



Mr Dru Gillan
dru@sil.s.com.au

27 August 2019

Dear Mr Gillan

Application No.	1-6477959903
Applicant	SAVED BY THE BELL PTY. LTD.
Application for	New hotel (general bar) licence Minors area authorisation Extended trading authorisation Surrender on-premises licence LIQO624014851
Licence name	Fonzarelli's
Trading hours	Monday to Sunday 10:00 am – 12:00 am
Premises	Level Ground & B 65-67 Foveaux Street SURRY HILLS, NSW 2010
Legislation	Sections 3, 11A, 12, 14-17, 40, 45, 46, 48, 49, 51 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a hotel (general bar) licence with minors area and extended trading
authorisations and surrender of on-premises licence LIQO624014851 – Fonzarelli's**

The Independent Liquor and Gaming Authority considered, at its meeting on 12 December 2018, the Application above and, pursuant to section 45, 46, 49 and 121 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. 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 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 after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated April 2018 as may be varied from time to time after consultation with NSW Police and Council. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

5. 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:
 - a. all entry and exit points on the premises,
 - b. 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.

6. 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.

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 Act,
 - (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. Minors Area Authorisation: Whole of the licensed premises excluding bar areas.
9. Extended Trading Authorisation: Whole of the licensed premises.
10. The licensee or its representative must join and be an active participant in the local liquor accord.
11. If the local consent authority does not approve the continuation of the trial period in the development consent of 1 year from the date of issue of the approved variation of the liquor licence (or as may be extended from time to time), the trading hours of the premises will revert to 10:00 AM to 10:00 PM, Monday to Sunday.

A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

12. Maximum capacity of patrons

The maximum number of patrons permitted in the premises at any one time is:

Ground floor: 79 persons

Basement level: 106 persons

13. Security

- (a) Security guards are to be provided at the premises on Fridays and Saturdays from 8.00pm at a minimum ratio of 1 security staff member to 100 patrons or part thereof.
- (b) Security personnel shall remain at the premises for at least 30 minutes after closing and shall assist in ensuring that patrons leave quietly.
- (c) All licensed security officers whilst employed at the premises are to wear clearly identifiable security attire at all times, with the word "SECURITY" clearly identifiable in bold print at least 100mm high, on the front and back.
- (d) Management staff at the venue shall ensure that a clear footway is maintained at all times along all footpaths immediately adjoining the premises.
- (e) When more than one security guard is on duty, security officers and management shall communicate by hand held radios at all times.

14. Windows

All external windows must be closed after 9.00pm or during periods when amplified music is being provided.

15. Cessation of service

The premises may be open for business only between the operating hours in condition 2 above. The operator must cease providing food, entertainment and or alcohol at the premises 15 minutes before the required closing time.

16. The LA10* 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. The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8kHz inclusive) between 12:00 midnight and 07:00am 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 12:00 midnight and 07:00am.

17. Noise from entertainment

The doors to Foveaux Street must be kept shut at all times whilst entertainment is being provided to limit noise, except where required for direct ingress/egress. Mechanical ventilation, if required, must be provided to meet the Building Code of Australia requirements.

18. Noise limiters

- (a) All amplification equipment used in the premises is to be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer. The equipment must be tamper proof and only operable by the management/licensee or their nominee.
- (b) The noise limiter is to be calibrated in accordance with the manufacturer's specification or on an as-needs basis with certification that the equipment is correctly calibrated being kept on the premises and made available to Council officers upon request.

19. Neighbourhood amenity

- (a) Signs must be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.
- (b) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

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

If you have any questions, please contact the case manager at danielle.hatton@liquorandgaming.nsw.gov.au.

