



Mr Yuli Wu
Director
East Liquor Pty Ltd
tommywu07@outlook.com

20 May 2020

Dear Mr Wu,

Application No.	APP-0006504040
Applicant	East Liquor Pty Ltd
Application for	Packaged liquor licence
Licence name	East Liquor Pty Ltd
Premises	Shop 2, 284 Victoria Avenue Chatswood NSW 2067
Trading hours	10:00 am to 8:00 pm Monday to Wednesday 10:00 am to 9:00 pm Thursday 10:00 am to 8:00 pm Friday to Sunday
Legislation	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 packaged liquor licence – East Liquor Pty Ltd**

The Independent Liquor and Gaming Authority (“Authority”) considered the above application at its meeting of 15 April 2020 when it decided to **grant** the application under section 45(1) of the *Liquor Act 2007* (NSW), subject to imposing the licence conditions set out in Schedule 1.

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 10:00 AM.

Licence cannot be exercised until premises is ready to trade

Please note that the licence cannot be exercised unless and until the Authority or Liquor and Gaming New South Wales has been provided with evidence that the premises is complete and ready to trade.

The enclosed statement of reasons has been prepared for the purposes of section 36C of the *Gaming and Liquor Administration Act 2007* (NSW). If you have any questions, please contact the case manager via email to glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

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

Statement of reasons

Decision

1. On 5 November 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from East Liquor Pty Ltd (“the Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises located at Shop 2, 284 Victoria Avenue, Chatswood New South Wales (“NSW”) 2067 (“Premises”) that will trade as *East Liquor Pty Ltd*.
2. The Authority considered the Application at its meeting on 15 April 2020 and decided, pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) to **grant** the Application.
3. In reaching this decision, the Authority had regard to the material before it (specified in Schedule 2), 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 this Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in Schedule 2.

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 are set out in Schedule 3.

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 Certificates of Advertising signed by Yuli Wu on 30 January 2020.
12. The Authority notes that the licenced trading hours granted by the Authority, to which the Applicant has consented in its email dated 2 February 2020, fall within the scope of hours potentially available under sections 11A, 12 and 14 of the Act, which prescribe the standard trading hours for a packaged liquor licensed premises and the daily 6-hour liquor cessation period.

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

13. The Authority is satisfied that:
 - (a) For the purpose 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 the probity of the corporate Applicant following consultation with relevant law enforcement agencies including NSW Police (“Police”) and the compliance section of L&GNSW (“L&GNSW Compliance”).
 - (b) For the purpose of sections 45(3)(b) of the Act, practices will be in place from the commencement of licensed trading at 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* dated January 2020.
 - (c) For the purpose of section 45(3)(c) of the Act, the requisite development consent permitting use of the Premises as a packaged liquor licensed business is in force. This finding is made on the basis of a determination by Willoughby City Council (“Council”) dated 12 December 2019 for development application (“DA”) DA-2019/312 (D) permitting “Change of use to a liquor shop”. The licensed trading hours imposed on the licence, fall within the hours of operation specified at condition 4 of the DA.

Community impact statement

14. 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 Chatswood, and the relevant “broader community” comprises the local government area (“LGA”) of Willoughby City Council (“Willoughby LGA”).

Positive social impacts

15. On the basis of the Applicant’s email dated 2 March 2020, the Authority is satisfied that this proposed new packaged liquor licensed business is not a traditional liquor store but instead will stock “an exclusive brand of Chinese rice wine”. The licensed premises will be set up as a “display room” incorporating items from its wholesale licence LIQW880015096. Accepting the Applicant’s information that 90% of the clients of the wholesale liquor licence are restaurant owners, the Authority is satisfied that the packaged liquor licensed business will service *retail* customers seeking these specialty products, as well as licensed restaurants in Chatswood.

