



Mr Grant Cusack  
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11 March 2019

Dear Mr Cusack

<b>Application No.</b>	APP-0004517837
<b>Applicant</b>	Ms Tara Rossek
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	Dean's Liquor
<b>Trading hours</b>	Monday to Sunday 10:00 AM – 07:30 PM
<b>Premises</b>	Shop 4, 51-53 Lantana Rd, Engadine NSW 2233
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Liquor Act 2007

**Decision of the Independent Liquor and Gaming Authority  
Application for a packaged liquor licence – Dean's Liquor**

The Independent Liquor and Gaming Authority considered the application above at its meeting on 14 November 2018 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **approve** the application subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 AM to 10:00 PM Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The premises is to be operated at all times in accordance with the Plan of Management dated June 2018 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the premises is required to close,
    - (b) recordings must be in digital format and at a minimum of six (6) frames per second,

- (c) any recorded image must specify the time and date of the recorded image,
  - (d) the system's cameras must cover the following areas:
    - (i) all entry and exit points on the premises, and
    - (ii) 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.

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

### **Trading on a Sunday that falls on 24 December**

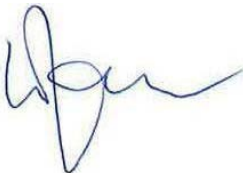
In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 AM. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 AM.

### **Licence cannot be exercised until premises is ready to trade**

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade.

If you have any questions, please contact the case manager at [andrew.whitehead@liquorandgaming.nsw.gov.au](mailto:andrew.whitehead@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 10 July 2018, Ms Tara Rossek (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at Shop 4, 51-53 Lantana Rd, Engadine (“Premises”).
2. The Authority considered the Application at its meeting on 14 November 2018 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2008.

### Material considered by the Authority

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

### Legislative framework

8. The Authority has considered the Application in the context of the following provisions of the Act:
  - a) Section 3: Statutory objects of the Act and relevant considerations.
  - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6 hour period during which liquor cannot be sold.
  - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
  - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - e) Section 45: Criteria for granting a liquor licence.
  - f) Section 48: Requirements in respect of a CIS.
9. An extract of these sections is set out in Schedule 2.

### Key findings

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

### Validity, procedural and trading hour requirements

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

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

12. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
  - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
  - c) the requisite development consent is in force, based on the Development Consent No. 0245/84 in respect of the Premises, issued by Sutherland Shire Council on 1 February 1985 and Complying Development Certificate No. 18/1303/01 issued by Steve Watson & Partners on 18 July 2018.

### Community impact statement

13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. 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.
14. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Engadine, and the relevant "broader community" comprises the Local Government Area ("LGA") of Sutherland Shire.

### Positive social impacts

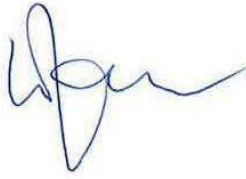
15. The Authority notes that the suburb of Engadine and the Sutherland Shire LGA have a lower density of all types of liquor licences compared to the respective NSW averages. The Authority accepts that an additional packaged liquor licence would provide members of the local community with a conveniently located bottle shop facility.
16. The Authority notes the Applicant's submission that three of the four existing packaged liquor stores in Engadine are located in the main shopping area of the suburb, which is more than 1.5 kilometres from the Premises.
17. The Authority is satisfied, on the basis of the available information, that granting the Licence would provide some reasonable public benefit by way of increased convenience for members of the local and broader communities, who will be able to satisfy their liquor needs locally without requiring special trips further afield.
18. The Authority notes that there were no objections to the Application received from any stakeholders or special interest groups. The Authority has considered a submission from a local business owner, a statement from a local resident, and a signed petition with 50 signatures supporting the Application.
19. However, the Authority notes that the local resident's statement in support of the Application is an employee of the legal representative acting for the Applicant, and for this reason has reduced the weight placed on the submission by this submitter.
20. Having regard to the information available, the Authority is satisfied that granting the Licence would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

### Negative social impact

21. The Authority notes, from the BOCSAR Crime Maps for the year to June 2018, that the Premises was not located within any crime hotspots for alcohol-related assault, domestic assault, non-domestic assault or malicious damage to property offences.
22. The Authority also notes from the crime data for the year to June 2018 that the rates of alcohol-related domestic and non-domestic assault, malicious damage to property and alcohol-related disorderly conduct (offensive conduct) in Engadine and the Sutherland Shire LGA were lower than the corresponding NSW rates.
23. The Authority notes, from the most recent HealthStats NSW data available at the time of its consideration, that the Sutherland Shire LGA recorded lower levels of alcohol-attributable deaths and alcohol-attributable hospitalisations compared to the NSW average benchmark.
24. The Authority has had regard to the ABS data indicating that as at 2016, Engadine and Sutherland Shire LGA ranked amongst the most advantaged suburbs and LGAs in NSW, on the Index of Relative Socio-economic Advantage and Disadvantage.
25. On the basis of the above, the Authority finds that the prevailing levels of alcohol-related crime, health and social issues in the local and broader communities, and the socio-economic status of these communities, do not raise immediate concerns.
26. The Authority has considered two submissions from local residents opposing the grant of the licence on the basis of neighbourhood parking and traffic issues. The submissions also raised concerns that a licensed venue at that location may increase the level of antisocial behaviour in the nearby park and reserve.
27. The Authority has also considered the Applicant's response that the concerns raised in the objecting submissions were not substantiated by objective evidence and not supported by other stakeholders. Specifically, the NSW Police submission did not raise any concerns about alcohol-related anti-social behaviour in the nearby park or reserve.
28. The Authority nevertheless considers that any risk of detrimental social impact associated with granting the Licence is adequately mitigated by the following:
  - a) The lower than average levels of alcohol related crime and health issues recorded for the local and broader communities.
  - b) The Premises will operate for reduced trading hours, closing by 7:30 PM every day.
  - c) There were no objections from the key stakeholders consulted, including NSW Police Force and NSW Health, in respect of the Application.
  - d) The Applicant has committed to adhering to the harm minimisation measures in the plan of management, and consented to all proposed licence conditions, such as the requirement to operate a CCTV system.

