



Mr Brett Tobin
Hatzis Cusack Lawyers
GPO Box 3743
Sydney NSW 2001
bt@hatziscusack.com.au

27 May 2020

Dear Mr Tobin,

Application No.	1-7389098928 1-7608990229 1-7608990148
Applicant	Petersham RSL Club Limited
Application for	Removal of a Registered Club Licence New Extended Trading Authorisation Vary Extended Trading Authorisation Club Functions Authorisation Non-Restricted Area Authorisation Gaming Machine Threshold Increase Gaming Machine Entitlement Transfer Change Gaming Machine Shutdown
Licence name	Petersham RSL Club Limited
Current Trading Hours	<u>Consumption on Premises</u> Unrestricted <u>Takeaway sales</u> Monday to Saturday 5:00 AM to 11:00 PM Sunday 10:00 AM to 10:00 PM
Proposed Trading Hours	<u>Consumption on premises</u> Monday to Wednesday 7:00 AM to 4:00 AM Thursday to Saturday 7:00 AM to 5:00 AM Sunday 7:00 AM to 4:00 AM <u>Takeaway sales</u> Monday to Sunday 10:00 AM to 10:00 PM
Current Premises	7-7A Regent Street Petersham NSW 2049
Proposed Premises	297-309 Trafalgar Street Petersham NSW 2049
Legislation	Sections 3, 11A, 12, 18, 19, 20, 40, 45, 48, 49, 51 and 59 of the <i>Liquor Act (NSW) 2007</i> Sections 10, 12, 22, 23 and 23A of the <i>Registered Clubs Act 1976</i> (NSW) Sections 3, 19, 20, 21, 32-37C and 39-42 of the <i>Gaming Machines</i> <i>Act 2001</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority
Application for the Removal of a Club Licence and Related Applications
Petersham RSL Club**

The Independent Liquor and Gaming Authority (“Authority”) considered the above matters at its meeting on 11 December 2019. After further consultation with the Applicant the Authority has decided, on 5 February 2020, to:

- **Grant** the removal of club licence LIQC300229521 (“Removal Application”) pursuant to section 59 of the *Liquor Act 2007* (NSW) (“Liquor Act”).
- **Authorise** the licence to trade under a new extended trading authorisation between 12:00 midnight and 4:00 am Monday to Wednesday, between 12:00 midnight and 5:00 am Thursday to Saturday, between 10:00 pm and 4:00 am Sunday and between 7:00 am and 10:00 am Sunday in relation to the whole of the licensed area of the club (“ETA Application”) pursuant to section 49(2) of the Liquor Act.
- **Find** that the purported application to vary an extended trading authorisation (“ETA Variation Application”) pursuant to section 51(9)(b) of the Liquor Act is invalid.
- **Grant** a club functions authorisation (“CFA”) that will cover the functions auditorium (“CFA Application”) pursuant to section 23(1) of the *Registered Clubs Act 1976* (NSW) (“Clubs Act”).
- **Grant** a non-restricted area authorisation (“NRAA”) that will cover the whole of the licenced premises excluding the gaming rooms (“NRAA Application”) pursuant to section 22(1) of the Clubs Act.
- **Approve** the application under section 34 of the *Gaming Machines Act 2001* (“GM Act”) to increase the gaming machine threshold (“GMT”) at the proposed premises from zero to 248 (“GMT Application”).
- **Approve** the application to transfer 248 gaming machine entitlements from the current premises to the proposed premises under section 19 of the GM Act (“GME Transfer Application”).
- **Refuse** the application to fix the gaming machine shutdown between 6:00 am and 9:00 am on Saturday, Sunday and public holidays pursuant to section 40 of the GM Act.

The Authority has granted the removal of the licence subject to imposing the conditions as set out in Schedule 1, a copy of which is attached.

Commencement of Licence Removal

Notwithstanding the approval of the Removal Application, the subject licence (LIQC300229521) remains at 7-7A Regent Street, Petersham NSW 2049 subject to the same conditions and trading hours in force immediately before the approval, until Liquor and Gaming NSW is notified that the licence has been removed.

Take Away Liquor Sales

Pursuant to section 12 of the Liquor Act, the Authority may only authorise the sale of liquor for consumption off the premises until 10:00 pm. However, through the operation of an exemption under clause 117 of the *Liquor Regulation 2018* (NSW), licensed premises authorised to sell liquor for takeaway to 10:00 pm may continue to do so until:

- 12:00 midnight on any day (other than a Sunday that does not fall on 24 December or 31 December or a restricted trading day), and
- 11:00 pm on Sundays (other than a Sunday that falls on 24 or 31 December or a restricted trading day).

Statement of Reasons

The enclosed statement of reasons has been prepared *only* in respect of the Authority's decision to grant the Removal and ETA Applications, while briefly noting the Authority's finding that the ETA Variation Application is invalid.

Section 36C of the *Gaming and Liquor Administration Act 2007* (NSW) does not require the production of reasons in respect of decisions to grant a CFA, NRAA, a GMT increase where no local impact assessment is required, the transfer of gaming machine entitlements or the change of the gaming machine shutdown period.

While reasons are not provided, the Authority is satisfied that it is in the public interest, having regard to the statutory objects and considerations in section 3 of the Act, to grant the accompanying CFA Application, NRAA Application, GMT Application and GME Transfer Application.

The Authority was not satisfied that it is in the public interest, having regard to the statutory objects and considerations in section 3 of the Act, to approve a reduced gaming machine shutdown period between 6 am and 9 am on each Saturday, Sunday or public holiday under section 40 of the Act. The Authority notes that it may take several years before the registered club will commence at the new venue as it is yet to be constructed. The Authority refused this application on the basis that the Authority is not satisfied, having regard to the statutory objects and considerations in section 3 of the *Gaming Machines Act 2001*, that it is in the public interest to facilitate the further extension of gaming machine operations, noting that the hours of operation are already extensive and it would be more appropriate to assess this aspect of the Club's operations closer to the commencement of trading.

This letter provides a short record only of the decision in relation to the CFA Application, NRAA Application, GMT Application, GME Transfer Application and application to change the gaming machine shutdown period.

