



Byron Marzinotto

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4 April 2019

Dear Mr Marzinotto

<b>Application No.</b>	1-6954334806
<b>Applicant</b>	Central Coast Amaro Pty Ltd
<b>Application for</b>	Small bar licence
<b>Licence name</b>	Blue Kahunas
<b>Premises</b>	Unit 3, 146 Hunter Street NEWCASTLE NSW 2300
<b>Trading hours</b>	Monday to Saturday 12:00 PM – 12:00 AM Sunday 12:00 PM – 10:00 PM
<b>Legislation</b>	Sections 3, 11A, 12, 20A-20C, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority  
Application for a small bar licence – Blue Kahunas**

The Independent Liquor and Gaming Authority has considered the application above and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **approve** the application 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<sup>st</sup> 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. Crime scene preservation

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 injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police 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 (eg. crowd controller or bouncer) on or about the premises.

4. 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.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 7 November 2018 as may be varied from time to time after consultation with 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.
6. 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 a 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) 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. The following restrictions and conditions will apply upon the sale of alcohol after 10.00pm:
  - a) No shots, shooters, slammers or bombs or any other drinks that are designed to be consumed rapidly;
  - b) No mixed drinks with more than thirty (30) mls of alcohol;
  - c) No RTD drinks with an alcohol by volume content greater than 5%;
  - d) Not more than four (4) drinks will be served to any patron at the one time.
8. The licensee shall ensure, by adequate supervision methods throughout the premises, that no patron is stockpiling drinks. For this purpose stockpiling shall mean that any one patron has more than two unconsumed drinks at any one time (a patron may purchase up to four (4) drinks at one time).
9. The sale and supply of alcohol shall cease thirty (30) minutes prior to closing time.
10. The LA 10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 5Db between 07.00am and 12.00 midnight at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 07.00am and 12.00 midnight.
11. The licensee or its representative must join and be an active participant in the local liquor accord.
12. Tables are not to be removed to increase patron standing area.

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 [wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au](mailto:wendy.yeung.wye.kong@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 20 September 2018 Byron Marzinotto lodged an application (“Application”) to the Independent Liquor and Gaming Authority (“Authority”), through Liquor & Gaming NSW (“L&GNSW”), for a small bar licence (“Licence”). The proposed licensed premises, according to the relevant development consent, is located at Unit 3, 146 Hunter Street, Newcastle (“Premises”).
2. On 7 November 2018 Mr Marzinotto confirmed that the proposed licensee is to be Central Coast Amaro Pty Ltd, who is taken to be the applicant (“Applicant”).
3. The Authority first considered the Application on 18 December 2018 and, following receipt and consideration of further information from the Applicant, decided on 21 December 2018 to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
4. The Licence was issued to the Applicant with a preliminary notification of this decision on 21 December 2018.
5. In reaching this decision, the Authority has had regard to the 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 legislative provisions under the Act:
  - a) Section 3: Statutory objects of the Act and relevant considerations.
  - b) Section 11A: The mandatory 6 hour period during which liquor cannot be sold.
  - c) Section 12: The standard trading period for licensed premises, including small bars.
  - d) Section 20A: Authorisation conferred by a small bar licence.
  - e) Section 20B: Trading hours for small bars.
  - f) Section 20C: Miscellaneous conditions attached to a small bar licence.
  - g) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - h) Section 45: Criteria for granting a liquor licence.
  - i) 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 and procedural 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, 20B and 40 of the Act, and
- b) the proposed use of the Premises as a small bar satisfies the requirements under sections 20A and 20C of the Act.

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

14. Pursuant to section 45 of the Act, the Authority is 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 will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevention of intoxication, having regard to the Applicant's Plan of Management ("POM") and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force for use of the Premises as a small bar, based on the Notice of Determination of Development Application No. DA2018/00641 issued by The City of Newcastle Council on 28 August 2018.

### 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 Newcastle, and the relevant "broader community" comprises the Local Government Area ("LGA") of Newcastle.

### Positive social impacts

17. The Authority notes that the Premises is situated in the East End Hunter Street Mall, which is part of a new master planned residential and commercial development that will transform and revitalise the Newcastle CBD. The Authority notes that the small bar will join a range of boutique night-time venues, as well as one of the country's oldest purpose-built theatres, that will provide residents and visitors of the development with a place to socialise, consume food and beverages, and enjoy entertainment.

18. The Authority notes that the venue's social media information indicates that the venue will operate as a tropical themed tiki bar, with diverse entertainment offerings including samba and percussion, rum tasting events and speed dating. The Authority considers that the business model will be unique in the Newcastle LGA.

