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25 November 2019

Dear Mr Sammut

<b>Application No.</b>	1-7180678071
<b>Applicant</b>	Jason Bartlett Frost
<b>Application for</b>	Extended trading authorisation in relation to a hotel licence
<b>Licence name</b>	Gunyah Hotel
<b>Licence number</b>	LIQH400117620
<b>Premises</b>	644 Pacific Highway & Walter Street Belmont NSW 2280
<b>Current trading hours</b>	<u>Consumption on premises</u> Monday – Saturday 5:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Takeaway sales</u> Monday – Saturday 5:00 am – 11:00 pm Sunday 10:00 am – 10:00 pm
<b>New trading hours</b>	<u>Consumption on premises – gaming room and lounge areas</u> Monday – Thursday 10:00 am – 12:00 midnight Friday – Saturday 10:00 am – 1:00 am Sunday 10:00 am – 10:00 pm <u>Consumption on premises – all other areas</u> Monday – Saturday 10:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Takeaway sales</u> Monday – Saturday 10:00 am – 10:00 pm Sunday 10:00 am – 10:00 pm
<b>Legislation</b>	Sections 3, 11A, 12, 45, 48, 49, 51 and 53 of the <i>Liquor Act 2007</i>

### **Decision of the Independent Liquor & Gaming Authority Application for an extended trading authorisation – Gunyah Hotel**

The Independent Liquor & Gaming Authority (“Authority”) considered the application above, and decided on 19 June 2019 to **approve** the application **in part** under section 49 of the *Liquor Act 2007* (“Act”).

The application sought an extended trading authorisation (“ETA”) to enable specified areas of the licensed premises trading as Gunyah Hotel (“Hotel”) to trade, in addition to the Hotel’s current trading hours, during the following periods:

- gaming room and lounge areas: 12 midnight to 4 am, Monday to Saturday, 10 pm to 12 midnight on Sundays
- restaurant, bar and outdoor terraces: 10 pm to 12 midnight on Sundays.

The Authority decided to grant a less extensive ETA, authorising the Hotel’s gaming room and lounge areas to trade between 12 midnight and 1 am on Fridays and Saturdays.

The granting of the ETA is subject to the imposition of the following conditions, in addition to the existing conditions on the Hotel’s licence:

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 six (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. CCTV

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
  - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
  - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
  - (c) any recorded image must specify the time and date of the recorded image,
  - (d) the system's cameras must cover the following areas:
    - (i) all entry and exit points on the premises,
    - (ii) the footpath immediately adjacent to the premises, and
    - (iii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
  - (a) keep all recordings made by the CCTV system for at least 30 days,
  - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
  - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

## 3. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

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

In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.

## 4. The premises is to be operated at all times in accordance with the Plan of Management dated January 2019 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

The Authority also decided, pursuant to section 53(2)(b) of the Act, to vary the Hotel's licensed closing time for takeaway liquor sales from 11 pm to 10 pm, to conform with the licensed trading hours available for a hotel under sections 12 and 49 of the Act.

However, by the operation of an exemption in clause 117 of the Liquor Regulation 2018, takeaway liquor sales at the Premises may continue until 11 pm on days other than Sundays and restricted trading days.

A statement of reasons for this decision is attached.

If you have any questions, please contact the case manager Mr Lucas Ho at [lucas.ho@liquorandgaming.nsw.gov.au](mailto:lucas.ho@liquorandgaming.nsw.gov.au).

Yours faithfully

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

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

## Statement of reasons

### Decision

1. On 24 January 2019 Mr Jason Bartlett Frost (“Applicant”) lodged an application for an extended trading authorisation (“ETA”) for a hotel licence numbered LIQH400117620, trading as Gunyah Hotel (“Hotel”) at 644 Pacific Highway & Walter Street, Belmont (“Premises”).
2. The Applicant sought the ETA to enable specified areas of the Hotel to trade, in addition to the Hotel’s current trading hours, during the following periods:
  - gaming room and lounge areas: 12 midnight to 4 am, Monday to Saturday, 10 pm to 12 midnight on Sundays
  - restaurant, bar and outdoor terraces: 10 pm to 12 midnight on Sundays.
3. The Application was lodged with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor & Gaming Authority (“Authority”).
4. The Authority decided on 19 June 2019 to approve the Application in part, by granting a less extensive ETA under section 49 of the *Liquor Act 2007* (“Act”), authorising the Hotel’s gaming room and lounge areas to trade between 12 midnight and 1 am on Fridays and Saturdays.
5. A preliminary advice letter notifying the Applicant of this decision was issued on 18 July 2019.

