



Mr Tony Schwartz
BSV Lawyers
tschwartz@bsv.com.au

22 December 2020

Dear Mr Schwartz

Application No.	APP-0007511986
Applicant	Mr Anthony Charles Leybourne Smith
Application for	Packaged Liquor Licence
Licence name	Dan Murphy's
Premises	Shop 3, 85-93 Victoria Road Parramatta NSW 2150
Trading hours	Monday to Saturday 9:00 AM – 9:00 PM Sunday 10:00 AM – 9:00 PM
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a Packaged Liquor Licence – Dan Murphy's, Parramatta**

The Independent Liquor & Gaming Authority considered the application above, and decided on 16 September 2020 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 AM. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 AM.

Transfer to a suitable and qualified person

The licence must not be exercised unless and until Liquor & Gaming NSW has granted a transfer of the licence to a suitable and qualified person.

Statement of reasons

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, Andrew Whitehead, at andrew.whitehead@liquorandgaming.nsw.gov.au.

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 3 July 2020, Mr Anthony Charles Leybourne Smith (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at Shop 3, 85-93 Victoria Road, Parramatta (“Premises”).
2. The Authority considered the Application at its meeting on 16 September 2020 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. 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.
4. A preliminary notification of this decision was sent to the Applicant on 21 September 2020, together with the licence document for the Premises.

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 2.

LEGISLATIVE FRAMEWORK

9. The Authority has considered the Application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 44: Submissions to the Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
10. An extract of these sections is set out in Schedule 3.

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:

- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
 - b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
 - c) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to operate as is contemplated by the sections.
13. 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.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the development approval DA/93/2020 in respect of the Premises, issued by City of Parramatta Council on 21 April 2020.

Community impact

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

Licence density

16. The Authority notes that Parramatta has a marginally higher density of packaged liquor licences compared to the NSW state average.

Crime data

17. The relevant BOCSAR data indicates that, for the year to March 2020:
- a) The Premises was located within a medium-density hotspot for malicious damage to property in the suburb of Parramatta, and near hotspots for alcohol-related violence (domestic and non-domestic assault) in areas of the Parramatta LGA that are likely to be serviced by the Licence.
 - b) Parramatta recorded higher rates of alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct, and a lower rate of alcohol-related domestic assault, compared to the NSW state average.
 - c) Parramatta LGA recorded lower rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related disorderly conduct, compared to the NSW state average.

Alcohol-related health data

18. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Parramatta LGA recorded a lower than average level of alcohol attributable

deaths for the period 2016-2017, and a lower than average level of alcohol attributable hospitalisations for the period 2016-2018.

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Parramatta and Parramatta LGA were relatively advantaged compared to other suburbs and LGAs in NSW.

Purported benefits

20. The Authority has had regard to the Applicant's research on population growth and accepts that Parramatta is undergoing significant residential and commercial development, and that the anticipated growth in population and concentration of employment may create additional demand for packaged liquor.
21. The Authority notes that the Premises will be located within a new mixed-use residential and retail development, including approximately 88 residential apartments and three retail tenancies. The Authority accepts the Applicant's contention that the Premises would service future residents and customers and support the foreseeable growth in the suburb of Parramatta.
22. The Authority notes the Applicant's submission that the Premises will improve local amenity by providing increased convenience to residents and visitors and by offering a large range of liquor products.

