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27 February 2020

Dear Mr Cusack

<b>Application no.</b>	APP-0005531939
<b>Applicant</b>	Alily Pty Ltd
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	Murray's Porters Liquor Blaxland East
<b>Premises</b>	Shop 59, 43-65 Old Bathurst Rd Blaxland NSW 2774
<b>Trading hours</b>	Monday to Thursday 9:00 am – 8:00 pm Friday to Saturday 9:00 am – 9:00 pm Sunday 10:00 am – 7:00 pm

**Decision of the Independent Liquor and Gaming Authority  
Application for a packaged liquor licence – Murray's Porters Liquor Blaxland East**

The Independent Liquor and Gaming Authority considered the application above, and decided on 11 September 2019 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1, a copy of which is attached.

**Approved manager or individual licensee**

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.

**Trading on a Sunday that falls on 24 December**

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 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 9 am.

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 Mr Charles Rivers at [charles.rivers@liquorandgaming.nsw.gov.au](mailto:charles.rivers@liquorandgaming.nsw.gov.au).

Yours faithfully

Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 24 April 2019, Alily Pty Ltd ('Applicant') lodged an application ('Application') for a packaged liquor licence ('Licence') for the premises at Shop 59, 43-65 Old Bathurst Road, Blaxland ('Premises'), to be trading under the name of Murray's Blaxland East Cellars.
2. The Application was lodged with Liquor & Gaming NSW ('L&GNSW') for determination by the Independent Liquor and Gaming Authority ('Authority').
3. The Authority decided on 11 September 2019 to approve the Application under section 45 of the *Liquor Act 2007* ('Act'), subject to imposing conditions as set out in Schedule 1.
4. A preliminary advice letter notifying the Applicant of this decision was issued on 24 September 2019.
5. On 3 December 2019, the licensed name was changed to Murray's Porters Liquor Blaxland East.

### Material considered by the Authority

6. In reaching this decision, 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 2.

### 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 3.
12. The Authority has also had regard to provisions in the Liquor Regulation 2018 ('Regulation') prescribed for the purposes of the above sections of the Act.

### Key findings

13. 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

14. 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 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 Premises is not intended to operate as is contemplated by these sections.

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

15. 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, as 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 licence conditions to be imposed, and
- c) the requisite development consent is in force, having regard to the complying development certificate issued by Modern Building Certifiers on 15 May 2019 for the Premises.

#### Community impact statement

16. 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.

17. For the purposes of this decision and consistent with the Authority's Guideline 6, the Authority is satisfied that the relevant 'local community' is the community within the suburb of Blaxland, and the relevant 'broader community' comprises the Local Government Area ('LGA') of Blue Mountains.

#### Positive social impacts

- 18. The Premises is proposed to operate as a standalone liquor store in the East Blaxland Shopping Centre. The store will occupy approximately 114 square metres and, according to the Applicant, offer a wide range of beers, wines, spirits and ciders, including craft beers produced locally.
- 19. There are currently three packaged liquor licences in Blaxland, and the density of packaged liquor licences in Blaxland is higher than the NSW state average. The Applicant contended, however, that only two of the three packaged liquor licences in Blaxland are active, as the third licence has not been trading since 2010.
- 20. The Authority notes that the Applicant has close ties with the local community and currently operates another liquor store with the same branding in the adjoining suburb of Glenbrook, with sound operational records.
- 21. The Authority accepts that the Premises will, if granted a Licence, provide local residents and visitors with increased access to and choice of liquor, and offer the convenience of one-stop shopping to customers who wish to purchase liquor with grocery and other items at the shopping centre.
- 22. The Authority notes, however, that one of the existing liquor stores in Blaxland is less than 100 metres away from the Premises, separated by a streetway. The Authority accepts that this limits the potential benefits a new liquor store at the Premises can bring to the community.
- 23. The Authority also notes that the community has mixed views about the Applicant's proposal, as evidenced by 19 public submissions and a petition with over 600 signatures in support of the Application, and 12 public submissions opposing the granting of the Licence.

#### Negative social impact

24. In considering the negative social impacts that may arise from approving the Application, the Authority has had regard to relevant statistics as outlined below.

