



Mr Grant Cusack  
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30 September 2019

Dear Mr Cusack,

<b>Application No.</b>	APP-0005777982
<b>Applicant</b>	ALDI FOODS PTY LIMITED
<b>Application for</b>	Packaged Liquor Licence
<b>Licence name</b>	ALDI Hoxton Park
<b>Trading hours</b>	Monday to Wednesday 8:30 am to 8:00 pm Thursday 8:30 am to 9:00 pm Friday and Saturday 8:30 am to 8:00 pm Sunday 10:00 am to 8:00 pm
<b>Premises</b>	501 Cowpasture Road Len Waters Estate NSW 2171
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application for a new Packaged Liquor Licence – ALDI Hoxton Park**

The Independent Liquor and Gaming Authority (“Authority”) considered the above application at its meeting on 14 August 2019 and on that date decided, pursuant to section 45 of the *Liquor Act 2007* (NSW), to **grant** the application subject to imposition of the following licence 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 2:30 AM and 8:30 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. **Retail sales**

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal Trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence.
4. The licensee or its representative must join and be an active participant in the local liquor accord.

5. The premises is to be operated at all times in accordance with the ALDI Management Policies and Strategies and House Policy documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Authority.
6. **Closed-Circuit Television**
  - (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 licensed 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 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 14 August 2019 or any premises plan subsequently approved by the Authority.
8. The licensee will not sell refrigerated liquor products from the licensed premises.

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

### **Approved manager or individual licensee**

The Authority requires that the licence not be exercised unless and until the Authority and Liquor and Gaming New South Wales have 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**

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 8:30 AM.

### **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.

Please direct any questions about this letter to the case manager via email to [michelle.stark@liquorandgaming.nsw.gov.au](mailto:michelle.stark@liquorandgaming.nsw.gov.au)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', written in a cursive style.

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

## Statement of reasons

### Decision

1. On 14 May 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from ALDI FOODS PTY LIMITED (“the Applicant”), through Liquor and Gaming New South Wales (“LGNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises located at 501 Cowpasture Road, Len Waters Estate New South Wales (“NSW”) 2171 (“Premises”) to be known as *ALDI Hoxton Park*.
2. The Authority considered the Application at its meeting on 14 August 2019 and pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) has decided to **grant** the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

### Material Considered by the Authority

4. The Authority has considered the Application, accompanying Community Impact Statement (“CIS”), and all submissions received in relation to 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 LGNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in Schedule 1.

### Legislative framework

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

## Key findings

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

### Validity, procedural and trading hour requirements

11. The Authority finds that the Application and accompanying CIS have been validly made in that they meet the minimum procedural and information requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation. This finding is made on the basis of the Application, CIS material and the Certificate of Advertising signed by Brendan Smith on 4 July 2019 and Grant Cusack of Hatzis Cusack Lawyers on 8 July 2019.
12. The Authority notes that Liverpool City Council ("Council") has raised a concern, in its submission dated 7 August 2019, regarding the Applicant's failure to consult with Middleton Grange Public School, Hoxton Park High School and Hinchinbrook Public School, all situated within an 800 metre radius from the proposed store. However, the Authority accepts the Applicant's contentions, in its submission of 12 August 2019, that none of these schools are located within the State suburb of Len Waters Estate, with each over 400 metres away via a straight line distance to the nearest boundary of the lot of land housing each school. The Authority accepts that the Applicant notified the 2 closest schools being Middleton Grange Public School and the Hoxton Park High School with no concerns or issues raised.
13. The Authority is further satisfied that the trading hours sought by the Applicant in the Application form and subsequently granted by the Authority meet the requirements specified by sections 11A, 12 and 29 of the Act in respect of a daily 6 - hour liquor sales cessation and the prescribe standard trading hours period for packaged liquor licensed premises.
14. The Authority is also satisfied, on the basis of the updated plan/diagram of the Premises provided by the Applicant on 9 July 2019 and the CIS material, that for the purpose of section 30 of the Liquor Act, liquor will be sold in the liquor sales area that is adequately separated from the rest of the supermarket and the principal activity in the liquor sales area will be the sale or supply of liquor for consumption away from the licensed Premises.

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

15. The Authority is satisfied that:
  - For the purposes of section 45(3)(a) of the Act, the corporate Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding its probity following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the Compliance section of LGNSW.
  - For the purposes of section 45(3)(b) of the Act, practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's business policy documents *Management Policies and Strategies ALDI Liquor - NSW* and *ALDI Liquor – NSW – House Policy For The Responsible*

*Service of Liquor* provided by the Applicant when lodging the Application on 14 May 2019.

