



Mr Tony Schwartz  
Back Schwartz Vaughan  
Level 1, 156 Edgecliff Road  
Woollahra NSW 2025  
[tschwartz@bsv.com.au](mailto:tschwartz@bsv.com.au)

21 May 2019

Dear Mr Schwartz,

<b>Application No.</b>	APP-0005016463
<b>Applicant</b>	Mr Anthony Charles Smith
<b>Application for</b>	Packaged Liquor Licence
<b>Licence name</b>	BWS – Beer Wine Spirits
<b>Trading hours</b>	Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 8:00 PM
<b>Premises</b>	309 George Booth Drive, Cameron Park NSW 2285
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application for a Packaged Liquor Licence – BWS – Beer Wine Spirits, Cameron Park**

The Independent Liquor and Gaming Authority considered the above application at its meeting on 17 April 2019 and has decided, pursuant to section 45 of the *Liquor Act 2007* (NSW), to **grant** the application subject to the following conditions being imposed upon the licence:

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 **3:00 AM and 9:00 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. **Retail sales**

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday, 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal Trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence.
4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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 Authority.

**5. Closed-Circuit Television**

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the premises is required to close,
    - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
    - (c) any recorded image must specify the time and date of the recorded image,
    - (d) the system’s cameras must cover the following areas:
      - (i) all entry and exit points on the premises, and
      - (ii) all publicly accessible areas (other than toilets) within the premises.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
    - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
6. The licensee or its representative must join and be an active participant in the local liquor accord.

Please direct any questions about this letter to the case manager via email to [simon.waterhouse@liquorandgaming.nsw.gov.au](mailto:simon.waterhouse@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 28 December 2018 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Anthony Charles Smith (“the Applicant”), through Liquor and Gaming New South Wales (“LGNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises to be located at 309 George Booth Drive, Cameron Park New South Wales (“NSW”) 2285 (“Premises”) to be known as *BWS – Beer Wine Spirits*.
2. The Authority has considered the matter at its meeting on 17 April 2019 and pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) has decided to **grant** the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

### Material considered by the Authority

4. The Authority has considered the Application, accompanying Community Impact Statement (“CIS”), and all submissions received in relation to this Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has also had regard to relevant 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”).
7. A list of the material considered by the Authority is set out in Schedule 1.

### Legislative framework

8. The Authority has considered the Application in accordance with the following provisions of the Act:
  - (a) Section 3: Statutory objects of the Act and relevant considerations.
  - (b) Section 11A: 6-hour closure period.
  - (c) Section 12: Standard trading period.
  - (d) Section 29: Authorisation conferred by packaged liquor licence.
  - (e) Section 30: Liquor sales area required if bottle shop is part of another business activity.
  - (f) Section 31: Restrictions on granting packaged liquor licences.
  - (g) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
  - (h) Section 45: Criteria for granting a liquor licence.
  - (i) Section 48: Requirements in respect of a CIS.
9. An extract of these sections are set out in Schedule 2.

## Key findings

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

### Validity, procedural and trading hour requirements

11. The Authority finds that the Application and accompanying CIS have been validly made in that they meet the minimum procedural requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation. This finding is made on the basis of the Application, CIS material and the Certificate of Advertising signed by the Applicant on 7 January 2019 and his legal representative on 24 January 2019.
12. The Authority is satisfied that the trading hours sought by the Applicant in the Application form and subsequently granted by the Authority meet the requirements specified by sections 11A, 12 and 29 of the Act in respect of a daily 6 - hour liquor sales cessation and the standard trading hours for packaged liquor licensed premises.
13. The Authority is satisfied, on the information provided about the scale and layout of the proposed liquor business, that the restrictions in sections 30 and 31 of the Act do not arise, as the licensed business will operate on separate premises to the supermarket.
14. The Authority also accepts that the Applicant, for the purpose of clause 66 of the Regulation, is the holder of a recognised competency card with a current licensee endorsement. This finding is made on the basis of Interim Certificate No 10001228486, held on the LGNSW file, which certifies that Mr Smith has completed Licensee Training on 15 April 2019 and which is valid until 13 July 2019.

