Independent Liquor & Gaming Authority

NSW GOVERNMENT

A statutory board established under the Gaming and Liquor Administration Act 2007

Mr Grant Cusack
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13 January 2020

Dear Mr Cusack

Application No.	APP-0005880398
Applicant	Miracle Chifu Pty Ltd
Application for	Packaged liquor licence
Licence name	Miracle Supermarket Infinity
Trading hours	Monday to Saturday 9:00 AM – 9:59 PM Sunday 10:00 AM – 8:00 PM
Premises	Shops R003-R007 301 Botany Road Green Square NSW 2017
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the *Liquor Act 2007*

Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Miracle Supermarket Infinity

The Independent Liquor & Gaming Authority considered the application above at its meeting on 11 September 2019 and, pursuant to section 45 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 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. Restricted trading and NYE (std)
   Retail Sales

Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31st	Normal trading

3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated May 2019 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 11 September 2019 or any premises plan subsequently approved by the Authority.
7. The sale and supply of liquor at the licensed premises must not commence before 7.00 AM and must cease by 8.00 PM on public holidays, and customers must not be permitted to access the liquor sales area outside those hours.

8. Only imported Asian liquor products are to be sold and supplied pursuant to the licence.
9. Closed-circuit television system
    1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
        (a) the system must record continuously from opening time until one hour after the supermarket/general store 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 to the supermarket/general store, and
            (ii) all publicly accessible areas (other than toilets) within the liquor sales area.
    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.

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

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 AM. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 9:00 AM.

Approved manager or individual licensee

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

Mixed-use checkouts must be closed outside licensed hours

Pursuant to section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

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 and Gaming Authority**

Statement of reasons

Decision

1. On 15 June 2019, Miracle Chifu Pty Ltd ("Applicant") lodged with Liquor & Gaming NSW ("L&GNSW"), for determination by the Independent Liquor & Gaming Authority ("Authority"), an application ("Application") for a packaged liquor licence ("Licence") for the premises at Shops R003-R007, 301 Botany Road, Green Square ("Premises").

2. The Authority considered the Application at its meeting on 11 September 2019 and decided to grant the Licence under section 45 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.

4. Pursuant to section 29 of the Act, the Licence authorises liquor to be sold by retail at the Premises, in sealed containers, for consumption away from the Premises.

5. A preliminary notification of this decision was sent to the Applicant on 2 October 2019, together with the licence document for the Premises.

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 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.

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.

<u>Validity, procedural and trading hour requirements</u>

13. 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 and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and

c) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:

a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,

b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and

c) the requisite development consent is in force, based on Complying Development Certificate CF18214CD01 issued by Advance Building Approvals on 6 June 2019 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 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 Zetland (which forms part of the Green Square precinct), and the relevant "broader community" comprises the Local Government Area ("LGA") of Sydney.

Positive social impacts

17. The Authority notes that the business model proposed by the Applicant is that of a 37m^2 liquor department situated within the 334m^2 Miracle Supermarket, which is part of a chain of specialist Asian grocery stores operating throughout the Sydney metro area.

18. The Authority notes that the Applicant proposes that only liquor products of an Asian origin will be sold at the Premises to complement the grocery and other products on offer, and that this will be enforced by way of a licence condition.

19. The Authority notes the Applicant's contention that the addition of a small packaged liquor department will provide a measure of convenience for customers of the Asian supermarket, who will be able to purchase speciality Asian liquor products along with specialty Asian grocery items.

20. Furthermore, the Authority has had regard to the Applicant's contention that liquor products of the type that will be sold at the Premises are presently not available within Green Square, and considers that the introduction of this specialised packaged liquor facility will diversify the local liquor industry and offer greater choice to consumers.

21. The Authority notes that the Premises will be situated within the new 20-level "Infinity" commercial and residential development being constructed in Green Square, and that it will be the only supermarket situated within the development. The Authority considers that the packaged liquor outlet will offer a measure of convenience to residents of the development who will be able to shop for liquor products without requiring special trips further afield.