### Material before the Authority

6. In reaching its decision the Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
7. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
8. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
9. A list of the material considered by the Authority is set out in Schedule 1.

### Legislative framework

10. The Authority has considered the Application in the context of the following legislative provisions under the Act:
  - a) Section 3: Statutory objects of the Act and relevant considerations.
  - b) Section 11A: The mandatory 6 hour period during which liquor cannot be sold.
  - c) Section 12: The standard trading period for certain licensed premises, including hotels.
  - d) Section 45: Criteria for granting a liquor licence.
  - e) Section 48: Requirements in respect of a CIS.
  - f) Section 49: General provisions in respect of ETAs.
  - g) Section 51: General provisions relating to licence-related authorisations.
  - h) Section 53: The Authority’s power to impose, vary or revoke conditions on application or on its own initiative.
11. An extract of these sections is set out in Schedule 2.
12. The Authority has also had regard to provisions in the Liquor Regulation 2018 (“Regulation”) prescribed for the purposes of the above sections of the Act.

## **Key findings**

13. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in respect of the Application.

### Validity, procedural and trading requirements

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

- a) the Application has been validly made and meets the procedural requirements under section 51 of the Act and clauses 20 to 29 of the Regulation, and
- b) the extended trading periods sought by the Applicant fall within the periods which the Authority has power to grant under section 49(2) of the Act, and are consistent with the 6-hour closure period required by section 11A of the Act to be imposed on the Hotel's licence.

15. The Authority notes from the Hotel's licence document that the Hotel's licensed trading hours for takeaway liquor sales currently end at 11 pm Monday to Saturday and 10 pm on Sundays. However, the standard trading period for takeaway liquor sales, as prescribed under section 12(1B) of the Act, cannot exceed 10 pm.

16. To conform with the current legislative requirement, the Authority has decided to vary the Hotel's trading period for takeaway liquor sales, under section 53(2)(b) of the Act, so that it ends by 10 pm on all trading days.

17. The Authority notes that by the operation of an exemption under clause 117 of the Regulation, take away sales at the Premises may continue until 11 pm on days other than Sundays and restricted trading days.

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

18. The Authority is satisfied, pursuant to sections 45(3) and 49(8)(a) of the Act, that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed ETA relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices are and will remain in place to facilitate the responsible service of alcohol and prevention of intoxication at the Premises, having regard to the Applicant's plan of management, and
- c) the requisite development consent permitting the conduct of a hotel business at the Premises during the proposed trading period is in force, noting that the relevant consent issued by Lake Macquarie City Council does not impose any restrictions on trading hours.

19. For the purposes of section 49(8)(b) of the Act, the Authority is satisfied that granting a less extensive ETA as outlined earlier will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Premises. For reasons explained later in this decision, the Authority is unable to reach this state of satisfaction if the Application is to be approved in its current form.

### Community impact of gambling activities

20. The Authority is satisfied that the CIS meets the minimum requirements of clause 28 of the Regulation in addressing matters relating to gambling activities at the Hotel during the proposed extended trading hours.

### Community impact statement

21. 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.

22. For the purposes 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 Belmont, and the relevant “broader community” comprises the Local Government Area (“LGA”) of Lake Macquarie.

#### Positive social impacts

23. According to the L&GNSW liquor licensing records dated 8 April 2019, the Hotel is one of the two hotels in Belmont, and there are currently no late trading licensed venues in the suburb.
24. The Authority accepts that granting an ETA for the Hotel would provide members of the local and broader communities with additional access to the Hotel’s facilities and its liquor, gaming and entertainment services during later hours of the night. The Authority also accepts that the late night services proposed to be provided at the Premises are not otherwise available in the local community.
25. The Authority notes and has taken into consideration, however, the absence of any substantive evidence of community support for the proposed extended trading hours.

