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9 June 2020

Dear Ms Myatt

<b>Application No.</b>	APP-0005911237
<b>Applicant</b>	Rydges Hotel LTD
<b>Application for</b>	Hotel (general bar) licence Minors Area Authorisation
<b>Licence name</b>	Rydges Cronulla Beachside
<b>Trading hours</b>	<u>Consumption on Premises: Whole of licensed premises excluding the outdoor terrace</u> Monday to Saturday 10:00 AM to 12:00 Midnight Sunday 10:00 AM to 10:00 PM <u>Consumption on Premises: Outdoor Terrace</u> Monday to Friday 10:00 AM to 10:00 PM Saturday 10:00 AM to 11:00 PM Sunday 10:00 AM to 9:00 PM
<b>Premises</b>	20-26 Kingsway Cronulla NSW 2230
<b>Legislation</b>	Sections 3, 11A, 12, 14, 15, 15A, 16, 17, 40, 45, 48, 51 and 121 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application for a Hotel (General Bar) Licence with Minors Area Authorisation – Rydges  
Cronulla Beachside**

The Independent Liquor and Gaming Authority (“Authority”) has completed its consideration of the above applications and has decided, on 9 June 2020, to:

- **grant** the hotel (general bar) licence (“Licence Application”) pursuant to section 45 of the *Liquor Act 2007* (NSW) (“Act”); and
- **grant** the Minors Area Authorisation (“MAA”) pursuant to section 121 of the Act (“MAA Application”).

The hotel licence is subject to the conditions imposed by the Authority that are set out in Schedule 1 to the enclosed statement of reasons.

**Approved manager or individual licensee**

The licence is granted subject to a requirement that it cannot be exercised unless and until the Authority or Liquor and Gaming New South Wales has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

**Surrender on-premises licence LIQO624003386**

On 9 June 2020 the Authority accepted the surrender of the on-premises licence LIQO624003386 which previously attached to the premises.

## Statement of reasons

The enclosed statement of reasons has been prepared *only* in respect of the Authority's decision to grant the Licence Application. Section 36C of the *Gaming and Liquor Administration Act 2007* (NSW) does not require the production of reasons in respect of decisions to grant a MAA.

While reasons are not provided, the Authority is satisfied that it is in the public interest, having regard to the statutory objects and considerations in section 3 of the Act, to grant the MAA Application and this letter provides a short record only of that decision. The MAA applies to the whole of the licensed area that is depicted in the plan/diagram of the licensed premises which accompanied the Licence Application.

If you have any questions, please contact [joanne.zammit@liquorandgaming.nsw.gov.au](mailto:joanne.zammit@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
**Chairperson**

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

## Statement of reasons

### Decision

1. On 16 July 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Rydges Hotels Ltd (“the Applicant”), through Liquor and Gaming New South Wales (“L&GNSW”), an application for a new hotel (general bar) liquor licence (“Application”) in respect of premises located at 20-26 Kingsway, Cronulla New South Wales (“NSW”) 2230 (“Premises”) for a licensed business to be known as *Rydges Cronulla Beachside*.
2. The Authority considered the Application at its meeting dated 12 February 2020 and pursuant to further consultation, decided on 9 June 2020 to grant the Application pursuant to sections 45(1) of the *Liquor Act 2007* (NSW) (“Act”).
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 14, 15, 15A, 16, 17, 40, 45 and 48 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

### Background

4. The Authority notes that at the time of lodging the Application, the Premises was subject to an on-premises liquor licence LIQO624003386 with a recorded start date of 19 July 1991 and designated business types of “accommodation” and “restaurant”. This licence had the benefit of an authorisation under section 24(3) of the Act, known as a primary service authorisation, with a recorded start date of 1 July 2008, which enables liquor to be sold to persons without them having to consume accommodation or restaurant services.
5. The purpose of this Application is to replace the on-premises licence with a hotel (general bar) licence, on the basis that this is a more appropriate licence for the current business model.

### Material Considered by the Authority

6. The Authority has considered the Application, 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 2.

### Legislative framework

10. The Authority has considered the Application in accordance with the following provisions of the Act:
  - (a) Section 3: Statutory objects of the Act and relevant considerations.
  - (b) Section 11A: 6-hour closure period.
  - (c) Section 12: Standard trading period.
  - (d) Sections 14-17: Specific provisions in respect of a hotel licence.
  - (e) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - (f) Section 45: Criteria for granting a liquor licence.