16. In an email dated 2 February 2020 the Applicant has consented to the imposition of a licence condition that will limit the sale of liquor products from the Premises to products produced in China, South Korea and Japan, while “complementary” liquor products will not exceed 10% of the total product lines or total products stocked on the Premises.
17. On an objective assessment and having regard to the demographic profile of the local community, the Authority is satisfied that licensing this specialist business will advance the expectations, needs and aspirations of the local and broader communities (per the statutory object in section 3(1)(a) of the Act) and will facilitate the balanced development of the industry (per the statutory object in section 3(1)(b) of the Act). This is notwithstanding the submissions from one local resident and one commercial competitor (discussed below) who have raised some concerns and the Authority noting that there are 14 existing packaged liquor-licensed premises in Chatswood. The availability of the incumbent liquor retailers constrains the scope of benefits offered to the local and broader communities, but the specialist nature of the proposal increases those benefits.
18. To the extent that the licensed business will service wholesale customers (being licensed restaurants in Chatswood), the Authority is satisfied that granting the licence will also contribute to the responsible development of the related hospitality industry per the statutory object in section 3(1)(c) of the Act.

Negative social impacts

19. The Authority has had regard to the following risk factors in relation to the scope for adverse social impact, which have been taken into account when considering the overall social impact of granting the Application:
 - Granting the licence would amount to the introduction of a new packaged liquor facility operating in a community that is already well serviced in terms of packaged liquor. As at 3 March 2020, licence density per 100,000 persons for packaged liquor stores in the suburb (56.20) and LGA (59.22) are already above the NSW average (35.29).
 - This business will be operating within a local community that is experiencing concentrations of crime. The BOCSAR hotspot maps from January 2019 to December 2019 indicate that the Premises is located within a low-density hotspot for alcohol related assault, within close proximity to hotspots for domestic assault and within high-density hotspots for non-domestic assault and malicious damage to property.
 - Alcohol attributable hospitalisations in the LGA are slightly elevated with the NSW Healthstats data recording a higher spatially adjusted rate per 100,000 population (619.4) compared to NSW (555.6) for the period between 2016 and 2018.
20. The Authority has also taken into account the following mitigating factors:
 - The licensed area of the proposed packaged liquor business is relatively small (some 55 square meters) when compared to other stand-alone packaged liquor licensed businesses in NSW.
 - The licence has been granted subject to the conditions set out in Schedule 1 below, which includes a condition restricting the sale of liquor to specialised liquor products from China, South Korea and Japan.
 - Although the trading hours are reasonably extensive, the business will not trade late into the evening during higher risk times of the day. Instead the licensed business will cease trading at 9:00 pm on Thursday and at 8:00 pm all other days of the week. These licensed hours are less extensive than the hours potentially available for a packaged liquor licence under the legislation.
 - Granting the licence will not push the rate of packaged liquor licences in the suburb and LGA above the rate of 0.75 licences per 1,000 persons which is identified as correlating with a change in adverse social impacts in Donnelly D, Menendez P, Mahoney N,

BOCSAR, "The effect of liquor licence concentrations in local areas on rates of assault in New South Wales", Crime and Justice Bulletin, no. 181, December 2014.

