



Mr David Ryan
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20 December 2019

Dear Mr Ryan

Application No.	1-7290479577
Applicant	KHAN PARTNERS PTY LTD
Application for	Removal of a packaged liquor licence
Proposed licence name	Cellarbrations at Coonamble
Proposed trading hours	Monday to Saturday 8:00 AM – 9:59 PM Sunday 10:00 AM – 8:00 PM
Proposed premises	51B Castlereagh St, Coonamble NSW 2829
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for the removal of a packaged liquor licence – Cellarbrations at Coonamble**

The Independent Liquor and Gaming Authority considered, at its meeting on 14 August 2019, the Application above and, pursuant to section 45 of the *Liquor Act 2007*, decided to **refuse** the Application.

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

If you have any questions, please contact the case manager at
andrew.whitehead@liquorandgaming.nsw.gov.au.

Yours faithfully

Murray Smith
Deputy Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Statement of reasons

Decision

1. On 7 May 2019, KHAN PARTNERS PTY LTD (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for the removal of a packaged liquor licence (“Licence”) from 17 Tooloon St, COONAMBLE to 51B Castlereagh St, COONAMBLE (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 14 August 2019 and decided to refuse to grant the Application under section 59 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.

Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the 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 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”).
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 the context of the following provisions of the Act:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6 hour period during which liquor cannot be sold.
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 45: Criteria for granting a liquor licence.
 - f) Section 48: Requirements in respect of a CIS.
 - g) Section 59: Criteria for applying for and granting the removal of an existing licence.
9. An extract of these sections is set out in Schedule 2.

Key findings

10. 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

11. The Authority is satisfied on the material before it that:
 - a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
 - b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and

- c) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to operate as is contemplated by those sections.

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

12. Pursuant to section 45 of the Act, the Authority is also satisfied that:
 - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Proposed Premises to facilitate the responsible serving of alcohol, having regard to the Liquor Store House Policy dated March 2019, and the conditions that would be imposed on the Licence were it to be granted, and
 - c) the requisite development consent is in force, based on Notice of Determination for Development Application DA 028/2018 in respect of the Proposed Premises, issued by Coonamble Shire Council on 5 September 2018.

Community impact statement

13. 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 Proposed Premises on the local and broader communities.
14. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Coonamble, and the relevant "broader community" comprises the Local Government Area ("LGA") of Coonamble.

Positive social impacts

15. The Authority accepts that the approval of the Application to remove the licence from the Current Premises to the Proposed Premises would not technically result in any increase in the density of packaged liquor licences in the local or broader communities, however notes that the licence has been dormant for many years and, as such, is of the view that the removal and reactivation of the licence would realistically amount to the introduction of a new packaged liquor facility into the community.
16. The Authority accepts the Applicant's contention that the Proposed Premises would offer convenience, choice, an enhanced range of liquor products and employment opportunities to members of and visitors to the local community.
17. The Authority also accepts that the Proposed Premises has been designed with features intended to minimise risks such as theft, secondary supply and supply to minors and intoxicated persons, and notes that the House Policy further bolsters the Applicant's approach to the responsible service of alcohol.
18. The Authority notes that the hours sought to apply to the Proposed Premises are less than those pertaining to the Current Premises.
19. The Authority is satisfied that Coonamble Shire Council has resolved a "neutral position" and as such does not object to the Application.
20. The Authority is also satisfied that L&GNSW Compliance has not raised any concerns in respect of the Application.
21. The Authority notes, however, that the extent of the benefits outlined above is constrained in this instance by reason that, on the material before the Authority, there is little evidence of members and representatives of the local and broader communities being in support of the

granting of the Application, with the bulk of submissions opposing the removal of the licence to the Proposed Premises.