(g) Section 48: Requirements in respect of a CIS.

11. An extract of these sections is set out in Schedule 3.

### **Key findings**

12. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings in relation to the Application.

#### Validity, procedural and trading hour requirements

13. The Authority finds that the Application and accompanying CIS have been validly made in that they meet the minimum procedural and information requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation. This finding is made on the basis of the Application, CIS material and the Certificates of Advertising signed by Jodie Anne Brown on 21 August 2019 and Warwick Caisley on 13 August 2019.

14. The Authority is satisfied that the licenced trading hours granted by the Authority to which the Applicant consented in its submission dated 21 November 2019 and recorded in the 23 March 2020 *House Policy / Management Plan* fall within the hours potentially available under sections 11A, 12 and 14 of the Act, in respect of a daily 6 - hour liquor sales cessation and the standard trading hours for a hotel licensed premises.

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

15. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the corporate Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no probity concerns were raised following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the Compliance section of L&GNSW.

16. The Authority is further satisfied, for the purposes of section 45(3)(b) of the Act, that practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's business policy document titled *House Policy / Management Plan* dated 23 March 2020.

17. The Authority is also satisfied, for the purposes of section 45(3)(c) of the Act, that the requisite development consent permitting the conduct of a hotel (general bar) liquor licensed business on the Premises is in force.

18. A submission made by BBC Consulting Planners dated 16 August 2019 on behalf of SLC Freehold Pty Ltd and SLC Operating Pty Ltd (the owner and operator of a nearby local competitor trading as "Northies – Cronulla Hotel") ("the Commercial Objector") questioned whether the requisite development consent was in force to permit the operation of a hotel. The Commercial Objector noted that the historical development consent, DA 223/88 ("DA"), granted consent to use the Premises as an "apartment hotel". The Commercial Objector submitted that this was an undefined land use term and under the current planning legislation Rydges Cronulla Beachside is defined as "hotel and motel" accommodation, being a type of tourist and visitor accommodation, whereas a "pub" or "hotel" is a type of food and drink premises. The Commercial Objector submitted that use of the Premises as a "pub" is not in force.

19. The Applicant provided an opinion from its planning consultant, Design Collaborative, dated 20 September 2019 explaining the history of the DA, submitting that this consent was sufficient to use the Premises as a licensed hotel.
20. On 26 February 2020 licensing staff sent an email to Sutherland Shire Council (“Council”) putting the Commercial Objector’s submissions to Council and seeking confirmation whether use of the Premises pursuant to a hotel licence is permissible pursuant to the existing DA.
21. On 28 February 2020, Council advised via email that it had no objections to the Application since “both past and present Sutherland Shire Planning Instruments permit Rydges Beachside Cronulla to use as a ‘Hotel’ which can also allow them to hold a Liquor Licence”. Council further advised that the “current SSLEP 2015 definition of a ‘Hotel’ allows for this premises to be licensed under the Liquor Act 2007” and the “original 1990 DA approval for Rydges Beachside Cronulla was under the Town and Country Planning – Sutherland Planning Scheme Ordinance” where the definition of a “Hotel” means “any premises specified in a publican’s licence granted under the Liquor Act, 1912”.
22. In conclusion, while the terminology expressed in the DA is somewhat unusual, giving weight to the expertise of Council the Authority finds that the extant permission to use the Premises as an "apartment hotel" encompasses the concept of a "hotel" for the purposes of current planning law. The Authority is satisfied that development consent to use the Premises for the relevant licensed business or activity is in force.

#### Community impact statement

23. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Cronulla, and the relevant “broader community” comprises the local government area (“LGA”) of the Sutherland Shire Council (“Sutherland LGA”).