19. The Authority notes that five submissions were received from members of the public in support of the Application, submitting that the small bar will contribute to the amenity and vibrancy of the area.

20. The Authority notes that there is a significantly higher number of hotel licences compared to small bar licences in Newcastle and Newcastle LGA, and considers that the approval of a further small bar will assist in diversifying the liquor industry in the local and broader community away from large hotels.

21. On the basis of the above, the Authority is satisfied that granting the Licence would be in line with the expectations, needs and aspirations of the community, and contribute to the development of the liquor industry and the related tourism industry.

### Negative social impacts

22. The Authority notes that Newcastle has a significantly higher density of all liquor licence types compared to the state average, however, the Authority considers that this reflects the fact that the Newcastle CBD functions as the main commercial, retail and entertainment centre for the wider city of Newcastle, and is therefore not primarily a residential suburb. The Authority notes that the small residential population and high turnover of visitors to the Newcastle suburb may skew density and crime figures.
23. The Authority notes that, according to BOCSAR Crime Maps for the year to June 2018, the Premises was located within large high density hotspots for incidents non-domestic assault and malicious damage to property; and in a large medium-high density hotspot for incidents of alcohol-related assault.
24. Furthermore, BOCSAR crime data for the two years to June 2018 indicates that the rates of alcohol-related domestic and non-domestic assault, malicious damage to property, and alcohol-related disorderly conduct (offensive conduct) in Newcastle and Newcastle LGA were significantly higher than the corresponding NSW rates, with the exception of alcohol-related domestic assault in Newcastle LGA which was moderately higher than the NSW rate.
25. The ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Newcastle was amongst the most advantaged suburbs in NSW, ranking in the top 10 percent on the Index of Relative Socio-economic Advantage and Disadvantage, with Newcastle LGA ranking in the top 20 percent of all LGAs on the same index.
26. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Newcastle LGA recorded a higher than average level of alcohol attributable deaths for the period 2009-13, and a lower than average level of alcohol attributable hospitalisations for the period 2011-15.
27. The Authority has considered the submission from a local resident which raised concerns in relation to the high concentration of licensed premises in the increasingly residential area, and the presence of crime hotspots in the Newcastle CBD.
28. The Authority notes the Applicant's contention that the introduction of a further small bar will diversify and develop the liquor industry away from large hotels and contribute to the development of a more sophisticated entertainment centre in the Newcastle CBD.
29. The Authority notes the submitter's contention that that the Applicant failed to notify all of the stakeholders required to be notified of the proposal. In response to this, the Applicant provided copies of the notification letters distributed to stakeholders and confirmed in writing how and when occupiers of neighbouring premises were notified. The Authority notes that the applicant also submitted a signed certification of advertising. Accordingly, the Authority is satisfied that the Applicant has complied with advertising requirements.
30. The Authority notes that NSW Police does not object to the Application. NSW Police has, however, proposed a number of conditions to be imposed on the licence in order to minimise any potential negative impacts as well as the possibility that the venue could become a "feeder" venue for late trading venues in the Newcastle CBD, all of which have been consented to by the Applicant.
31. The Authority considers that the risk of any detrimental overall social impacts associated with approving the Application is sufficiently mitigated by the following:
  - a) The relatively small size of the Premises at 146.8m<sup>2</sup> and patron capacity of 100.
  - b) The small bar will not trade after midnight on any day and there is no outdoor area.

- c) The fact that small bars are recognised as being smaller, intimate venues that are inherently lower-risk than traditional pubs and clubs.
- d) No objection was received from any of the institutional stakeholders consulted, including NSW Police, L&GNSW Compliance and The City of Newcastle Council.
- e) Measures set out in the Applicant's Plan of Management, and the licence conditions imposed on the licence, to reduce the impact on nearby residents and minimise alcohol-related harms arising from the grant of the licence.

