



Ms Angela Frost  
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3 February 2020

Dear Ms Frost,

<b>Application No.</b>	APP-0005883634
<b>Applicant</b>	Oxford Cellars Pty Ltd
<b>Application for</b>	Packaged Liquor Licence Extended trading authorisation
<b>Licence name</b>	The Oxford Cellars
<b>Proposed trading hours</b>	Monday to Saturday 9:00 am to 11:00 pm Sunday 9:00 am to 10:00 pm
<b>Premises</b>	Shop 1, 292-302 Oxford Street Bondi Junction NSW 2022
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application for a new Packaged Liquor Licence and Extended Trading Authorisation-  
The Oxford Cellars, Bondi Junction**

The Independent Liquor and Gaming Authority ("Authority") considered the above applications at its meeting on 16 October 2019. It decided on that date to refuse the licence pursuant to section 45(1) of the *Liquor Act 2007* (NSW) ("Act"). Accordingly, the extended trading authorisation is also refused pursuant to section 49(2) of the Act.

The enclosed statement of reasons has been prepared for the purposes of section 36C of the *Gaming and Liquor Administration Act 2007* (NSW).

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

Yours faithfully

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

## Statement of Reasons

### Decision

1. On 11 July 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Oxford Cellars Pty Ltd (“the Applicant”), through Liquor and Gaming New South Wales (“LGNSW”), an application for a new packaged liquor licence with an extended trading authorisation (“ETA”) in respect of premises located at Shop 1, 292-302 Oxford Street, Bondi Junction New South Wales (“NSW”) 2022 (“Premises”) to be known as *The Oxford Cellars* (“Application”).
2. The Authority considered the Application at its meeting on 16 October 2019 when pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) it decided to refuse the licence. Accordingly, the ETA is also refused pursuant to section 49(2) of the Act.
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, 48, 49 and 51 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.
  - (j) Section 49: General provisions for an ETA.
  - (k) Section 51: General provisions relating to licence-related authorisations.

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, 48(4) and 51(2) 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 what appears to be the sole director/secretary of the corporate Applicant, Ms Fiona Harris, dated 5 August 2019] and the record of service dated 12 July 2019.
12. The Authority is also satisfied that the proposed trading hours are potentially available in respect of an application for a packaged liquor licence, noting that the additional hours of trading between 9:00 am and 10:00 am on Sunday are available if an ETA is granted. In this respect the Application falls within the scope of licensed trading hours provided by sections 12, 29 and 49 of the Act. The Authority notes that the Applicant proposes, for the purposes of section 11A of the Act, a daily liquor sales cessation period of between 3:00 am and 9:00 am.

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

13. 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, by reason that no issues of concern were raised regarding 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) and 49(8)(a) 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 *Plan of Management* and *House Policy* that accompanied the Application.
  - 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 with extended Sunday trading hours is in force. This finding is made on the basis of development approval DA-315/2018 (“DA”) granted by Waverley Council (“Council”) on 8 April 2019 for “Change of use to Retail Packaged Liquor”. Condition 2 of the DA restricts the hours of operation to between 9:00 am and 11:00 pm Monday to Saturday and between 9:00 am and 10:00 pm Sunday.

#### Further restrictions on granting an ETA

14. For the purpose of section 49(8)(b) of the Act, the Authority accepts, on the basis of the *Plan of Management* and *House Policy* provided when the Application was lodged that if granted, there would be measures in place during the extended trading period on

Sunday mornings to ensure that the ETA would not result in the *frequent* undue disturbance to the quiet and good order of the neighbourhood.

#### Community impact statement

15. 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 Bondi Junction, and the relevant “broader community” comprises the local government area (“LGA”) of Waverley Council (“Waverley LGA”).