22. Furthermore, the Authority notes that the Green Square precinct is undergoing significant urban renewal and residential development, and considers that the Premises will provide the

growing local community with additional access to packaged liquor and increased product choice.

23. Having regard to the information available, the Authority is satisfied that granting the Licence would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

24. The Authority notes that Zetland has a lower density of packaged liquor licences than the state average.

25. According to BOCSAR Crime Maps for the year to March 2019, the Premises was located within a high density hotspot for malicious damage to property, medium density hotspots for alcohol-relates assault and domestic assault, and in a low density hotspot for non-domestic assault. The concerns that such mapping raises, however, are somewhat alleviated by the rates of crime recorded for Zetland for that period, which were lower than the NSW average.

26. The Authority notes that Sydney LGA has a higher density of liquor licences, and higher crime rates compared to the state average. However, the Authority considers that this reflects the fact that Sydney LGA is a popular commercial, hospitality, entertainment and tourist precinct, and that the high turnover of visitors may skew density and crime figures.

27. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Zetland and Sydney LGA ranked among the most advantaged suburbs and LGAs in NSW.

28. The Authority has also had regard to the most recent HealthStats NSW data available at the time of its decision, which indicates that the Sydney LGA recorded a higher than average level of alcohol attributable deaths for the period 2015-16, and a significantly higher than average level of alcohol attributable hospitalisations for the period 2015-17.

29. The Authority has considered the submission from a commercial competitor, which submitted that the Authority should impose certain licence conditions in relation to Asian liquor and social impact, but otherwise did not object to the Application; and the Applicant's submission in response.

30. The Authority has had regard to the submissions from NSW Police and L&GNSW Compliance, which raised no objections to the Application.

31. The Authority notes that on 10 May 2019 Sydney City Council made a submission in which it advised that Council did not support the Application on the grounds that appropriate development consent was not in place to permit the operation of a packaged liquor facility. The Authority notes that the Applicant subsequently obtained appropriate development consent and that Council made a further submission on 19 June 2019 raising no objection to the Application.

32. The Authority accepts that there may be a risk that if the Licence were to be granted, liquor sold 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 is nevertheless satisfied that the risk associated with the granting of the Licence will be adequately mitigated by the following:

    a) the relatively small size of the liquor sales area;

    b) the specialised nature of the liquor products sold;

    c) measures set out in the Applicant's Plan of Management document in respect of the responsible service of alcohol; and

d) the Applicant's consent to special licence conditions.

Trading hours

34. The Authority notes from the Application and community consultation material that the trading hours sought for the Premises between Monday and Saturday end at 10 PM.

35. The Authority also notes that if the Premises is authorised to trade until 10 PM, Monday to Saturday, it would in practice be authorised to also trade between 10 PM and 11 PM on those days pursuant to an exemption afforded by clause 70AB of the Regulation.

36. In the current circumstances, the Authority considers it appropriate to impose a closing time of 9:59 PM, Monday to Saturday, to prevent the unintended consequences of permitting the Premises to trade beyond the hours sought by the Applicant and represented to stakeholders, including Council and NSW Police, during the community consultation process.

Overall social impact

37. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.

38. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.

39. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.

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

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 & Gaming NSW 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. Plan of Management and House Policy documents for the Premises dated May 2019.
2. Completed Category B Community Impact Statement dated 12 June 2019 and annexures.
3. Completed application dated 14 June 2019.
4. Copy of the public consultation site notice and local consent authority notice dated 14 June 2019.
5. Correspondence between L&GNSW staff and the Applicant between 28 June 2019 and 23 August 2019 in relation to the assessment of the Application.
6. Completed certifications of advertising dated 31 July 2019.
7. Submission in response to assessment of application prepared by the Applicant, dated 1 August 2019.
8. Google map images extracted from the Google website on 21 August 2019, showing the location and photos of the Premises in map view, earth view and street view.
9. Document provided by the Applicant titled “Additional information – application and community impact statement”.
10. Document provided by the Applicant titled “Additional information – 6-hour closure period”.
11. Floor plan indicating the proposed liquor sales area within the licensed Premises.
12. ASIC business records in relation to the Applicant and business owner, and the premises owners.