Negative social impact

22. Whilst, as noted above, the Authority accepts that the proposed removal of the licence would not technically increase the current density of packaged liquor licences in Coonamble, given the extended dormancy of the licence the Authority considers that the approval of the Application would realistically result in the introduction of a new licence into the area. Furthermore, the Authority notes that the current density of packaged liquor licences in the LGA exceeds the “tipping point” identified by BOCSAR at which point alcohol-related violence is significantly more likely to occur at problematic rates.
23. The Authority notes that BOCSAR crime maps indicate that the Proposed Premises is located within high density hotspots for domestic assault and malicious damage to property, and medium density hotspots for alcohol-related assault and non-domestic assault.
24. The Authority notes that the above should be considered in the context of very high rates of alcohol-related crime in Coonamble suburb and LGA for the two years to March 2019. Rates of alcohol-related domestic assault, alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct were all well above corresponding NSW rates – indeed, they were among some of the most troubling rates recently considered by the Authority.
25. The Authority notes NSW HealthStats data, which indicates that residents of Coonamble LGA are being hospitalised at a rate that is below the NSW average, and dying from alcohol-related illness or injury at a rate that is above the NSW average.
26. The Authority notes with concern the 2016 Census Socio-economic Indexes for Areas data, which indicates that both Coonamble suburb and LGA are relatively extremely disadvantaged areas when compared to other suburbs and LGAs in NSW.

Submissions objecting to the Application

NSW Police

27. The Authority has considered the extensive submission provided by NSW Police, which raises various concerns, including the following:
 - there is already adequate availability of packaged liquor in what is a small and remote rural community, including a number of premises licensed to sell packaged liquor located within very close proximity to one another and the Proposed Premises
 - the Current Premises closed in 2005 and has been dormant ever since, meaning that the proposed removal to the Proposed Premises will have the effect of increasing the saturation of packaged liquor licences in the local community
 - an alcohol-free zone is in force 24 hours a day within the town limits of Coonamble, as well as Gulargambone and Quambone, which adjoin it, to address elevated rates of alcohol-related crime in the area
 - the population of Coonamble is decreasing
 - Coonamble has one of the largest indigenous populations in Western NSW and experiences significant social disadvantage, which has only been amplified by the drought
 - alcohol abuse is widespread in Coonamble

- ARCIE data indicates that alcohol is a factor in a significant proportion of criminal incidents occurring in Coonamble

The Bucking Bull Hotel

28. The Authority notes the concerns raised regarding current availability of alcohol and levels of alcohol-related crime, as well as the suggestion that the addition of another packaged liquor facility may result in business closures in a locality that is already experiencing economic downturn as a result of the drought.

Coonamble Local Liquor Accord

29. The Authority notes the concerns raised which were essentially the same as those raised by The Bucking Bull Hotel.
30. The Authority also notes with interest the submitter's advice that the Applicant previously objected to an application for a new packaged liquor licence in Coonamble, on the basis that Coonamble was already well-serviced by packaged liquor facilities and that the community was experiencing high rates of domestic violence, along with concerns for the impact the licence would have on the profitability of the Applicant's supermarket business.

Members of the public

31. The Authority accepts that there is a substantial cohort of local residents who have expressed their opposition to the Application. Attached to the submission received from Coonamble Local Liquor Accord was a petition signed by approximately 300 persons, most of whom reside in the local and/or broader communities, which objects to the granting of the removal on the basis of existing availability of packaged liquor and elevated rates of alcohol-related crime, along with 28 pro forma letters signed by local residents, which object to the proposal on similar grounds.

Applicant response to submissions

32. The Authority notes the Applicant's analysis of ARCIE and COPS data as supplied in the NSW Police submission, however is comfortable in relying upon BOCSAR data as an objective indicator of rates of alcohol-related crime in the local and broader communities, and remains very concerned by those rates.
33. The Authority accepts the Applicant's observation that no submissions were received from representatives of the Aboriginal community in Coonamble, however is of the view that the absence of such a submission does not of itself indicate support for the Application.
34. The Authority does not accept the Applicant's suggestion that the population of Coonamble is stable, noting that the NSW Police submission advises that the population fell by nearly 3% between 2011 and 2016. The Authority is of the view that this a material consideration given the existing very high density of packaged liquor licences in the local and broader communities.
35. The Authority accepts the Applicant's suggestion that the submission received from The Bucking Bull Hotel is likely to be commercially motivated, however notes that the concerns raised echo those raised in other submissions, and to the extent that they are supported by objective evidence, takes them seriously.
36. The Authority does not accept the Applicant's suggestion that 300 signatories to a petition represents "ambivalence" on the part of the local community. In the Authority's experience, and in the context of Coonamble's small population and remote location, the endorsement of 300 signatures on a petition objecting to the granting of an application is meaningful and has duly been considered as a reflection of the position of at least a portion of the local community. Furthermore, the Authority notes that there is no positive evidence of any local support for the Application.