#### Positive social impacts

16. The Authority accepts the information provided in the CIS material establishing that this is an application for a packaged liquor licence for a stand-alone liquor store to be located on the ground floor of a mixed use 12 storey development in Bondi Junction, planned for completion in September 2020.
17. The Applicant contends that the current liquor retail outlets in Bondi Junction are not meeting the expectations of the local community by reason of the “recent gentrification” of the area having increased the demand for fine wines from an “affluent clientele”. The Applicant contends that this store will focus on fine wines and products, tastings and wine education.
18. The Authority broadly accepts the contention that the proposed liquor store will focus on fine wines, but without a detailed product list indicating exclusive product lines that Oxford Cellars intends to stock, let alone how the goods or services provided by this business will meet local demand in a way that the incumbent businesses do not, little weight has been given to this contended community benefit. The Authority notes the number and location of packaged liquor licensed premises and hotels with the authorisation to sell packaged liquor within the suburb of Bondi Junction, set out below.
19. The Applicant contends that this store will be the only liquor store in the “West Oxford Street area” and will be the only liquor store in Bondi Junction that is located outside of a shopping centre. The Authority accepts that all of the packaged liquor licensed premises operating as bricks and mortar liquor stores in Bondi Junction are located within shopping centres.
20. The Applicant contends that the new liquor store will provide an additional measure of convenience and choice to those seeking to purchase liquor in this “vicinity”, with the nearest liquor store approximately 500 metres from the site. The Applicant submits that this geographical consideration is important by reason of a “significant number of residents” not having vehicles.
21. The Applicant further contends that the new liquor store will service the increased population from recently constructed buildings and developments under construction and contribute towards the “reactivation” of the “West Oxford Street Precinct”, consistent with the expectations, needs and aspirations of the local and broader community.
22. Having regard to the information on residential development in Bondi Junction since the 2016 census that is set out in the CIS, the Authority accepts that the West Oxford Street area has been the location for some new residential developments, increasing the number of residents that reside in this location. The Authority further accepts, on the basis of the evidence in the CIS, that since the 2016 Census, the Waverley Council

Annual Report 2017/18 indicates the LGA has experienced a population increase of 5,294, while the 2011 and 2016 ABS Census indicate that the population of the suburb increased by 8,660. In the absence of evidence or analysis indicating whether this population growth is relatively high or low compared to State wide averages, or projections in the near future, it is difficult to give this aspect of the Applicant's case substantial weight. The Authority accepts that there has been some population growth in the suburb.

23. The Authority notes that some limited support was provided for the proposal from residents of the local community, with no opposition. However, of the six supporting submissions from the local community (from A Crinis, R Rogan & C Blakeney, M O'Callaghan and M Buckland – some authors providing two submissions), only one person lives within the 100 metres vicinity of the Premises, with others situated some 400-500 metres away.
24. The Authority accepts that granting this licence will provide some modest benefit by way of additional convenience and choice to members of the local and broader community in this part of Bondi Junction. However, the Applicant has not provided a particularly strong case of support from persons located in the "vicinity" of the Premises who are said to benefit from the proposal. This diminishes the weight that can be given to the case for increased convenience.
25. The benefit of increased convenience is primarily constrained by the location and range of licensed businesses authorised to sell takeaway liquor in the local community. A LGNSW list of licensed premises as at 17 September 2019 indicates that there are **10** packaged liquor and **5** full hotel licences operating in Bondi Junction.
26. The Authority accepts the Applicant's contentions in the CIS that of the 10 packaged liquor licensees:
  - Four are limited to internet/phone sales – being The Spiritual Guide, GCB Wines Pty Ltd, Bottle and Glass, and Vinium Pty Ltd.
  - Four are located within Westfield Shopping Centre – being BWS – Beer Wine Spirits, Vintage Cellars, Harris Farm Markets and David Jones Pty Limited.
  - Two are located within Eastgate Shopping Centre – being Liquorland and ALDI Bondi Junction.
27. The Authority further accepts the Applicant's contentions that of the five full hotels in the suburb:
  - Two have a separate bottle shop – being the Nelson Hotel and Tea Gardens Hotel.
  - The Eastern is located in the Westfield Shopping Centre and has no bottle shop.
  - Both the Grand Hotel at 89 Ebley Street and the Mill Hill Hotel at 59 Oxford Street were not trading when the Application was lodged, with both of these buildings having been demolished. The Applicant contends that on each of these sites a new residential building is being constructed with the developers having indicated that there will be no bottle shop in the new building. [The Authority notes however that the Grand Hotel has since recommenced trading].
28. Nevertheless, the proximity of liquor stores and hotels in the local community diminish the scope for increased convenience benefits to flow at the level of the local community. The Authority also notes, on the basis of LGNSW information as at 17 September 2019, that the broader community of the LGA has 27 packaged liquor licences and 13 full hotel licensed premises.