#### Positive social impacts

24. The Authority is satisfied, on the information specified in the CIS and the Applicant’s submission dated 21 November 2019, that this hotel (general bar) licence will, if granted, replace the longstanding on-premises licence that has been exercised on the Premises since 1991.
25. The Authority is satisfied that the proposed hotel licensed premises will comprise a ground floor level with hotel reception, restaurant and bar area; a first floor which has conference areas; and accommodation levels above comprising some 84 rooms. The capacity of the hotel is restricted to 545 persons, with the Ground Floor limited to 210, the Outdoor Terrace limited to 60 and the First Floor limited to 275.
26. The Authority accepts the Applicant’s information that that the first level function area will remain as such, that accommodation services will continue to be provided along with the ground floor restaurant.
27. The Application received one supporting submission from a local business owner and numerous submissions from local residents raising social impact concerns that are discussed below. The Authority accepts the Applicant’s submission that granting a hotel licence will allow greater legal certainty and flexibility in the respect of use of the Premises as a hotel and in this respect granting the Application will further expectations, needs and

aspirations for the local and broader community for the purposes of section 3(1)(a) of the Act to a modest extent.

28. The Authority accepts the Applicant's submission that granting the Application will facilitate the balanced development, in the public interest, of the liquor industry for the purposes of the statutory object in section 3(1)(b) of the Act and contribute to the responsible development of related industries such as tourism and hospitality for the purposes of section 3(1)(c) of the Act. However, since the business has already been providing many of the services that it proposes to offer under the hotel licence, the extent of those benefits is reduced.

#### Negative social impacts

29. The Authority has had regard to the following social impact risk factors which are apparent from the Application material, submissions and relevant statistical data that formed part of the Authority's assessment when assessing the overall social impact of granting this Application:

- The licensed trading hours sought by the Applicant are extensive, seeking to trade until 12:00 midnight Monday to Saturday and 10:00 pm Sunday.
- The licensed area of the venue is of a very large scale, at approximately 6079 square metres.
- The patron capacity will be substantial, with a maximum of 545 persons in the Hotel – 210 on the Ground Floor, 60 on the Outdoor Terrace and 275 on the First Floor.
- The BOCSAR hotspot maps from October 2018 to September 2019 indicate that the Premises is located within concentrations of crime – including high-density hotspots for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
- The local and broader community are experiencing elevated rates of crime when compared to NSW State wide rates. BOCSAR crime rates for the year to September 2019 are above the State wide rate per 100,000 persons for incidents of *alcohol related domestic assault* (in both the suburb and LGA), *alcohol related non-domestic assault* (in both the suburb and LGA), *malicious damage to property* (in the suburb) and *alcohol-related disorderly conduct* (offensive conduct) (in both the suburb and LGA).
- Alcohol attributable hospitalisations in the LGA are elevated above State wide rates, with NSW Healthstats data recording a spatially adjusted rate of 596.9 per 100,000 population in the LGA compared to 555.6 per 100,000 population in NSW for the period between 2016 and 2018.

30. Notwithstanding these factors, the Authority finds that the following factors mitigate the scope for adverse social impacts:

- Pursuant to section 16 of the Act, a premises operating pursuant to a hotel (general bar) licence (as distinct from a full hotel licence) is not permitted to keep gaming machines or selling or supplying liquor for consumption away from the licensed Premises.
- Pursuant to clause 40 of the Regulation, it is a condition of this licence subtype that the licensed Premises cannot be used to conduct a totalizator, or to conduct any betting activity, under the authority of a licence granted under the *Totalizator Act 1997*, or to conduct a public lottery (within the meaning of the *Public Lotteries Act 1996*) authorised under that Act. Keno and wagering is therefore not permitted at this Premises.
- Although the licensed hours are extensive, the licence will be subject to a 6-hour liquor cessation period between 4:00 am and 10:00 am, by contrast to the current on-premises which predates and is not subject to the requirements of section 11A of the Act. A OneGov licence record as at 1 October 2019 records licensed hours from 5:00 am to 12:00 midnight Monday to Saturday and 10:00 am to 10:00 pm Sunday. The new licensed hours will commence from 10:00 am.
- The Applicant is not seeking extended trading hours that would permit the licensed venue to operate during more higher risk times of the evening.

