



Mr Tony Schwartz  
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31 January 2019

Dear Mr Schwartz

<b>Application No.</b>	APP-0003935759
<b>Applicant</b>	Mr James A Scott-Mackenzie
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	Dan Murphy's
<b>Premises</b>	455 Captain Cook Drive WOOLLOOWARE NSW 2230
<b>Trading hours</b>	Monday to Saturday 9:00 am – 9:59 pm Sunday 10:00 am – 10:00 pm
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority  
Application for a packaged liquor licence – Dan Murphy's**

The Independent Liquor and Gaming Authority considered the application above at its meeting on 17 October 2018, and decided to **approve** the application pursuant to section 45 of the *Liquor Act 2007*, 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 3:00 AM and 9:00 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)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
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.
4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority ("the Authority") in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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 Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("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,
    - (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, and
    - (ii) all publicly accessible areas (other than toilets) within 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 and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. Incident register
- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
    - (a) any incident involving violence or anti-social behaviour occurring on the premises,
    - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
    - (c) any incident that results in a person being turned out of the premises under section 77 of the *Liquor Act 2007*,
    - (d) any incident that results in a patron of the premises requiring medical assistance.
  - 2) The licensee must, if requested to do so by a police officer or inspector:
    - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
    - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
  - 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.
8. The licensed premises must not trade during the period between two (2) hours before a first grade NRL game commences at the Southern Cross Group Stadium (located at 461 Captain Cook Drive, Woollooware) until two (2) hours after the game finishes.
9. The licensed premises must cease trading two (2) hours before the gates open on any "fight night" held at the Southern Cross Group Stadium (located at 461 Captain Cook Drive, Woollooware).

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

**Licence cannot be exercised until certain actions are taken**

The licence cannot be exercised unless and until:

1. Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade, and
2. the licence has been transferred to a suitably qualified person.

**Trading on a Sunday that falls on 24 December**

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for this licence, the Premises must not trade earlier than 9:00 am.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

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

## Statement of reasons

### Decision

1. On 16 February 2018, Mr James Scott-Mackenzie (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at 455 Captain Cook Drive, Woollooware (“Premises”).
2. The Applicant proposed to operate the Premises under the brand name “Dan Murphy’s”. The Licence, if granted, will authorise liquor in sealed containers to be sold at the Premises for consumption away from the Premises.
3. The Authority first considered the Application at its meeting on 16 May 2018 and, following the receipt and consideration of further information from the Applicant and other stakeholders, decided on 24 October 2018 to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
4. The licence document was issued to the Applicant with a preliminary notification of this decision on 25 October 2018.
5. In reaching this decision, the Authority has had regard to the relevant material before it, and the legislative requirements under the Act and the Liquor Regulation 2008 (“Regulation”).

### Material considered by the Authority

6. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
7. 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.
8. In accordance with its 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”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
9. A list of the material considered by the Authority is set out in Schedule 1.

### Legislative framework

10. The Authority has considered the Application in the context of the following provisions of the Act:
  - a) Section 3: Statutory objects of the Act and relevant considerations.
  - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6 hour period during which liquor cannot be sold.
  - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
  - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - e) Section 45: Criteria for granting a liquor licence.
  - f) Section 48: Requirements in respect of a CIS.
11. An extract of these sections is set out in Schedule 2.

### Key findings

12. 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 hour requirements

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

- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
- b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
- c) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to operate as is contemplated by the sections.

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

14. 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 facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the licence conditions to be imposed, and
- c) the requisite development consent is in force, based on the development consent issued by Sutherland Shire Council on 29 August 2017 in respect of the Premises.

### Community impact statement

15. 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.

16. 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 Woollooware, and the relevant "broader community" comprises the Local Government Area ("LGA") of Sutherland Shire.

### Positive social impacts

17. The Authority notes that the density of packaged liquor licences in Woollooware and Sutherland Shire LGA is lower than the NSW state average, though granting the Licence would result in a higher than average density for Woollooware.

18. The Authority accepts, on the information before it, that Woollooware is undergoing substantial residential and commercial development, and that the anticipated population growth as a result of the development may create additional demand for packaged liquor.

19. The Premises, which has not yet been built, will occupy over 1200 square metres in a new shopping centre complex. The shopping centre forms part of a town centre development project at Woollooware, which also encompasses the Southern Cross Group Stadium ("Stadium"), the Cronulla Sutherland Leagues Club ("Club"), and a residential precinct.