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

15. The Authority is satisfied that:
  - (a) For the purposes of section 45(3)(a) of the Act, the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis of National Police Certificate NCHRC-2018-97282 dated 14 November 2018 indicating that there are no disclosable court outcomes or outstanding matters recorded against the Applicant's name. The Authority further notes that that no issues of concern were raised regarding the Applicant's probity following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the compliance section of LGNSW.
  - (b) For the purposes of section 45(3)(b) of the Act, practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's business policy documents, namely the Endeavour Drinks Group *Liquor Store "House Policy"* (June 2016 update), *Woolworths Best Practice Policy and Interventions* and policy documents relating to responsibilities, school uniform, refusal of service – intoxication, ID25 and secondary supply.
  - (c) For the purposes of section 45(3)(c) of the Act, the requisite development consent permitting the conduct of a packaged liquor licensed business on the Premises is in force. This finding is made on the basis of development consent DA/1178/2017 that was determined by Lake Macquarie City Council ("Council")

on 18 October 2018 for “Commercial Premises, 1 into 5 Lot Torrens Title Subdivision, Signage and Road”.

#### Community impact statement

16. 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 Cameron Park, and the relevant “broader community” comprises the local government area (“LGA”) of Lake Macquarie City Council (“Lake Macquarie LGA”).

#### Positive social impacts

17. The Authority is satisfied, on the information provided in the CIS material, that this packaged liquor licence will be situated within a new development, adjacent to a supermarket, and will provide some additional measure of convenience to those members of the local and broader community who wish to purchase their packaged liquor whilst purchasing groceries next door.
18. Noting that no objections were received from any local residents or relevant stakeholders, the Authority is satisfied that granting the licence will advance, to some extent, the statutory object of regulating liquor in a manner consistent with the “expectations, needs and aspirations” of the local and broader community, for the purposes of section 3(1)(a) of the Act.
19. A LGNSW list of licensed premises dated 12 March 2019 indicates that the suburb of Cameron Park has a total of three packaged liquor licences, with no hotel or club licences. LGNSW licensed premises information records the LGA as having 58 packaged liquor licences, 36 club licences and 28 full hotel licences.
20. Having regard to the scale of the proposed liquor business and its location within a new development, the Authority finds that the new business will expand the options available to the local community with respect to the purchase of packaged liquor, offering some increase in choice of retailer and additional convenience. Although the extent of this convenience benefit is constrained by the existing packaged liquor licensed premises, this will be the only packaged liquor licence within the suburb licensed under the BWS brand. The Authority is further satisfied that granting the licence will provide some increased choice to members of the local and broader community through the exclusive brands to BWS stores as outlined in the document provided with the CIS titled *Endeavour Drinks Group Product Range Benefits of Endeavour Drinks Group Stores*.
21. Having regard to the variety and location of the incumbent licensees in the local and broader communities, the Authority considers that licensing the proposed business may also make a modest contribution to the development of the liquor industry serving those communities, for the purposes of section 3(1)(b) of the Act.

#### Negative social impacts

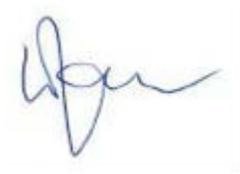
22. The Application concerns a packaged liquor licence type that, aside from product tastings, authorises the sale of liquor for consumption away from the Premises only.
23. The scale of the Premises, at 184 square metres, is reasonably substantial and larger than many stand-alone liquor stores.

24. Although the licensed trading hours proposed are reasonably extensive across the course of the week (from 9:00 am to 9:00 pm Monday to Saturday and 10:00 am to 8:00 pm Sunday) the potential for liquor sold from this location to negatively impact the community is somewhat mitigated by the fact that the licence will close at 9:00 pm on Friday and Saturdays and 8:00 pm on Sundays, with weekends usually presenting a higher risk time of the week for alcohol related adverse social impact.
25. Local licence density will be increased with the grant of this licence, noting that the rate per 100,000 persons for packaged liquor licences in the suburb is 37.52 compared to 29.39 for the LGA and 34.73 for NSW. Licence density within the suburb will be moderately above State wide rates should the licence be granted. However, the Authority is satisfied on the basis of the material in the CIS, that Cameron Park is a major growth centre in the Newcastle and Lake Macquarie areas and the overall licence density (comprising all licence types) in the suburb is significantly below that of NSW with the suburb recording a rate per 100,000 persons of 62.54, compared to the rate of 101.33 for the LGA and the rate of 219.35 for NSW.
26. The Authority is satisfied that the local community is not exposed to prevailing concentrations of crime, with the BOCSAR hotspot maps for the suburb for October 2017 to September 2018 indicating that the Premises is not located within any hotspots and no concerning hotspots nearby the Premises for incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
27. The Authority is further reassured by the BOCSAR crime data for the year to December 2018 which indicates that the Premises will be located within a suburb and LGA that are not experiencing elevated crime rates by comparison to State wide rates (with the exception of incidents of malicious damage to property in the LGA). This data records:
  - A rate of **48.9** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **108.5** for the LGA and a rate of **116.5** for NSW.
  - A rate of **48.9** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **111.4** for the LGA and a rate of **123.9** for NSW.
  - A rate of **586.4** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **884.9** for the LGA and a rate of **755.1** for NSW.
  - A rate of **12.2** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **14.8** for the LGA and a rate of **37.9** for NSW.
28. Socio economic index for areas data establishes that the local and broader communities are relatively advantaged with the suburb ranking in the 8<sup>th</sup> decile and the LGA in the 7<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs and LGAs within the State. That is, social disadvantage does not present as an additional risk factor when assessing these communities on the whole.
29. Although alcohol attributable deaths in the LGA are moderately elevated with a spatially adjusted rate per 100,000 population of 21.6 compared to the NSW rate of 18.1 (2015 to 2016) the LGA recorded a lower rate of alcohol attributable hospitalisations of 428.6 compared to the NSW rate of 580.6 (2015 to 2017).
30. When assessing the scope for negative impacts arising from the operation of this new business, the Authority has also taken into account all of the conditions to which the

