



Mr George Smith  
Design Collaborative  
[georgesmith@designcollaborative.com.au](mailto:georgesmith@designcollaborative.com.au)

19 February 2019

Dear Mr Smith

**Application No.** 1-6386606496  
**Applicant** Mr Andrew Stephen Larkin  
**Application for** Hotel licence with an extended trading authorisation and a minors area authorisation  
**Licence name** The Marsden Hotel  
**Trading hours** Consumption on premises  
Monday to Saturday 10:00 am – 3:00 am  
Sunday 10:00 am – 12 midnight  
Takeaway sales  
Monday to Sunday 10:00 am – 10:00 pm  
**Premises** 1 Hawthorne Avenue  
MARSDEN PARK NSW 2765  
**Legislation** Sections 3, 11A, 12, 14-17, 40, 45, 48, 49, 51 and 121 of the *Liquor Act 2007*

**Decision of the Independent Liquor and Gaming Authority  
Application for a full hotel liquor licence with an extended trading authorisation and a  
minors area authorisation – The Marsden Hotel**

The Independent Liquor and Gaming Authority considered the application above at its meeting on 15 August 2018 and, pursuant to sections 45, 49 and 121 of the *Liquor Act 2007*, decided to **approve** the application subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (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. Consumption on premises  
Good Friday 12:00 noon – 10:00 PM  
Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)  
December 31<sup>st</sup> Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. Take away sales  
Good Friday Not permitted  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence and extended trading authorisation.

5. The premises is to be operated at all times in accordance with the Plan of Management dated 15 October 2018 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the 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.
7. The licensee shall provide as a minimum the following licensed security officers at the hotel on Friday and Saturday nights from 9:00 PM until the last patron has left the vicinity of the licensed premises:
  - 1) Two (2) licensed security officers at the main entrance of the hotel.
  - 2) One (1) licensed security officer per 100 persons to patrol the interior of licensed premises.
  - 3) A minimum of one (1) additional security officer to patrol the vicinity of the hotel at random with patrols to take place at least hourly from midnight until 30 minutes after closing or when the last patron has left the premises and its immediate vicinity (whichever is later) to ensure that patrons do not linger in the surrounding area.
  - 4) A minimum of one (1) additional licensed security officer for each separate function within the hotel's function rooms to monitor patron behaviour in that function room.
8. The licensee or its representative must join and be an active participant in the local liquor accord.
9. Crime scene preservation
 

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

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

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

10. No patrons are to be admitted onto the licensed premises between 2:00 AM and 10:00 AM Saturday and 2:00 AM and 10:00 AM Sunday.
11. If Council does not approve the continuation of the trial period of post-midnight trading set out in the development consent the trading hours of the premises will revert to 10:00 AM to midnight, Monday to Sunday when that trial period lapses.

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

### **Trading between 10 pm and 11 pm, Monday to Saturday**

Pursuant to section 12 of the *Liquor Act 2007*, the standard trading period during which liquor can be sold for consumption away from the licensed premises must end at 10 pm on all trading days. Nevertheless, the exemption provision under clause 117 of the Liquor Regulation 2018 permits takeaway liquor sales between 10 pm and 11 pm on days other than Sundays and restricted trading days.

### **Readiness to trade**

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

If you have any questions, please contact the case manager at [charles.rivers@liquorandgaming.nsw.gov.au](mailto: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 16 October 2017, Mr Andrew Larkin (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought a hotel licence (“Licence”) with an extended trading authorisation (“ETA”) and a minors area authorisation (“MAA”) for the premises at 1 Hawthorne Avenue, Marsden Park (“Premises”), under the name The Marsden Hotel.
2. The Authority considered the Application at its meeting on 15 August 2018 and, following the Applicant’s provision of further requested information, decided on 24 October 2018 to grant the Licence, ETA and MAA under sections 45, 49 and 121 of the *Liquor Act 2007* (“Act”).
3. The Licence authorises liquor to be sold by retail on the Premises for consumption on or away from the Premises. The ETA authorises the Premises to trade for hours outside the standard trading hours prescribed by the Act. The MAA allows minors to attend a specified part of the Premises while in the company of a responsible adult.
4. The licence document was issued to the Applicant with a preliminary notification of this decision on 29 October 2018.
5. In reaching this decision, the Authority has had regard to the material before it and the legislative requirements under the Act and the Liquor Regulation 2008 (“Regulation”).

