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1 June 2021

Dear Mr Plowman

Application No.	APP-0007033439
Applicant	Don Hodge Group Pty Ltd
Application for	Hotel licence with a minors area authorisation
Licence name	The Garden Bistro
Premises	37 Governor Macquarie Drive Chipping Norton NSW 2170
Trading hours	<u>Consumption on premises</u> Monday to Saturday 7:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Takeaway sales</u> Monday to Saturday 10:00 am – 12 midnight* Sunday 10:00 am – 10:00 pm
	*Note – trading hours for takeaway sales on Monday to Saturday have been updated from 10 pm to midnight, following the repeal of clause 117 of the Liquor Regulation 2018 on 11 December 2020.
Legislation	Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 44, 45, 48, 51 and 121 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority
Application for a hotel licence with a minors area authorisation – The Garden Bistro

The Independent Liquor & Gaming Authority considered the application above, and decided on 12 August 2020 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

Statement of reasons

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

If you have any questions, please contact the case manager, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 7 April 2020, Don Hodge Group Pty Ltd (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a hotel licence with a minors area authorisation (“Licence”) for the premises at 37 Governor Macquarie Drive, Chipping Norton (“Premises”).
2. The Authority considered the Application at its meeting on 12 August 2020 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
4. A preliminary notification of this decision was sent to the Applicant on 8 September 2020, together with the licence document for the Premises.
5. On 16 September 2020, the Applicant wrote to the Authority to request that the phased shutdown of the various areas of the Premises is managed via the Plan of Management instead of via the liquor licence, and that the liquor licence is amended accordingly pursuant. The Authority agreed to this request, and on 19 October 2020 a revised licence document was issued to the Applicant.

MATERIAL CONSIDERED BY THE AUTHORITY

6. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
7. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
8. In accordance with its Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
9. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

10. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) section 3: Statutory objects of the Act and relevant considerations
 - b) sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold
 - c) sections 14, 15, 15A and 17: Specific provisions in respect of a hotel licence
 - d) section 40: Minimum procedural requirements for a liquor licence application to be validly made
 - e) section 44: Submissions to Authority in relation to licence applications
 - f) section 45: Criteria for granting a liquor licence
 - g) section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community
 - h) section 51: General provisions relating to licence-related authorisations
 - i) section 121: Minors in hotels in company of responsible adult.

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

KEY FINDINGS

12. 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

13. The Authority is satisfied on the material before it that the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act.
14. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

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

15. Pursuant to section 45 of the Act, the Authority is 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
 - c) the requisite development consent is in force, based on Development Application No. DA400/2019 in respect of the Premises, which was granted by Land and Environment Court on 17 January 2020.

Community impact

Local and broader communities

16. 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 Chipping Norton, and the relevant "broader community" comprises the Local Government Area ("LGA") of Liverpool.

Licence density

17. The Authority notes that at the time of the Authority's decision, Chipping Norton no hotel or club licences, and that Liverpool LGA had a significantly lower density of hotel and club licences compared to the state average.

Crime data

18. The relevant BOCSAR data indicates that, for the year to March 2020:
- a) the Premises was not located within hotspots for incidents of alcohol related assault, domestic and non-domestic assault, or malicious damage to property
 - b) Chipping Norton and Liverpool LGA recorded significantly lower rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related disorderly conduct, compared to the NSW state average.

Alcohol-related health data

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Liverpool recorded a slightly higher than average level of alcohol attributable deaths for the period 2016-17, and a significantly lower than average level of alcohol attributable hospitalisations for the period 2016-18.

SEIFA

20. The Authority notes that ABS Socio-Economic Index for Areas (“SEIFA”) data as at 2016 indicates that Chipping Norton had an above average level of relative socio-economic advantage, and Liverpool LGA had an average level of relative socio-economic advantage, compared to other suburbs and LGAs in NSW.

Purported benefits

21. The Authority notes that the proposed business model at the Premises is that of a modern hotel facility with a family-friendly focus. The Authority notes that the hotel will offer a bar, a bistro, a children’s playground area, a beer garden and outdoor bistro seating, TAB facilities, takeaway liquor, a gaming room, and that the hotel will offer a breakfast service in the mornings. The Authority considers that the services and facilities offered at the Premises will appeal to a wide range of local residents as well as workers in the industrial precinct of Chipping Norton.
22. The Authority notes that at the time of its decision, Chipping Norton, which has some 9,000 residents and an industrial precinct, did not have any hotels or clubs, and that The Garden Bistro will be the first hotel in the suburb. Accordingly, the Authority considers that granting the licence will increase public amenity and provide members of the local community with increased choice and convenience.
23. The Authority notes that there is some level of support for the Application, as evidenced by the submission from a local worker in support of the application, and the petition with some 56 signatures in support of the Application.
24. In addition, the Authority has had regard to the record of conversations that the Applicant’s representative had with local residents and business owners while distributing the Application notices. The Authority notes that many of the people that the Applicant spoke to expressed support for the Application, and welcomed the establishment of a local family friendly dining facility.