20. The Authority accepts that if the Licence is granted, the Premises will provide local residents and visitors with additional access to packaged liquor, a substantial range of liquor choices, and the convenience of purchasing packaged liquor while meeting their other shopping needs at the new shopping centre.

21. The Authority nonetheless notes and has taken into consideration the absence of any substantive evidence of community support for the Application.

### Negative social impact

22. The relevant BOCSAR data before the Authority at the time of its decision indicates that, for the year to December 2017:
  - a) the rates of alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct in Woollooware were considerably higher than the NSW state average,
  - b) Sutherland Shire LGA recorded a higher than average rate of alcohol-related disorderly conduct, and lower than average rates of alcohol-related non-domestic assault and malicious damage to property,
  - c) both Woollooware and Sutherland Shire LGA recorded lower than average rates of alcohol-related domestic assault,
  - d) the Premises was located within a medium density hotspot for incidents of malicious damage to property, and not located within or near any hotspots for domestic assault, and
  - e) there were no hotspots in Woollooware for incidents of non-domestic assault or alcohol-related assault.
23. The HealthStats NSW data available at the time of the Authority's decision indicates that Sutherland Shire LGA recorded lower than average rates of alcohol attributable deaths and alcohol attributable hospitalisations for the periods 2012-13 and 2013-15 respectively.
24. The ABS Socio-Economic Indexes for Areas ("SEIFA") data as at 2016 indicates that Woollooware and Sutherland Shire LGA ranked among the most advantaged suburbs and LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
25. The Authority accepts, based on the statistics above, that the levels of alcohol-related domestic violence and health issues in the communities of Woollooware and Sutherland Shire LGA do not raise immediate concerns. The Authority also accepts that there is no information before it to indicate any significant socio-economic disadvantages in these communities.
26. However, the Authority finds the high level of alcohol-related non-domestic violence, malicious damage to property and alcohol-related disorderly conduct in Woollooware to raise concerns in relation to the potential negative social impact of granting the Licence.
27. NSW Police Force ("Police") objected to the Application, contending that there is a high risk that liquor sold from the Premises will increase the prevailing levels of alcohol-related crime and disturbance, to the detriment of the amenity of the community.
28. Police contended that the proximity of the Premises to the Stadium will provide additional pre and post-match access to alcohol for up to 16,000 attendees when a National Rugby League ("NRL") game is conducted at the Stadium, and likely exacerbate the already high levels of public drinking, alcohol-related offences and anti-social behaviour in the area surrounding the Stadium, including alcohol free zones.
29. Police also contended that the location, large scale and long trading hours of the Premises will likely attract patrons from, and increase alcohol-related problems in, the neighbouring suburbs of Cronulla and Caringbah, which recorded higher than average rates of alcohol-related assault and disorderly conduct for the year to December 2017.
30. In response, the Applicant contended that the risks projected by Police were not substantiated by sufficient evidence, questioning the validity of the inferences drawn by Police from available statistics. The Applicant also proposed additional licence conditions and management measures to help mitigate the concerns raised.
31. In light of the concerns in respect of risks associated with liquor sold from the Premises on days of major events, the Authority proposed two conditions requiring the Premises to cease trading:

