



Mr Benjamin Abraham
Good Times Only Group
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11 February 2019

Dear Mr Abraham

Application No.	1-6875091819
Applicant	Not Insolvent Pty Ltd
Application for	Small bar licence
Licence name	Births & Deaths
Trading hours	Monday to Sunday 12:00 pm – 12:00 am
Premises	2/74 Kembla Street WOLLONGONG NSW 2500
Legislation	Sections 3, 11A, 12, 20A, 20B, 20C, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a small bar licence – Births & Deaths**

The Independent Liquor and Gaming Authority considered the above application at its meeting on 17 October 2018. Following further consultation with the applicant, the Authority has decided, pursuant to section 45 of the *Liquor Act 2007*, to **grant** 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 & NYE
Consumption on premises
Good Friday Not permitted
Christmas Day Not permitted
December 31st Normal trading

Note: Trading is allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5.00 AM.

3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated 2 November 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the premises in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
- (b) recordings must be in digital format and at a minimum of six (6) frames per second,
- (c) any recorded image must specify the time and date of the recorded image,
- (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.

2) The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,
- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

7. Crime scene preservation

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

- (a) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- (b) 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,
- (c) make direct and personal contact with NSW Police to advise it of the incident, and
- (d) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

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

8. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

- 9. The licensee will ensure that all patrons suspected of being under the age of 18 will have identification checked.
- 10. The licensee must maintain a full list of persons involved in the sale and supply of alcohol including current RSA certificates or competency cards for all persons employed.
- 11. No person wearing any form of clothing, jewellery or other accessory, displaying or indicating by form or wording, colours, logo, symbol or otherwise that they are members of or are in any way associated with ; (Bandidos, Black Uhlans, Brothers for Life, Coffin Cheaters, Comancheros, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Highway 61, Life and Death, Lone Wolf, Mobshitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix, Rebels, Hells Angel, Scorpions, Notorious, or

any gangs associated with Outlaw Motorcycle Gangs shall be allowed entry into, or be permitted to remain on the licensed premise.

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 at beatrice.pitpaiaac@liquorandgaming.nsw.gov.au.

Yours faithfully

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

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

Statement of reasons

Decision

1. On 11 July 2018, Not Insolvent Pty Ltd (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for a small bar licence (“Licence”) for the premises at 2/74 Kembla Street, Wollongong (“Premises”).
2. The Authority considered the Application at its meeting on 17 October 2018. Following further consultation with the Applicant, the Authority decided on 5 November 2018 to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. A preliminary notification of this decision was sent to the Applicant on 6 November 2018, together with the licence document for the Premises.
4. 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.

Material considered by the Authority

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

Legislative framework

9. 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 20A, 20B, 20C: Specific provisions in respect of a small bar 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.
 - g) Section 95: Requirements in relation to the name of licensed premises.
10. An extract of these sections is set out in Schedule 2.

Key findings

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

Validity, procedural and trading hour requirements

12. The Authority is satisfied on the material before it that:
 - a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,

Proposed licence name

13. Section 95(5)(b) of the Act provides that a proposed licence name is prohibited if the Authority notifies the licensee in writing that the name is prohibited for being objectionable, inappropriate or misleading.
14. The licence name initially proposed by the Applicant for the Premises was “The Office of Births, Deaths & Marriages”. The Authority considered the Applicant’s submission addressing the appropriateness of the name, but nevertheless found and notified the Applicant in writing that the name, which was highly similar to the name of a government agency, was a prohibited name under section 95 of the Act for being inappropriate.
15. The Applicant subsequently proposed an alternative name “Births & Deaths” which the Authority accepts as compliant with the requirements of section 95 of the Act.

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

16. 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 Notice of Determination of Development Application No. DA-2018/352 in respect of the Premises, issued by Wollongong City Council on 30 May 2018.

Community impact statement

17. 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.
18. 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 Wollongong, and the relevant “broader community” comprises the Local Government Area (“LGA”) of Wollongong.

Positive social impacts

19. The Authority notes the Applicant’s submission that “small, high quality bars are an important piece in the vibrant night time economy that boosts culture and supports tourism in Wollongong”. The applicant anticipates that the granting of the licence will create employment opportunities for up to ten staff, the majority of which will be suited to young adults, which will in turn positively contribute to the issue of youth unemployment in Wollongong.
20. The Authority is satisfied that the approval of a further small bar in Wollongong will assist in diversifying and developing the liquor industry away from large hotels, which in the past have been the source of disturbance complaints in Wollongong.
21. The Authority notes that the Application is not opposed by NSW Police or Wollongong City Council.
22. The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application, noting that there was also no objection from any members of the community.

23. 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

24. The Authority notes that, according to BOCSAR Crime Maps for the year to June 2018, the Premises was located within large high-density hotspots for incidents of alcohol-related assault, domestic assault, non-domestic assault and malicious damage to property.