If you have any questions, please contact charles.rivers@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson

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

Statement of Reasons

Decision

1. On 7 June 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Petersham RSL Club Limited (“the Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application (“Removal Application”) to remove the club licence for the Petersham RSL Club Limited (LIQC300229521) (“the Club”) from its premises at 7-7A Regent Street, Petersham NSW 2049 (“Current Premises”) to new premises at 287-309 Trafalgar Street, Petersham (“Proposed Premises”).
2. The Removal Application was accompanied by an application for a new extended trading authorisation (“ETA Application”) and a purported application to vary the existing extended trading authorisation (“ETA Variation Application”).
3. The Authority has considered the Removal Application, ETA Application and ETA Variation Application at its board meeting on 11 December 2019 and following further consultation made the following decisions on 5 February 2020:
 - **Granted** the Removal Application pursuant to section 59 of the *Liquor Act 2007* (NSW) (“Liquor Act”).
 - **Authorised** the licence to trade under a new extended trading authorisation (“ETA”) between 12:00 midnight and 4:00 am Monday to Wednesday, between 12:00 midnight and 5:00 am Thursday to Saturday, between 10:00 pm and 4:00 am Sunday and between 7:00 am and 10:00 am Sunday in relation to the whole of the licensed area of the Club pursuant to section 49(2) of the Liquor Act.
 - **Found that** the ETA Variation Application made pursuant to section 51(9)(b) of the Liquor Act is invalid.
4. In making these decisions, the Authority had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 18, 19, 20, 40, 45, 48, 49, 51 and 59 of the Liquor Act, sections 10 and 12 of the *Registered Clubs Act 1976* (NSW) (“Clubs Act”) and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Liquor Regulation”) and the *Registered Clubs Regulation 2015* (“Clubs Regulation”).

Material Considered by the Authority

5. The Authority has considered the Removal Application, ETA Application, ETA Variation Application, the Community Impact Statement (“CIS”) and all submissions received in relation to these applications.
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 applications were provided with the opportunity to make submissions.
7. In accordance with its *Guideline 6*, the Authority has also had regard to relevant LGNSW 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 in respect of the Removal Application, ETA Application and ETA Variation Application is set out in Schedule 2.

Legislative framework

9. The Authority has considered the Removal Application, ETA Application and ETA Variation Application in accordance with the following provisions of the Liquor Act and Clubs Act:
- (a) Section 3 of the Liquor Act: Statutory objects of the Act and relevant considerations.
 - (b) Section 11A of the Liquor Act: 6-hour closure period.
 - (c) Section 12 of the Liquor Act: Standard trading period.
 - (d) Sections 18 of the Liquor Act: Authorisations conferred by club licence.
 - (e) Section 19 of the Liquor Act: Club licence general provisions.
 - (f) Section 20 of the Liquor Act: Club licence miscellaneous conditions.
 - (g) Section 40 of the Liquor Act: Minimum procedural requirements for a liquor licence application to be validly made.
 - (h) Section 45 of the Liquor Act: Criteria for granting a liquor licence.
 - (i) Section 48 of the Liquor Act: Requirements in respect of a CIS.
 - (j) Section 49 of the Liquor Act: ETA general provisions.
 - (k) Section 51 of the Liquor Act: General provisions relating to licence-related authorisations.
 - (l) Section 59 of the Liquor Act: Removal of licence to other premises.
 - (m) Section 10 of the Clubs Act: Requirements to be met by clubs.
 - (n) Section 12 of the Clubs Act: Calculations of minimum number of ordinary members.
10. Extracts of the legislation are set out in Schedule 3.

Key Findings

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

Validity and procedural requirements

12. The Authority finds that the Removal Application, ETA Application and accompanying CIS have been validly made in that they meet the minimum procedural requirements under sections 40, 48(4) and 59(2) of the Liquor Act and clauses 20 through 29 of the Liquor Regulation. This finding is made on the basis of the Removal Application material, ETA Application material, CIS material and the Certificate of Advertising signed by Mr Daniel Fitzgerald dated 10 July 2019 and by Mr Brett Tobin of Hatzis Cusack Lawyers dated 9 July 2019.
13. The Authority is **not** satisfied that the ETA Variation Application has been validly made. Briefly, the Applicant made this application in the alternative to the ETA Application arguing that the transitional provisions in the Liquor Act had the effect of preserving the unrestricted on premises trading hours that were previously enjoyed by the Club under the Clubs Act, prior to the Club's transition to a club licensed premises under the Liquor Act (which occurred upon commencement of the Liquor Act on 1 July 2008). The Applicant argues that should the Club now change its premises, these unrestricted hours previously available under the Clubs Act will "carry over" with the club licence, requiring no new ETA Application.
14. This construction of the legislation is misconceived. The Authority accepts that the transitional provisions had the effect that, upon a registered club's transition to a club licensed premises on 1 July 2008, the unrestricted trading hours enjoyed *on the then registered club premises* were preserved and the club was deemed to retain its hours under the Liquor Act. However, once a club has transitioned to a club licensed

premises, it does not follow that a club indefinitely enjoys the benefit of that transition if the club seeks to move its licensed premises.

15. Part 20 of Schedule 2 to the Clubs Act provides savings, transitional and other provisions in relation to the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*. Clause 93(2)(b) provides that the club licence of an existing registered club “may be dealt with under, and is otherwise subject to, the provisions of the Liquor Act 2007”.
16. Clause 94(2) of Schedule 2 provides that an “existing registered club that, immediately before the relevant date, was not subject to restrictions under this Act in relation to its on-premises trading hours may, subject to this clause, continue to trade on that basis until such time as action (if any) is taken under the Liquor Act 2007 to vary those on-premises trading hours”.
17. The Proposed Premises are currently unlicensed. The licensing of unlicensed premises is now regulated by the Liquor Act, not the transitional provisions of the Clubs Act. The Liquor Act provides two primary mechanisms by which unlicensed premises may become licensed. First, an applicant may apply for the grant of a new liquor licence, pursuant to section 45 of the Act, of a type apposite to the business or activity to be conducted on the premises. Alternatively, an applicant may remove an existing licence, under section 59 of the Liquor Act, to the unlicensed premises, if they control a suitable licence – as this Applicant has elected to do.
18. However, for any unlicensed premises to engage in licensed trading during extended trading hours the premises will not only require the grant, or removal of a licence, but the grant of an ETA under section 49(2) of the Act. There is no provision under the Act for the removal of an ETA.
19. Section 51(9)(b) of the Act confers upon the Authority the power to vary or revoke an existing ETA. However, the Proposed Premises does not yet possess an ETA. The Authority will need to grant a new ETA for the Proposed Premises and fix the extended trading hours, having regard to the overall social impact test in section 48(5) and the statutory objects and considerations in section 3. The Applicant was correct to make the ETA Application for the Proposed Premises.
20. The Authority does not accept the Applicant’s submissions that the 6-hour daily liquor cessation period prescribed by section 11A of the Liquor Act will not apply to the Proposed Premises.
21. Pursuant to section 59(3) of the Act, a removal application is to be dealt with as if it were an application for a new licence for the proposed premises. Section 11A provides that the six-hour daily liquor cessation period applies to licences granted after 30 October 2008. The Proposed Premises are unlicensed and will become licensed through the grant of the Removal Application. Since the licence will be removed to the Proposed Premises after 30 October 2008, the daily liquor cessation period applies.
22. The Authority has determined to fix the six-hour liquor cessation between 4:00 am and 10:00 am Monday to Sunday. The Applicant has not satisfied, on the material before it, that it is in the public interest to fix an alternative liquor cessation period.