Stakeholder submissions

25. The Authority has had regard to the submission from Liverpool City Council (“Council”), which objected to the Application. The Authority notes that Council’s primary concern relates to the increasing number of licensed venues in the Liverpool LGA, particularly in areas of higher socio-economic disadvantage. Council submits that a range of demographic characteristics make the broader community more vulnerable to negative impacts resulting from alcohol consumption and gambling.
26. The Authority has had regard to the Applicant’s submission in response, which noted that Chipping Norton has a relatively advantaged local demographic combined with very low levels of alcohol-related crime, and that Council’s concerns were addressed in the Section 34 Agreement reached between the Applicant and Council in the NSW Land and Environment Court. The Authority has also had regard to the report commissioned by the Applicant from a former police officer in the Liverpool LGA, which analyses the concerns raised by Council, and concludes that the premises is low-risk from a hotel security perspective, and would benefit the local community.

27. The Authority notes that Council suggests that there should be a condition requiring that the sale and supply of liquor cease at 11 pm, in place of the Applicant's proposal to cease selling and supplying liquor 15 minutes before closing on all nights. The Authority has had regard to the Applicant's response, which suggests that Council's proposal is unnecessary and will inconvenience patrons without providing any genuine benefits. Further, the Applicant notes that the hotel's trading hours between 10 pm and 12 midnight on Monday to Thursday are already subject to a 12-month trial period in the development consent.
28. The Authority has had regard to the submissions from NSW Police, L&GNSW Compliance, Transport for NSW, NSW Communities & Justice, and NSW Aboriginal Affairs, none of which raised any objections to the Application.
29. The Authority notes that NSW Police recommend the imposition of a Plan of Management condition on the licence, which has been consented to by the Applicant and imposed on the Licence.
30. The Authority notes that Transport for NSW proposed measures to help prevent and decrease the likelihood of alcohol involvement in road crashes, and recommended that the licensee participate in the local Liquor Accord.
31. The Authority has had regard to the brief submission from a member of the public in support of the Application.

Mitigating factors

32. The Authority notes that there may be a risk that if the Licence were to be granted, liquor sold at the Premises will, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.
33. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the proposed business model of a family friendly hotel with a bistro and child play area
 - b) the hotel will not trade past midnight
 - c) the premises will not operate as an entertainment venue, with music provided to be limited to background music only, thereby limiting any potential disturbances to the local residential community
 - d) liquor will not be sold or supplied during breakfast service between 7 am to 10 am
 - e) the significantly lower than average liquor licence density in the local and broader communities
 - f) the low levels of alcohol-related crime in the local and broader communities
 - g) the proposed operator is an experienced operator of hotel premises in NSW
 - h) only a single objection was received in respect of the Application, from Liverpool City Council
 - i) the hotel's trading hours between 10pm and 12 midnight on Monday to Thursday are subject to a 12-month trial period
 - j) security personnel will be present at the hotel on all nights
 - k) harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

34. 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.

35. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.

36. 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 & Gaming NSW website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

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

Schedule 1 – Licence conditions to be imposed

The Garden Bistro, Chipping Norton

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 1:00 AM and 7:00 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 & 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 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
3. Restricted trading & NYE
Take away sales
Good Friday Not permitted
Christmas Day Not permitted
December 31st Normal trading
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 November 2019 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6. The licensee or its representative must join and be an active participant in the local liquor accord.
7. 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, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

8. 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 Liquor Act 2007,
 - 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 Liquor & Gaming NSW inspector:
 - a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - b) allow a police officer or Liquor & Gaming NSW 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.

9. Crime scene preservation

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

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

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

10. No liquor is to be sold or supplied pursuant to the licence before 10:00 AM on any day.
11. Minors Area Authorisation: whole of the licensed premises excluding the gaming room.
12. If the local consent authority does not approve the continuation of the trial period in the development consent after one year (or as may be extended from time to time), the trading hours of the premises will revert to: 7:00 am to 10:00 pm Monday to Thursday, 7:00 am to 12:00 midnight Friday and Saturday, and 10:00 am to 10:00 pm Sunday.