- Other than background music, the only entertainment proposed by the Applicant is low-key solos or duos, other than at functions or weddings
- The Premises will be operated by Rydges Hotels Group, an experienced operator in hotel management.
- The business will retain a substantial focus upon accommodation services, which impacts the character of the venue by comparison with hotels that primarily provide liquor and gaming services.
- The business will be operated in accordance with the House Policy / Management Plan dated 23 March 2020, which will be enforceable by way of a licence condition.
- Socio-economic disadvantage is not a compounding risk factor. The suburb and LGA are both ranked in the highest decile (10<sup>th</sup> decile) on the Index of Relative Socio-Economic Advantage and Disadvantage.
- NSW Healthstats data indicates that the LGA has a lower spatially adjusted rate per 100,000 population (16.2) compared to NSW (17.4) for *alcohol attributable deaths* between 2016 and 2017.
- No objections were received from key stakeholders with a law enforcement capacity, such as Council and Police. No concerns were raised by NSW Roads and Maritime Services.

31. In considering the scope for negative social impacts, the Authority has had regard to concerns raised in submissions from: R Taylor, Chair of an Owners Corporation for units in Gerrale Street Cronulla; Mr G and Ms P Schuberg, residents of McDonald Street Cronulla; Mr C Lock (address not specified); Ms K Cox, resident of Croydon Street Cronulla; Ms A Collins, resident of Kingsway Cronulla; The Strata Committee of Sur Mer Apartments, Kingsway Cronulla; Mr B Hearne, resident of Croydon Street Cronulla; Mr P Evans, resident of Prince Street Cronulla; Ms C White, resident of Andrews Place Cronulla; Mr J Barry, resident of Prince Street Cronulla. There is one further submission from a resident of Cronulla whose name is redacted and one further submission from a person whose name and address is redacted.

32. In summary, the key concerns pertain to:

- The impact upon amenity of local residents of Cronulla as a result of extra noise that may be generated from this proposal, especially later at night.
- The existing amenity impacts on residents from music and noise generated from patrons, in particular the beer garden and entertainment area.
- The re-emergence of previous issues experienced by residents from patrons of “Northies Cronulla Hotel” – which included noise disturbance, damage to private property and urinating and defecating on private property.
- Noise being amplified towards residential areas due to the layout of the entrainment areas.
- Past issues with noise generated from emptying glass bottles into external bins.
- Proximity of the Premises to high-rise residential units.
- Rydges being fundamentally constructed for accommodation purposes with “no need” to provide all the facilities that a hotel liquor licence will provide.
- There are many similar venues in the suburb which cater to the community needs including the Northies Cronulla Hotel which is across Kingsway. There is no need for another hotel licensed premises, which is not in the general public interest or the interest of local residents.
- The potential for crime to increase, in particular the levels of alcohol related incidents, violence, violent assaults and damage to property.
- The potential disturbance to the quiet and good order of the neighbourhood and the increase of motor vehicle/pedestrian traffic in the area, particularly late at night.
- Increased issues with parking and traffic congestion and the noise pollution generated from these issues.
- BOCSAR data identifying the 2230 postcode [which the Authority notes covers Bundeena, Burraneer, Cronulla, Maianbar and Woolooware] to have extremely high levels of alcohol related assaults on Road/Street/Footpath compared with NSW averages. This includes day and night 7 days a week, but in particular weekend nights.