- For the purposes of section 45(3)(c) of the Act, the requisite development consent permitting the conduct of a packaged liquor licensed business on the Premises is in force. This finding is made on the basis of development consent DA-1229/2015/B issued by Council on 20 March 2019. This modified DA-1229/2015, which approved construction of a mixed-use development incorporating *inter alia* a supermarket. Condition 124 of the DA has been amended so that no further approval is required for the fit-out and use of the commercial/retail premises as a supermarket, while Condition 157 restricts the hours of the operation of the supermarket to between 8:30 am and 8:00 pm Monday, Tuesday, Wednesday, Friday, Saturday and Sunday and between 8:30 am and 9:00 pm Thursday.

#### Community impact statement

16. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Len Waters Estate, and the relevant “broader community” comprises the local government area of the Liverpool City Council (“Liverpool LGA”).

#### Positive social impacts

17. The Authority is satisfied, on the information provided in the CIS material, that this packaged liquor store will be situated wholly within an ALDI supermarket that will be located in a new residential and commercial development comprising commercial premises and 63 residential apartments.
18. The Authority is further satisfied that granting this licence will provide some benefit by way of additional convenience and choice to members of the local and broader community who will wish to purchase ALDI packaged liquor products whilst grocery shopping at this ALDI supermarket when construction of the development is completed.
19. Accepting LGNSW licence density data and information in the CIS material that Len Waters Estate currently only has 1 licensed premises (being an on-premises licence) and no other supermarkets, the Authority finds that granting this licence will obviate the need for members of the local community (in particular, future residents of the proposed 63 apartments) from having to make special trips requiring them to travel outside of the local community to purchase their packaged liquor needs.
20. With no opposition from members of the community or other relevant stakeholders, the Authority finds that granting the licence will advance, to a modest extent, the statutory object of regulating liquor in a manner consistent with the “expectations, needs and aspirations” of the local and broader community, for the purposes of section 3(1)(a) of the Act and will contribute to the balanced development of the liquor industry in the local community, advancing the statutory object of section 3(1)(b) of the Act.
21. By reason of the minimal supporting information or analysis provided in the CIS, the Authority has given little weight on the Applicant’s contended benefits of: competitive prices, reduced escape expenditure, increased support of the local shopping centre, reduction in traffic, increased employment, economic spin off and contribution to initiatives to moderate the drinking culture.

### Negative social impacts

22. The licence type at issue is a packaged liquor licence. Aside from product tastings, it authorises the sale of liquor for consumption away from the premises only.
23. The liquor sales area will occupy a relatively small area of the Supermarket at 38 square metres. While trading hours will be reasonably extensive across the course of the week, the licence will not be exercised later into the evening on higher risk times, ceasing at 8:00 pm except for Thursdays when trading ceases at 9:00pm.
24. Licence density will increase in the local and broader community with the grant of this new licence. However, noting that the suburb at the 2016 Census recorded a population of zero, the Authority has placed greater weight on the fact that the local community has only one licensed premises, being an on-premises licence with restaurant category for Guzman Y Gomez Hoxton Park. The Authority notes that the broader community has 46 packaged liquor licences, 10 club licences and 12 full hotel licences.
25. The Authority is satisfied that the local community is not experiencing concentrations of crime, with the BOCSAR hotspot maps for April 2018 to March 2019 indicating that there are no hotspots within the suburb for incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property. This is not surprising given the “greenfields” nature of the suburb.
26. The Authority is also satisfied that alcohol related crime is not at concerning levels in the broader community on the basis of the BOCSAR crime data for the year to March 2019. Noting that BOCSAR did not calculate the rate per 100,000 persons for the suburb, the Authority notes that the data records the following lower rates for the LGA compared to NSW:
  - A rate of **75.8** for incidents of *alcohol related domestic assault* per 100,000 persons compared to the NSW rate of **115.5**.
  - A rate of **49.2** for incidents of *alcohol related non-domestic assault* per 100,000 persons compared to the NSW rate of **118.8**.
  - A rate of **610.3** for incidents of *malicious damage to property* per 100,000 persons compared to the NSW rate of **737.8**.
  - A rate of **7.8** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons compared to the NSW rate of **36.6**.
27. Noting that at the 2016 Census the population for the suburb was recorded as zero, there is no relevant socio-economic index for areas data before the Authority in regards to the suburb. However, the Liverpool LGA is relatively advantaged, ranking in the 7<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage.
28. Alcohol attributable deaths and hospitalisations are also not at troubling level. *Healthstats* data for Liverpool LGA recorded a spatially adjusted rate per 100,000 population of 17.7 compared to the NSW rate of 18.1 (2015 to 2016) for alcohol attributable deaths and a rate of 386.7 per 100,000 persons compared to the NSW rate of 555.6 (2016 to 2018) for alcohol attributable hospitalisations.
29. The Authority has taken into account Council’s submissions on what it contends are the “overly positive” public benefits contended in the CIS. Council submits that a brief analysis of licence density alone is not sufficient to deduct that there would be no