Yours faithfully



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

Statement of reasons

Decision

1. On 11 November 2017, SAVED BY THE BELL PTY. LTD. ("Applicant") lodged with Liquor & Gaming NSW ("L&GNSW"), for determination by the Independent Liquor & Gaming Authority ("Authority"), an application ("Application") for a hotel (general bar) licence ("Licence") with minors area authorisation ("MAA") and extended trading authorisation ("ETA") for the premises at Level Ground & B, 65-67 Foveaux Street, Surry Hills ("Premises").
2. The Authority considered the Application at its meeting on 12 December 2018 and, following further consultation with the Applicant, decided to grant the Licence pursuant to sections 45, 49 and 121 of the *Liquor Act 2007* ("Act"). The Authority also approved the associated surrender of on-premises licence LIQO624014851.
3. A preliminary notification of this decision was sent to the Applicant on 1 March 2019, together with the licence document for the Premises.
4. 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 2018.

Material considered by the Authority

5. The Authority has considered the Application, the accompanying community impact statement ("CIS"), and all submissions received in relation to the Application.
6. 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.
7. 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").
8. A list of the material considered by the Authority is set out in Schedule 1.

Legislative framework

9. 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 14-17: Specific provisions in respect of a hotel 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 46: Duration and surrender of licences.
 - g) Section 48: Requirements in respect of a CIS.
 - h) Section 49: General provisions relating to an extended trading authorisation.
 - i) Section 51: General provisions relating to licence-related authorisations.
 - j) Section 121: Minors in hotels in company of responsible adult.
10. An extract of these sections is set out in Schedule 2.

Key findings

11. 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

12. The Authority is satisfied on the material before it that the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act.

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

13. 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 conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the Notice of Determination of Development Application No. D/2017/1220 in respect of the Premises, issued by City of Sydney Council on 4 December 2017.

Community impact statement

14. 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.

15. 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 Surry Hills, and the relevant "broader community" comprises the Local Government Area ("LGA") of Sydney.

Positive social impacts

16. The Authority notes that the Premises presently is the subject of an on-premises licence with primary service and extended trading authorisations, which the Applicant proposes to replace with the hotel (general bar) licence. The Authority notes the Applicant's contention that the business model of an American-themed diner and bar with light live entertainment remains unchanged, and will continue to be unique in Surry Hills.

17. The Authority further notes the Applicant's contention that the manner of operation of the Premises will be different to that of a traditional hotel venue, and considers the venue will continue to contribute to the diversity of the local liquor industry, by providing patrons with an alternative and more intimate style of licensed venue in which to socialise, consume food and beverages, and enjoy entertainment.

18. The Authority accepts that Surry Hills is a popular hospitality and entertainment hub, and that the Premises will continue to cater to the needs of the growing and evolving local and broader communities.

19. Having regard to the information available, the Authority is satisfied that granting the Licence and authorisations would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry and the related live music, entertainment, tourism and hospitality industries.

Negative social impact

20. The Authority notes that Surry Hills has a significantly higher density of all licence types (excluding clubs) compared to the state average, however, the Authority considers that this reflects the fact that Surry Hills is situated in close proximity to the Sydney central business district and Central railway station, a major transport hub, and is a popular hospitality and entertainment destination. The Authority notes the Applicant's contention that the high turnover of visitors in Surry Hills may skew density and crime figures.
21. The relevant BOCSAR data indicates that, for the year to June 2018:
- a) the Premises was located within large high density hotspots for incidents of alcohol-related assault, domestic assault, non-domestic assault and malicious damage to property, and
 - b) the rates of alcohol-related domestic and non-domestic assault, malicious damage to property and alcohol-related disorderly conduct (offensive conduct) in Surry Hills and Sydney LGA were considerably higher than the NSW state average.
22. The Authority notes that Sydney LGA and Surry Hills' SEIFA rankings are in the 9th and 10th deciles respectively on the index of relative socio-economic advantage and disadvantage, indicating that the local and broader communities are relatively advantaged when compared to other suburbs and LGAs in NSW.
23. The Authority also notes that HealthStats NSW data discloses that the LGA recorded a higher level of alcohol-attributable deaths and hospitalisations compared to the corresponding NSW figures.
24. Whilst, as noted above, there is evidence of alcohol-related harms in the local and broader communities, the Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the Premises will not trade past midnight on any day, and the Premises is relatively small at 250m²;
 - b) gaming and takeaway sales of liquor will not be offered at the Premises;
 - c) the granting of the hotel licence and corresponding surrender of the on-premises licence will not result in an increase in the density of licensed venues in Surry Hills or the LGA;
 - d) there will be no increase in trading hours, scale of operation, venue layout or capacity as a result of the change in licence type;
 - e) the Applicant was appointed as the Licensee of the Premises on 11 October 2016, with no adverse compliance history.
 - f) no objection was received from any of the institutional stakeholders consulted, including NSW Police and NSW Health, or any members of the public for the Premises to operate as a hotel (general bar); and
 - g) the Applicant has consented to all of the licence conditions proposed by L&GNSW and Council and endorsed by NSW Police, including the maintenance of a CCTV system and ongoing compliance with measures set out in the Plan of Management to facilitate the responsible service of liquor and prevention of intoxication at the Premises.