- The current licence meeting the needs of the core business Rydges purports to be, that being a motel, and changing the type of licence to a hotel re-focuses the core activities of Rydges to that of another bar in the Cronulla CBD.
33. While the Authority accepts that there are genuinely held concerns raised among those residents who live in the neighbourhood of the Premises, and the licensee will need to exercise some diligence with respect to the conduct of functions on the Premises, these submissions have not established why the transition from an on premises licence with a primary service authorisation (permitting the service of liquor without the provision of a meal or other services) will substantially increase the scope for adverse social impact posed by what is primarily an accommodation business. Some reassurance is provided by the fact that the licence will in practice be trading the same hours as under the present licence with the outdoor terrace area restricted to trade between 10:00 am and 10:00 pm Monday to Friday, between 10:00 am and 11:00 pm Saturday and between 10:00 am and 9:00 pm Sunday. The Authority further accepts the Applicant's representation in its 21 November 2019 submission that the bottle bins are emptied prior to 9:00 pm each night, which should reduce the amenity impacts to neighbouring residence.
  34. Local concerns with respect to traffic and parking are primarily town planning matters that have been taken into account when Council grants development consent. The Authority notes that Council does not object to the proposed change in licence type.
  35. In a submission dated 12 August 2019 from South Eastern Sydney Local Health District ("NSW Health"), the agency objects to the Application on the basis of the size and patron capacity of the venue and its potential to contribute to further detrimental outcomes in health and well-being of the local and broader community. NSW Health contend that Cronulla already has a high number of liquor licences and have identified concerns with respect to the elevated rates of alcohol related assaults in the postcode 2230 [which the Authority notes covers Bundeena, Burraneer, Cronulla, Maianbar and Woollooware] and the rising number of alcohol related hospitalisations for the Sutherland LGA over the past few years. NSW Health raise concerns with the estimated proportion of adults in 2018 who consume more than 4 standard drinks on a single occasion in the Local Health District, which was 24 per cent higher than the NSW average. NSW Health acknowledge that the reported rates of assaults remain stable but assaults in such a small area are of concern and an "additional venue" with such a large capacity is not advisable in preventing alcohol related assaults or reducing alcohol related health outcomes in this population.
  36. While the Authority accepts that the concerns raised by NSW Health are credible, these submissions do not address how the replacement of the current licence and authorisation with a general bar licence subject to the proposed restrictions will necessarily increase the scope for this *accommodation focused business* to give rise to adverse social impacts. This diminishes the weight that may otherwise be given to NSW Health's concerns.
  37. Council has advised, in its submission dated 1 August 2019 that it has no objections to the Application, notwithstanding having advised the Applicant in a previous email dated 14 June 2019 on the location of Alcohol Free Zones, hotspots in Cronulla for public drinking and facilities for alcohol related problems (as requested by the Applicant).
  38. In a submission dated 14 September 2019 Police note that the Premises is located within an alcohol related crime hotspot and numerous Alcohol Free Zones and in close proximity to Alcohol Prohibited Areas (which in an earlier submission dated 19 June 2019 Police identified as being a problem in relation to public drinking by minors – Dunningham Park,

Cronulla Park, Gunnamatta Park, Tonkin Park and on the beaches at night). Notwithstanding this, Police advise no objection to the Application on the basis of: the Applicant only seeking licensed hours within the standard trading period; no take-away liquor service, gaming machines, keno or wagering; licence density for hotels in Cronulla being below the state average; no material change to the operation of the Premises; the internal configuration of the Premises not being conducive to a high risk trading environment and the Plan of Management having been approved by Police.

39. Police advise that since 2011 there have been no reported assaults on the ground floor or level 1 of the Premises, with 3 assaults within the accommodation rooms (June 2019 – domestic violence and alcohol related; May 2018 – alcohol related; and February 2017 – domestic violence and alcohol related); no records of recent noise complaints relating to the operation of the Premises.
40. Police note the additional regulatory controls in DA18/0451 (regarding the outdoor terrace, noise and trading) and the Applicant's consent to certain licence conditions. These conditions require consistency of business operations with the level of social impact disclosed in this Application and CIS, compliance with the plan of management, membership of the liquor accord and compliance with LA10 noise restrictions. The Police note that the plan of management specifies minimum CCTV operations and the observance of crime scene preservation requirements.
41. Giving weight to the licensing and planning restrictions that will apply to this *accommodation focused* hotel and its limited record of alcohol related crime and disturbance, the Authority finds that the scope for adverse social impact arising from the replacement of the current licence and authorisation with a general bar licence is very limited.

#### Overall social impact

42. Having considered the positive benefits and negative impacts that are likely to flow from granting the Application, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting this new hotel (general bar) liquor licence would not be detrimental to the well-being of the local community or broader community.
43. The Application is granted pursuant to section 45(1) of the Act.



Philip Crawford  
Chairperson

**Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed application and who made a submission to the Authority or the Secretary in respect of the prescribed application) who is aggrieved by this decision may apply to the New South Wales Civil and Administrative Tribunal ("NCAT") for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 8-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

## Schedule 1 – Licence conditions to be imposed

### Rydges Cronulla Beachside

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between **4:00 AM and 10:00 AM** during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)  
Consumption on premises  
Good Friday 12:00 noon – 10:00 PM  
Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)  
December 31<sup>st</sup> Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later.  
Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated **23 March 2020** 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.
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 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 to the premises,
      - (ii) the footpath immediately adjacent to the premises
      - (iii) all publicly accessible areas (other than toilets) within the premises.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
    - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. Crime Scene Preservation

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

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

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

8. Minors Area Authorisation: whole of the licensed premises excluding bar area.
9. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7:00 am and 12:00 midnight at the boundary of any affected residence. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz- 8 kHz inclusive) between 12:00 midnight and 7:00 AM at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 am. For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.
10. If the local consent authority does not approve the continuation of the trial period in the development consent for the extended Saturday trading hours in the outdoor terrace after 10 December 2020 (or as may be extended from time to time), the trading hours of the outdoor terrace will revert to 10:00 pm on Saturdays.