negative impacts on a community; notes that the store will be located in a “Band 3” area in respect of the local impact assessment scheme (under the *Gaming Machines Act 2001* (NSW)); that the site is expected to experience a rapid increase in population and housing density; that there is a need for crime prevention through environmental design due to the location of the site between Hinchinbrook Creek and Cowpasture Road; the need for a local employment plan and for conditions to be reviewed in 5 years.

30. Notwithstanding these concerns, Council note the small physical scale of the store, the shorter than usual trading hours and advise that they have no “major objections” in response to the Application.
31. The Authority accepts the Applicant’s response in the 12 August 2019 submission that the Premises is actually located within a Band 1 SA2 area. The Authority notes that the Local Impact Assessment scheme is focussed upon relative gaming machine related social impacts rather than liquor impacts.
32. Notwithstanding that the Premises is located within an area that is expected to experience growth in the near future and this may affect the benign local socio demographic data, the Authority is satisfied on the material before it that the overall social impact of granting the licence will not be detrimental to the local or broader community.
33. The Authority is not persuaded, on the evidence before it, that as proposed by Council, the conditions on the licence need to be reviewed in 5 years. Pursuant to section 53(2) of the Act, the Authority notes that should circumstances change in the future, it is within the Authority’s power to vary or revoke conditions of a licence at any time on application by the licensee, the Secretary of the Department of Industry, the Commissioner of Police or on the Authority’s own initiative.
34. The Authority has considered the form of conditions recommended by Police, but is satisfied, in the interest of regulatory consistency, that the standard form drafting of conditions regarding the 6-hour liquor cessation period, involvement in the local liquor accord, compliance with business policy documents, scope of the business to exceed the proposal specified in the CIS, CCTV requirements and definition of the liquor sales area provide a sufficient suite of harm reduction measures, on the information before the Authority at this time.
35. In relation to the Police submission (and recommendation of a condition) that people should not be forced to enter a liquor sales area in order to purchase groceries (whether due to religious or other reasons), while this is a generally credible social impact concern, there is not sufficient evidence or public submissions before it to warrant a condition mandating that such action be taken. The Applicant’s response to this concern in the 22 July 2019 submission and the layout of the store depicted in the plan/diagram of the Premises indicate that although customers using checkouts 4 and 5 will see the liquor on display, customers who are not purchasing liquor will not be required to physically enter the area where liquor is on display.
36. The Authority has also taken into consideration the harm minimisation measures set out in the Applicant’s policy documents which specifically address a range of harm minimisation measures including staffing levels, staff training, co-operation with interested parties (such as Police and RMS) and the prevention of the sale of liquor to minors and intoxicated persons.