licence will be subject, including conditions mandating that the licensed business not operate with greater overall social impact than as disclosed in the Application and CIS, that the licensee be an active member of the local liquor accord, that the licensee operate a CCTV system meeting minimum specifications and that the Premises be operated in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents.

#### Overall social impact

31. Having considered the positive benefits and negative impacts that are likely to flow from granting the Application, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting this new packaged liquor licence would not be detrimental to the well-being of the local community or broader community.
32. The Application is granted pursuant to section 45(1) of the Act.



Philip Crawford  
Chairperson

#### **Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* (NSW) 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* (NSW).

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-gns-w-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

### Material before the Authority

1. Application Form for a packaged liquor licence (“Application”) lodged by Mr Anthony Charles Smith (the “Applicant”) on 28 December 2018 accompanied by the following documents:
  - (a) Public consultation site notice and local consent authority notice.
  - (b) Liquor and Gaming New South Wales (“LGNSW”) Form TDEC5 titled *Declaration: liquor licence application by proposed licensee* signed by the Applicant dated 10 December 2018.
  - (c) National Police Certificate NCHRC-2018-97282 issued on 14 November 2018 certifying no disclosable court outcomes or outstanding matters recorded against the name of the Applicant.
  - (d) Identification documents of the Applicant comprising a New South Wales (“NSW”) Driver Licence, Medicare card and Visa card.
  - (e) Development consent DA/1178/2017 determined by Lake Macquarie City Council (“Council”) on 24 October 2018.
  - (f) A five-page document on the 6-hour liquor cessation period prepared by the Applicant’s legal representative signed and dated 8 November 2018.
  - (g) Plan/diagram of the premises highlighting the licensed area in red.
  - (h) Architectural plans provided as part of the development application lodged with Council.
  - (i) InfoTrack Australian securities and Investments Commission (“ASIC”) Current Organisation Extract for Fabcot Pty Ltd extracted on 4 April 2018.
  - (j) Endeavour Drinks Group Liquor Store House Policy NSW (updated June 2016) and the Woolworths Best Practice Policy and Interventions including policy documents relating to responsibilities, school uniform, refusal of service – intoxication, ID25 and secondary supply.
2. Category B Community Impact Statement lodged with the Application on 28 December 2018. This document is signed and dated 10 December 2018 and was accompanied by the following documents:
  - (a) List of stakeholders consulted by the Applicant.
  - (b) An aerial view geographical map depicting the 100-metre notification zone.
  - (c) A fourteen-page document discussing the assessment of this proposal prepared by the Applicant’s legal representative signed and dated 8 November 2018. This documents has been accompanied by the following material:
    - (i) A sixteen-page document containing harm minimisation and community impact data relevant to the Application.
    - (ii) A nine-page document prepared by the Applicant’s legal representative titled *Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS – Beer Wine Spirits stores in NSW*.
    - (iii) A five-page document titled *Endeavour Drinks Group Product Range Benefits of Endeavour Drinks Group Stores* dated May 2018.
    - (iv) A two-page list of defined terms used by the Applicant (held on the LGNSW file).
3. Email dated 24 January 2019, from the Applicant’s legal representative providing the Certificate of Advertising signed by the Applicant on 7 January 2019 and his legal representative on 24 January 2019.
4. Two-page email submission from Council dated 12 February 2019 advising that Council does not have any significant concerns and that the approved hours are within condition 28 of DA/1178/2018. Council request that the hours of operation be recorded as Monday to Saturday 9:00 am to 9:00 pm, Sundays and Public Holidays 10:00 am to 8:00 pm.