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

11. Incident Register
  - 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
    - (a) any incident involving violence or anti-social behaviour occurring on the premises,
    - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
    - (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
    - (d) any incident that results in a patron of the premises requiring medical assistance.
  - 2) The licensee must, if requested to do so by a police officer or inspector:
    - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
    - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
  - 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

## **Schedule 2 – Material considered by the Authority Rydges Cronulla Beachside**

### **Application material**

1. Application Form for hotel (general bar) licence lodged by Rydges Hotels Ltd (the “Applicant”) and dated 16 July 2019, including the required notices (“Application”).
2. Application Form for minors area authorisation (“MAA”) lodged by the Applicant and dated 9 July 2019, including the required notices.
3. Liquor and Gaming New South Wales (“L&GNSW”) form TDEC5 titled *Declaration: Liquor licence application by proposed licensee* signed by directors Mathew Duff and Greg Dean dated 9 July 2019.
4. Australian Securities and Investments Commission current company extract for Rydges Cronulla Pty Limited as at 12 June 2019 and Rydges Hotels Ltd as at 7 June 2019.
5. Completed Category B Community Impact Statement dated 9 July 2019, accompanied by maps depicting the alcohol free zones, a seven page document providing additional information, a Google map depicting the location of the premises from an aerial view, a Google map depicting the area in which notification of the Application was distributed and three tables depicting demographic data, Bureau of Crime Statistics and Research (“BOCSAR”) data, licence density data for New South Wales (“NSW”), Cronulla and the Sutherland Local Government Area (“LGA”) and photographs of the interior and exterior of the premises.
6. Plan of management for the premises, titled *House Policy/Management Plan* dated 2019.
7. Floor plan for the premises provided with the Application highlighting in yellow the licensed area and the area subject to the MAA.

### **Development consent**

8. Notice of determination issued by Sutherland Shire Council (“Council”) dated 9 May 1990 approving an application to amend development application (“DA”) 223/88 for the premises, provided with the Application.
9. Notice of determination issued by Council on 19 April 1989, approving development consent 9981/88 for the premises, provided with the Application.
10. Notice of determination issued by Council on 10 December 2018, approving development consent DA18/0451 for use of existing terrace as outdoor dining area in conjunction with existing restaurant, provided by legal representative of Rydges Hotels Ltd dated 21 November 2019.

### **L&GNSW records**

11. L&GNSW liquor licensing records as at 14 January 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 the suburb of Cronulla, the LGA and NSW. The density of hotel (general bar) liquor licences is 1.35 in NSW, 0.46 in the LGA, and 0.00 in Cronulla.
12. L&GNSW liquor licensing records as at 28 January 2020 listing all licenced premises in Cronulla.
13. OneGov licence record for Rydges Cronulla Beachside LIQO624003386, sourced by staff as at 4 December 2019.

### **Crime data**

14. BOCSAR NSW Recorded Crime Statistics October 2018 to September 2019 comparing certain offences by day of week and time of day in Cronulla and the LGA compared to NSW, sourced by L&GNSW staff on 28 January 2020.

15. BOCSAR NSW Recorded Crime Statistics 2018 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in the LGA and NSW, sourced by L&GNSW staff on 28 January 2020.
16. BOCSAR crime hotspot maps for October 2018 to September 2019, indicating the location of the premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property, sourced by staff on 28 January 2020.
17. NSW crime statistics published by BOCSAR indicating that for the year to September 2019, the rates (per 100,000 population) of:
  - a) alcohol-related domestic assault in the LGA and Cronulla were 551.1 and 203.2 respectively, compared to the NSW average of 117.7,
  - b) alcohol-related non-domestic assault in the LGA and Cronulla were 251.8 and 427.2 respectively, compared to the NSW average of 118.8,
  - c) malicious damage to property in the LGA and Cronulla were 559.9 and 744.9 respectively, compared to the NSW average of 727.9, and
  - d) alcohol-related offensive conduct in the LGA and Cronulla were 53.6 and 276.1 respectively, compared to the NSW average of 35.0.

