Muslim Brotherhood Movement; or any "declared organisation" within the meaning of the *Crimes (Criminal Organisation Control) Act 2009*, or
 - b. the colours, club patch, insignia or logo of any such organisation, or
 - c. the "1 %" or "1 o/er" symbol, or
 - d. any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, any of the organisations specified in point a, or
 - e. any incident where a person is refused entry or removed from the premises in relation to this condition must be recorded in the incident register.
9. Closed-circuit television system
 - (1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) on the premises.
 - (2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause (1)(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and

- (c) provide any recordings made by the system to a police officer or Liquor & Gaming NSW inspector within 24 hours of any request by a police officer or Liquor & Gaming NSW inspector to provide such recordings.
10. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
- (a) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - (b) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police, as published from time to time on the Liquor & Gaming NSW website,
 - (c) make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
 - (d) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition, "staff member" means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

Please note that in addition to compliance with the licence conditions above, it is also the responsibility of the licensee to:

- comply with all applicable requirements of Council and other relevant authorities, and
- ensure that practices are in place at all times to prevent and minimise harm associated with misuse and abuse of liquor at the Premises, for example by ensuring the orderly movement of patrons from the outdoor area of the Premises to the indoor area after 10 pm, without exposing patrons to higher risks of violence and anti-social behaviour.

Please also note that the licence cannot be exercised unless and until the Authority has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

If you have any questions, please contact the case manager via email at andrew.whitehead@liquorandgaming.nsw.gov.au.

Yours faithfully



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

Statement of reasons

Decision

1. On 16 December 2016, V Bar Speakeasy Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a hotel (general bar) licence (“Licence”) with an extended trading authorisation (“Authorisation”), for the premises at Level 26, Section C 45 Macquarie Street, Parramatta NSW (“Premises”).
2. The Authority has decided to grant the Licence pursuant to section 45 of the *Liquor Act 2007* (“Act”), and grant the Authorisation under section 49 of the Act.
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 14-17, 40, 45, 48, 49 and 51 of the Act, and the relevant provisions of the *Liquor Regulation 2008*.

Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with the Authority’s Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), HealthStats NSW, and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in the Schedule.

Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3, include the regulation of the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitation of the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its functions under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for various types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

13. Section 51 of the Act prescribes the minimum procedural requirements for a valid application for a licence related authorisation.

Fit and proper person, responsible service of alcohol, and development consent

14. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:

- a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
- b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

15. Section 48 of the Act requires certain applications, including an application for a hotel licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.

16. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

Provisions specific to a hotel liquor licence

17. Section 14 of the Act contains specific provisions on the trading hours for a hotel licence.

18. Section 15 of the Act sets out the primary purpose test for a hotel licence, whereby the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail.

19. Section 15A of the Act contains provisions on the cessation of liquor sales during trading hours. Section 16 relates to the grant of a hotel licence designated as a general bar licence. Section 17 sets out a number of miscellaneous conditions applicable to a hotel licence.

Provisions specific to an extended trading authorisation

20. The Authority's power to grant an extended trading authorisation for certain types of licences, including hotel licences, is set out in section 49 of the Act.

21. Subsection 49(8) provides that the Authority may only grant the authorisation if it is satisfied that:

- a) practices are and will remain in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the premises.

Key findings

22. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading requirements

23. The Authority is satisfied on the material before it that:

- a) the Application has been validly made and meets the procedural requirements under sections 40 and 51 of the Act,
- b) the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods,

- c) the primary purpose of the business carried out on the Premises will at all times be the sale of liquor by retail, as required by section 15 of the Act,
- d) section 15A is not applicable in the absence of the Applicant's stated intention to cease liquor sales during trading hours,
- e) the proposed operation of the Premises as a bar without gaming machines or take away liquor sales satisfies the requirements under section 16 of the Act in respect of a hotel licence designated as a general bar licence, and
- f) liquor will be sold and supplied at the Premises in accordance with the requirements under section 17 of the Act.

Fit and proper person, responsible service of alcohol, and development consent

24. Pursuant to section 45 of the Act, the Authority is also satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Premises dated 20 October 2017, and
- c) the requisite development consent is in force, based on the Modification Approval issued by the Planning Assessment Commission on 5 November 2015 in respect of the Premises.

Community impact statement

25. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.

26. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Parramatta, and the relevant "broader community" comprises Parramatta Local Government Area ("the LGA").

Positive social impact

27. The Authority notes that the density of hotel liquor licences in Parramatta is significantly higher than the NSW state average, though the same density in the LGA is less than half of the state average.

28. The Authority accepts, on the material before it, that Parramatta has undergone substantial development and population growth, which are expected to continue into the future. The Authority also accepts that the anticipated population growth will create further demand for liquor.

29. The Applicant contended that the Premises will:

- a) operate as a high-end rooftop bar in the Parramatta CBD, with a focus on crafted cocktails and selected whisky and Cognac,
- b) be operated by the Speakeasy Group, a renowned operator of a number of other high-end and award winning cocktail and whisky bars in Australia, with a good compliance record, and
- c) be hidden and discrete, and present a modern and intimate environment to patrons in line with the premium branding and fitout of the mixed use high rise development in which the Premises is located.