Overall social impact

25. Having considered the positive and negative social impacts that are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of granting the Application would not be detrimental to the well-being of the local and broader communities.

26. The Authority is also satisfied that the other legislative criteria for the granting of the Application have been met.
27. Accordingly, the Authority has decided to grant the Licence and the extended trading and minors area authorisations under sections 45, 49 and 121 of the Act.
28. The Authority also approves the associated surrender of on-premises licence LIQO624014851.



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 Sydney LGA recorded, compared to a state benchmark of 100:
 - a. a standardised alcohol-related hospitalisation ration of 147.80 in 2011, 145.00 in 2012, 128.00 in 2013, 124.50 in 2014 and 130.10 in 2015; and
 - b. a standardised alcohol-related mortality ratio of 100.00 in 2009, 107.90 in 2010, 106.80 in 2011, 100.10 in 2012 and 101.80 in 2013.
2. Section 96 Modification Approval for Development Application No. D/2006/630/A issued by the City of Sydney Council on 22 July 2014 in relation to the Premises.
3. Transport NSW publication 'Train Statistics 2014', 9th edition – December 2014.
4. 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 10th decile being the most advantaged and 1st decile the most disadvantaged:
 - a. Surry Hills ranked in the 10th decile, and
 - b. Sydney LGA ranked in the 9th decile.
5. BOCSAR NSW Recorded Crime Statistics 2017 outlining the number and proportion of selected offences flagged as alcohol related by NSW Police in Sydney LGA compared to NSW.
6. BOCSAR NSW Recorded Crime Statistics July 2017 to June 2018 outlining offences by day of week and time of day in Sydney LGA compared to NSW.
7. Submission from Roads & Maritime Services dated 11 August 2017 in relation to the Application.
8. Completed applications dated 19 October 2017 and the relevant application notices.
9. Completed Category B CIS dated 19 October 2017 and supporting documents.
10. Notice of Determination of Development Application No. D/2017/1220 issued by the City of Sydney Council on 4 December 2017 in relation to the Premises.
11. Correspondence between the Applicant and NSW Police between 27 February 2018 and 9 July 2018 in relation to the assessment of the Application.
12. Submissions from NSW Police dated 2 March 2018 and 17 October 2018 in relation to the Application.
13. Plan of Management for the Premises, dated April 2018.
14. 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.
15. NSW crime statistics published by BOCSAR indicating that, for the year to June 2018, the rates of:
 - a. alcohol-related domestic assault in Sydney LGA and Surry Hills were 196.7 and 179.3 respectively, compared to the NSW average of 114.0,
 - b. alcohol-related non-domestic assault in Sydney LGA and Surry Hills were 670.4 and 487.6 respectively, compared to the NSW average of 127.3,
 - c. malicious damage to property in Sydney LGA and Surry Hills were 1,17.5 and 1,737.3 respectively, compared to the NSW average of 768.4, and
 - d. disorderly conduct in Sydney LGA and Surry Hills were 291.2 and 330.6 respectively, compared to the NSW average of 40.3.
16. Correspondence between L&GNSW staff and the Applicant between 25 July 2018 and 14 February 2019 in relation to the assessment of the Application.
17. Submission from the City of Sydney Council dated 11 October 2018 in relation to the Application.