Development consent

13. Section 4.55 Modification Approval for Development Application No. D/2014/1758/F issued by Sydney City Council on 14 February 2019 for the Premises.
14. Complying Development Certificate CF18214CD01 issued by Advance Building Approvals on 6 June 2019 in relation to the Premises.

Stakeholder submissions in relation to the application

15. Submission from Roads & Maritime Services NSW dated 9 May 2019 in relation to the Application.
16. Submission from Family & Community Services NSW dated 13 May 2019 in relation to the Application.
17. Submission from Aboriginal Affairs NSW dated 20 May 2019 in relation to the Application.
18. Submissions from City of Sydney Council dated 10 May 2019 and 19 June 2019 in relation to the Application.
19. Submission from a local commercial competitor dated 10 July 2019 in relation to the Application.
20. Submissions from NSW Police dated 23 July 2019 in relation to the Application.
21. Submission from L&GNSW Compliance dated 23 August 2019 in relation to the Application.

Density data

22. L&GNSW liquor licensing records as at 20 August 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 Zetland, Sydney LGA and NSW. The density of packaged liquor licences is 34.44 in NSW, 82.06 in Sydney LGA, and 29.77 in Zetland.
23. L&GNSW liquor licensing records as at 20 August 2019 listing all liquor licences in Zetland.

SEIFA

24. 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, Zetland ranked in the 10th decile and Sydney LGA ranked in the 9th decile.

Health data

25. HealthStats NSW data showing that:
    a. for the period 2015 to 2016 Sydney LGA recorded a spatially adjusted rate of 20.8 alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 18.1; and
    b. for the period 2015 - 2017 Sydney LGA recorded a spatially adjusted rate of 819.3 alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 580.6.

Crime data

26. NSW Recorded Crime Statistics 2018 outlining offences flagged as alcohol-related by NSW Police in Sydney LGA compared to NSW.
27. BOCSAR NSW Recorded Crime Statistics April 2018 to March 2019 outlining offences flagged as alcohol-related by NSW Police by day of week and time of day in Zetland and Sydney LGA compared to NSW.
28. BOCSAR crime hotspot maps for the year to March 2019, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
29. NSW crime statistics published by BOCSAR indicating that:
    a. for the year to March 2018, the rates of:
        i. alcohol-related domestic assault in Sydney LGA and Zetland were 190.2 and 86.5 respectively, compared to the NSW average of 113.0,
        ii. alcohol-related non-domestic assault in Sydney LGA and Zetland were 658.1 and 112.4 respectively, compared to the NSW average of 129.5,
        iii. malicious damage to property in Sydney LGA and Zetland were 1,069.9 and 484.3 respectively, compared to the NSW average of 769.2,
        iv. alcohol-related offensive conduct in Sydney LGA and Zetland were 273.0 and 8.6 respectively, compared to the NSW average of 40.8,
    b. for the year to March 2019, the rates of:
        i. alcohol-related domestic assault in Sydney LGA and Zetland were 189.8 and 112.4 respectively, compared to the NSW average of 115.5,
        ii. alcohol-related non-domestic assault in Sydney LGA and Zetland were 613.5 and 112.4 respectively, compared to the NSW average of 118.8,
        iii. malicious damage to property in Sydney LGA and Zetland were 1,188.4 and 363.3 respectively, compared to the NSW average of 737.8, and
        iv. alcohol-related offensive conduct in Sydney LGA and Zetland were 296.7 and 8.6 respectively, compared to the NSW average of 36.6.

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.