Stakeholder submissions

23. The Authority has had regard to the submission from a member of the public, residing adjacent to the Premises. The submitter raised concern about the proximity of the Premises to local schools and parks and suggests that the approval of the Application would "degrade the area" and increase "unwanted elements of society". The submitter also contends that there is no material demand for additional packaged liquor outlets in the local community.
24. The Authority has had regard to the submission from a member of the public, residing less than 100 metres from the Premises. The submitter raised concern about the proximity of the Premises to the adjacent childcare centre and to local schools and parks. The submitter suggests that approval of the Application would lead to "unsavoury characters lingering in the area" and "the degeneration of the community and neighbourhood". Furthermore, the submitter states that the operation of the Premises would place considerable economic pressure on local businesses and that the physical location would cause traffic congestion in the area. The Authority also notes the submitter's contention that there is no material demand for an additional packaged liquor outlet in the local community.
25. The Authority has had regard to the Applicant's submission in response to the concerns raised by members of the public, noting the Applicant's request to draw attention to the assessment of the proposal within of the Community Impact Statement and consider:
- a) the data available on licence saturation, outlet clustering and alcohol-related crime,
 - b) population growth,
 - c) the potential decline of sales from existing liquor outlets as a result of the operation of the Premises, and
 - d) the location of hotspots in Parramatta and Parramatta LGA.
26. The Authority has had regard to the submission from a member of the public, residing within a "5-minute walk" of the Premises, who is supportive of the Application on the basis of convenience.
27. The Authority has had regard to the submission from Transport for NSW requesting the Applicant join the local liquor accord and to maintain awareness of specific alcohol-related

issues in the local community. The Authority also notes the request for the Applicant to consider displaying educative materials relating to drink-driving, pedestrian-related alcohol issues and the responsible hosting of parties.

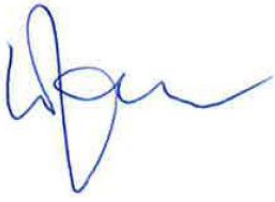
28. The Authority has had regard to the Applicant's submission in response to Transport for NSW and notes the Applicant's support of the relevant initiatives proposed. Furthermore, the Authority notes that the Applicant intends to make Safe Party Kits available and display a Safe Party Checklist to cater to customers who purchase larger quantities of alcohol for a party or social event.
29. The Authority notes that submissions were received by City of Parramatta Council, NSW Aboriginal Affairs and L&GNSW Compliance in which no objections were raised.
30. The Authority has had regard to the submission from the NSW Police Force (Police) and notes that while Police sought the imposition of a local liquor accord condition and plan of management condition, it remains the case that Police do not object to the Application.
31. The Authority has also had regard to the Applicant's submission in response to Police and notes that while the Applicant has consented to join the local liquor accord, the Applicant has not consented to the requested plan of management condition on the basis that it is covered by the development consent issued by City of Parramatta Council.

Mitigating factors

32. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that Parramatta/Parramatta LGA is subject to a relatively high level of alcohol-related non-domestic assault, and that there are some alcohol related health issues in the broader community.
33. The Authority considers that, if the Licence is granted, there is a risk that the liquor sold at the Premises would exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.
34. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
 - a) absence of any objections from agency stakeholders,
 - b) experience of the Applicant as an operator of multiple licensed premises with sound compliance records, and
 - c) harm minimisation measures set out in The Policies and Procedures of the Endeavour Group Limited, and licence conditions as set out in Schedule 1.

CONCLUSION

35. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
36. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
37. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford

Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**

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 & Gaming NSW 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 – Licence conditions to be imposed Dan Murphy's, Parramatta

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 3:00 AM and 9:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
 8:00 AM to 10:00 PM Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the policies and procedures of the Endeavour Group Limited, as submitted to the Independent Liquor & Gaming Authority ("the Authority") in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the licensed premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor & Gaming NSW inspector within 24 hours of any request by the police officer or Liquor & Gaming NSW inspector to provide such recordings.
7. 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 & 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 (e.g. crowd controller or bouncer) on or about the premises.

8. Restricted trading on public holidays

The licensed premises must not commence trading before 10:00 AM, and must cease to trade by 9:00 PM, on public holidays.

Schedule 2 – Material considered by the Authority

Dan Murphy's, Parramatta

Application material

1. Plan of Management documents for the Premises, titled The Policies and Procedures of Endeavour Group Limited and dated February 2020.
2. Floor plan for the Premises, dated 12 May 2020, indicating the proposed liquor sales area.
3. Completed Application dated 26 June 2020.
4. Completed Category B Community Impact Statement dated 26 June 2020.
5. Completed Certifications of Advertising dated 6 July 2020 and 16 July 2020.
6. ASIC business records in relation to the Applicant and associated companies.

Development consent

7. Notice of determination issued by City of Parramatta Council on 6 April 2020, approving the development application DA/93/2020 for the Premises.