5. Brief email from LGNSW dated 15 February 2019 advising that the Compliance Operations Unit does not intend to make a formal submission.
6. Bureau of Crime Statistics and Research (“BOCSAR”) hotspot maps regarding Cameron Park from October 2017 to September 2018 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property, sourced by licensing staff on 5 March 2019.
7. Google geographical maps and street view image of the Premises, sourced by licensing staff on 6 March 2019.
8. BOCSAR Crime data for January 2017 to December 2018 comparing the count and rate per 100,000 persons for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) for NSW, the suburb of Cameron Park and the Lake Macquarie local government area (“LGA”), sourced by licensing staff on 6 March 2019.
9. BOCSAR data on number and proportion of selected offences flagged as alcohol related by Police for Lake Macquarie LGA and NSW from 2018, sourced by licensing staff on 6 March 2019.
10. Australian Bureau of Statistics (“ABS”) Socio-Economic Indexes For Areas data based on the 2016 Census for Cameron Park and Lake Macquarie LGA, sourced by licensing staff on 6 March 2019.
11. Licence density data calculated by licensing staff using the 2016 ABS population data and LGNSW licensed premises information as at 12 March 2019.
12. LGNSW list of licensed premises in the State suburb of Cameron Park at 12 March 2019, as sourced by licensing staff.
13. NSW *Healthstats* data on alcohol attributable deaths in NSW between 1997 to 2016, alcohol attributable deaths in Lake Macquarie LGA and NSW between 2001 and 2016, alcohol attributable hospitalisations in NSW between 2001 and 2017, alcohol attributable hospitalisations in Lake Macquarie LGA and NSW between 2001 and 2017, sourced by licensing staff on 13 March 2019.
14. One-sentence email from Senior Constable Trevor Willemsen and Sergeant Daniel Bishop of Belmont Police District dated 19 March 2019 advising no objections.
15. Five-page letter from the Applicant’s legal representative dated 21 March 2019, sent via email of the same date, responding to an email from licensing staff dated 12 February 2019 and providing two attachments discussing the Applicant’s assessment of alcohol-related crime in Lake Macquarie LGA (comprising nine pages) and Cameron Park (comprising three pages) between October 2017 and September 2018.
16. BOCSAR data on number of selected offences flagged as alcohol related by NSW Police by day and week and time of day for NSW, Lake Macquarie LGA and Cameron Park from January 2018 to December 2018, sourced by staff on 29 March 2019.
17. Email correspondence dated 1 April 2019 between the Applicant’s legal representative and licensing staff regarding ASIC records for Woolworths Group Limited.

18. Email from the Applicant's legal representative to licensing staff dated 2 April 2019 providing InfoTrack ASIC Current Organisation Extract for Woolworths Group Limited extracted on 2 April 2019.
19. Email from the Applicant to licensing staff dated 8 April 2019 providing a copy of his interim certificate showing that he has completed the new licensee training.
20. LGNSW Interim Certificate number 10001224854 certifying that Mr James A Scott-Mackenzie has successfully completed the Licensee Training course on 5 April 2019, which is valid until 03 July 2019.
21. Email dated 18 April 2019 in which the Applicant provides a copy of LGNSW Interim Certificate number 10001228486 certifying that Mr Anthony Charles Smith has successfully completed the Licensee Training course on 15 April 2019, which is valid until 13 July 2019 (held on the licensing file).

## Schedule 2

### Relevant extracts from the *Liquor Act 2007* (NSW)

#### 3 Objects of Act

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

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

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

- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

## 12 Standard trading period for certain licensed premises

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

**Note.** Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the **standard trading period** for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
  - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
  - (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

## 29 Authorisation conferred by packaged liquor licence

### (1) Retail sales

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

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

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

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

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

A packaged liquor licence also authorises the licensee:

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

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

(4) **Tastings**

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

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

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

**31 Restrictions on granting packaged liquor licences**

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

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

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

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

**40 Licence applications**

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

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

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

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

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

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

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

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

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

person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:

- (a) is of good repute, having regard to character, honesty and integrity, and
  - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

#### **48 Community impact**

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
  - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
  - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
  - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
  - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
  - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
  - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
  - (b) an application for approval to remove a small bar licence to other premises,
  - (c) an application for an extended trading authorisation for a small bar,
  - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:

- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
  - (b) development consent has been obtained under the *Environmental Planning and Assessment Act 1979* to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
  - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the *Registered Clubs Act 1976*.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
  - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
  - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
  - (b) the matters to be addressed by a community impact statement,
  - (c) the information to be provided in a community impact statement,
  - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
  - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.