29. The information in the CIS establishes that the nearest liquor store is Liquorland Bondi Junction, approximately 500 metres from the Premises. However, the nearest hotel is the Nelson Hotel. This has a separate bottle shop and is only 183 metres away from the Premises.
30. In conclusion, the Authority is satisfied that granting the Application will advance the “expectations, needs and aspirations” of the local and broader community with respect to increased choice and convenience, for the purposes of section 3(1)(a) of the Act, to a modest extent only.
31. The Applicant has provided little supporting evidence or analysis to indicate how granting this licence 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. The scope for that benefit at the level of the suburb or the LGA is limited by the number, type and location of liquor licensed premises authorised to sell liquor in the communities. The Authority gives little weight to this factor as a potential community benefit.

#### Negative social impacts

32. 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. It follows that the focus of social impact assessment are issues pertaining to the abuse of packaged liquor.
33. The *scale* of the Premises, at 149 square metres, is around the average size of a stand-alone liquor store across NSW. It is neither a small liquor store nor a larger retailer. It is a medium scale venue and this poses a moderate risk factor.
34. The proposed *licensed trading hours* are very extensive across the course of the week, from 9:00 am to 11:00 pm Monday to Saturday and 9:00 am to 10:00 pm Sunday. If the licence is granted the liquor store will operate close to the maximum closing hours available for a packaged liquor licensed premises, with the ETA enabling the liquor store to open from 9:00 am on Sunday. This is a substantial risk factor when considering the scope for liquor sold from this licensed business to contribute to adverse social impacts over time.
35. The suitability of the *location* of the new licensed business is somewhat problematic from a social impact perspective. Licence density calculations provided by licensing staff based on the 2016 Census and LGNSW list of licensed premises as at 17 September 2019 indicate that:
  - the suburb of Bondi Junction has a rate of 105.88 packaged liquor licences per 100,000 of population and a rate of 40.41 for the Waverley LGA compared to the NSW rate of 34.54.
  - the suburb of Bondi Junction has a rate of 52.94 full hotel licences per 100,000 of population and a rate of 19.46 for the Waverley LGA compared to the NSW rate of 26.92.
36. The Authority notes that the suburb of Bondi Junction is experiencing elevated rates of alcohol related crime. BOCSAR crime data for the year to June 2019 recorded:
  - A rate of **184.4** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **109.1** for the LGA and a rate of **116.9** for NSW.
  - A rate of **310.6** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **173.3** for the LGA and a rate of **119.1** for NSW.

- A rate of **1213.1** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **581.2** for the LGA and a rate of **732.2** for NSW.
  - A rate of **242.6** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **94.1** for the LGA and with a rate of **35.9** for NSW.
37. Not only is the suburb experiencing troubling levels of alcohol related crime, crime is concentrated around the location of this new store. BOCSAR hotspot maps from July 2018 to June 2019 indicate that the Premises is located within extensive high-density hotspots for incidents of domestic assault and malicious damage to property and within medium-density hotspots for incidents of alcohol-related assault and non-domestic assault.
  38. The Authority acknowledges that Bondi Junction (and more broadly Bondi Beach) experiences a large number of visitors to this area. For this reason, the Authority generally accepts, as contended by the Applicant in the CIS, that high levels of incidents in the LGA and Bondi Junction can be partially attributed to the large number of people who visit the area. However, this does not diminish the negative impact these incidents of crime are having on the local and broader community.
  39. The 2016 ABS Socio-Economic Index For Areas (“SEIFA”) data is a positive factor, indicating that the suburb and LGA are very advantaged, ranking in the highest decile (being the 10<sup>th</sup> decile) on the Index of Relative Socio-Economic Advantage and Disadvantage. Disadvantage is not a compounding factor in these communities.
  40. NSW *Healthstats* data is problematic in that the Waverley LGA has a substantially elevated spatially adjusted rate per 100,000 population for *alcohol attributable hospitalisations* (1045.7) compared to NSW (555.6) for 2016 to 2018. By contrast, *alcohol attributable deaths* in the LGA are below the NSW rate recording a spatially adjusted rate per 100,000 population of 13.6 compared to the NSW rate of 18.1 for 2015 to 2016.
  41. The Authority has noted that Council, in a submission dated 9 August 2019 outlined the “difficulty” for Council to find grounds to object to the development during the DA process. Although Council do not object in this submission, Council has advised that it is “aware of community concerns in respect to packaged liquor outlets” and has “decreed” the central business district to the east of the Premises an alcohol free zone to minimise harms associated with the misuse and abuse of liquor. Council note the number of existing licensed premises in the community and contends that it is “mindful” that the “cumulative effect” of outlets for packaged liquor sales can result in social harms including anti-social behaviour associated with street drinking and instances of domestic violence.
  42. The Authority accepts the Applicant’s response to Council in its 19 September 2019 submission that Council received no submissions from residents during Council’s notification period and the Applicant received no submissions from residents during its notification period although submissions in support of the application were made directly to LGNSW.
  43. In reaching this decision, the Authority has given some weight to the contentions made by Police, given their knowledge of alcohol related crime and anti social conduct in the communities.