L&GNSW records

8. L&GNSW liquor licensing records as at 24 August 2020 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Parramatta, Parramatta LGA and NSW. The density of packaged liquor licences is 29.1 in NSW, 21.7 in Parramatta LGA, and 31.0 in Parramatta.
9. L&GNSW liquor licensing records as at 24 August 2020 listing all packaged liquor licences, hotel licences, club licences, on-premises licences and small bar licences in Parramatta.

Crime data

10. NSW crime statistics published by BOCSAR indicating that for the year to March 2020, the rates of:
 - a) alcohol-related domestic assault in Parramatta LGA and Parramatta were 58.1 and 96.5 respectively, compared to the NSW average of 115.2,
 - b) alcohol-related non-domestic assault in Parramatta LGA and Parramatta were 71.2 and 269.5 respectively, compared to the NSW average of 110.1,
 - c) late-night alcohol-related non-domestic assault in Parramatta LGA and Parramatta were 19.1 and 86.5 respectively, compared to the NSW average of 35.4,
 - d) alcohol-related non-domestic serious assault in Parramatta LGA and Parramatta were 23.9 and 79.9 respectively, compared to the NSW average of 41.5,
 - e) malicious damage to property in Parramatta LGA and Parramatta were 554.3 and 1420.9 respectively, compared to the NSW average of 700.7, and
 - f) alcohol-related offensive conduct in Parramatta LGA and Parramatta were 12.7 and 56.6 respectively, compared to the NSW average of 32.1.
11. BOCSAR crime hotspot maps as at 24 August 2020, indicating the location of the Premises relative to hotspots for alcohol-related assault (domestic and non-domestic) and disorderly conduct, and malicious damage to property.

Health data

12. HealthStats NSW data showing that Parramatta LGA recorded a spatially adjusted rate of:
 - a. 12.9 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 18.1, in the period 2016-17; and
 - b. 530.4 for alcohol attributable hospitalisation per 100,000 of population, compared to the corresponding NSW figure of 565.7, in the period 2016-18.

Socio-economic data

13. ABS SEIFA data based on the 2016 Census indicating that households in Parramatta and Parramatta LGA are socio-economically advantaged and fall within the top 28 percent and top 15 percent respectively of NSW households, in terms of household income and residents in skilled occupations.

Stakeholder submissions

14. Three submissions from members of the public on 13 May 2020, 19 May 2020 and 19 May 2020 in relation to the Application.
15. Submission from Transport for NSW on 18 May 2020 in relation to the Application.
16. Submission from NSW Aboriginal Affairs dated 19 May 2020 in relation to the Application.
17. Submission from City of Parramatta Council on 10 July 2020 in relation to the Application.
18. Submission from NSW Police Force on 10 August 2020 in relation to the Application.
19. Submission from L&GNSW Compliance Operations Unit on 17 August 2020 in relation to the Application.

Other relevant information

20. Greater Sydney Commission's report titled A City Supported by Infrastructure: Place-based Infrastructure Compact Pilot (Draft for feedback) dated November 2019.
21. Correspondence between L&GNSW staff and the Applicant between 25 June 2020 and 19 August 2020 in relation to the assessment of the Application.
22. Google map images extracted from the Google website on 24 August 2020, showing the location and photos of the Premises in map view and street view.
23. Website information dated 26 August 2020 with regard to the Greater Parramatta and Olympic Peninsula.

Schedule 3 – Relevant extracts from the *Liquor Act 2007*

Dan Murphy's, Parramatta

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

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

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

- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

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

- (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.
Note. Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
 - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

- (1) **Retail sales**
 A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:
 - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
 - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.
- (2) **No retail trading on restricted trading days**
 Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
- (3) **Selling liquor by wholesale or to employees**
 A packaged liquor licence also authorises the licensee:
 - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
 - (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
- (3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.
- (4) **Tastings**
 A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

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

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

31 Restrictions on granting packaged liquor licences

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

- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.

- (3) In this section—

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

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

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

40 Licence applications

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

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

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

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

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

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) 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 licence.

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.