- The Premises will be located within a local and broader community that are not experiencing elevated crime rates. For the year to December 2019, both the suburb and LGA recorded lower rates per 100,000 persons compared to NSW for incidents of alcohol-related domestic assault, alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct (offensive conduct).
 - Socio-economic disadvantage is not a compounding risk factor. The suburb and LGA are both ranked in the highest decile (10th decile) on the Index of Relative Socio-Economic Advantage and Disadvantage.
 - The NSW Healthstats data recorded that the LGA has a lower spatially adjusted rate per 100,000 population for alcohol attributable deaths (10.0) compared to NSW (17.4) for the period between 2016 and 2017.
 - The licence will be subject to the harm minimisation provisions set out in the *Plan of Management* dated January 2020, which are enforceable by way of a licence condition.
 - Police do not object to the Application but instead suggest conditions be imposed on the licence that are in line with other medium risk venues. Where there is any overlap, the Authority has imposed its standard conditions. The Authority determined that the Police suggested incident register condition was not warranted having regard to the proposed business model and these mitigating factors.
 - Neither Council nor L&GNSW Compliance object or raise any concerns with the Application in their submissions.
21. The Authority has considered the submissions from a local resident of Chatswood (who wishes to remain anonymous) dated 28 November 2019 and a commercial competitor (who also wishes to remain anonymous) dated 14 November 2019. The key concerns from these submissions pertain to:
- the potential for the "late trading hours" to encourage alcohol abuse – negatively impacting the health of liquor consumers and the safety in the community;
 - the "over saturation" of licensed premises (in particular bottle shops) on Victoria Avenue having the potential to increase/encourage alcohol abuse and significantly drive down liquor prices – posing an adverse effect on the health of vulnerable members of the community;
 - existing issues with "apparently intoxicated" people walking down the footpath on Victoria Avenue every weekend who "verbally abuse passers-by".
22. The Authority notes that the legitimate concerns regarding late trading hours have been somewhat reduced by the Applicant's consent, in its email dated 2 February 2020, to reduce the proposed licensed hours, bringing them in line with what is permitted in the DA. While the Application initially proposed trading until 11:00 pm Monday to Saturday and 10:00 pm Sunday, the business will now be licensed until 9:00 pm on a Thursday and 8:00 pm all other nights of the week.
23. On the basis of L&GNSW licensed premises information as at 3 March 2020, the Authority finds that the local community of Chatswood is serviced by some 120 licensed businesses - including 14 packaged liquor licensed businesses, 4 registered club licensed premises and 4 full hotel licensed businesses. However, by restricting the types of liquor that can be sold at the Premises to products from China, South Korea and Japan, the Authority considers the proposed business model to be focused on specialised liquor products, differentiating it from the existing licensed premises and reducing its scope to have the same level of social impact as a mainstream liquor store.
24. The Authority finds the concerns raised by a local resident regarding anti-social conduct from intoxicated people on Victoria Avenue on weekends to be generally

credible. However, this submission is very brief and provides little specificity as to the nature and scope of such amenity impacts. When assessing the prospect of a small specialist business operating in communities with relatively favourable crime data and absent adverse submissions from law enforcement agencies or Council regarding anti-social conduct linked to takeaway liquor, the Authority is unable to give this submission sufficient weight to warrant refusal of the Application.

25. The Authority finds that the scope for adverse social impact arising from the granting of this licence is limited. The Authority placed weight on the fact that neither Council nor Police (who possess law enforcement capabilities) objected to the Application and on the basis of the small scale, reasonable trading hours and restricted business model. These are all factors that work towards reducing the potential for this business to negatively impact the local and broader community.

Overall social impact

26. 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 packaged liquor licence would not be detrimental to the well-being of the local community or broader communities.
27. 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/>.

- 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted.

Schedule 2 – Material considered by the Authority East Liquor Pty Ltd

Application material

1. Application Form for packaged liquor licence lodged by East Liquor Pty Ltd (the “Applicant”) on 5 November 2019, including the required notices (“Application”).
2. Completed Category B Community Impact Statement dated 5 November 2019, accompanied by a map depicting the 100-metre area in which notice of the Application was distributed.

Development consent

3. Notice of determination issued by Willoughby City Council (“Council”) dated 12 December 2019 approving an application for *Change of use to a liquor shop* (“DA”) 2019/312 (D) for the premises.

L&GNSW records

4. L&GNSW liquor licensing records as at 3 March 2020 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in the suburb of Chatswood, the Willoughby City Council Local Government Area (“LGA”) and NSW. The density of packaged liquor licences is 35.29 in New South Wales (“NSW”), 59.22 in the LGA, and 56.20 in Chatswood.
5. L&GNSW liquor licensing records as at 3 March 2020 listing all licenced premises in Chatswood.