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

23. Noting that the requirements in section 45 apply to the Removal Application through the operation of section 59(3) of the Liquor Act, the Authority is satisfied that:
- (a) For the purpose of section 45(3)(a) of the Liquor Act, the corporate Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with relevant law enforcement agencies including NSW Police ("Police") and the compliance section of LGNSW.
 - (b) For the purpose of section 45(3)(b) of the Liquor Act (and also relevantly for the purpose of sections 49(8)(a) and 59(5) of the Liquor Act), practices will be in place from the commencement of licensed trading at the Proposed Premises to ensure the responsible serving of alcohol and prevent intoxication, on the basis of the Plan of Management dated November 2019 and the undated *Responsible Service of Alcohol Policy* (provided by the Applicant on 18 September 2019).
 - (c) For the purpose of section 45(3)(c) of the Liquor Act, the requisite development consent permitting use of the Proposed Premises as a registered club licensed business is in force. This finding is made on the basis of a determination by Inner West Council ("Council") on 20 June 2019 for development application DA201800173 ("DA") which authorises construction of a mixed use building ranging from 2 to 11 storeys in height containing a new registered club premises for the Petersham RSL Club. This DA was modified on 4 June 2019 and authorises, at conditions 36 and 37, the Club to trade between the base hours of 9:00 am to 12:00 midnight 7 days a week with extended hours permitted on a three year trial from the date of any occupation certificate permitting operation between 7:00 am and 4:00 am Sunday to Wednesday, between 7:00 am and 5:00 am Thursday to Saturday and from 5:30 am on ANZAC day. Service is to cease 30 minutes before ceasing of trading hours.

Further Requirements For the Grant of a Club Licence

24. The Authority is satisfied, on the basis of the:
- Removal Application,
 - CIS material,
 - submission from the Applicant dated 18 September 2019,
 - Constitution of the Club,
 - Australian Securities and Investments Commission extract for Petersham RSL Club Limited and
 - the plan/diagram of the Proposed Premises,
- that when removed to the Proposed Premises, the Club will be a bona fide club that meets the requirements of section 10(1) of the Clubs Act and will have the minimum number of ordinary members required by section 12 of the Clubs Act.

Further Requirements for ETA Application

25. For the purpose of section 49(8)(b) of the Liquor Act, the Authority is satisfied that approving the extended trading hours sought in the ETA Application will *not* result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Proposed Premises.

26. The Authority makes this finding on the basis of the Plan of Management dated November 2019, the undated *Responsible Service of Alcohol Policy*, the *Responsible Conduct of Gaming Policy* dated July 2019 (both provided by the Applicant on 18 September 2019) and the conditions to which the Applicant consented to being imposed on the licence in the submission dated 18 September 2019. The conditions require the proposed licenced premises to not operate with a greater overall level of social impact than disclosed in the CIS; operate in accordance with the Plan of Management; maintain a closed-circuit television system and that the licensee join the local liquor accord and observe NSW Police crime scene preservation guidelines.
27. The Authority notes that no extensive adverse information regarding disturbance has been provided during the consultation process in respect of the clubs' operation on the Current Premises. Notwithstanding that some submitters raised what can be considered genuine concerns regarding existing issues of "noise and mayhem from late night revellers", without detailed submissions (providing the date, time and frequency that these events occurred) and not being supported by evidence provided from Police or LGNSW Compliance (who are responsible for responding to and investigating such issues) confirming these events, the Authority was not persuaded that removing the licence would result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Proposed Premises.

Community Impact Statement

28. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the State suburb of Petersham, and the relevant "broader community" comprises the local government area ("LGA") of Inner West Council ("Inner West LGA").

Positive Social Impacts

29. The Authority is satisfied, on the basis of the information provided in the CIS, that the Club licence will be removed 65 metres away (directly across Regent Street) to the Proposed Premises as the Current Premises is being redeveloped into a residential apartment building containing 108 apartments with basement parking. The Authority accepts, as contended in the CIS, that the existing Club's facilities were constructed in the 1950s when the licence was originally granted.
30. The Authority accepts the Applicant's information provided in the CIS that granting the Removal Application will facilitate the creation of a modern Club facility to meet the expectations of its members and guests with respect to the provision of licensed entertainment, hospitality services and accommodation. Removing the licence will facilitate a major redevelopment of the Club premises with the construction of new and improved facilities.
31. There are some objections to the Removal Application and particularly the ETA Application (discussed in greater detail below) from a few local residents. However, Police, LGNSW Compliance and Council do not object – all being agencies with law enforcement capabilities in respect of licensed premises. Opposition from within the communities is quite limited given the scope of the proposal.
32. LGNSW licensed premises information dated 11 November 2019 establishes that the suburb of Petersham has 2 registered club licensed premises (one of which is the subject of these Applications). In that context and noting the information in the CIS, the

Authority finds that removing the licence will serve the statutory object of regulating liquor in a manner consistent with the “expectations, needs and aspirations” of the local community and nearby suburbs within the broader community within the meaning of section 3(1)(a) of the Liquor Act.

33. The Authority is further satisfied, on the basis of the Removal Application and CIS material, that removing the Club will permit the business to continue offering the service of liquor to people seeking to enjoy the facilities of a licensed club. Removing this licence will develop, in the public interest, the liquor industry that serves the local and broader community, for the purposes of section 3(1)(b) of the Liquor Act.
34. Permitting a long established late trading licensed club to continue operations from new and better premises, in concert with the authorisations sought by the Applicant, will enable the services offered by the Club to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries per the object in section 3(1)(c) of the Liquor Act.