### Material considered by the Authority

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

### Legislative framework

10. The Authority has considered the Application in the context of the following legislative provisions under the Act:
  - a. Section 3: Statutory objects of the Act and relevant considerations.
  - b. Section 11A: The mandatory 6 hour period during which liquor cannot be sold.
  - c. Section 12: The standard trading period for licensed premises including hotels.
  - d. Sections 14-17: Provisions specific to a hotel licence.
  - e. Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - f. Section 45: Criteria for granting a liquor licence.
  - g. Section 48: Requirements in respect of a CIS.
  - h. Section 49: Provisions specific to an ETA.
  - i. Section 51: General provisions relating to licence related authorisations.
  - j. Section 121: Provisions specific to an MAA.
11. An extract of these sections is set out in Schedule 2.

## **Key findings**

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

### Validity, procedural and trading hour requirements

13. The Authority is satisfied on the material before it that:

- a) the Application has been validly made and meets the procedural requirements under sections 40 and 51 of the Act, and
- b) the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods.

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

14. Pursuant to sections 45 and 49 of the Act, the Authority is also satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol and prevent intoxication on the premises, having regard to the plan of management for the Premises and the licence conditions to be imposed, and
- c) the requisite development consent is in force, based on the development consent issued by Blacktown City Council on 17 August 2017 in relation to the Premises.

### Community impact statement

15. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.

16. For the purposes of this decision and consistent with its position in *Guideline 6*, the Authority considers the relevant "local community" to be the suburb of Marsden Park, and the relevant "broader community" to be the Local Government Area ("LGA") of Blacktown.

### Community impact of gambling activities

17. Clause 10A of the Regulation requires the CIS for an ETA in relation to a hotel licence to address matters relating to gambling activities on the licensed premises during the period that the Authorisation is proposed to be in force.

18. Having regard to the information in the CIS for the Application, the Authority is satisfied that it meets the minimum requirements under clause 10A of the Regulation in addressing the potential social impact of any future gambling activities on the Premises during the extended trading hours sought.

### Positive social impacts

19. Marsden Park recorded a relatively small population of 1008 people at the time of the 2016 Census. It is now located within NSW Government's Northwest Priority Growth Area, and subject to significant planned development. The Authority accepts that the anticipated population growth as a result of the planned development would likely create more demand for liquor.

20. There is currently no hotel in Marsden Park, and the density of hotel licences in Blacktown LGA is considerably lower than the NSW state average.

21. The Authority notes from the Application that the Premises will have a large licensed area of over 5000 square metres extending over three levels, and a patron capacity of 2000. The Premises will operate alongside a licensed brewery, and beer produced from that brewery will be made available for tasting and purchase at a tasting bar in the Premises.
22. Although the proposed patron capacity of the Premises is higher than Marsden Park's current population, the Authority accepts that the Premises would cater to the future liquor needs of the growing community, in addition to any existing unmet liquor needs arising from the relative shortage of hotels in the local and broader communities.
23. The Authority also accepts that the Premises would, as the first hotel in Marsden Park if the Licence is granted, provide local residents and visitors with a facility where liquor can be consumed while they meet and socialise, eat, and enjoy other entertainment and services provided by the hotel. The Authority further accepts that granting the ETA and MAA would enable the Premises to provide late night services and host family friendly functions and events.
24. The weight the Authority has given to these potential community benefits is, however, limited by the absence of any substantive evidence of community support for the Application.
25. Having regard to information available, the Authority is satisfied that approving the Application would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry and related industries such as the hospitality industry.

#### Negative social impact

26. The BOCSAR data before the Authority at the time of its decision indicates that:
  - a) for the year to December 2017, the Premises was not located within any hotspot for incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property,
  - b) for the year to March 2018, Blacktown LGA recorded lower rates of alcohol related non-domestic assault and alcohol related disorderly conduct, and higher rates of alcohol related domestic assault and malicious damage to property, when compared to the NSW state average, and
  - c) no comparable crime rates were recorded for Marsden Park, which based on information on BOCSAR's website was due to the small size of the suburb's population.
27. The HealthStats NSW data available at the time of the Authority's consideration of the Application indicates that Blacktown LGA recorded a lower than average level of alcohol attributable deaths and an average level of alcohol attributable hospitalisations, in the periods 2012-13 and 2013-15 respectively.
28. The ABS Socio-Economic Indexes for Areas ("SEIFA") data as at 2016 indicates that Marsden Park ranked as a moderately disadvantaged suburb, and Blacktown LGA ranked as a relatively advantaged LGA, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
29. NSW Police Force ("Police") did not oppose the granting of the Licence, but raised in its submission a number of concerns in relation to pockets of social disadvantages and alcohol related crime, particularly domestic violence, in the broader community. Police proposed a list of licence conditions to address its concerns.
30. One objection was received from a local Muslim organisation, citing concerns over adverse traffic impacts, disturbances associated with the proposed late night trading, and the potential increase in local youth crime.