#### Overall social impact

32. Having considered the positive and negative impacts that are likely to flow from approving the Application, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
33. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
34. 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 Newcastle LGA recorded, compared to a state benchmark of 100:
  - a. a standardised alcohol-related hospitalisation ratio of 97.20 in 2011, 93.40 in 2012, 93.80 in 2013, 96.20 in 2014 and 97.50 in 2015; and
  - b. a standardised alcohol-related mortality ratio of 118.60 in 2009, 119.90 in 2010, 113.30 in 2011, 114.70 in 2012 and 116.80 in 2013.
2. 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, Newcastle ranked in the 10<sup>th</sup> decile and Newcastle LGA ranked in the 8<sup>th</sup> decile.
3. NSW Recorded Crime Statistics October 2017- September 2018 outlining offences by day of week and time of day in Newcastle LGA and Newcastle compared to NSW.
4. NSW Recorded Crime Statistics 2017 outlining the number and proportion of selected offences flagged as alcohol related by NSW Police in Newcastle LGA .
5. NSW crime statistics published by BOCSAR indicating that:
  - a. for the year to June 2017, the rates of:
    - i. alcohol-related domestic assault in Newcastle LGA and Newcastle were 135.5 and 180.0 respectively, compared to the NSW average of 114.7,
    - ii. alcohol-related non-domestic assault in Newcastle LGA and Newcastle were 697.2 and 2,490.5 respectively, compared to the NSW average of 133.0,
    - iii. malicious damage to property in Newcastle LGA and Newcastle were 1,418.7 and 4,946.4 respectively, compared to the NSW average of 806.0,
    - iv. alcohol-related offensive conduct in Newcastle LGA and Newcastle were 74.6 and 1,037.7 respectively, compared to the NSW average of 45.3,
  - b. for the year to June 2018, the rates of:
    - i. alcohol-related domestic assault in Newcastle LGA and Newcastle were 135.5 and 180.0 respectively, compared to the NSW average of 114.0,
    - ii. alcohol-related non-domestic assault in Newcastle LGA and Newcastle were 650.6 and 1,764.1 respectively, compared to the NSW average of 127.3,
    - iii. malicious damage to property in Newcastle LGA and Newcastle were 1,276.4 and 4,047.0 respectively, compared to the NSW average of 768.4, and
    - iv. alcohol-related offensive conduct in Newcastle LGA and Newcastle were 70.2 and 691.8 respectively, compared to the NSW average of 40.3.
6. Retail lease dated 15 May 2018 in relation to the Premises.
7. BOCSAR Crime Hotspot Maps for the year to June 2018, indicating the location of the Premises relative to hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
8. Statement of Environmental Effects dated 11 June 2018 prepared by Perception Planning Pty Ltd in relation to the Premises.
9. Noise Impact Assessment dated July 2018 prepared by Reverb Acoustics in relation to the Premises.
10. Completed Category B CIS dated 21 August 2018.
11. Notice of Determination of Development Application No. DA2018/00641 issued by The City of Newcastle Council on 28 August 2018 in relation to the Premises.
12. Completed application form dated 20 September 2018, the relevant notices of application, and supporting documents attached to the application.

13. Correspondence between L&GNSW staff and the Applicant between 5 October 2018 and 21 December 2018 in respect of the assessment of the Application.
14. Certificate of advertising signed by the Applicant on 6 October 2018.
15. Submission from NSW Police on 15 October 2018 in relation to the Application.
16. Submission from L&GNSW Compliance on 1 November 2018 in relation to the Application.
17. L&GNSW liquor licensing records as at 5 November 2018 listing all liquor licences in Newcastle.
18. L&GNSW liquor licensing records as at 5 November 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 NSW, Newcastle LGA and Newcastle. The density of small bar licences was 1.49 in NSW, and 3.21 in Newcastle LGA and 145.30 in the Newcastle suburb.
19. Correspondence from NSW Police on 7 November 2018 in relation to the Application.
20. Plan of Management for the Premises dated 7 November 2018.
21. Submission from The City of Newcastle Council on 13 November 2018 in relation to the Application.
22. Google map images extracted from the Google website on 21 November 2018, showing the location and photo of the Premises in map view, earth view and street view.
23. Premises plan for the Premises.
24. Six submissions from members of the public in relation to the Application.

## 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).

#### **20A Authorisation conferred by small bar licence**

A small bar licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the licensed premises only.

**Note.** Gaming machines in small bars are prohibited under the Unlawful Gambling Act 1998.

#### **20B Trading hours for small bars**

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) In the case of a small bar that is situated in an area that is not a prescribed precinct, an extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.  
**Note.** Small bars in a non-prescribed precinct can apply for longer trading periods under section 49A. Small bars in a prescribed precinct can also apply for an extended trading authorisation under section 49A to trade after midnight.
- (3) This section does not authorise liquor to be sold in a small bar on a restricted trading day.
- (4) Subsection (3) does not apply in relation to the period between midnight and such later time as may be authorised by an extended trading authorisation on a restricted trading day that immediately follows a day that is not a restricted trading day.
- (5) (Repealed)

#### **20C Small bar licence—miscellaneous conditions**

- (1) **Maximum number of patrons**  
Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.
- (2) **Small bars must be open to general public**  
The business carried out under a small bar licence must not be, or include, a business that is limited to the sale or supply of liquor only:
  - (a) to persons who have been invited to use or attend the small bar, or
  - (b) to a particular class, or particular classes, of persons using or attending the small bar.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.
- (4) **Food must be made available**  
Liquor may only be sold or supplied in a small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

#### **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.