44. Police contend that the general area of Bondi Junction is a “hotspot” for “police deployment and interventions” and claim that the majority of these interventions concern “alcohol related harm”. The Authority accepts this broad assessment of the suburb, noting that there is some support for this in the crime data.
45. Police further contend that the Premises is situated 300 metres away from Clementson Park, and this is a “known congregation point for minors and persons loitering”. Police further contend that Bondi Junction is the “main migratory pathway and thoroughfare” to the Bondi Beach area, which attracted some 2.9 million international and domestic visitors to the area in the year ending March 2018. The Authority accepts and gives some weight to its findings that the Premises is in walking distance of this area, which is known to Police to be a sensitive location for minors and public loitering.
46. Police note that they have supported recent applications for packaged liquor licensed businesses in Bondi Junction where detailed submissions have been provided and requests for the imposition of conditions have been made. By comparison, Police are not satisfied this Application “suitably addresses” Police and community concerns.
47. Police contend that the Premises is situated in what they describe as the “quiet end of Bondi Junction” which is “considerably attractive to minors, to loiter and potentially benefit from opportunities to procure liquor via secondary supply”. Police are of the view that the Application is “ordinary” in addressing responsible service of alcohol and alcohol related harms containing “no specific measures or details” to address concerns for this precinct. Police consider the absence of security staff and robust supervisory measures is likely to attract minors to the location.
48. The Authority accepts the characterisation of this part of Bondi Junction as a more quiet or residential area within the local community. That may be inferred from the location being further away from the bulk of commercial premises further east. The Authority accepts that Police are concerned that the area is attractive to minors who may seek to abuse packaged liquor through secondary supply, but notes that Police have not quantified this problem, limiting the weight that can be given to it.
49. Police re-iterate that the Police Area Command continues to face challenges in respect to alcohol related crime and the influence packaged liquor outlets have in this area, expressing the “strong view” that the consumption of packaged liquor in public places and private residences does significantly contribute to harms within the community.
50. Police submit that the offence of a *minor in possession of liquor in a public place* is a “regular occurrence” in the Bondi Junction location during summer and school holidays. Police note that Liquorland Bondi Junction was subjected to the Minors Sanction Scheme on two separate occasions for incidents in June 2015 and January 2019, resulting in the closure of the business for two separate 14-day periods.
51. While no supporting data has been provided, the Authority accepts advice that Police “regularly” detect minors in possession of liquor in public places in Bondi Junction, and that this problem is elevated during summer and school holidays. The Authority notes the action taken regarding Liquorland Bondi Junction for the supply of liquor to minors.
52. Police submit that the Alcohol Free Zones and Alcohol Prohibited Areas in the LGA have been “strategically installed” in an effort to assist Police in improving public safety. The consumption of packaged liquor contrary to Alcohol Free Zones and Alcohol Prohibited Areas remains a key focus for the Eastern Suburbs Police Area Command.



According to Police, the LGA, incorporating Bondi Junction, Bondi, Bondi Beach and parklands, continues to attract persons consuming packaged liquor, which “routinely amplifies” in summer months and regularly requires response by Police and Council Rangers.