#### Negative social impacts

26. In considering the negative social impacts that may arise from granting the ETA, the Authority has had regard to the relevant statistics and stakeholder submissions as outlined below.
27. Relevant BOCSAR data for the year to December 2018 indicates that:
- Belmont recorded significantly higher rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related disorderly conduct compared to the NSW state average, and
  - Lake Macquarie LGA recorded a higher rate of malicious damage to property, and lower rates of alcohol-related assault (domestic and non-domestic) and alcohol-related disorderly conduct, compared to the NSW state average, and
  - the Premises was located within medium-density hotspots for malicious damage to property, and not within any hotspots for alcohol-related assault, domestic assault, or non-domestic assault.
28. The HealthStats NSW data available at the time of the Authority’s consideration of the Application indicates that Lake Macquarie LGA recorded a higher than average level of alcohol attributable deaths and a lower than average level of alcohol attributable hospitalisations, in the periods 2015-16 and 2015-17 respectively.
29. The ABS Socio-Economic Indexes for Areas (“SEIFA”) data as at 2016 indicates that Belmont was relatively disadvantaged compared to other suburbs, and Lake Macquarie LGA relatively advantaged compared to other LGAs, across NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
30. Submissions were received from NSW Police Force (“Police”) and 27 local residents objecting to the Application. The concerns raised in these submissions include:
- close proximity of the Premises to residential premises,
  - loud noises generated from the Hotel during later hours of the night,
  - high levels of alcohol-related anti-social behaviour associated with intoxicated patrons leaving the Hotel, including loud noises, physical violence, littering, public urination and vandalism in areas around the Premises,
  - likely increase in patron migration from other licensed venues if an ETA is granted for the Hotel, and the associated risk of increased disturbances in the neighbourhood, and

- increased risk of drink driving given the lack of late night public transport options.
31. The L&GNSW Compliance Operations Unit, in its brief submissions about the Application, noted one complaint and four incidents involving violence recorded against the Hotel between 2017 and 2018.
32. In response to the submissions above, the Applicant argued that most of the incidents referred to by the submitters were anecdotal in nature, and occurred before the Hotel's business ownership was taken over by its current owner, Iris Capital, in October 2018. The Applicant also proposed a range of management and harm minimisation measures to address the concerns raised, including restricting patron numbers after certain hours, offering courtesy bus services, and conducting security patrols outside the Hotel.
33. A submission was received from the local MP for Swansea in relation to the Application and a separate application by the Applicant to increase the Hotel's gaming machine threshold ("GMT"). The Authority considered both applications at its meeting on 19 June 2019 when it determined the Application, and notes that the Applicant has since withdrawn the GMT increase application.
34. Relevantly, the local MP expressed concerns on behalf of the community that approving the Application will pose significant health and social risks to those in the community who are affected by problem gambling behaviour, as the Hotel's gaming services will become accessible for considerably longer periods during late night hours.
35. The Applicant contended in response that the proposed late trading hours will unlikely contribute to any increase in gaming related harm in the community, as there is statistical evidence that only a small number of problem gamblers would gamble after midnight.
36. Having regard to the material before it, the Authority considers that approving the Application in its current form may, over time, contribute to an increase in alcohol-related violence and other social and amenity issues to the detriment of the local and broader communities, noting in particular the:
- relative socio-economic disadvantage, and high level of alcohol-related crime rates, social disturbances and other amenity issues, in the local community,
  - extensive scope of the proposed ETA, which if granted will permit four hours of late trading Monday to Saturday, and two hours on Sundays, in areas covering some 600 square metres of the Premises,
  - proximity of the Premises to residential areas.
37. The Authority is not satisfied that the harm minimisation measures proposed by the Applicant will sufficiently mitigate the risk of detrimental alcohol-related harm arising from granting the ETA as proposed. The Authority notes, for example, the Applicant's own acknowledgment in the proposed plan of management that the Hotel's ability to control patron behaviour outside the Premises is limited.
38. However, noting the proposed harm minimisation measures and the experience of the Hotel's new business owner, Iris Capital, as an operator of multiple licensed venues, the Authority considers that there are reasonable grounds supporting the grant of a less extensive ETA to enable some late night access to the Hotel's facilities and services on weekends.
39. The Authority also considers that granting a less extensive ETA will better contribute to the responsible development of the gaming industry, in line with the statutory object outlined in section 3(1)(c) of the Act. In reaching this finding the Authority has had regard to the community's concerns about the risk of gaming-related harm associated with late night gambling at the Premises, and the Hotel's location within a Band 2 (medium risk) area for the purposes of the *Gaming Machines Act 2001*.

### Overall social impact

40. Having considered the positive and negative impacts that are likely to flow from approving the Application, the Authority is satisfied that the overall social impact of partially approving the Application would not be detrimental to the well-being of the local and broader communities.
41. The Authority is also satisfied that the other legislative criteria for the grant of an ETA have been met.
42. Pursuant to section 49 of the Act, the Authority decides to grant an ETA authorising the gaming room and lounge areas of the Hotel to trade between 12 midnight and 1 am on Friday and Saturdays.