18. Email correspondence from L&GNSW Compliance dated 18 October 2018 in relation to the Application.
19. 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, Sydney LGA and Surry Hills. The density of hotel (general bar) licences was 1.36 in NSW, 22.56 in Sydney LGA and 30.47 in Surry Hills.
20. L&GNSW liquor licensing records as at 5 November 2018 listing all liquor licences in Surry Hills.
21. Google map images extracted from the Google website on 7 November 2018, showing the location and photo of the Premises in map view, earth view and street view.
22. Certification of advertising dated 12 November 2018.
23. L&GNSW Compliance report dated 20 November 2018 in relation to the compliance history of the Premises between 1 January 2007 and 20 November 2018.
24. L&GNSW liquor licensing records as at 25 November 2018, setting out the key liquor licence details for the on-premises licence for the Premises.
25. Application to surrender liquor licence LIQO624014851, dated 13 February 2019.
26. Food menu for the Premises.
27. Document prepared by L&GNSW 'Previous application and assessment timeline'.
28. Floor plan for the Premises, setting out the licensed areas the subject of the Application.
29. ASIC business records for the Applicant and business owner, and Premises owner.
30. ASIC record of registration for business name.

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).

14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.

(2) Trading hours for consumption on premises

The times when liquor may be sold for consumption on the licensed premises are as follows:

- (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
- (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
- (c) at any time on any day (including a restricted trading day) to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.

(3) Restricted trading days

Despite subsection (2) (a), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows:

- (a) between midnight and 5 am on that day (but only if authorised by an extended trading authorisation),
- (b) between noon and 10 pm on that day.

- (3A) In the case of Christmas Day, liquor must not be sold for consumption on the licensed premises between noon and 10 pm unless it is sold with or ancillary to a meal served in a dining area on the licensed premises.

(4) Trading hours for consumption away from premises

Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.

- (4A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

(5) No take-away sales on restricted trading days

However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.

(6) Functions on other premises

A hotel licence also authorises the licensee to sell liquor by retail for the purposes of a function to be held on such other premises as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as may be specified by the Authority in the licence.

Note. Section 51 applies to an authorisation referred to in this subsection.

15 Hotel licence—general provisions

- (1) The following provisions apply in relation to a hotel licence (*the hotel primary purpose test*):

- (a) except as provided by section 15A, the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,
- (b) the keeping or operation of gaming machines (as authorised under the Gaming Machines Act 2001) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.

- (2) The authorisation conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the licensed premises.

- (3) Any premises (other than the actual hotel) that are authorised by the Authority for the sale of liquor under a hotel licence are, for the purposes of this Act, taken to be part of the licensed premises to which the licence relates.

15A Cessation of liquor sales during trading hours

(1) Extended trading periods

A hotelier may, at any time during the period that an extended trading authorisation is in force in relation to the licensed premises:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).

(2) Authority may approve of cessation of liquor sales during standard trading period

A hotelier may, at any time during the standard trading period:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises),

but only with the approval of the Authority.

(3) An application for the approval of the Authority under subsection (2) may be made by the hotelier concerned. Any such application must be accompanied by the fee prescribed by the regulations.

(4) The Authority may give its approval only if it is satisfied that:

- (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
- (b) gambling activities on the licensed premises will be conducted in a responsible manner.

(5) Cessation of liquor sales during standard trading period without gambling activities

A hotelier may, at any time during the standard trading period:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).

However, it is a condition of the licence that the licensed premises must not be used for the purposes of any gambling activities during any such time that liquor is not being sold or supplied unless an approval is in force under subsection (2) in relation to the licensed premises.

16 Hotel licence may be designated as a general bar licence

(1) The Authority may, in granting a hotel licence, designate the licence as a general bar licence and specify in the licence that it is a general bar licence.

(2) The designation of a hotel licence as a general bar licence cannot be changed.

(3) It is not lawful to keep or operate gaming machines on the premises to which a general bar licence relates. Accordingly, the keeping or operation of gaming machines on any such premises cannot be authorised under the Gaming Machines Act 2001.

(4) Despite section 14, a general bar licence does not authorise the sale or supply of liquor for consumption away from the licensed premises at any time.