### Overall social impact

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



Philip Crawford  
Chairperson

#### **Important Information:**

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

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

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

## Schedule 1

### Material before the Authority

1. Application form for a new packaged liquor licence ("Application") and a Category B Community Impact Statement ("CIS") lodged on 14 May 2019 by ALDI Foods Pty Limited ("Applicant") accompanied by the following documents:
  - (a) Liquor and Gaming New South Wales ("LGNSW") *Declaration: liquor licence application by proposed licensee* form signed and dated 9 May 2019.
  - (b) Public consultation site notice and local consent authority notice.
  - (c) Australian Securities and Investments Commission ("ASIC") Current Organisation Extract for ALDI Foods Pty Limited extracted on 17 January 2019.
  - (d) ASIC Current Organisation Extract for ALDI Pty Ltd extracted on 17 January 2019.
  - (e) ASIC Current Organisation Extract for Amarino Pty Limited extracted on 6 May 2019.
  - (f) List of stakeholders and special interest groups notified of the Application.
  - (g) Map depicting the neighbouring premises in which notice of the Application was distributed.
  - (h) An undated seventeen-page document titled *Additional Information – Application and Community Impact Statement*, prepared by Hatzis Cusack Lawyers ("Hatzis Cusack") on behalf of the Applicant.
  - (i) Development consent DA-1229/2015/B issued by Liverpool City Council ("Council") on 20 March 2019.
  - (j) An undated policy document titled *Management Policies and Strategies – ALDI Liquor – NSW*.
  - (k) Plan/diagram of the licensed premises (held on the LGNSW file).
  - (l) An undated five-page document titled *Additional Information – 6-Hour Closure Period*, prepared by Hatzis Cusack on behalf of the Applicant.
  - (m) A list of conditions consented to by the Applicant being endorsed on the licence.
  - (n) Email submission from Aboriginal Affairs dated 21 March 2019 advising no objection provided the New South Wales Aboriginal Land Council and the Local Aboriginal Land Council have been notified.
  - (o) Submission letter from NSW Transport Roads and Maritime Services ("RMS") dated 19 March 2019 in which RMS make recommendations.
2. Email submission from Aboriginal Affairs dated 20 May 2019 advising no objection provided the New South Wales Aboriginal Land Council and the Local Aboriginal Land Council have been notified.
3. Submission letter from RMS dated 28 May 2019 in which RMS make recommendations.
4. Email submission from the Compliance branch of LGNSW dated 5 June 2019 advising that LGNSW hold no adverse information.
5. Licence density data calculated by licensing staff using the 2016 Australian Bureau of Statistics ("ABS") population data and licensed premises information as at 8 July 2019.
6. LGNSW list of licensed premises in Len Waters Estate, sourced by licensing staff as at 8 July 2019.
7. One-page letter from Hatzis Cusack on behalf of the Applicant dated 9 July 2019 (sent via email of the same date) attaching a 24-page submission dated 8 July 2019 titled *Submission in Response to Assessment of Application*. This submission is accompanied by:
  - (a) Certificates of Advertising signed by Brendan Smith dated 4 July 2019 and Grant Cusack of Hatzis Cusack Lawyers dated 8 July 2019.

- (b) Amended plan/diagram highlighting *inter alia* the licensed premises in yellow and the liquor sales area in purple.
  - (c) List of ALDI's award winning liquor.
  - (d) Submissions from RMS and Aboriginal Affairs (noted above).
8. Bureau of Crime Statistics and Research ("BOCSAR") data sourced by licensing staff on 12 July 2019 including:
    - (a) Crime data for April 2017 to March 2019 comparing the count and rate per 100,000 persons for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) for NSW, the suburb and the Local Government Area ("LGA").
    - (b) Hotspot maps for the suburb from April 2018 to March 2019 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
    - (c) Number of selected offences flagged by Police as alcohol related by time of day and week for NSW, the suburb and LGA from April 2018 to March 2019.
    - (d) Number and proportion of selected offences flagged by Police as alcohol related for the LGA and NSW from 2018.
  9. Google geographical maps and street view image of the Premises and surrounds, sourced by licensing staff on 12 July 2019.
  10. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for the suburb and LGA, sourced by licensing staff on 16 July 2019.
  11. *Liverpool Economic Profile 2018-2019* prepared by Urbis on behalf of Council, accessed on 16 July 2019.
  12. Email submission from Senior Sergeant Peter Boyce of New South Wales Police dated 17 July 2019 advising that Police support the opening of the new store.
  13. NSW Healthstats data on alcohol attributable deaths in NSW (between 1997 and 2016); alcohol attributable deaths, Liverpool LGA, NSW (between 2001 and 2016); alcohol attributable hospitalisations in NSW (between 2001 and 2018); and alcohol attributable hospitalisations, Liverpool LGA (between 2001 and 2018), sourced by licensing staff on 19 July 2019.
  14. Two-page letter from Hatzis Cusack on behalf of the Applicant dated 22 July 2019 (sent via email of the same date) responding to the Police submission.
  15. One-page email submission from Council dated 7 August 2019 raising concerns about the CIS consultation and submissions in the CIS.
  16. Three-page letter from Hatzis Cusack on behalf of the Applicant dated 12 August 2019 responding to the submission from Council and accompanied by Development consent DA-1229/2015/B (which was also provided with the CIS – noted above).

## Schedule 2

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

#### 3 Objects of Act

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

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

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

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

## **12 Standard trading period for certain licensed premises**

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

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

## **29 Authorisation conferred by packaged liquor licence**

### **(1) Retail sales**

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

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

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

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

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

A packaged liquor licence also authorises the licensee:

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

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

(4) **Tastings**

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

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

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

**31 Restrictions on granting packaged liquor licences**

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

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

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

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

**40 Licence applications**

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

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

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

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

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

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

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

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

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

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

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

#### **48 Community impact**

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



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