- a) on any “Game Day” (where a first grade NRL game is held at the Stadium), from two hours before the game commences until two hours after the game ends, and
  - b) on any “Fight Night”, two hours before the gates of the Stadium open for the night.
32. Police agreed that these conditions would minimise the risks of alcohol-related harm associated with the Premises on those days of major events, but maintained that the likely overall social impact of granting the Licence would still be detrimental to the well-being of the community.
33. The Applicant opposed the imposition of the two conditions, contending that these conditions were unprecedented, not warranted in the circumstances, and that the Applicant’s proposed measures and cooperation with Police would be sufficient to manage any risks associated with liquor sold from the Premises on the affected days.
34. The Authority accepts that the Applicant is an experienced operator of large packaged liquor facilities and has a range of developed measures to facilitate responsible liquor supply and patron management practices. The Authority has also had regard to the fact that there have been no objections from other institutional stakeholders or members of the public in relation to the Application.
35. The Authority is however not persuaded by the Applicant’s contention that the risk of alcohol-related harm associated with liquor sold from the Premises on Game Days and Fight Nights is low, or can be sufficiently mitigated by the operational measures proposed by the Applicant.
36. While the conditions requiring the Premises to cease trading early on Game Days and Fight Nights are unprecedented, the Authority considers these conditions appropriate having regard to the following:
- a) The large scale and long trading hours proposed for the Premises, and its location in close proximity to the Stadium, making it the most accessible packaged liquor facility to the Stadium’s attendees.
  - b) Each Game Day attracts more than ten thousand people to the Stadium. While the Authority has been advised that the Club is no longer hosting Fight Nights, it remains open for Fight Nights to be hosted at the Stadium in future.
  - c) The higher than average rates of alcohol-related non-domestic assault, alcohol-related disorderly conduct and malicious damage to property in Woollooware and some of its neighbouring suburbs that are close to the Premises.
  - d) The observations made by Police and a local resident who wrote to the Stadium in relation to the ongoing post-game offences and anti-social behaviour, such as malicious damage to residential property, littering of bottles and public urination, in areas surrounding the Stadium. According to Police and the correspondence of the local resident and the Stadium, these issues have required constant presence by Police and security officers to patrol nearby streets before, during and after a game.
37. The Applicant argued that there is insufficient evidence to conclude that the social impact of liquor sold from the Premises on a Game Day or Fight Night *will* be detrimental to the community’s wellbeing.
38. The relevant question for the Authority, however, is whether it can reach a positive state of satisfaction, as required by section 48(5) of the Act, that the overall social impact of granting the Licence *will not* be detrimental to the well-being of the local or broader community. The use of the words “will not be” rather than a more qualified phrase such as “is not likely to be” reflects an underlying precautionary principle of the Act.
39. Having regard to the nature and scale of the proposed licensed business, and the prevailing circumstances in the relevant communities, the Authority is unable to reach the requisite state of satisfaction without imposing the trading restrictions on Game Days and Fight Nights. The

Authority considers that, notwithstanding the harm minimisation measures proposed by the Applicant, there is a real risk that liquor sold from the Premises on those days would exacerbate existing alcohol-related crime, social disturbances and amenity issues on those days, to the detriment of the local community.

40. The Authority therefore considers the imposition of the trading restrictions to be an appropriate harm prevention measure in the current circumstances, and in line with the statutory objects and considerations of the Act.
41. The Authority notes that the restrictions will, based on the information currently available, require the Premises to cease trading early on 12 days in a year. The Authority further notes that it will be open to reviewing the appropriateness of the restrictions if, for example, specific local data and further evidence can be provided, after the Premises has been operating under the Licence for a period of time, in respect of the actual social impact of the Licence and the effectiveness of the harm minimisation measures adopted.

#### Trading hours

42. The Authority notes from the Application and community consultation material that the trading hours sought for the Premises between Monday and Saturday end at 10 PM.
43. The Authority also notes that if the Premises is authorised to trade until 10 PM, Monday to Saturday, it would in practice be authorised to also trade between 10 PM and 11 PM on those days pursuant to an exemption afforded by clause 70AB of the Regulation.
44. In the current circumstances, the Authority considers it appropriate to impose a closing time of 9:59 PM, Monday to Saturday, to prevent the unintended consequences of permitting the Premises to trade beyond the hours sought by the Applicant and represented to stakeholders and the community during the community consultation process.

#### Overall social impact

45. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence, subject to the imposition of the licence conditions set out earlier, will not be detrimental to the well-being of the local or broader community.
46. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
47. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