17 Hotel licence—miscellaneous conditions

(1) Cash advances prohibited

A hotelier must not:

- (a) provide a cash advance in the hotel, or
- (b) permit a cash advance to be provided in the hotel on behalf of the hotelier,

except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

(2) Hotels must be open to general public The business carried out under a hotel 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 hotel, or
- (b) to a particular class, or particular classes, of persons using or attending the hotel.

(3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular hotel 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 hotel if food of a nature consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises for consumption 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.

(5) Prohibition on residents and employees drinking liquor in bar area outside trading hours Liquor may not be sold or supplied to, or consumed by, a resident or an employee of the licensee in a bar area of the hotel except at the time when liquor is authorised to be sold or supplied to other persons in that or any other bar area of the hotel. This subsection has effect despite any other provision of this Act, but is subject to subsection (6).

- (6) The Authority may, on application by a hotelier, authorise the use of a bar area of the hotel for the sale, supply or consumption of liquor exclusively to, or by, residents at a time when liquor may not otherwise be sold or supplied in a bar area of the hotel.

Note. Section 51 applies to an authorisation referred to in this subsection.

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.

46 Duration of licences

- (1) Except during any period of suspension, a licence continues to be in force until such time as it is surrendered to the Authority, cancelled or otherwise ceases to be in force or, in the case of a licence that is granted for a specified term, when that term expires.
- (2) A licence may be surrendered only in accordance with such arrangements as may be approved by the Authority.

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.

49 Extended trading authorisation—general provisions

(1) Application of section

This section applies in relation to the following types of licences (referred to in this section as a relevant licence):

- (a) a hotel licence,
- (b) a club licence,
- (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
- (d) a packaged liquor licence,
- (e) a producer/wholesaler licence.

(2) Extended trading authorisation for consumption on premises

In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
- (c) in any case—a specified period between 5 am and 10 am on a Sunday,
- (d) in any case—a specified period between 10 pm and midnight on a Sunday.

(2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods:

- (a) a specified period between 5 am and noon on a restricted trading day,
- (b) a specified period between 10 pm and midnight on a restricted trading day.

Note. The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25 (3).

(3) Despite subsection (2) (a), the Authority may, in the case of a hotel:

- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
- (b) situated in the Kings Cross precinct, or
- (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or
- (c) situated in the Kosciuszko National Park,

authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.

(4) **Extended trading authorisation for take-away sales on Sundays**

In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:

- (a) a specified period between 5 am and 10 am on a Sunday,
- (b) (Repealed)

(5) **Nature of extended trading authorisation**

An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:

- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
- (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
- (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.

(5A) Despite subsection (2) (a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.

(6) **Extended trading period to be specified**

In granting an extended trading authorisation, the Authority is to specify:

- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
- (b) the part or parts of the licensed premises to which the authorisation applies.

(7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues**

Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods:

- (a) between 5 am and noon on a restricted trading day,
- (b) between 10 pm and midnight on a restricted trading day,
- (c) between midnight and 5 am on any day immediately following a restricted trading day.

(8) **Restrictions on granting extended trading authorisation**

The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:

- (a) practices are in place, and will remain in place, at the licensed premises 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
- (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

(9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

51 General provisions relating to licence-related authorisations

(1) This section applies to the following authorisations granted by the Authority under this Act:

- (a) an extended trading authorisation,
- (b) a drink on-premises authorisation,
- (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
- (d) a minors area authorisation,
- (e) a minors functions authorisation.

(2) An application for an authorisation to which this section applies must:

- (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), 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) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
- (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.

- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
 - (a) is subject to such conditions:
 - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
 - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has:
 - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.

121 Minors in hotels in company of responsible adult

- (1) The Authority may, on the application by a hotelier, grant an authorisation (a minors area authorisation) to enable the use by a minor of a specified part of the hotel while in the company of a responsible adult.

Note. Section 51 applies to a minors area authorisation.

- (2) The specified part of the hotel to which a minors area authorisation applies may, if the authorisation so provides, comprise the whole of the hotel.