Negative social impacts

35. The licence type at issue with the Removal Application is a club licence. Unlike other licence types, section 10 of the Clubs Act requires that licensed clubs observe the requirements of that section and operate as a bona fide registered club, with a dedicated social, literary, political, sporting, athletic or other lawful purpose, providing accommodation for their members and guests. The Authority is satisfied that this will be the case on the basis of the information in the Removal Application, CIS material and submission from the Applicant dated 18 September 2019.
36. The Authority has had regard to the following social impact risk factors, which are apparent from the Removal Application and ETA Application material, submissions and relevant statistical data that formed part of the Authority’s assessment when assessing the overall social impact of granting the Removal Application and ETA Application:
 - The licensed trading hours sought by the Applicant are extensive, from 7:00 am to 4:00 am Sunday to Wednesday and 7:00 am to 5:00 am Thursday to Saturday.
 - The venue is of a very large scale, at approximately 3342 sqm.
 - The patron capacity will be substantial, at 900.
 - The Club may be expected to host live entertainment and functions.
 - The BOCSAR hotspot maps from July 2018 to June 2019 indicate that the Proposed Premises is located within some concentrations of crime – including a low density hotspot for domestic assault and a high density hotspot for malicious damage to property.
 - The local community is experiencing a modest elevation in the rate of malicious damage to property compared to Statewide rates. BOCSAR crime rates in the year to June 2019 for the suburb are above the NSW rate per 100,000 persons for incidents of malicious damage to property (792.0 per 100,000 persons compared to the NSW rate of 732.2).
 - Alcohol attributable hospitalisations in the LGA are substantially elevated above Statewide rates, with NSW Healthstats data recording a spatially adjusted rate of 783.6 per 100,000 persons compared to 555.6 per 100,000 persons for the period between 2016 and 2018.
37. Notwithstanding these factors, the Authority is satisfied that the following factors mitigate the scope for adverse social impacts:
 - Although the licensed trading hours are extensive, the Club will be subject to a 6-hour liquor cessation period and gaming machine shutdown between 4:00 am and 10:00 am.
 - The Removal Application seeks to remove an existing and longstanding club licensed premises with unrestricted on premises licensed hours to premises very close by.

- By reason of the additional regulatory requirements pertaining to clubs, they provide a more structured form of monitoring and control of access by members, guests and visitors than other licensed venues. Pursuant to section 30(3B) of the Clubs Act, a person whose ordinary place of residence is in New South Wales and is within a radius of 5 kilometres from the premises of a registered club is *not* eligible for admission as a temporary member of the host club unless the person is a member of another registered club with similar objects to those of the host club, or a member of another registered club who is attending the host club as provided by subsection (10). Moreover, takeaway liquor sales are limited by section 18(1) of the Liquor Act to the sale of liquor to a member or a guest of a member.
- BOCSAR crime hotspot maps from July 2018 to June 2019 indicate that the Proposed Premises is not located within any hotspots for incidents of alcohol related assault and non-domestic assault.
- BOCSAR crime rates for the year to June 2019 are below the State wide rate per 100,000 persons for incidents of *alcohol related domestic assault* (in both the suburb and LGA), *alcohol related non-domestic assault* (in both the suburb and LGA), *malicious damage to property* (in the LGA) and *alcohol-related disorderly conduct* (offensive conduct) (in both the suburb and LGA).
- Socio-economic disadvantage is not a compounding risk factor. The suburb and LGA are both ranked in the highest decile (10th decile) on the Index of Relative Socio-Economic Advantage and Disadvantage.
- NSW Healthstats data indicates that the LGA has a lower spatially adjusted rate per 100,000 population (16.2) compared to NSW (17.4) for *alcohol attributable deaths* between 2016 and 2017.
- Police expressly advise that there are no objections to the removal of the licence.
- Although LGNSW compliance provided a compliance history for the Club which noted relevant events occurring in 2010, 2011 and 2012, LGNSW Compliance did not expressly object and noted that the compliance history is “rather dated”.
- The licence will be subject to the harm minimisation provisions set out in the *Plan of Management* dated November 2019, which is enforceable by way of a licence condition.

38. In considering the overall social impact of granting the Removal and ETA Applications, the Authority has had regard to the following submissions:

- A five-page submission from a resident of Terminus Street Petersham (who wishes to remain anonymous) dated 1 August 2019 in which the writer opposes the grant of licensed trading hours beyond 10:00 pm on Sunday and past Midnight from Monday to Saturday on the basis of the social impact upon the local community, increased exposure to gaming and the increased exposure to alcohol. The writer also expressed concern about the “planned provision of rooms where parents/guardians can deposit their children and teenagers”. The writer acknowledges that the licensed hours at the Current Premises extend beyond midnight but submits that the removal of the licence is an “opportunity” to consider whether the Club “really needs” the extended hours of liquor and gambling operations. The writer discusses problem gambling in Australia and contends that the first step in reducing problem gambling is to limit exposure to poker machines by reducing the number of machines and hours of availability. The writer further discusses the “serious drinking problem” in Australia and contends that the extended hours sought “should be viewed in the light of whether we really need to have people continuing their drinking through the night”. The writer raises concerns with the proximity of the Proposed Premises to private residences and the impact that noise created by patrons entering and leaving throughout the night, and the gambling impact of a late trading open air gaming area that permits smoking. The writer submits that “all night” trading hours are not suitable for a suburb like Petersham, in a Club that “encourages people to continue drinking and gambling through the night”.
- A half-page submission from Ms J St Vincent Welch (a resident of Terminus Street Petersham), Mr N Torrens and Ms R Torrens dated 8 May 2018 in which the writers state their opposition to “any organisation that supports or promotes gambling”. They object to the removal of the licence and proposed extended hours. The writers contend that the new club will “no doubt attract more gamblers” and are concerned about the impact on gambling addicts being disconnected from their addiction during the late hours. The

writers contend that they are “often already woken up in the night by noise and mayhem from late revellers” and that the “[l]onger hours and drunker patrons” will mean “more noise”.