Crime data

6. Bureau of Crime Statistics and Research (“BOCSAR”) NSW Recorded Crime Statistics January 2019 to December 2019 comparing certain offences by day of week and time of day in Chatswood and the LGA compared to NSW, sourced by licensing staff on 11 March 2020.
7. BOCSAR NSW Recorded Crime Statistics 2019 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in the LGA and NSW, sourced by licensing staff on 11 March 2020.
8. BOCSAR crime hotspot maps for January 2019 to December 2019, indicating the location of the premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property, sourced by licensing staff on 11 March 2020.
9. NSW crime statistics published by BOCSAR indicating that for the year to December 2019, the rates (per 100,000 population) of:
 - a) alcohol-related domestic assault in the LGA and Chatswood were 37.3 and 48.1 respectively, compared to the NSW average of 116.2,
 - b) alcohol-related non-domestic assault in the LGA and Chatswood were 38.6 and 88.8 respectively, compared to the NSW average of 115.3,
 - c) malicious damage to property in the LGA and Chatswood were 387.1 and 514.5 respectively, compared to the NSW average of 713.9, and
 - d) alcohol-related offensive conduct in the LGA and Chatswood were 6.2 and 14.8 respectively, compared to the NSW average of 34.2.(sourced by licensing staff on 11 March 2020).

Health data

10. HealthStats NSW data showing that the LGA recorded a spatially adjusted rate of:

- a) 10.0 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016-17; and
- b) 619.4 for alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

(sourced by licensing staff on 13 December 2019).

Socio-economic data

11. Australian Bureau of Statistics Socio-Economic Indexes For Areas data based on the 2016 Census indicating that, on the Index of Relative Socio-Economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Chatswood ranked in the 10th decile and the LGA ranked in the 10th decile. This data was sourced by licensing staff on 11 March 2020.

Stakeholder submissions

12. Submission (comprising the official L&GNSW submission form) dated 14 November 2019 from a commercial competitor who wishes to remain anonymous raising concerns with the Application.
13. Submission (comprising the official L&GNSW submission form) dated 28 November 2019 from a resident of Chatswood who wishes to remain anonymous raising concerns with the Application.
14. Submission letter from Acting Sergeant Bradley Duke of the North Shore Police Area Command of NSW Police ("Police") dated 18 December 2019, sent via cover letter dated 7 January 2020. Police assess the business model as medium risk and recommend conditions in line with other medium risk venues.
15. Email submission from Council dated 31 January 2020 advising no objection to the Application.
16. Email submission from Police dated 12 February 2020 advising that the accord condition should be added.
17. Email submission from the Compliance branch of L&GNSW dated 21 February 2020 advising that a review of compliance holdings indicates nil adverse history of the approved manager and that Compliance will not be making a submission.

Other relevant information

18. Correspondence between staff and the Applicant between 21 November 2019 and 12 March 2020. This includes:
 - Plan/diagrams of the premises highlighting the licensed area in red and indicating the layout and location of the premises, provided by the Applicant on 2 February 2020.
 - L&GNSW form APDEC2 titled *Online appointment of manager notice: declaration by organisation* nominating Mei-Chun Yang as the approved manager. This form is signed by directors Yuli Wu and Xiaojuan Wu dated 1 February 2020 and was provided by the Applicant on 2 February 2020.
 - L&GNSW form APDEC1 titled *Online appointment of manager notice: declaration by incoming manager* signed by Mei-Chun Yang dated 22 January 2020. This document was provided by the Applicant on 2 February 2020.
 - Identification documents for the approved manager Mei Chun Yang including a Medicare card, an Australian Passport and a NSW Drivers Licence. This document was provided by the Applicant on 2 February 2020.

- National Police Certificate NCHRC-2019-85341 in respect of approved manager Mei Chun Yang issued on 2 December 2019, provided by the Applicant on 2 February 2020.
 - Plan of Management dated January 2020.
 - Certificate of advertising signed by Yuli Wu dated 30 January 2020.
 - Australian Securities and Investments Commission (“ASIC”) Current and Historical Company Extract for UT 282 Victoria Pty. Ltd. as at 30 January 2020.
 - ASIC company details for East Liquor Pty Ltd as at 18 November 2019.
 - Liquor and Gaming New South Wales (“L&GNSW”) form TDEC5 titled *Declaration: Liquor licence application by proposed licensee* signed by directors Yuli Wu and Xiaojuan Wu dated 6 February 2020.
19. Google map images extracted from the Google website on 11 March 2020, showing the location and photos of the Premises in map view, earth view and street view.

**Schedule 3 - Relevant extracts from the *Liquor Act 2007* (NSW)
East Liquor Pty Ltd**

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.