25. Furthermore, the Authority considers that the BOCSAR data for the local and broader communities for the year to June 2018 is troubling, in that the Wollongong LGA and suburb have recorded the following:

- A rate of **139.4** per 100,000 persons for *alcohol-related domestic assault* for the suburb, with a rate of **104.6** for the LGA and **114.0** for NSW.
- A rate of **697.0** per 100,000 persons for *alcohol-related non-domestic assault* for the suburb, compared to **137.8** for the LGA and **127.3** for NSW.
- A rate of **1,760.5** per 100,000 persons for *malicious damage to property* for the suburb, compared to **822.9** for the LGA and **768.4** for NSW.
- A rate of **428.5** per 100,000 persons for *alcohol-related disorderly conduct (offensive conduct)* for the suburb, compared to **57.3** for the LGA and **40.3** for NSW.

26. The Authority also notes that BOCSAR data in relation the number and proportion of selected offences flagged as alcohol related by NSW Police indicates that certain offences in Wollongong LGA are slightly more likely to be alcohol related when compared to the state of NSW, with the data recording that:

- **32.7%** of *domestic violence related assault* is alcohol related in Wollongong LGA, compared to the corresponding NSW figure of **31.2%**.
- **33.8%** of *non-domestic violence related assault* is alcohol related in Wollongong LGA, compared to the corresponding NSW figure of **31.6%**.
- **58%** of *assault police* offences are alcohol related in Wollongong LGA, compared to the corresponding NSW figure of **50.4%**.
- **70.1%** of *offensive conduct* offences are alcohol related in Wollongong LGA, compared to the corresponding NSW figure of **64.8%**.

27. The Authority notes that Wollongong has a significantly higher density of liquor licences compared to the NSW average. There are presently three small bars in Wollongong LGA, all of which are situated within 200 metres of the proposed licensed premises in the suburb of Wollongong. Although licence density is high, the Authority accepts that this reflects the fact that Wollongong is a major regional centre, with licensed venues serving the city's residents, workers, university students and visitors.

28. The Authority notes that Wollongong suburb and Wollongong LGA's SEIFA rankings are in the 6th and 8th deciles respectively on the index of relative socio-economic advantage and disadvantage, indicating an above-average level of relative socio-economic advantage.

29. The Authority also notes that HealthStats NSW data discloses that the LGA recorded a higher level of alcohol-attributable deaths and a slightly lower level of alcohol-attributable hospitalisations compared to the corresponding NSW figures.

30. The Authority notes that, whilst the NSW Police submission did not raise any objections to the grant of the licence, it did note that Wollongong CBD has a high density of licensed venues and high rates of alcohol-related crime. The Authority considers that the licence conditions proposed by NSW Police will assist in mitigating any potential negative impacts.

31. The Authority considers that over time there is a risk that liquor sold at this small bar will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon

amenity in the local and broader communities from a minority of customers who abuse liquor and engage in alcohol related misconduct.

32. The Authority notes, however, that a small bar licence reduces the capacity for adverse social impact upon the communities, given that it is a more intimate style of licensed venue enabling a lower risk of persons interacting in large numbers and increasing scope for proper monitoring and management of patrons consuming liquor.
33. Whilst, as noted above, there is evidence of alcohol-related harms in the local and broader communities, the Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the fact that the small bar will not trade past midnight;
 - b) the relatively small patron capacity, which is restricted to 100 persons;
 - c) the fact that small bars are recognised as being smaller, intimate venues that are inherently lower-risk than traditional pubs and clubs;
 - d) the lack of objections to the application;
 - e) the imposition of a number of licence conditions to address identified harms; and
 - f) the adherence to the measures stipulated in the Plan of Management document.