25. Relevant BOCSAR data for the year to March 2019 indicates that:
- a) Blaxland recorded a marginally higher rate of alcohol-related domestic assault, lower rates of alcohol-related non-domestic assault and alcohol-related disorderly conduct, and higher rates of malicious damage to property, compared to the NSW state average;
  - b) Blue Mountains LGA recorded lower rates of alcohol-related assault (domestic and non-domestic) and alcohol-related disorderly conduct, and a higher rate of malicious damage to property, compared to the state average;
  - c) there were no hotspots for incidents of alcohol-related assault or non-domestic assault in Blaxland; and
  - d) there were some high-density hotspots for incidents of domestic assault and malicious damage to property in the suburb, though not in the vicinity of the Premises.
26. The HealthStats NSW data available at the time of the Authority's consideration of the Application indicates that Blue Mountains LGA recorded higher than average levels of alcohol attributable deaths and hospitalisations in the periods 2015-16 and 2016-18 respectively.
27. The ABS Socio-Economic Indexes for Areas ('SEIFA') data as at 2016 indicates that Blaxland and Blue Mountains LGA were among the most advantaged suburbs and LGAs in NSW, on the Index of Relative Socio-economic Advantage and Disadvantage.
28. The Authority has also considered the 12 submissions opposing the approval of the Application, including 10 from members of the public and two from local commercial competitors. In addition to contending that the proposed new liquor business will not benefit the community, the submissions raised concerns around the prevailing alcohol-related crime, underage drinking problems and pockets of disadvantage in the area.
29. In response, the Applicant argued that no supporting data was provided to substantiate the claims in respect of underage drinking problems in the area, that NSW Police did not object to the granting of the Licence, and that the local community is very affluent on the whole.
30. The Authority accepts, on the information before it, that there is a risk that granting the Licence may, over time, contribute to an increase in alcohol-related crime, health issues and other adverse community impacts on the local and broader communities.
31. The Authority nevertheless considers that the risk of any detrimental social impacts associated with granting the Licence is sufficiently mitigated by the:
- a) absence of any objections from NSW Police, NSW Health or any other institutional stakeholders;
  - b) experience, compliance history and community connections of the operator of the Premises; and
  - c) the harm minimisation measures set out in the plan of management for the Premises, and the conditions to be imposed on the Licence.

#### Overall social impact

32. 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.
33. As all legislative criteria have been met, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford  
Chairperson

**Important Information:**

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

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

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

## Schedule 1 – Licence conditions to be imposed

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 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 & NYE (std)  
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 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 December 2018 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & 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. Closed-circuit television system
  - 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 to 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.
7. The licensed premises must cease to trade by 8:00 pm on public holidays.

## Schedule 2 – Material considered by the Authority

### Application material

1. Completed application dated 23 April 2019.
2. Completed Category B Community Impact Statement dated 27 March 2019.
3. Completed certifications of Advertising dated 10 July 2019.
4. Plan of Management documents for the Premises, dated December 2018.
5. ASIC business records in relation to the Applicant.
6. Floor plan for the Premises indicating the proposed licensed area.

### Development consent

7. Complying development certificate, issued by Modern Building Certifiers on 15 May 2019, in respect of the Premises.

### L&GNSW records

8. L&GNSW liquor licensing records as at 29 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 Blaxland, Blue Mountains LGA and NSW. The density of packaged liquor licences is 34.73 in NSW, 32.51 in Blue Mountains LGA, and 40.26 in Blaxland.
9. L&GNSW liquor licensing records as at 29 July 2019 listing all packaged liquor licences and full hotel licences in Blaxland.

### Crime data

10. NSW Recorded Crime Statistics for the year to March 2019, comparing certain offences by day of week and time of day in Blaxland, Blue Mountains LGA and the NSW state average.
11. 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.
12. NSW crime statistics published by BOCSAR indicating that, for the year to March 2019, the rates of:
  - a) alcohol-related domestic assault in Blue Mountains LGA and Blaxland were 91.2 and 117.3 respectively, compared to the NSW average of 115.5,
  - b) alcohol-related non-domestic assault in Blue Mountains LGA and Blaxland were 76 and 26.1 respectively, compared to the NSW average of 118.8,
  - c) malicious damage to property in Blue Mountains LGA and Blaxland were 902.9 and 912.3 respectively, compared to the NSW average of 737.8, and
  - d) alcohol-related offensive conduct in Blue Mountains LGA and Blaxland were 12.7 and 26.1 respectively, compared to the NSW average of 36.6.

### Health data

13. HealthStats NSW data showing that Blue Mountains LGA recorded a spatially adjusted rate of:
  - a. 19.1 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 18.1, in the period 2015-16; and
  - b. 753.2 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

### Socio-economic data

14. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1<sup>st</sup> decile the most disadvantaged, both Blaxland and Blue Mountains LGA ranked in the 9<sup>th</sup> decile.

**Stakeholder submissions**

15. Submission from Aboriginal Affairs on 30 April 2019 in relation to the Application
16. Submission from RMS on 9 May 2019 in relation to the Application.
17. Submission from NSW Police on 22 May 2019 in relation to the Application.
18. Submission from L&GNSW Compliance on 13 June 2019 in relation to the Application.
19. Submission from Blue Mountains Council on 13 June 2019 in relation to the Application.
20. Two submissions from Back Schwartz Vaughan Solicitors, on behalf of Stephen Chambers, Karellas Holding Pty Ltd and BLax Hotel Pty Ltd, on 11 June 2018 in relation to the Application.
21. Submissions from 29 members of the public between 29 April and 3 July 2018 in relation to the Application.
22. A petition with over 600 signatures in support of the application.
23. Submission from the Applicant on 19 July 2019 in relation to the assessment of the Application and the submissions received.

**Other relevant information**

24. Google map images extracted from the Google website on 31 July 2019, showing the location and photos of the Premises in map view, earth view and street view.

## Schedule 3 – 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.