53. Police contend that the Premises is located within a “reasonable distance” to a significant hotspot location for the consumption of liquor. It remains the view of Police that the operation of this packaged liquor outlet has the likelihood to amplify the unlawful consumption of liquor in this area. The Authority accepts this general advice, albeit in the absence of supporting records from Police, and gives this contention some weight.
54. Police also note that a *Destination NSW - Bondi Visitor Profile* (Year Ended March 2018) indicated that nearly one third of international visitors who stayed overnight in Bondi were *backpackers*. Police contend that it is the operational policing experience that parklands are often heavily populated with 'backpackers' who gather in large numbers to socialise, consume alcohol and party. These gatherings often last well into later evening hours resulting in various policing challenges. Police contend that with each new year the education of tourists around the unlawful consumption of packaged liquor on the beaches and parklands is needed to supplement enforcement activity. This remains an “ongoing challenge” for regulators and many resources are applied from both a policing and council perspective. For the Eastern Suburbs Police Area Command, the policing challenge around the unlawful consumption of packaged liquor in prohibited areas and its subsequent misuse and abuse is “persistent and considerably more prevailing” than for many other Police Area Commands.
55. The Authority accepts these contentions.
56. Police have provided the Alcohol Related Crime Information Exchange (“ARCIE”) data for *Last Place of Alcohol Consumption* in the “Bondi PS” area within the Police Command between August 2018 to July 2019. According to Police, this data “continues to indicate” that the “majority of alcohol consumption remains in public places and private residence” with some 49% of all policing interventions in the Bondi sector (where alcohol was a factor) had the place of last consumption in either public place or private residence compared to 29% in licensed premises. Police contend that it can be inferred that the vast amount of liquor consumed outside of licensed premises has been sold and or supplied through packaged liquor outlets.
57. The Authority accepts that in the relevant sector of this Police Area Command, last place of consumption data provides substantial evidence of the consumption of alcohol in public places and private residences, and these matters involve the abuse of packaged liquor.
58. Police have also provided BOCSAR data recording the number of incidents of selected offences recorded by Police *by premise type* for the Waverley LGA in 2018 which indicates that of the 'Assault - non domestic violence related' category, the LGA recorded a total of 323 incidents (around 60% of these were alcohol related). Of the total however, 51 occurred in licensed premises (around 16%), 128 occurred in outdoor/public place (around 40%) and 64 occurred in residential premises (around 20%). Combining the public and private domains indicates a total of 192 incidents (around 60%). This equates to nearly four times the amount of assaults taking place in

licensed premises. Independent Command intelligence reports confirm the far greater presence of alcohol related assaults in public / private domains than licensed venues for the Command.

59. The Authority notes the Applicant's concern with this data, expressed in the 19 September 2019 submission, that this does not show alcohol-related incidents. Notwithstanding this, the Authority considers this to be further evidence that incidents are occurring in the public and private domain, which have the potential to be exacerbated with increased sales of packaged liquor.
60. Police are concerned that the sale and or supply of packaged liquor at the proposed site will result in the immediate consumption within close proximity. Police contend that it is "certainly observable" that liquor is purchased from local liquor outlets and moved through the local area to private dwellings, beaches and the parklands.
61. Police submit that a significant level of saturation of packaged liquor outlets exists within the Bondi Junction area, and the needs of the community are well serviced by these existing packaged liquor outlets.
62. The Authority has considered the Police concerns in light of the Applicant's response dated 19 September 2019. The Applicant disputes the Police assertion that nothing has changed and contends that there have been and continues to be "substantial changes" in Bondi Junction which are promoted by Council. Bondi Junction has seen the completion of 6 new high rise towers (three of these in the West Oxford Street Precinct) and with another 4 high rise towers under construction (in the West Oxford Street Precinct), this area has changed dramatically. The Applicant contends that the retail offering in this area has "more than tripled" since 2016.
63. The Authority accepts that changes in this local community include these residential developments. However, these developments are occurring in a community that has a reasonable supply of licensed premises, is subject to a high number of visitors and is already experiencing heightened levels of alcohol related crime. Although an increasing population may support the argument for a desire for choice and convenience with regards to liquor stores, it also has the potential to place additional pressure on Police and Council who are dealing with the existing levels of crime, drinking in public places and minors accessing alcohol.
64. The Applicant contends that this new licensed business will add significant value to the precinct in a way that only an independent fine wine retailer can. The Applicant's "similar stores" in Paddington, Taylor Square, and Rushcutters Bay have all contributed to the "stabilisation of the floundering retail environment" with the Applicant aiming to provide a similar positive benefit to the proposed location.
65. The Applicant "stresses" that no member of the community has expressed a concern about this Application and the shop will be "well managed" in a similar, proven manner to the other premises in the Eastern Suburbs under the same control. The Applicant contends that dedicated security will not be provided due to the fact no customers will be consuming alcohol to intoxication, or engaging in the resulting behaviour often associated with consumption on premises.
66. The Applicant submits that the shop will be managed by staff, will operate in accordance with the Plan of Management and will comply with the conditions it has agreed are to be imposed on the licence relating to a 6 hour close period, trading hours,