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 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 website [www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/liquor-decisions](http://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/liquor-decisions) and be accompanied by the fee prescribed by the regulations.

For more information please go to the NCAT website at [www.ncat.nsw.gov.au/](http://www.ncat.nsw.gov.au/).



## Schedule 1 – Material considered by the Authority

1. Development consent issued by Lake Macquarie City Council on 7 August 2015 in relation to the Premises.
2. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1<sup>st</sup> decile the most disadvantaged:
  - a. Belmont ranked in the 3<sup>rd</sup> decile, and
  - b. Lake Macquarie LGA ranked in the 7<sup>th</sup> decile.
3. HealthStats NSW data showing that Lake Macquarie LGA recorded:
  - a. for the period 2015-16, a spatially adjusted rate of 21.6 per 100,000 of the population for alcohol attributable deaths, compared to the NSW rate of 18.1, and
  - b. for the period 2015-17, a spatially adjusted rate of 428.6 per 100,000 of the population for alcohol attributable hospitalisation, compared to the NSW rate of 580.6.
4. BOCSAR Crime Hotspot Maps for the year to December 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.
5. NSW crime statistics published by BOCSAR indicating that, for the year to December 2018, the rates of:
  - a. alcohol-related domestic assault in Lake Macquarie LGA and Belmont were 108.5 and 190.6 respectively, compared to the NSW average of 116.5,
  - b. alcohol-related non-domestic assault in Lake Macquarie LGA and Belmont were 111.4 and 285.9 respectively, compared to the NSW average of 123.9,
  - c. malicious damage to property in Lake Macquarie LGA and Belmont were 884.9 and 1838.0 respectively, compared to the NSW average of 755.1, and
  - d. alcohol-related disorderly conduct in Lake Macquarie LGA and Belmont were 14.8 and 40.8 respectively, compared to the NSW average of 37.9.
6. BOCSAR NSW Recorded Crime Statistics 2018 showing the number and proportion of selected offences flagged as alcohol-related by Police.
7. Completed application dated 22 January 2019.
8. Completed Category B CIS dated 22 January 2019, and its supporting documents.
9. Plan of management for the Premises, dated January 2019.
10. Certification of advertising dated 22 February 2019.
11. 27 submissions from members of the public between 19 December 2018 and 7 March 2019 in relation to the Application.
12. Submission from Police in relation to the Application, stamped as received by L&GNSW on 21 March 2019.
13. Google map images extracted from the Google website on 27 March 2019, showing the location and photo of the Premises in map view, earth view and street view.
14. L&GNSW liquor licensing records as at 8 April 2019 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, Lake Macquarie LGA and Belmont. The density of full hotel licences is 27.03 in NSW, 14.19 in Lake Macquarie LGA and 28.11 in Belmont.
15. L&GNSW liquor licensing records as at 8 April 2019 listing all hotel licences in Belmont.
16. L&GNSW liquor licensing records as at 15 April 2019, setting out the key liquor licence details for the Premises.
17. L&GNSW Compliance report dated 15 April 2019 in relation to the compliance history of the Premises between 1 July 2008 and 15 April 2019.
18. Submissions from L&GNSW Compliance on 3 May 2019 in relation to the Application.

19. Submission from Yasmin Catley MP, Member for Swansea, on 28 May 2019 in relation to the Application.
20. Submissions from the Applicant's representative on 22 February, 12 April, 27 May 2019 and 14 June 2019 in relation to the assessment of the Application and the submissions received.
21. Premises plan setting out the licensed area of the Premises, and areas subject to the proposed ETA.

## 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).

#### **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.

#### **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.

**53 Authority may impose, vary or revoke licence conditions**

- (1) Without limiting any other provision of this Act, the Authority may at any time—
  - (a) on application by the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
 impose conditions on a licence.
- (1A) The conditions that may be imposed by the Authority on a licence under this section include, but are not limited to, conditions—
  - (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
  - (b) restricting the trading hours of, and public access to, the licensed premises.
- (2) The Authority may at any time—
  - (a) on application by the licensee, the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
 vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.
- (3) An application under subsection (1) or (2) must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) in the case of an application by a licensee—be accompanied by the fee prescribed by the regulations, and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (e) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has—
  - (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application under this section to vary or revoke a condition to which a licence is subject.
- (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 vary or revoke the licence condition.