(sourced by L&GNSW staff on 28 January 2020)

#### **Health data**

18. HealthStats NSW data showing that the LGA recorded a spatially adjusted rate of:
  - a) 16.2 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016-17; and
  - b) 596.9 for alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

(sourced by L&GNSW staff on 28 January 2020)

#### **Socio-economic data**

19. Australian Bureau of Statistics Socio-Economic Indexes For Areas 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, Cronulla ranked in the 10<sup>th</sup> decile and the LGA ranked in the 10<sup>th</sup> decile.

#### **Stakeholder submissions**

20. Email submission from a local resident of Cronulla whose name is redacted dated 28 May 2019. The Applicant's email response to this submission is dated 28 May 2019.
21. Email submission from a local business owner on Kingsway, Cronulla (also a local resident of Cronulla) whose name is redacted dated 29 May 2019 providing support for the Application. The Applicant's email response is dated 29 May 2019.
22. Email submission from a person whose name is redacted with address not specified dated 3 June 2019 seeking clarification of liquor related activities, accompanied by a photograph of the exterior of the premises. The Applicant's email in response to this submission is dated 3 June 2019.
23. Submission letter from NSW Roads and Maritime Services dated 4 June 2019 recommending measures to prevent and decrease the likelihood of alcohol involvement in road crashes.
24. Email submission from Council dated 14 June 2019 providing information to the Applicant on Alcohol Free Zones, Cronulla hotspots for public drinking and facilities for alcohol related problems.

25. Email submission from Sergeant Darrin Thompson of Sutherland Shire Police Area Command of NSW Police ("Police") dated 19 June 2019 advising no objection to the Application.
26. Submission letter from Ms A Collins, resident of the Kingsway, Cronulla, dated 20 June 2019.
27. Email submission from Ms K Cox, resident of Croydon Street, Cronulla dated 23 June 2019.
28. Submission letter from Ms K Cox, resident of Croydon Street, Cronulla dated 23 June 2019.
29. Submission letter from Ms C White, resident of St Andrews Place, Cronulla dated 23 June 2019.
30. Email submission from R Taylor, Chair of the Owners Corporation for 24 residential units in Gerrale Street, Cronulla dated 25 June 2019.
31. Submission letter from Mr B Hearne, resident of Croydon Street, Cronulla dated 25 June 2019.
32. Submission letter from Mr P Evans, resident of Prince Street, Cronulla dated 1 July 2019.
33. Submission letter from Mr J Barry, resident of Prince Street, Cronulla dated 4 July 2019.
34. Email submission from Mr G and Ms P Schuberg, residents of McDonald Street, Cronulla dated 20 July 2019.
35. Email submission from Mr C Lock [address not specified] dated 31 July 2019.
36. Email submission from Council dated 1 August 2019 advising no objections to the Application.
37. Submission letter from South Eastern Sydney Local Health District dated 12 August 2019 (sent via email 14 August 2019) objecting to the Application.
38. Submission letter from Strata Committee, Sur Mer Apartments Kingsway, Cronulla sent via email dated 13 August 2019 and 14 November 2019.
39. Submission letter from BBC Consulting Planners on behalf of the owner and operator of Northies Cronulla Hotel dated 16 August 2019 raising concerns about the Application.
40. Email submission from Police dated 14 September 2019 advising they have no objection to the Application.
41. Email submission from Council dated 28 February 2020 responding to an email from staff dated 26 February 2020 regarding clarification in relation to development approval.