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

Schedule 2 – Material considered by the Authority The Garden Bistro, Chipping Norton

Application material

1. Plan of Management document for the Premises, dated November 2019.
2. Completed Category B Community Impact Statement, dated 3 April 2020.
3. Completed application and application notices, dated 6 April 2020.
4. Completed certifications of advertising, dated 30 June 2020 and 9 July 2020.
5. Floor plan for the Premises indicating the proposed licensed area and the area to which the minors area authorisation will apply, and depicting the phased shutdown of the various areas of the hotel.
6. ASIC business records in relation to the Applicant and business owner, and the Premises owner.

Development consent

7. Judgment issued by the Land and Environment Court NSW on 17 January 2020, approving Development Application No. DA400/2019 for the Premises.

L&GNSW records

8. L&GNSW liquor licensing records as at 29 June 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 Chipping Norton, Liverpool LGA and NSW. The density of hotel licences is 27.03 in NSW, 5.87 in Liverpool LGA, and 0.00 in Chipping Norton.
9. L&GNSW liquor licensing records as at 29 June 2020 listing all liquor licences in Chipping Norton.

Crime data

10. NSW Recorded Crime Statistics 2019 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in Liverpool LGA and NSW.
11. NSW Recorded Crime Statistics for the year to March 2020 comparing certain offences by day of week and time of day in Chipping Norton, Liverpool LGA and NSW.
12. BOCSAR crime hotspot maps for the year to March 2020, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
13. NSW crime statistics published by BOCSAR indicating that for the year to March 2020, the rates of:
 - a) alcohol-related domestic assault in Liverpool LGA and Chipping Norton were 68.1 and 0.0 respectively, compared to the NSW average of 115.2,
 - b) alcohol-related non-domestic assault in Liverpool LGA and Chipping Norton were 42.1 and 10.3 respectively, compared to the NSW average of 110.1,
 - c) malicious damage to property in Liverpool LGA and Chipping Norton were 606.8 and 215.3 respectively, compared to the NSW average of 701.8, and
 - d) alcohol-related offensive conduct in Liverpool LGA and Chipping Norton were 6.3 and 0.0 respectively, compared to the NSW average of 32.1.

Health data

14. HealthStats NSW data showing that Liverpool LGA recorded a spatially adjusted rate of:
 - a. 17.5 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. 386.7 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

Socio-economic data

15. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Chipping Norton ranked in the 8th decile and Liverpool LGA ranked in the 7th decile.

Stakeholder submissions

16. Submission from a member of the public, dated 5 February 2020.
17. Submission from Transport for NSW, dated 5 February 2020.
18. Submissions from NSW Aboriginal Affairs, dated 6 February 2020 and 22 April 2020.
19. Submission from L&GNSW Compliance, dated 4 May 2020.
20. Submission from NSW Police, dated 7 May 2020.
21. Submission from NSW Communities & Justice, dated 11 May 2020.
22. Submission from Liverpool City Council, dated 14 May 2020.
23. Petition for hotel licence provided by the Applicant, undated.

Other relevant information

24. Social Impact Assessment in relation to the proposed hotel, prepared by Design Collaborative Pty Limited, dated May 2019.
25. Statement of Environmental Effects for the construction of a pub at the Premises, prepared by Design Collaborative Pty Limited, dated May 2019.
26. Record of distribution of distribution of the notice of intention on local dwellings and businesses on 5 February 2020.
27. Correspondence between L&GNSW staff and the Applicant between 17 April 2020 and 22 July 2020 in relation to the assessment of the Application.
28. Report by GJ Consulting, dated 17 July 2020, commissioned by the Applicant in response to the submission from Liverpool City Council.
29. Google map images extracted from the Google website on 26 July 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*

The Garden Bistro, Chipping Norton

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.
2. **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.
3. **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.
4. **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.
5. **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—
 - i. cease to sell or supply liquor on the licensed premises, and
 - ii. 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.

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.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

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

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
- (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or

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

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
 - (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:

relevant application means any of the following:

 - (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
 - (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
 - (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
 - (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
 - (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or

- (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
 - (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
 - (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
 that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
 - (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

51 General provisions relating to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act:
 - (a) an extended trading authorisation,
 - (b) a drink on-premises authorisation,
 - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
 - (d) a minors area authorisation,
 - (e) a minors functions authorisation.
- (2) An application for an authorisation to which this section applies must:
 - (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
 - (a) is subject to such conditions:
 - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and

- (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has:
 - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.

121 Minors in hotels in company of responsible adult

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

Note— Section 51 applies to a minors area authorisation.

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