- A one-sentence submission from Mr J Westgarth (address not specified) dated 9 May 2018 in which the writer seeks clarification as to “how many poker machine licences the new RSL will have” and “how many the existing club has”.
- A further half-page submission from Mr N Torrens of Terminus Street Petersham dated 1 June 2018 in which the writer raises concerns with the “damage and misery inflicted by poker machines” and the fact that the Club seeks to “encourage and expand the use of the machines to increase their profits” with trading proposed in the evenings “until 4 and 5am”. The writer submits that this aspect of the proposal is a “sad and distorted” depiction of “community needs”.
- A one-paragraph submission from Mr P Dows of Petersham dated 16 May 2018 in which the writer advises no objection with the Removal Application but expresses concern about the 4:00 am/ 5:00 am licensed trading hours. The writer questions the needs for those late hours and expresses concern that violence, noise and undesirable behaviour may result.
- A half-page submission from Ms V Torres of Fisher Street Petersham dated 11 June 2018 in which the writer raises concerns about the proposed 4:00 am/5:00 am trading hours. The writer notes the availability and location of 2 other “well established and popular liquor outlets” (the White Cockatoo and the Oxford Inn) which close at midnight and 3:00 am. The writer further notes object 4.1(g) of the Club’s Constitution, which does not “promote drinking” but “social, literary, sporting, athletic and other lawful activities”. The writer submits that the proposal is “disappointing” and fails to see the need for “another drinking hole in the middle of a residential area”. The writer submits that the trading hours are an “outrageous proposal that should be rejected”.

39. While local residents raise legitimate concerns as to the scope for adverse social impact, particularly from the ETA Application, those concerns have been somewhat mitigated by the factors noted above. The Club has been providing licensed liquor and gambling services at the Current Premises which are very close to the Proposed Premises during very long hours.
40. One moderating factor will be the six-hour liquor cessation period that will apply to the Proposed Premises through the operation of section 11A of the Act, which the Authority has fixed from 4:00 am and 10:00 am 7 days a week. This will reduce the total hours of liquor sale or supply by comparison to the licence at the Current Premises.
41. The Authority accepts the concerns of the local community regarding the scope for adverse impacts upon problem gamblers as broadly credible. Although the Authority approved a related application to increase the gaming machine threshold at the Proposed Premises to 248, the Club already operates 248 gaming machines at the Current Premises.
42. When considering the scope for adverse gaming machine related impacts, the Authority has taken into account the Responsible Conduct of Gaming policy dated July 2019 (provided by the Applicant on 18 September 2019) and the Authority’s refusal of a related application under section 40 of the *Gaming Machines Act 2001* (NSW) to approve a reduced gaming machine shutdown period (from 6:00 am and 9:00 am each Saturday, Sunday and public holiday). As a consequence, the standard 4:00 am to 10:00 am shutdown period shall apply to the Proposed Premises. The Authority has taken this factor into consideration when assessing the scope for adverse social impact from granting the ETA Application, given the high number of gaming machines and their prolonged hours of operation in a SA2 area designated as a BAND 1 area under the *Gaming Machines Act 2001* (NSW).

Overall social impact

43. Having considered the positive benefits and negative impacts that are likely to flow from granting the Removal Application and ETA Application, the Authority is satisfied, for the purposes of section 48(5) of the Liquor Act, that the overall social impact of removing this Club licence and granting a new ETA would not be detrimental to the well-being of the local community or broader communities.
44. The Licence Application is granted pursuant to section 45(1) of the Liquor Act.
45. The ETA Application is granted pursuant to section 49(2) of the Liquor Act.
46. The Authority found the ETA Variation Application made pursuant to section 51(9)(b) of the Liquor Act to be invalid.



Philip Crawford
Chairperson

Important Information:

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

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

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

**Schedule 1 – Licence conditions to be imposed
Petersham RSL Club Limited**

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 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. Trading Hours exception
On April 25th of each year (ANZAC Day) the venue may trade from 5:30AM until the usual closing time allowed for that day of the week.

This exemption does not permit the sale and supply of liquor or the operation of gaming machines at any time these are otherwise forbidden.

If the local consent authority has not approved the continuation of the trial period in the development consent after three years from the date of the Occupation Certificate in relation to the club premises (or as may be extended from time to time), this exemption will lapse.
5. 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 removing this licence to the premises at 297-309 Trafalgar Street, Petersham NSW 2049.
6. 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 and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
7. The licensee or its representative must join and be an active participant in the local liquor accord.
8. 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.

9. 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.

10. 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.

- 11. Non-Restricted Area Authorisation: whole of the licenced premises excluding the gaming rooms.
- 12. Extended Trading Authorisation: whole of the licenced premises.
- 13. Club functions Authorisation: functions auditorium.
- 14. Trial period for extended hours

If the local consent authority does not approve the continuation of the trial period in the development consent after three years from the date of the Occupation Certificate in relation to the club premises (or as may be extended from time to time), the trading hours of the premises will revert to 9:00AM to 12:00AM Monday to 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 and Gaming inspector, or any other period authorised by the independent liquor and Gaming Authority.

- 15. Service of liquor is to cease 30 minutes prior to closing on any day.

16. The venue is limited to no more than 900 patrons at any one time.
17. Live music in the registered club is permitted from 10.00 am to 1.00am the following day in the venue. All live music must be confined to the 'function room' / 'auditorium'.
- a) All live music must be confined to the 'function room' / 'auditorium'.
 - b) The LA10, 15 minute noise level emitted must not exceed the background noise level (LA90, 15minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 10.00pm when assessed at the boundary of any affected residence.
 - c) The LA10, 15 minute noise level emitted must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 10.00pm and 7.00am when assessed at the boundary of any affected residence.
 - d) Notwithstanding compliance with (b) and (c) above, noise when assessed as an LA10, 15 minute enters any residential use through an internal to internal transmission path is not to exceed the existing internal LA90, 15 minute (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7.00am and 10.00pm. Where the LA10, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
 - e) Notwithstanding compliance with (b), (c) and (d) above, the noise must not be audible within any habitable room in any residential use between the hours of 10.00pm and 7.00am.
 - f) The LA10, 15 minute noise level emitted must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.
- Note: The LA10, 15 minute noise level emitted is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level LA90, 15 minute is to be determined in the absence of noise emitted and be representative of the noise sensitive receiver. It is to be determined from the assessment LA90 / rating LA90 methodology in complete accordance with the process listed in the NSW EPA Industrial Noise Policy and relevant requirements of AS1055.1997.
18. The Authority is to be provided with evidence that the Club's premises at 287-309 Trafalgar Street, Petersham is complete and ready to trade before 20 June 2024 (or, if the Development Consent is modified so as to provide for a later lapsing date, that lapsing date).