**Other relevant information**

42. Correspondence between staff and the Applicant between 31 July 2019 and 23 March 2020 in relation to the assessment of the Application. This includes the following key submissions:
  - a) A six-page letter from the Applicant dated 21 November 2019 providing additional information and attaching a copy of: the certificates of advertising signed by Jodi Anne Brown on 21 August 2019 and Warwick Caisley on 13 August 2019; the 14 September 2019 submission from Police; four-page letter from Design Collaborative, dated 20 September 2019 responding to BBC Planning and attaching development consents; the 1 August 2019 submission from Council; Updated House Policy/Management Plan dated 22 August 2019; DA18/0451; Application to surrender licence LIQO624003386; and Healthstats data for the LGA.
  - b) Email submission from Applicant dated 23 March 2020 providing an updated House Policy/Management Plan dated 23 March 2020, previous correspondence from Council dated 1 August 2019 and 14 June 2019 and the OneGov licence record for Rydges Cronulla beachside LIQO624003386 as at 1 October 2019.
43. Google map images extracted from the Google website on 28 January 2020, showing the location and photos of the Premises in map view, earth view and street view.

### Schedule 3 - Relevant extracts from the *Liquor Act 2007 (NSW)* Rydges Cronulla Beachside

#### 3 Objects of Act

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

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

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

residing or staying.

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

## 12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the **standard trading period** means:
- (a) for any day of the week other than a Sunday:
    - (i) the period from 5 am to midnight, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
  - (b) for a Sunday:
    - (i) the period from 10 am to 10 pm, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.
- Note.** Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the **standard trading period** for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

## 14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises**  
The times when liquor may be sold for consumption on the licensed premises are as follows:
- (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
  - (c) at any time on any day (including a restricted trading day) to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (3) **Restricted trading days**  
Despite subsection (2) (a), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows:
- (a) between midnight and 5 am on that day (but only if authorised by an extended trading

authorisation),

(b) between noon and 10 pm on that day.

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

(4) **Trading hours for consumption away from premises**

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

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

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

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

(6) **Functions on other premises**

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

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

## 15 Hotel licence—general provisions

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

(a) except as provided by section 15A, the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,

(b) the keeping or operation of gaming machines (as authorised under the [Gaming Machines Act 2001](#)) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.

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

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

### 15A Cessation of liquor sales during trading hours

(1) **Extended trading periods**

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

(a) cease to sell or supply liquor on the licensed premises, and

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

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

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

(a) cease to sell or supply liquor on the licensed premises, and

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

but only with the approval of the Authority.

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

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

- (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
  - (b) gambling activities on the licensed premises will be conducted in a responsible manner.
- (5) **Cessation of liquor sales during standard trading period without gambling activities**  
A hotelier may, at any time during the standard trading period:
- (a) cease to sell or supply liquor on the licensed premises, and
  - (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).

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

#### **16 Hotel licence may be designated as a general bar licence**

- (1) The Authority may, in granting a hotel licence, designate the licence as a general bar licence and specify in the licence that it is a general bar licence.
- (2) The designation of a hotel licence as a general bar licence cannot be changed.
- (3) It is not lawful to keep or operate gaming machines on the premises to which a general bar licence relates. Accordingly, the keeping or operation of gaming machines on any such premises cannot be authorised under the [Gaming Machines Act 2001](#).
- (4) Despite section 14, a general bar licence does not authorise the sale or supply of liquor for consumption away from the licensed premises at any time.

#### **17 Hotel licence—miscellaneous conditions**

##### **(1) Cash advances prohibited**

A hotelier must not:

- (a) provide a cash advance in the hotel, or
- (b) permit a cash advance to be provided in the hotel on behalf of the hotelier, except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

##### **(2) Hotels must be open to general public**

The business carried out under a hotel licence must not be, or include, a business that is limited to the sale or supply of liquor only:

- (a) to persons who have been invited to use or attend the hotel, or
- (b) to a particular class, or particular classes, of persons using or attending the hotel.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular hotel or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.

##### **(4) Food must be made available**

Liquor may only be sold or supplied in a hotel if food of a nature consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises for consumption on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

##### **(5) Prohibition on residents and employees drinking liquor in bar area outside trading hours**

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

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

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

#### 40 Licence applications

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

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

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

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

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

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

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
  - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
  - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
  - (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds

to believe from information provided by the Commissioner of Police in relation to the person:

- (a) that the person:
    - (i) is a member of, or
    - (ii) is a close associate of, or
    - (iii) regularly associates with one or more members of, a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*, and
  - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
- (a) is of good repute, having regard to character, honesty and integrity, and
  - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

#### 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.