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 1

### Material considered by the Authority

1. HealthStats NSW data showing that Sutherland Shire LGA recorded, compared to a state benchmark of 100:
  - a. a smoothed standardised mortality ratio of 87.4 for the period 2012-13, and
  - b. a smoothed standardised separation ratio of 85.2 for the period 2013-15.
2. Premises plan dated 19 October 2016 and an aerial photo of the proposed location of the Premises.
3. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1<sup>st</sup> decile the most disadvantaged, Woollooware ranked in the 10<sup>th</sup> decile and Sutherland Shire LGA ranked in the 9<sup>th</sup> decile.
4. Development consent issued by Sutherland Shire Council on 29 August 2017 in relation to the Premises.
5. Email from NSW Education Aboriginal Affairs on 1 December 2017 in relation to the Application.
6. Letter from NSW Transport Roads & Maritime Services on 6 December 2017 in relation to the Application.
7. Letter from NSW Family & Community Services on 20 December 2017 in relation to the Application.
8. BOCSAR crime hotspot maps for the year to December 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
9. NSW crime statistics published by BOCSAR indicating that, for the year to December 2017, the rates of:
  - a) alcohol-related domestic assault in Sutherland Shire LGA and Woollooware were 79.6 and 48.3 respectively, compared to the NSW average of 114.4,
  - b) alcohol-related non-domestic assault in Sutherland Shire LGA and Woollooware were 106.2 and 217.1 respectively, compared to the NSW average of 130.7,
  - c) malicious damage to property in Sutherland Shire LGA and Woollooware were 558.3 and 1375.2 respectively, compared to the NSW average of 788.7, and
  - d) alcohol-related offensive conduct in Sutherland Shire LGA and Woollooware were 46.5 and 72.4 respectively, compared to the NSW average of 42.8,
10. NSW Recorded Crime Statistics 2017 outlining offences by day of week and time of day in Sutherland Shire LGA compared to NSW.
11. Completed Category B Community Impact Statement dated 1 February 2018.
12. L&GNSW liquor licensing records as at 1 February 2018 listing all licences in Sutherland Shire LGA.
13. Completed application and its attachments lodged on 16 February 2018.
14. L&GNSW liquor licensing records as at 6 March 2018 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Woollooware, Sutherland Shire LGA and NSW. The density of packaged liquor licences is 33.92 in NSW, 30.21 in Sutherland Shire LGA, and 25.24 in Woollooware.
15. Completed certifications of advertising dated 20 February and 8 March 2018.
16. Google map images extracted from the Google website on 6 and 16 March 2018, showing the location and photos of the Premises in map view, earth view and street view.
17. Email from L&GNSW Compliance Unit on 28 March 2018 in relation to the Application.

18. The Applicant's response to submission by Police, with supporting documents attached, including a report prepared by Pat Paroz & Associates Pty Ltd on 21 April 2018.
19. Submissions from Police on 22 March, 30 April, 18 June and 10 August 2018, with supporting information attached to some of these submissions, in relation to the Application.
20. Email from Sutherland Shire Council on 30 August 2018 in response to the Authority's request for information.
21. Emails from Cronulla Sutherland Leagues Club on 2 and 31 August 2018 in response to the Authority's request for information.
22. Submissions from the Applicant on 5 June, 9 July and 6 September 2018 in response to the Authority's proposed conditions and the further submissions received.
23. Plan of Management documents titled "Endeavour Drinks Group Liquor Store House Policy – NSW", and "Endeavour Drinks Group Woolworths Best Practice Policy and Interventions".

## Schedule 2 – Relevant extracts from the *Liquor Act 2007*

### 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 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.

### 11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
  - (a) any licence granted on or after 30 October 2008, and
  - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
  - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
  - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
  - (a) the period as last approved by the Authority, or
  - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
  - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
  - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

### 12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
  - (a) for any day of the week other than a Sunday:
    - (i) the period from 5 am to midnight, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
  - (b) for a Sunday:
    - (i) the period from 10 am to 10 pm, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

**Note.** Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

## 29 Authorisation conferred by packaged liquor licence

### (1) Retail sales

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.

### (2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

### (3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

### (4) Tastings

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

## 30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (**the liquor sales area**) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

## 31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
  - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
  - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section:

**general store** means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

**service station** means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

**take-away food shop** means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

#### 40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
  - (a) an individual, or
  - (b) a corporation, or
  - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:
  - (a) an individual who is under the age of 18 years, or
  - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
  - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

**Note.** Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

- (4) An application for a licence must:
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

**Note.** See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

#### 45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
  - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
  - (b) practices will be in place at the licensed premises 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.

**Note.** Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
  - (a) that the person:
    - (i) is a member of, or
    - (ii) is a close associate of, or
    - (iii) regularly associates with one or more members of,a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and

- (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
  - (a) is of good repute, having regard to character, honesty and integrity, and
  - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

#### 48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
  - (a) the views of the local community, and
  - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
 

**relevant application** means any of the following:

  - (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
  - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
  - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
  - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
  - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
  - (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
  - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
  - (a) an application for a small bar licence,
  - (b) an application for approval to remove a small bar licence to other premises,
  - (c) an application for an extended trading authorisation for a small bar,
  - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
  - (a) the application relates to the same premises as the premises to which a general bar licence relates, and
  - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
  - (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
  - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:

- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
  - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
  - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
  - (b) the matters to be addressed by a community impact statement,
  - (c) the information to be provided in a community impact statement,
  - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
  - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.