Schedule 2 – Material considered by the Authority Petersham RSL Club Limited

Application material

1. Application to remove club licence LIQC300229521 (“Removal Application”) for Petersham RSL Club Limited (“the Club”) lodged with Liquor and Gaming New South Wales (“LGNSW”) on 7 June 2019 by Petersham RSL Club Limited (“the Applicant”). The Removal Application was accompanied by the Notice to Local Consent Authority, Notice to Police and Site Notice and Notice to Neighbouring Premises and Other Stakeholders.
2. Application to vary an extended trading authorisation (“ETA Variation Application”) lodged with the Removal Application. This ETA Variation Application was accompanied by the Notice to Local Consent Authority, Notice to Police and Site Notice and Notice to Neighbouring Premises and Other Stakeholders.
3. Application for a new extended trading authorisation (“ETA Application”) lodged with the Removal Application. This ETA Application was accompanied by the Notice to Local Consent Authority, Notice to Police and Site Notice and Notice to Neighbouring Premises and Other Stakeholders.
4. Category B Community Impact Statement (“CIS”) lodged with the Removal Application and accompanied by the following documents:
 - (a) A geographical map depicting the location of the area in which notification was distributed.
 - (b) A list of stakeholders and special interest groups notified.
 - (c) A geographical map depicting the location of the proposed premises, the location of CAN Church and the location of Petersham AOG Church.
 - (d) A ten-page document prepared by Hatzis Cusack Lawyers (“Hatzis Cusack”) on behalf of the Applicant providing additional information in regards to the CIS and attaching a Plan of Management dated October 2018.
 - (e) Submissions received during the CIS consultation (detailed below).

Development consent

5. Modification determination no 201800173 issued by Inner West Council (“Council”) on 10 September 2019, provided by the Applicant on 13 December 2019.

LGNSW records

6. LGNSW liquor licensing records as at 11 November 2019 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in the suburb of Petersham, the Inner West Local Government Area (“LGA”) and NSW.
7. LGNSW list of licensed premises in Petersham, sourced by licensing staff as at 11 November 2019.
8. Onegov licence record for the Club sourced by licensing staff on 20 November 2019.

Crime data

9. Bureau of Crime Statistics and Research (“BOCSAR”) NSW Recorded Crime Statistics July 2018 to June 2019 comparing certain offences by day of week and time of day in Petersham and the LGA compared to NSW, sourced by licensing staff on 11 November 2019.
10. BOCSAR NSW Recorded Crime Statistics 2018 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in the LGA and NSW, sourced by licensing staff on 11 November 2019.
11. BOCSAR crime hotspot maps for July 2018 to June 2019, indicating the location of the premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property, sourced by licensing staff on 11 November 2019.

12. NSW crime statistics published by BOCSAR indicating that for the year to June 2019, the rates (per 100,000 population) of:
- a) alcohol-related domestic assault in the LGA and Petersham were 68.9 and 68.9 respectively, compared to the NSW average of 116.9,
 - b) alcohol-related non-domestic assault in the LGA and Petersham were 100.2 and 114.8 respectively, compared to the NSW average of 119.1,
 - c) malicious damage to property in the LGA and Petersham were 632.2 and 792.0 respectively, compared to the NSW average of 732.2, and
 - d) alcohol-related offensive conduct in the LGA and East Petersham were 28.8 and 11.5 respectively, compared to the NSW average of 35.9.

(sourced by licensing staff on 11 November 2019)

Health data

13. HealthStats NSW data showing that the LGA recorded a spatially adjusted rate of:
- a) 16.2 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016-17; and
 - b) 783.8 for alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

(sourced by licensing staff on 12 November 2019)

Socio-economic data

14. Australian Bureau of Statistics (“ABS”) Socio-Economic Indexes For Areas data based on the 2016 Census indicating that, on the Index of Relative Socio-Economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Petersham ranked in the 10th decile and the LGA ranked in the 10th decile. Sourced by licensing staff on 11 November 2019.

Stakeholder Submissions

15. The following submissions were received during the CIS consultation and were provided with the Application when lodged:
- (a) A submission letter dated 29 May 2018 (sent via email dated 1 June 2018) from Inner West Police Area Command of NSW Police (“Police”) advising Police hold no objection to the removal of the licence and associated authorisations.
 - (b) A submission letter dated 18 May 2018 (sent via email of the same date) from NSW Roads and Maritime Services (“RMS”) in which RMS provide alcohol related crash statistics and make recommendations to prevent and decrease the likelihood of alcohol involvement in road crashes.
 - (c) Email submissions dated 19 May 2018 and 10 May 2018 from Aboriginal Affairs advising no objection provided that the NSW Aboriginal Land Council and the Local Aboriginal Land Council have been notified.
 - (d) Email submission dated 10 May 2018 from the CEO of the Club, advising that it is not the intention of the Club to seek to increase the number of entitlements on transfer to the new premises. This submission is accompanied by the Club’s Certificate of Gaming Machine Entitlement issued by the former Casino, Liquor and Gaming Control Authority of NSW on 26 September 2011, indicating that the Club has 248 transferable poker machine entitlements, an authorisation limit of 248 and a gaming machine threshold of 248.
 - (e) Email submission from Ms J St Vincent Welch (a resident in Terminus Street, Petersham), Mr N Torrens and Ms R Torrens dated 8 May 2018 objecting to the relocation of the licence and proposed extended trading hours.
 - (f) Email submission from Mr P Dows (a resident of Petersham) dated 16 May 2018 raising concerns about the late trading hours.

- (g) Email submission from Mr J Westgarth (address not specified) dated 9 May 2018 requesting clarification in regards to poker machine numbers.
 - (h) Email submission from Mr N Torrens (a resident of Terminus Street, Petersham) dated 1 June 2018 raising concerns with regards to the impact of poker machines and late trading hours.
 - (i) Email submission from Ms V Torres (a resident of Fisher Street, Petersham) dated 11 June 2018 raising concerns about the proposed extended trading hours.
16. Email submission from Police dated 15 July 2019 advising no objections to the removal of the licence.
 17. Email submission from LGNSW Compliance dated 1 August 2019 providing a compliance history of the Club.
 18. Submission letter from a local resident of Petersham, who wishes to remain anonymous, dated 1 August 2019 objecting to the late night trading hours and raising concerns.
 19. Email submission from Council dated 15 November 2019 attaching a copy of DA201800173.
 20. Email from Council dated 3 February 2020 regarding noise related conditions.