### Overall social impact

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



Philip Crawford  
Chairperson

**Important Information:**

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

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

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

## Schedule 1

### Material considered by the Authority

1. Notice of determination issued by Sutherland Shire Council on 1 February 1985, approving the development application No. 0245/84 for the Premises.
2. HealthStats NSW data showing that the Sutherland Shire LGA recorded, compared to a state benchmark of 100:
  - a. a smoothed standardised mortality ratio of 87.4 for the period 2012-13, and
  - b. a smoothed standardised separation ratio of 85.2 for the period 2013-15.
3. 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, Engadine ranked in the 9<sup>th</sup> decile and Sutherland Shire LGA ranked in the 9<sup>th</sup> decile.
4. NSW Recorded Crime Statistics 2017 outlining offences by day of week and time of day in Sutherland Shire LGA compared to NSW.
5. NSW Recorded Crime Statistics 2017 outlining the number and proportion of selected offences flagged as alcohol related by NSW Police Force.
6. NSW crime statistics published by BOCSAR indicating that:
  - a. for the year to June 2017, the rates of:
    - i. alcohol-related domestic assault in Sutherland Shire LGA and Engadine were 78.7 and 67.3 respectively, compared to the NSW average of 114.7,
    - ii. alcohol-related non-domestic assault in Sutherland Shire LGA and Engadine were 107.1 and 33.7 respectively, compared to the NSW average of 133.0,
    - iii. malicious damage to property in Sutherland Shire LGA and Engadine were 591.9 and 308.6 respectively, compared to the NSW average of 806.0,
    - iv. alcohol-related offensive conduct in Sutherland Shire LGA and Engadine were 57.1 and 22.4 respectively, compared to the NSW average of 45.3,
  - b. for the year to June 2018, the rates of:
    - i. alcohol-related domestic assault in Sutherland Shire LGA and Engadine were 80.1 and 56.1 respectively, compared to the NSW average of 114.0,
    - ii. alcohol-related non-domestic assault in Sutherland Shire LGA and Engadine were 98.7 and 44.9 respectively, compared to the NSW average of 127.3,
    - iii. malicious damage to property in Sutherland Shire LGA and Engadine were 525.1 and 432.0 respectively, compared to the NSW average of 768.4, and
    - iv. alcohol-related offensive conduct in Sutherland Shire LGA and Engadine were 37.6 and 5.6 respectively, compared to the NSW average of 40.3.
7. BOCSAR crime hotspot maps for the year to June 2018, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
8. Plan of Management documents for the Premises, dated June 2018.
9. A statement from a local resident dated 7 June 2018 in relation to the Application.
10. Submission from NSW Roads & Maritime Services on 13 June 2018 in relation to the Application.
11. Submission from Aboriginal Affairs NSW on 13 June 2018 in relation to the Application.

12. Three submissions from local residents on 7 and 15 June 2018 in relation to the Application.
13. Statement from a local resident and employee of the Applicant's solicitor dated 19 September 2018.
14. Submission from NSW Family & Community Services on 18 June 2018 in relation to the Application.
15. National Criminal History Check issued on 26 June 2018.
16. Premises plan dated 27 June 2018 for the Premises.
17. ASIC Current Organisation Extract in relation to the business owner, extracted on 3 July 2018.
18. Completed application dated 8 July 2018.
19. Completed Category B Community Impact Statement dated 8 July 2018.
20. Copy of the public consultation site notice and local consent authority notice dated 10 July 2018.
21. Complying Development Certificate No.18/1303/01 endorsed on 18 July 2018.
22. Correspondence between L&GNSW staff and the Applicant between 4 September and 25 October 2018 in relation to the assessment of the Application.
23. Completed certification of Advertising dated 5 September 2018.
24. Undated petition with 50 signatures provided by the Applicant.
25. Submission from L&GNSW Compliance on 11 October 2018 in relation to the Application.
26. Google map images extracted from the Google website on 23 October 2018, showing the location and photos of the Premises in map view, earth view and street view.
27. Submissions from NSW Police dated 10 August 2018, 5 September 2018 and on 12 October 2018 in relation to the Application.
28. L&GNSW liquor licensing records as at 12 October 2018 listing all of the liquor licences in Engadine.
29. L&GNSW liquor licensing records as at 25 October 2018 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Engadine, Sutherland Shire LGA and NSW. The density of packaged liquor licences is 34.25 in NSW, 29.30 in Sutherland Shire LGA, and 23.02 in Engadine.



## 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).

## 29 Authorisation conferred by packaged liquor licence

### (1) Retail sales

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.

### (2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

### (3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

### (4) Tastings

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

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

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

## 31 Restrictions on granting packaged liquor licences

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

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

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

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

#### 40 Licence applications

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

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

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

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

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

#### 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.