the licence not to operate with a greater overall level of social impact, compliance with the Plan of Management which can only be varied after consultation with the Police, liquor accord membership, provision of CCTV and provision of an incident register. The Applicant further notes that the Plan of Management contains a condition that no sales of alcohol are to be made to minors.

67. The Applicant contends that they have a “proven track record” of complying with the legislation and is not merely making promises which it has no intention of keeping. The Applicant, as the owner of the business, has a strong incentive to ensure it does not breach the responsible service of alcohol requirements.
68. The Authority accepts, noting that LGNSW raised no concerns in their submission dated 17 September 2019, that the Applicant has a good compliance history, has proposed harm minimisation measures and will not intentionally operate the store in a manner that would breach legislative requirements. However, as packaged liquor is consumed away from the Premises, even a well operated packaged liquor store will have the potential to exacerbate existing policing issues in nearby areas.
69. The Authority accepts the concerns expressed by Police, who have first hand knowledge of the difficulties with this location, that this community is problematic with regard to drinking in public places and the sale of liquor to minors. The Authority considers the alcohol free zones to provide a further objective indicator that the public consumption of alcohol is of concern to Council in Bondi Junction.
70. The Authority considers that refusing the Application will better conform with the objects set out in section 3(2)(a) and (b) of the Act which pertain to minimising the harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
71. On balance the Authority is not satisfied that operating a packaged liquor outlet at this location would not be detrimental to the well-being of the local and broader community.

#### Overall social impact

72. Having considered the positive benefits and negative impacts that are likely to flow from granting the Application, the Authority is **not** satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting this new packaged liquor licence with extended trading hours on Sunday morning would not be detrimental to the well-being of the local community or broader community. In particular, the Authority is not satisfied in respect of the local community of Bondi Junction.
73. The Application is refused pursuant to section 45(1) of the Act. As the licence is not granted, the related application for the ETA is refused pursuant to section 49(2) of the Act.