Other relevant information

21. Email from the Applicant dated 6 August 2019 regarding the 30-day notification period.
22. Emails from the Applicant dated 19 September 2019 responding to emails from staff dated 19 September 2019, 16 July 2019, 17 July 2019 and 6 August 2019. Attached to one of the 19 September 2019 emails of the Applicant is a 21-page submission letter dated 18 September 2019 accompanied by: the certificate of advertising signed by Mr Brett Tobin of Hatzis Cusack dated 9 July 2019 and by Mr Daniel Fitzgerald dated 10 July 2019; an amended plan/diagram of the proposed premises; amended Plan of Management dated July 2019; the Club's Responsible Conduct of Gambling Policy dated July 2019; the Club's Responsible Service of Alcohol Policy (undated); Mr Fitzgerald's LGNSW competency card; plans/artist impressions of the buildings that are to be constructed at the site of the proposed premises; and the Club's Constitution.
23. Email from the Applicant dated 7 November 2019 regarding the date of the board meeting the applications will be listed for hearing at.
24. Google maps and street view image of the proposed premises and surrounds, sourced by licensing staff on 11 November 2019.
25. Submission letter from the Applicant dated 14 November 2019 responding to emails from staff dated 12 November and 13 November 2019 and attaching an amended plan of management.
26. Email submission from the Applicant dated 15 November 2019 responding to the submission from Council.
27. An Australian Securities and Investments Commission Current Organisation Extract for Petersham RSL Club Ltd as at 13 December 2019 was provided by the Applicant on 13 December 2019.
28. Email from the Applicant dated 15 January 2020 consenting to the ANZAC day condition.
29. Amended Plan of Management dated November 2019, provided by the Applicant on 6 February 2020.

**Schedule 3 - Relevant extracts from the *Liquor Act 2007* (NSW)
Petersham RSL Club Limited**

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).

18 Authorisation conferred by club licence

- (1) A club licence authorises the licensee to sell liquor by retail on the licensed premises to a member of the club (or a guest of a member of the club) 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.
- (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.

- (3A) An authorisation under this section 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.

19 Club licence—general provisions

- (1) A club licence may only be granted to a club that:
- (a) meets the requirements specified in section 10 (1) of the [Registered Clubs Act 1976](#), and
 - (b) otherwise complies with the requirements of that Act.
- (2) If a registered club owns or occupies more than one set of premises:
- (a) each set of premises must be separately licensed under this Act, and
 - (b) the entity comprising the registered club is the licensee for each set of licensed premises.
- (3) The regulations may create exceptions to this section.

20 Club licence—miscellaneous conditions

- (1) The following requirements apply in relation to a registered club:
- (a) the club must not hold a hotel licence or acquire any financial interest in a hotel,
 - (b) the manager of the licensed premises must not provide a cash advance on the premises, or permit a cash advance to be provided on the premises on behalf of the club otherwise than 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) Subsection (1) (a) does not apply to or in respect of a hotelier's licence or financial interest in a hotel that was granted to (or acquired by) a club before 2 April 2002.

Note. The prohibition on a registered club holding a hotelier's licence or acquiring a financial interest in a hotel was previously contained in section 9A (1AA) of the [Registered Clubs Act 1976](#) (as inserted by Schedule 3 [6] to the [Gaming Machines Act 2001](#)). The previous prohibition did not apply to licences or financial interests granted or acquired before the commencement of section 9A (1AA)—see clause 89 of Schedule 2 to the [Registered Clubs Act 1976](#).

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.

49 Extended trading authorisation—general provisions

(1) **Application of section**

This section applies in relation to the following types of licences (referred to in this section as a **relevant licence**):

- (a) a hotel licence,
- (b) a club licence,
- (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
- (d) a packaged liquor licence,
- (e) a producer/wholesaler licence.

(2) **Extended trading authorisation for consumption on premises**

In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
- (c) in any case—a specified period between 5 am and 10 am on a Sunday,
- (d) in any case—a specified period between 10 pm and midnight on a Sunday.

(2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods:

- (a) a specified period between 5 am and noon on a restricted trading day,

- (b) a specified period between 10 pm and midnight on a restricted trading day.
Note. The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25 (3).
- (3) Despite subsection (2) (a), the Authority may, in the case of a hotel:
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
 - (b) situated in the Kings Cross precinct, or
 - (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or
 - (c) situated in the Kosciuszko National Park,
- authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.
- (4) **Extended trading authorisation for take-away sales on Sundays**
 In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:
- (a) a specified period between 5 am and 10 am on a Sunday,
 - (b) (Repealed)
- (5) **Nature of extended trading authorisation**
 An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
 - (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
 - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (5A) Despite subsection (2) (a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified**
 In granting an extended trading authorisation, the Authority is to specify:
- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
 - (b) the part or parts of the licensed premises to which the authorisation applies.
- (7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues**
 Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods:
- (a) between 5 am and noon on a restricted trading day,
 - (b) between 10 pm and midnight on a restricted trading day,
 - (c) between midnight and 5 am on any day immediately following a restricted trading day.
- (8) **Restrictions on granting extended trading authorisation**
 The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
- (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the

- premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

51 General provisions relating to licence-related authorisations

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

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

59 Removal of licence to other premises

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises 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.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that—
 - (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
 - (b) those practices will remain in place.
- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect—
 - (a) on payment to the Secretary of the fee prescribed by the regulations, and
 - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relate.

