

**NSW Department of Justice
Liquor & Gaming NSW**

DOC17/016747

APPLICATION NO:	APP-0002277836
APPLICATION FOR:	On-premises liquor licence with Primary Service Authorisation
PROPOSED TRADING HOURS:	Monday - Wednesday: 11:00 AM – 10:00 PM Thursday - Saturday: 10:00 AM – 11:00 PM Sunday: 10:00 AM – 10:00 PM
APPLICANT:	Vikram Shawl
PROPOSED LICENSED PREMISES NAME:	Cheddr
PREMISES ADDRESS:	E205 24-32 Lexington Drive BELLA VISTA NSW 2153
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for Liquor – on-premises liquor licence with Primary Service Authorisation.
LEGISLATION:	Section 45(1) of the Liquor Act 2007

**ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR
LICENCE WITH PRIMARY SERVICE AUTHORISATION –
CHEDDR**

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 Justice, has decided to grant with conditions the following licence application number: APP-0002277836.

On 30 January 2017, 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 this 6 hour closure period along with any other limits specified in the trading hours for this licence.

2. 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. 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 be reasonably 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 are to be operated at all times in accordance with the Plan of Management dated January 2017 as may be varied from time to time after consultation with the Local Area Commander NSW Police.
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.
6. The Licensee is to ensure that no drinks commonly referred to as shots, shooters or slammers etc are to be advertised at any point, this includes menus, displays material, social media or any other digital or paper medium.
7. The venue's kitchen must remain open and operational at all times liquor is sold/supplied and be able to prepare meals of a substantial nature.

STATEMENT OF REASONS

1. Material before the ILGA delegate

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

- (1) Application form for on-premises liquor licence with Primary Service Authorisation, lodged 13 November 2016 (DOC16/158815)
- (2) Category A Community Impact Statement (CIS), dated 13 November 2016 (DOC16/158818), and annexures (DOC16/158816)
- (3) Plan of the premises, provided by the applicant at the time of lodging the application (DOC16/158817)

- (4) Development Application No. 507/2010/HA granted by the Hills Shire Council on 30 September 2009 approving the use of the premises as a restaurant (DOC17/006195)
- (5) Complying Development Certificate No. CDC/704226 issued for the fitout of a food and drinks premises on 29 November 2016 (DOC17/006194)
- (6) Certificate of Advertising Application, signed and dated on 3 January 2017 (DOC17/006191)
- (7) National Police Check Certificate, identification, and Competency Card for the applicant (DOC16/158820, DOC16/158821, DOC16/158822).
- (8) A submission and Environment and Venue Assessment Tool (EVAT) Assessment Report from the Compliance team of Liquor & Gaming NSW, raising no objections to the application and proposing four conditions to be imposed on the licence, dated 14 December 2016 (DOC16/172321)
- (9) Email correspondence from the Authority to the applicant requesting further information (DOC16/158886, DOC17/006336, DOC17/011576)
- (10) Email correspondence from the applicant to the Authority, including applicant's response in respect of proposed licence conditions (DOC17/006189, DOC17/011458, DOC17/011483, DOC17/011487, DOC17/016386)
- (11) Plan of Management, dated January 2017 (DOC17/011482)
- (12) Photographs of the premises, and a copy of the current menu (DOC17/006198, DOC17/006199, DOC17/006200)

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 3A 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:
 - 4.2.1. the grant or removal of a small bar licence (where required),
 - 4.2.2. a packaged liquor licence (limited to telephone/internet sales),
 - 4.2.3. 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 Bella Vista and the “broader community” comprises the Hills Shire LGA.

5. Analysis of Submissions and other Materials

- (1) The application is for an on-premises licence with Primary Service Authorisation for a restaurant located within the retail/commercial area of Bella Vista, 2.5 kilometres from the Norwest Business Park. The applicant proposes to service a professional clientele with a Californian inspired food and beverage menu in a low key and relaxed environment. The granting of the application will result in a greater diversity of dining venues for residents of the Hills district and workers in the Norwest Business Park.
- (2) A submission and Environment and Venue Assessment Tool (EVAT) Assessment Report was received from the Compliance team of Liquor & Gaming NSW, raising no objections to the application and proposing four conditions to be imposed on the licence. The EVAT assessment report assessed the risk factors for location and venue risk as low to moderate. The Compliance team confirmed that it did not intend to carry out any further assessment of this application.
- (3) No other objections or submissions were received in respect of this application.
- (4) The licence will be exercised in accordance with a Plan of Management which details measures to be employed to ensure the responsible service of alcohol.
- (5) I am satisfied that the statutory advertising requirements have been met.
- (6) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence with Primary Service Authorisation is unlikely to result in any significant increase in alcohol-related harms in the local community.

6. Overall social impact

(1) Positive benefits

The applicant proposes to service a professional clientele in a low key and relaxed environment. The applicant intends to provide a greater diversity of dining venues for residents of the Hills district and workers in the Norwest Business Park.

(2) Negative impacts

No objections have been received to this application. A number of conditions have been imposed on the licence. The licence will be operated in accordance with harm minimisation measures prescribed by those conditions and outlined in the Plan of Management provided by the applicant.

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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) 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 on-premises liquor licence application with Primary Service Authorisation with conditions.

Decision Date: 30 January 2017



Joanne Zammit,
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.justice.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.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>