Murray Smith  
Deputy Chairperson

**Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed application and who made a submission to the Authority or the Secretary in respect of the prescribed application) who is aggrieved by this decision may apply to 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 with an extended trading authorisation (“Application”) and a Category B Community Impact Statement (“CIS”) lodged on 11 July 2019 by Oxford Cellars Pty Ltd (“Applicant”). The following documents accompanied the Application, with a few received prior to the lodging of the Application:
  - (a) Public consultation site notice and local consent authority notice.
  - (b) Australian Securities and Investments Commission (“ASIC”) Current Company Extract for Oxford Cellars Pty Ltd as at 11 July 2019.
  - (c) Liquor and Gaming New South Wales (“LGNSW”) *Declaration: liquor licence application by proposed licensee* form unsigned and dated 11 July 2019.
  - (d) List of hospitals, health facilities, places of worship, facilities for people who are homeless, public parks and alcohol free zones in the local community.
  - (e) Map depicting the alcohol free zones in Bondi Junction.
  - (f) A Google geographical map depicting the location of the premises and the area in which notification of the Application was distributed.
  - (g) Thirteen-page document dated 5 July 2019 titled *The Oxford Cellars Packaged Liquor Application CIS Part 7 – Your View*.
  - (h) A Google geographical map depicting the location of the premises.
  - (i) Development Consent DA-315/2018 determined by Waverly Council (“Council”) on 8 April 2019 for “Change of use to Retail Packaged Liquor” (“DA”).
  - (j) Plan/diagram of the licensed premises with the licensed area marked in red.
  - (k) Drawing depicting what the internal layout of the store will look like.
  - (l) Plan of Management referred to in the DA.
  - (m) House Policy (undated) including the LGNSW *Prevention of intoxication on licensed premises guidelines*, *LGNSW Intoxication guidelines* and *LGNSW Liquor Promotion Guidelines*.
  - (n) Australian Bureau of Statistics (“ABS”) 2016 Census Quickstats data for the Waverley Local Government Area (“LGA”).
  - (o) ABS 2016 Census Quickstats data for the suburb of Bondi Junction.
  - (p) Submission letter from NSW Roads and Maritime Services dated 28 May 2019 making recommendations to prevent and decrease the likelihood of alcohol involvement in road crashes.
  - (q) Submission letter from Mr R Rogan and Ms C Blackeney of Hough Street, Bondi Junction dated 25 May 2019 in support of the Application [received by LGNSW on 9 July 2019].
  - (r) Submission letter from Mr M O’Callaghan of Hough Street, Bondi Junction dated 29 June 2019 in support of the Application [received by LGNSW on 10 July 2019].
  - (s) Submission letter from Mr M Buckland of Denison Street, Bondi Junction dated 24 May 2019 in support of the Application [received by LGNSW on 11 June 2019].
2. Email correspondence between licensing staff and Senior Constable Rob Pazderka, Licensing Division, Eastern Suburbs Police Area Command of NSW Police (“Police”) from 24 July 2019 to 19 August 2019 regarding an extension of time for providing a submission.
3. Email correspondence from licensing staff to Council and LGNSW Compliance dated 24 July 2019 requesting a submission on the Application.
4. Email correspondence from the Applicant’s legal representative dated 5 August 2019 responding to an email from licensing staff dated 24 July 2019 and providing:
  - (a) Certificate of advertising signed by what appears to be the signature of the sole director/secretary of the corporate Applicant, Ms Fiona Harris, on 5 August 2019.
  - (b) An eight-page Record of Service dated 12 July 2019 identifying who was notified of the lodging of the Application on 11 July 2019.
  - (c) ASIC Current Company Extract for Janco Developments Pty Ltd as at 4 July 2019.
  - (d) LGNSW *Declaration: liquor licence application by proposed licensee* form signed by Ms Fiona Harris, the sole director/secretary of the corporate Applicant and dated 11 July 2019.

5. Email correspondence between licensing staff and the Applicant dated 5 August 2019, 12 August 2019 and 21 August 2019 regarding submissions.
6. Email submission from Council dated 9 August 2019 requesting the Authority to only grant the licence if satisfied that harm will not be further amplified by such approval. This submission was accompanied by a copy of the DA.
7. Email from licensing staff to the Applicant's legal representative dated 26 August 2019 advising that an extension to provide a submission was provided to NSW Police and providing a copy of Council's submission for comment.
8. Email from the Applicant's legal representative to Council dated 3 September 2019 requesting Council amend their submission to remove misleading information.
9. Email submission from Police dated 3 September 2019 objecting to the Application. The Police submission is accompanied by a map depicting the alcohol free zones in Bondi Junction, a map depicting alcohol related crime involving police interventions in Bondi Junction for 2018 and Eastern Suburbs Liquor Accord Package Promotion.
10. Email from licensing staff to the Applicant's legal representative dated 3 September 2019, providing the Police submission to the Applicant for comment.
11. Email from the Applicant's legal representative to licensing staff dated 13 September 2019 requesting a copy of the "Secretary's submission".
12. Email correspondence from licensing staff to LGNSW Compliance dated 17 and 18 September 2019 requesting a submission on the Application.
13. Email submission from LGNSW Compliance dated 17 September 2019 advising a review of records did not identify any adverse findings.
14. Licence density data calculated by licensing staff using the 2016 ABS population data and licensed premises information as at 17 September 2019.
15. LGNSW list of licensed premises in Bondi Junction, sourced by licensing staff as at 17 September 2019.
16. Email correspondence between licensing staff and the Applicant's legal representative dated 18 September 2019 providing a copy of the LGNSW Compliance submission to the Applicant for comment.
17. Email from the Applicant's legal representative to licensing staff dated 19 September 2019, providing a three-page submission of the same date responding to the Police submission.
18. Bureau of Crime Statistics and Research ("BOCSAR") data sourced by licensing staff on 27 September 2019 including:
  - (a) Hotspot maps for the suburb from July 2018 to June 2019 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
  - (b) Crime data for July 2017 to June 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 LGA.
  - (c) Number and proportion of selected offences flagged by Police as alcohol related for the LGA and NSW from 2018.
  - (d) Number of selected offences flagged by Police as alcohol related by time of day and day of week for NSW, the suburb and LGA from July 2018 to June 2019.
19. Google geographical maps and street view image of the premises and surrounds, sourced by licensing staff on 27 September 2019.

20. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for the suburb and LGA, sourced by licensing staff on 27 September 2019.
21. NSW Healthstats data on alcohol attributable deaths in Waverley LGA (between 2001 and 2016) and alcohol attributable hospitalisations in Waverley LGA (between 2001 and 2018), sourced by licensing staff on 29 September 2019.
22. Email from the Applicant's legal representative dated 15 October 2019 responding to an email from licensing staff of the same date and clarifying questions about the CIS.
23. Second submission letter from Mr R Rogan and Ms C Blackeney of Hough Street, Bondi Junction dated 16 October 2018 in support of the Application.
24. Second submission letter from Mr M O'Callaghan of Hough Street, Bondi Junction dated 16 October 2018 in support of the Application.
25. Submission letter from Mr A Crinis of Denison Street, Bondi Junction dated 17 October 2018 in support of the Application.
26. Additional information sourced by licensing staff:
  - (a) Statement of reasons for the decision of the Independent Liquor and Gaming Authority ("Authority") dated 6 December 2015 in relation to Chambers Cellars Bondi Junction.
  - (b) Statement of reasons for the decision of the Authority dated 28 February 2018 in relation to Chambers Cellars, Bondi.
  - (c) NSW Civil and Administrative Tribunal decision for *Kallin Pty Ltd v Independent Liquor and Gaming Authority* [2019] NSWCATAD 36.

## 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.

#### **49 Extended trading authorisation—general provisions**

##### **(1) Application of section**

This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**):

- (a) a hotel licence,
- (b) a club licence,
- (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
- (d) a packaged liquor licence,
- (e) a producer/wholesaler licence.

##### **(2) Extended trading authorisation for consumption on premises**

In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),

- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
  - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
  - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
- (2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods:
- (a) a specified period between 5 am and noon on a restricted trading day,
  - (b) a specified period between 10 pm and midnight on a restricted trading day.
- Note.** The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25 (3).
- (3) Despite subsection (2) (a), the Authority may, in the case of a hotel:
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
  - (b) situated in the Kings Cross precinct, or
  - (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or
  - (c) situated in the Kosciuszko National Park,
- authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.
- (4) **Extended trading authorisation for take-away sales on Sundays**  
 In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:
- (a) a specified period between 5 am and 10 am on a Sunday,
  - (b) (Repealed)
- (5) **Nature of extended trading authorisation**  
 An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
  - (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
  - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (5A) Despite subsection (2) (a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified**  
 In granting an extended trading authorisation, the Authority is to specify:
- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
  - (b) the part or parts of the licensed premises to which the authorisation applies.
- (7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues**  
 Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods:

- (a) between 5 am and noon on a restricted trading day,
  - (b) between 10 pm and midnight on a restricted trading day,
  - (c) between midnight and 5 am on any day immediately following a restricted trading day.
- (8) **Restrictions on granting extended trading authorisation**The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
- (a) practices are in place, and will remain in place, at the licensed premises 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
  - (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

## 51 General provisions relating to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act:
- (a) an extended trading authorisation,
  - (b) a drink on-premises authorisation,
  - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
  - (d) a minors area authorisation,
  - (e) a minors functions authorisation.
- (2) An application for an authorisation to which this section applies must:
- (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), 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) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.

- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
  - (a) is subject to such conditions:
    - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
    - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
  - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has:
  - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.