30. The Authority accepts that the Premises will provide consumers in the community with additional convenience and choices of liquor through its unique offering, and cater for the demands of a growing population for higher-end bars. The Authority also accepts that the proposed extended trading hours between 10 pm and 12 midnight on Sundays will benefit consumers who wish to enjoy their time at the bar at later hours on those days.
31. The Authority further accepts that the reputation and experience of the operator of the Premises will contribute to the supply of quality liquor products in a responsible manner, and help to attract more visitors to the area.
32. The Authority is therefore satisfied that approving the Application will be in line with the expectations, needs and aspirations of the local and broader communities, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

33. The relevant BOCSAR data indicates that:
 - a) for the year to September 2017, the Premises was located within a high density hotspot for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property,
 - b) for the two years to September 2017, the rate of alcohol related assault (both domestic and non-domestic) and malicious damage to property was higher in Parramatta but lower in the LGA, in comparison with the NSW state average.
34. The relevant HealthStats NSW data indicates that the LGA, represented by the former Local Government Areas of Auburn, Holroyd, Hornsby, Parramatta and The Hills Shire, recorded lower levels of alcohol attributable deaths for the period 2012-13 and mixed levels of alcohol attributable hospitalisations for the period 2013-15, compared to the corresponding NSW figures. Most of these former Local Government Areas, including the former Parramatta Local Government Area in which the suburb of Parramatta was located, reported higher than average levels of alcohol attributable hospitalisations.
35. NSW Police stated in a submission dated 2 February 2017 that it does not oppose the approval of the Application, but has a number of concerns about the Premises' proposed operation in light of the liquor outlet density and crime issues in the area, and the Premises' location within an Alcohol Free Zone. Police noted that it had met with the Applicant and agreed on a range of measures to mitigate its concerns, and requested that a number of conditions be imposed on the licence.
36. Having regard to the available information, the Authority finds that there may be a risk that liquor sold or supplied at the Premises will, over time, contribute to the prevailing level of alcohol related crime and health issues in the local and broader communities.
37. The Authority is nevertheless satisfied that this risk is adequately mitigated by the following:
 - a) No objection was received from relevant authorities or the community in relation to the Application.
 - b) The alcohol sold or supplied at Premises will only be consumed within, and not away from, the Premises which is located on the 26th floor and relatively removed from the streets.
 - c) The sound reputation and good compliance record of the Applicant in managing similar venues.
 - d) The Applicant has consented to all of the licence conditions proposed by NSW Police and L&GNSW, such as no live entertainment and closing the external area by 10 pm, and committed to implementing measures to minimise alcohol related harm as agreed with Police and set out in the Plan of the Management.

38. The Authority notes that the Applicant committed in its Plan of Management to move patrons from the external area to the indoor area of the Premises after 10 pm. In the circumstances, the Authority does not consider it necessary to impose a condition in respect of patron capacity, noting the Applicant's undertaking in the Plan of Management to limit the number of patrons in the external area to 90 and the total patron capacity to 330.
39. The Applicant is reminded of its obligation to comply with the relevant building and other regulatory requirements, and obligation under section 3(2) of the Act to minimise harm associated with misuse and abuse of liquor, including to ensure the orderly movement of patrons when they are asked to leave the external area at 10 pm.

Overall social impact

40. The Authority has had regard to the ABS data indicating that as at 2011, the suburb of Parramatta and the LGA (as represented by five former Local Government Areas) ranked between the middle and the most advantaged in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is more than six years old and does not draw specific inferences from it, other than to note that it does not raise any apparent concerns.
41. Having considered the positive and negative social impacts that are likely to flow from granting the Licence and the Authorisation, the Authority is satisfied that the overall social impact of approving the Application would not be detrimental to the well-being of the local and broader communities.
42. Accordingly, the Authority has decided to grant the Licence and the Authorisation.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule

Material before the Authority

1. ABS Socio-Economic Indexes for Areas data based on the 2011 Census for Parramatta and the LGA (represented by the former Local Government Areas of Auburn, Holroyd, Hornsby, Parramatta and The Hills Shire) on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data for the LGA (represented by the former Local Government Areas of Auburn, Holroyd, Hornsby, Parramatta and The Hills Shire) showing alcohol attributable deaths for the period 2012-13 and alcohol attributable hospitalisations for the period 2013-15.
3. Modification Approval issued by the Planning Assessment Commission, as a delegate of the Minister for Planning, on 5 November 2015 in respect of the Premises.
4. Completed online application dated 16 December 2016, and a copy of the public consultation site notice and local consent authority notice.
5. Category B Community Impact Statement signed and dated 16 December 2016, with a number of supporting documents as attachments.
6. Submission from NSW Police dated 2 February 2017 in relation to the Application.
7. Floor plan dated 18 May 2017 indicating the Premises' proposed licensed area.
8. Certification of Advertising signed for the Applicant and dated 26 May 2017.
9. Draft Fire Engineering Report for the Premises dated 21 July 2017.
10. BOCSAR crime maps for the year to September 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
11. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Parramatta and the LGA.
12. Plan of Management for the Premises dated 20 October 2017.
13. L&GNSW liquor licensing records as at 1 November 2017, outlining the density of all types of liquor licences in Parramatta, the LGA and NSW, and listing all packaged liquor licences in Parramatta.
14. Letter from NSW Transport Roads & Maritime Services on 3 November 2016 in relation to the Application.
15. Letter from City of Parramatta Council on 11 November 2016 in relation to the Application.
16. Correspondence between L&GNSW and the Applicant's representative between 19 April and 9 November 2017 in relation to the Application.
17. Google map images extracted from the Google website on 22 December 2017, showing the location and photos of the Premises in map view, earth view and street view.
18. Relevant ASIC and credit reports in respect of the Applicant and the premises owner.