31. The Authority accepts, on the basis of the above, that parts of the broader community are experiencing higher than average levels of alcohol related crime and socio-economic disadvantages. The Authority also accepts that there is insufficient data from which to draw inferences about the prevailing level of alcohol related harm experienced in the local community, given Marsden Park's small population.
32. The Authority accepts that there may be a risk that, if the Application is approved, liquor sold or supplied at the Premises will over time contribute to an increase in alcohol related crime, health and other social and amenity issues in the local and broader communities.
33. The Authority nevertheless considers that the risk of any detrimental overall social impacts associated with approving the Application is sufficiently mitigated by the following:
  - a) No objection was received from Police, NSW Health, the local council or any other institutional stakeholder consulted in relation to the Application.
  - b) The operation of the Premises is subject to an extensive list of conditions of the relevant development consent, including for example a trial period for trading past midnight.
  - c) The low density of hotel licences and expected population growth in the local and broader communities.
  - d) The Applicant's consent to a range of licence conditions proposed by Police and L&GNSW, including the maintenance of a CCTV system and ongoing compliance with detailed measures in the plan of management, to facilitate the responsible service of liquor on the Premises and minimisation of alcohol related harm.

#### Overall social impact

34. Having considered the positive and negative social impacts that are likely to flow from approving the Application, the Authority is satisfied that the overall social impact of granting the Licence, the ETA and the MAA would not be detrimental to the well-being of the local and broader communities.
35. The Authority is also satisfied that the other legislative criteria for the approval of the Application have been met.
36. Accordingly, the Authority has decided to approve the Application and grant:
  - a) the Licence under section 45 of the Act,
  - b) the ETA under section 49 of the Act, and
  - c) the MAA under section 121 of the Act.



Philip Crawford  
Chairperson

#### **Important Information:**

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

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

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

## Schedule 1

### Material considered by the Authority

1. HealthStats NSW data showing that Blacktown LGA recorded, compared to a state benchmark of 100:
  - a. a smoothed standardised mortality ratio of 91.6 for the period 2012-13, and
  - b. a smoothed standardised separation ratio of 100.1 for the period 2013-15.
2. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1<sup>st</sup> decile the most disadvantaged:
  - a. Marsden Park ranked in the 4<sup>th</sup> decile, and
  - b. Blacktown LGA ranked in the 8<sup>th</sup> decile.
3. Submission from Aboriginal Affairs, Department of Education, on 29 November 2016 in relation to the Application.
4. Submission from Ahmadiyya Muslim Association Australia on 18 December 2016 in relation to the Application.
5. North West Priority Growth Area – Land Use and Infrastructure Implementation Plan, published in May 2017 by NSW Planning & Environment.
6. BOCSAR NSW Recorded Crime Statistics 2017 in respect of crime data in Blacktown LGA compared to NSW.
7. Development consent issued by Blacktown City Council on 17 August 2017, approving development application JRPP-16-03328 in relation to the Premises.
8. Completed application dated 28 September 2017, the relevant notices of application, and other documents in respect of the Applicant's identity and probity.
9. Completed Category B CIS dated 28 September 2017.
10. Plan of management for the Premises, dated 15 October 2017.
11. Submission from NSW Transport Roads & Maritime Services on 17 October 2017 in relation to the Application.
12. BOCSAR Crime Hotspot Maps for the year to December 2017, indicating the location of the Premises relative to hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
13. Submission from Police on 15 February 2018 in relation to the Application.
14. NSW crime statistics published by BOCSAR indicating that, for the year to March 2018:
  - a. Blacktown LGA recorded the following crime rates:
    - i. 132.9 for alcohol related domestic assault compared to the NSW average of 114.4,
    - ii. 106.6 for alcohol related non-domestic assault compared to the NSW average of 130.4,
    - iii. 937.0 for malicious damage to property compared to the NSW average of 779.5,
    - iv. 12.1 for alcohol related disorderly conduct (offensive conduct) compared to the NSW average of 42.8, and
  - b. the crime rates for the suburb of Marsden Park were 'not computed'.
15. L&GNSW liquor licensing records as at 19 April 2018 listing all hotel and club licences in Blacktown LGA, and all liquor licences in Marsden Park.
16. Certificates of advertising dated 27 April 2018.
17. Google map images extracted from the Google website on 21 May 2018, showing the location and photo of the Premises in map view, earth view and street view.
18. L&GNSW liquor licensing records as at 17 June 2018 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in NSW,

Blacktown LGA and Marsden Park. The density of hotel licences was 28.4 in NSW, 8.0 in Blacktown LGA and 0 in Marsden Park.