**Schedule 3 - Relevant extracts from the *Registered Clubs Act 1976 (NSW)*
Petersham RSL Club Limited**

10 Requirements to be met by clubs

- (1) The following requirements apply in relation to a club –
- (a) The club shall be conducted in good faith as a club.
 - (b) The club shall be –
 - (i) a company within the meaning of the [Corporations Act 2001](#) of the Commonwealth, or
 - (ii) if the club was registered, or applied for registration, before the commencement of Part 10—a co-operative under the [Co-operatives Act 1992](#) or a corporation constituted by another Act.
 - (c) (Repealed)
 - (d) The membership of the club shall consist of or include not less than such number of ordinary members as is prescribed in respect of it by section 12.
 - (e) The club shall be established –
 - (i) for social, literary, political, sporting or athletic purposes or for any other lawful purposes, and
 - (ii) for the purpose of providing accommodation for its members and their guests.
 - (e1) If the regulations prescribe objects that are to apply in relation to specified types of clubs, the club is, if it is of such a type, to have the objects so prescribed in relation to that type of club.
 - (f) The club shall have premises of which it is the bona fide occupier for the purposes of the club and which are provided and maintained from the funds of the club.
 - (g) The premises of the club shall contain accommodation appropriate for the purposes of the club.
 - (h) The premises of the club shall contain a properly constructed bar room but shall not contain a separate area for the sale or supply of liquor to be carried away from those premises to which area there is direct access from outside any building that is part of those premises.
 - (i) A member of the club, whether or not he or she is a member of the governing body, or of any committee, of the club, shall not be entitled, under the rules of the club or otherwise, to derive, directly or indirectly, any profit, benefit or advantage from the club that is not offered equally to every full member of the club.
 - (j) Only the club and its members are to be entitled under the rules of the club or otherwise to derive, directly or indirectly, any profit, benefit or advantage from the ownership or occupation of the premises of the club unless the profit, benefit or advantage is in the form of –
 - (i) reasonable and proper interest paid to a lender on any loan made to the club that is secured against the premises of the club, or
 - (ii) reasonable and proper rent or occupation fees paid to the owner of the premises of the club,being, in either case, a payment arising out of dealings reasonably carried out, or contracts reasonably made, with the club in the ordinary course of its lawful business.
 - (k) The secretary or manager, or any employee, or a member of the governing body or of any committee, of the club is not entitled to receive, either directly or indirectly, any payment calculated by reference to:
 - (i) the quantity of liquor purchased, supplied, sold or disposed of by the club or the receipts of the club for any liquor supplied or disposed of by the club, or
 - (ii) the keeping or operation of approved gaming machines in the club.
 - (k1) The membership of the governing body of the club must not, on and from such date (or the happening of such event) as may be prescribed by the regulations, exceed 9 persons.
 - (l) The club must comply with any requirements imposed on the club under section 38.

- (m) The club must comply with any requirements imposed on the club by or under Part 4A.
 - (n) The business conducted on the premises of the club must not be managed or controlled by any person or body other than –
 - (i) the governing body of the club, or
 - (ii) the secretary of the club, or
 - (iii) the manager (within the meaning of the [Liquor Act 2007](#)) of the club premises, or
 - (iv) a person acting in a capacity referred to in section 41 (1) in respect of the club, or
 - (v) a person appointed under section 41A in respect of the club, or
 - (vi) a person who is exercising functions relating to the management of the business or affairs of the club under a management contract entered into in accordance with the Registered Clubs Accountability Code.
- (2) For the purposes of determining whether a club is being conducted in good faith as a club, as required by subsection (1) (a), regard is to be had to the following –
- (a) the nature of the premises of the club,
 - (b) whether the club has been under administration for an extended period of time (whether as an externally-administered body corporate, within the meaning of the [Corporations Act 2001](#) of the Commonwealth, or otherwise),
 - (c) whether any arrangements relating to the club have resulted in another person or body assuming the effective control of the club and its business,
 - (d) such other matters as may be prescribed by the regulations.
- (3) Subsection (1) (b) does not apply in respect of Tattersall's Club referred to in the [Tattersall's Club Act of 1888](#), City Tattersall's Club referred to in the [City Tattersall's Club Act of 1912](#), Newcastle Tattersall's Club referred to in the [Newcastle Tattersall's Club Act 1945](#), the Newcastle International Sports Centre Club referred to in clause 9 of Schedule 5 to the [Sporting Venues Authorities Act 2008](#) or in respect of any club declared under section 13 (1) (a) to be an exempt club for the purposes of this subsection.
- (4) (Repealed)
- (5) Subsection (1) (e) (ii) does not apply in respect of any club declared under section 13 (1) (b) to be an exempt club for the purposes of this subsection.
- (6) A club does not fail to meet the requirement specified in subsection (1) (i) or (1) (j) by reason only that a member of the club derives or is entitled to derive any profit, benefit or advantage from the club that is not offered equally to every full member of the club if –
- (a) the member derives or is entitled to derive the profit, benefit or advantage, not being a profit, benefit or advantage referred to in paragraph (b), pursuant to a contract (including a contract of employment) or agreement with the club and the deriving of or entitlement to the profit, benefit or advantage is, in the opinion of the Authority, reasonable in the circumstances of the case, or
 - (b) the profit, benefit or advantage consists only of a sum of money paid to the member in respect of his or her services as a member of the governing body or of any committee of the club and that payment has been approved by a resolution passed at a general meeting on which the persons entitled to vote are the same as the persons entitled to vote at the annual election of the governing body of the club, or
 - (c) the profit, benefit or advantage consists only of hospitality in the nature of reasonable food or refreshment offered by the holder of a dealer's licence or adviser's licence (within the meaning of the [Gaming Machines Act 2001](#)) in the normal course of a sale of an approved gaming machine on the licensee's premises, or at a display of an approved gaming machine that is held anywhere in the State for the purpose of directly promoting the products or services of the licensee, or
 - (d) the profit, benefit or advantage consists only of the payment of out-of-pocket expenses that are of a kind authorised by a current resolution of the governing body and are reasonably incurred by a member of the club, or by the secretary or any other employee, in the course of carrying out his or her duties in relation to the club.
- (6A) Subsection (1) (i) does not prevent a club from providing different benefits for different classes

of members if –

- (a) the different benefit was being lawfully provided immediately before the commencement of this subsection, or
 - (b) the different benefit is not in the form of money or a cheque or promissory note and is the subject of a current authorisation given by a general meeting of the members prior to the benefit being provided.
- (7) A club does not fail to meet the requirement specified in subsection (1) (j) by reason only that a person derives or is entitled to derive any profit, benefit or advantage as referred to in subsection (1) (j) if, in the opinion of the Authority, the deriving of or entitlement to the profit, benefit or advantage is reasonable in the circumstances of the case.

12 Calculation of minimum number of ordinary members

For the purposes of section 10 (1) (d), the number of ordinary members prescribed in respect of a club:

- (a) whose premises are situated within a radius of 24 kilometres from the General Post Office in Sydney is:
 - (i) in a case where a certificate of registration under the [Liquor Act 1912](#) in respect of the club was in force immediately before the commencement of the [Liquor \(Amendment\) Act 1954](#)—sixty, or
 - (ii) in any other case—200 or such lesser number, not being less than 60, as the Authority may in special circumstances determine in respect of the club, or
- (b) whose premises are situated elsewhere, is:
 - (i) in a case where a certificate of registration under the [Liquor Act 1912](#) was in force immediately before the commencement of the [Liquor \(Amendment\) Act 1954](#)—thirty, or
 - (ii) in any other case—100 or such lesser number, not being less than 30, as the Authority may in special circumstances determine in respect of the club.