Overall social impact

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 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. HealthStats NSW data showing that the Wollongong LGA recorded, compared to a state benchmark of 100:
 - a. a smoothed standardised mortality ratio of 106.80 for the period 2012-13, and
 - b. a smoothed standardised separation ratio of 98.70 for the period 2013-15.
2. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Wollongong ranked in the 6th decile and Wollongong LGA ranked in the 8th decile.
3. NSW Recorded Crime Statistics 2017 outlining offences by day of week and time of day in Wollongong LGA compared to NSW.
4. NSW Recorded Crime Statistics 2017 outlining the number and proportion of selected offences flagged as alcohol-related by NSW Police in Wollongong LGA compared to NSW.
5. NSW crime statistics published by BOCSAR indicating that:
 - a. for the year to June 2017, the rates of:
 - i. alcohol-related domestic assault in Wollongong LGA and Wollongong were 99.0 and 196.2 respectively, compared to the NSW average of 114.7,
 - ii. alcohol-related non-domestic assault in Wollongong LGA and Wollongong were 132.1 and 609.2 respectively, compared to the NSW average of 133.0,
 - iii. malicious damage to property in Wollongong LGA and Wollongong were 844.2 and 1,817.3 respectively, compared to the NSW average of 806.0,
 - iv. alcohol-related offensive conduct in Wollongong LGA and Wollongong were 64.9 and 444.0 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 Wollongong LGA and Wollongong were 104.6 and 139.4 respectively, compared to the NSW average of 114.0,
 - ii. alcohol-related non-domestic assault in Wollongong LGA and Wollongong were 137.8 and 697.0 respectively, compared to the NSW average of 127.3,
 - iii. malicious damage to property in Wollongong LGA and Wollongong were 822.9 and 1,760.5 respectively, compared to the NSW average of 768.4, and
 - iv. alcohol-related offensive conduct in Wollongong LGA and Wollongong were 57.3 and 428.5 respectively, compared to the NSW average of 40.3.
6. Notice of determination issued by Wollongong City Council on 30 May 2018, approving the development application DA-2018/352 for the Premises.
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. Completed appointment of manager notice dated 11 July 2018, including copy of the proposed manager's National Police Certificate dated 5 July 2018.
9. Completed application dated 11 July 2018.
10. Copy of the public consultation site notice, police notice and local consent authority notice dated 11 July 2018.
11. Completed Category B Community Impact Statement dated 11 July 2018.
12. Submission from NSW Police on 19 July 2018 in relation to the Application.
13. Completed certification of Advertising dated 30 August 2018.
14. Google map images extracted from the Google website on 18 September 2018, showing the location and photos of the Premises in map view, earth view and street view.

15. Submission from Wollongong City Council on 19 September 2018 in relation to the Application.
16. L&GNSW liquor licensing records as at 25 September 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 Wollongong, Wollongong LGA and NSW. The density of small bar licences is 1.44 in NSW, 1.47 in Wollongong LGA, and 16.27 in Wollongong.
17. L&GNSW liquor licensing records as at 25 September 2018 listing all small bar licences in Wollongong.
18. ASIC business records in relation to the Applicant.
19. Premises plan for the Premises.
20. Correspondence between L&GNSW staff and the Applicant between 7 August 2018 and 2 November 2018 in relation to the assessment of the Application.
21. Plan of Management for the Premises dated 2 November 2018.

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).

20A Authorisation conferred by a small bar licence

- (1) A small bar licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the licensed premises only.

Note. Gaming machines in small bars are prohibited under the *Unlawful Gambling Act 1998*.

20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) In the case of a small bar that is situated in an area that is not a prescribed precinct, an extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.
- Note.** Small bars in a non-prescribed precinct can apply for longer trading periods under section 49A. Small bars in a prescribed precinct can also apply for an extended trading authorisation under section 49A to trade after midnight.
- (3) This section does not authorise liquor to be sold in a small bar on a restricted trading day.
- (4) Subsection (3) does not apply in relation to the period between midnight and such later time as may be authorised by an extended trading authorisation on a restricted trading day that immediately follows a day that is not a restricted trading day.
- (5) (Repealed)

20C Small bar licence—miscellaneous conditions

(1) Maximum number of patrons

Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.

(2) Small bars must be open to general public

The business carried out under a small bar 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 small bar, or
- (b) to a particular class, or particular classes, of persons using or attending the small bar.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar 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 small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied 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.

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.

95 Name of licensed premises

- (1) A licensee must cause to appear and be maintained on the front of the licensed premises, in accordance with the regulations, a sign that specifies:
- (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and
 - (b) the type of licence for the premises, and
 - (c) any other particulars prescribed by the regulations.
- Maximum penalty: 5 penalty units.
- (2) A licensee must not alter the name referred to in subsection (1) (a) unless the Authority has, on payment of such fee as may be prescribed by the regulations:
- (a) approved in writing of the proposed new name, and
 - (b) endorsed the change of name on the licence.
- Maximum penalty: 5 penalty units.
- (3) The Authority may not approve an alteration of the name of licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.
- (4) A licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.
- Maximum penalty: 5 penalty units.
- (5) A name is a prohibited name for licensed premises under this section if:
- (a) it is a name or a name of a kind, or contains words or words of a kind, prescribed by the regulations as prohibited, either in relation to all licensed premises or in relation to the particular class of licensed premises of which the licensed premises form part, or
 - (b) it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.
- (6) A regulation for the purposes of subsection (5) may be made so as to apply to licensed premises generally or so as to apply only to a specified class or specified classes of licensed premises.
- (7) A name may not be prohibited in respect of licensed premises by notification under this section if the regulations provide that the name is permitted for use in relation to the licensed premises concerned or in relation to the particular class of licensed premises concerned.
- (8) It is a defence to a prosecution for an offence under this section if it is proved that:
- (a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.
- (9) This section does not apply in relation to a limited licence or an on-premises licence that relates to a catering service.