19. Premises plan for the Premises, setting out the licensed area and the area to which the MAA applies.
20. Correspondence between L&GNSW staff and the Applicant between 1 May and 15 October 2018 in respect of the assessment of the Application and the submissions received.

## Schedule 2 – Relevant extracts from the *Liquor Act 2007*

### 3 Objects of Act

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

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

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

### 12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
  - (a) for any day of the week other than a Sunday:
    - (i) the period from 5 am to midnight, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
  - (b) for a Sunday:
    - (i) the period from 10 am to 10 pm, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

**Note.** Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

#### 14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises**  
The times when liquor may be sold for consumption on the licensed premises are as follows:
- (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
  - (c) at any time on any day (including a restricted trading day) to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (3) **Restricted trading days**  
Despite subsection (2) (a), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows:
- (a) between midnight and 5 am on that day (but only if authorised by an extended trading authorisation),
  - (b) between noon and 10 pm on that day.
- (3A) In the case of Christmas Day, liquor must not be sold for consumption on the licensed premises between noon and 10 pm unless it is sold with or ancillary to a meal served in a dining area on the licensed premises.
- (4) Trading hours for consumption away from premises—Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (4A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.
- (5) **No take-away sales on restricted trading days**  
However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.
- (6) **Functions on other premises**  
A hotel licence also authorises the licensee to sell liquor by retail for the purposes of a function to be held on such other premises as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as may be specified by the Authority in the licence.  
**Note.** Section 51 applies to an authorisation referred to in this subsection.

#### 15 Hotel licence—general provisions

- (1) The following provisions apply in relation to a hotel licence (the hotel primary purpose test):
- (a) except as provided by section 15A, the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,
  - (b) the keeping or operation of gaming machines (as authorised under the Gaming Machines Act 2001) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.

- (2) The authorisation conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the licensed premises.
- (3) Any premises (other than the actual hotel) that are authorised by the Authority for the sale of liquor under a hotel licence are, for the purposes of this Act, taken to be part of the licensed premises to which the licence relates.

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

### **(1) Extended trading periods**

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

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

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

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

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

but only with the approval of the Authority.

- (3) An application for the approval of the Authority under subsection (2) may be made by the hotelier concerned. Any such application must be accompanied by the fee prescribed by the regulations.
- (4) The Authority may give its approval only if it is satisfied that:
  - (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
  - (b) gambling activities on the licensed premises will be conducted in a responsible manner.

### **(5) Cessation of liquor sales during standard trading period without gambling activities**

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

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).

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

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

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

A hotelier must not:

- (a) provide a cash advance in the hotel, or
- (b) permit a cash advance to be provided in the hotel on behalf of the hotelier,

except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

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

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

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

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

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

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

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

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

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

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

#### 40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
  - (a) an individual, or
  - (b) a corporation, or
  - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.

- (3) An application for a licence may not be made by:
  - (a) an individual who is under the age of 18 years, or
  - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
  - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

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

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

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

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

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

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

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
  - (a) that the person:
    - (i) is a member of, or
    - (ii) is a close associate of, or
    - (iii) regularly associates with one or more members of,a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and
  - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.

- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
  - (a) is of good repute, having regard to character, honesty and integrity, and
  - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

#### 48 Community impact

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

**relevant application** means any of the following:

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

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
  - (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
  - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
  - (a) an application for a small bar licence,
  - (b) an application for approval to remove a small bar licence to other premises,
  - (c) an application for an extended trading authorisation for a small bar,
  - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
  - (a) the application relates to the same premises as the premises to which a general bar licence relates, and
  - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
  - (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
  - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
  - (a) be prepared in accordance with the regulations and any requirements of the Authority, and
  - (b) be in the form approved by the Authority.

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

## **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.

#### **121 Minors in hotels in company of responsible adult**

- (1) The Authority may, on the application by a hotelier, grant an authorisation (***a minors area authorisation***) to enable the use by a minor of a specified part of the hotel while in the company of a responsible adult.  
**Note.** Section 51 applies to a minors area authorisation.
- (2) The specified part of the hotel to which a minors area authorisation applies may, if the authorisation so provides, comprise the whole of the hotel.