Overall social impact

37. Having considered the positive and negative social impacts that are likely to flow from approving the Application, the Authority is not satisfied that the overall social impact of granting the removal of the licence would not be detrimental to the well-being of the local and broader communities.
38. Accordingly, the Authority has decided to refuse to grant the removal of the licence under section 59 of the Act.



Murray Smith
Deputy 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

Material related to the Application

1. Completed Category B Community Impact Statement dated 11 September 2018.
2. Completed application signed 31 December 2018.
3. Copy of the public consultation site notice, police notice and local consent authority notice dated 31 December 2018.
4. The Applicant's submissions in response to the assessment of the Application and stakeholder submissions, dated 27 and 28 March, 23 April, 8 and 9 May, 12 and 25 July 2019.
5. ASIC Extract for Khan Partners Pty Ltd extracted 15 April 2019.
6. ASIC Extract for Robert Khan extracted 24 April 2019.
7. Completed certification of advertising dated 8 May 2019.
8. Google map images extracted from the Google website on 24 July 2019, showing the location and photos of the Premises in map view, earth view and street view.
9. Key liquor licence details for the Premises, recorded as at 25 July 2019.
10. Undated Liquor Store "House Policy" for the Proposed Premises.
11. Premises plan for the Proposed Premises.

Development consent

12. Notice of Determination for development application DA 028/2018 issued by Coonamble Shire Council on 5 September 2018.
13. Letter from Coonamble Shire Council regarding the address for the Proposed Premises dated 27 March 2019.

Submissions in relation to the application

14. 28 pro forma letters from members of the public, most undated, others dated 31 March 2019-1 April 2019.
15. Submission from Coonamble Local Liquor Accord dated 1 April 2019, including a petition objecting to the Application, featuring 300 signatures and 28 pro forma letters signed by members of the public.
16. Submission from the licensee of The Bucking Bull Hotel, dated 7 April 2019.
17. Submission from L&GNSW Compliance dated 9 May 2019.
18. Submission from NSW Police dated 9 May 2019.
19. Submission from Coonamble Shire Council dated 10 May 2019.

Density data

20. L&GNSW liquor licensing records as at 8 July 2019 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Coonamble suburb and LGA and NSW. The density of packaged liquor licences was 35.01 in NSW, 76.57 in Coonamble LGA, and 72.73 in Coonamble suburb.
21. L&GNSW liquor licensing records as at 8 July 2019 listing all packaged liquor licences in Coonamble suburb.

SEIFA

22. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Coonamble suburb and LGA each ranked in the 1st decile.

Health data

23. HealthStats NSW data showing that:

- a. for the period 2015-16 Coonamble LGA recorded a spatially adjusted rate of 21.6 alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 18.1; and
- b. for the period 2016-18 Coonamble LGA recorded a spatially adjusted rate of 549.5 alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 555.6.

Crime data

24. NSW crime statistics published by BOCSAR indicating that:

- a. for the year to March 2018, the rate of:
 - i. alcohol-related domestic assault in Coonamble suburb was 494.7, and in the LGA was 521.0, compared to the NSW average of 113.0,
 - ii. alcohol-related non-domestic assault in Coonamble suburb was 459.4, and in the LGA was 396.9, compared to the NSW average of 129.5,
 - iii. malicious damage to property in Coonamble suburb was 2791.5, and in the LGA was 2604.8, compared to the NSW average of 769.2,
 - iv. alcohol-related offensive conduct in Coonamble suburb was 35.3, and in the LGA was 24.8, compared to the NSW average of 40.8,
- b. for the year to March 2019, the rate of:
 - i. alcohol-related domestic assault in Coonamble suburb was 848.1, and in the LGA was 719.4, compared to the NSW average of 115.5,
 - ii. alcohol-related non-domestic assault in Coonamble suburb was 565.4, and in the LGA was 396.9, compared to the NSW average of 118.8,
 - iii. malicious damage to property in Coonamble suburb was 4098.9, and in the LGA was 3448.3, compared to the NSW average of 737.8, and
 - iv. alcohol-related offensive conduct in Coonamble suburb was 318.0, and in the LGA was 223.3, compared to the NSW average of 36.6.

25. NSW Recorded Crime Statistics April 2018 to March 2019 outlining offences by day of week and time of day, and the number and proportion of selected offences flagged as alcohol related by NSW Police in 2018 in Coonamble suburb and LGA compared to NSW.

26. BOCSAR crime hotspot maps for the year to March 2019, indicating the location of the Proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.

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).

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.

59 Removal of licence to other premises

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