



Mr Grant Cusack  
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3 September 2020

Dear Mr Cusack

<b>Application No.</b>	1-7716900711
<b>Applicant</b>	Mr Scott Bradley Towers
<b>Application for</b>	Removal of Packaged Liquor Licence
<b>Current Licence name</b>	Redfern Cellars
<b>Proposed Licence name</b>	Redfern Cellars
<b>Current Premises</b>	66 Regent St REDFERN NSW 2016
<b>Proposed Premises</b>	Level 2, "Urba", 7-9 Gibbons St REDFERN NSW 2016
<b>Trading hours</b>	Monday to Saturday 9 am to 9:59 pm Sunday 10:00 am to 9 pm
<b>Legislation</b>	Sections 3, 11A, 12, 29 - 31, 40, 44, 45, 48 and 59 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor & Gaming Authority  
Application to remove a packaged liquor licence – Redfern Cellars**

The Independent Liquor & Gaming Authority considered the application above and decided on 12 August 2020 to **approve** the application under sections 45 and 59 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

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

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

**Statement of reasons**

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

If you have any questions, please contact the case manager, Glenn Barry, at [glenn.barry@liquorandgaming.nsw.gov.au](mailto: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 approximately 20 April 2020, Hatzis Cusack Lawyers on behalf of Mr Scott Bradley Towers (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application for removal of a packaged liquor licence (“Application”) from premises at 66 Regent St, Redfern to Level 2, “Urba”, 7-9 Gibbons St, Redfern in the state of New South Wales (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 12 August 2020 and decided to approve the Application under sections 45 and 59 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the *Liquor Regulation 2018*.
4. A preliminary notification of this decision was sent to the Applicant on 26 August 2020, together with the licence document for the Proposed Premises.

## MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. 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.
7. 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”).
8. A list of the material considered by the Authority is set out in Schedule 2.

## LEGISLATIVE FRAMEWORK

9. The Authority has considered the Application in the context of the following sections of the Act and the associated clauses of the *Liquor Regulation 2018*:
  - a) Section 3: Statutory objects of the Act and relevant considerations
  - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold
  - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence
  - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made
  - e) Section 45: Criteria for granting a liquor licence
  - f) Section 44: Submissions to the Authority in relation to licence applications
  - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the Application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, and
  - h) Section 59: Requirements for an Application to remove a liquor licence to another premises and the determination of such an Application.
10. An extract of these sections is set out in Schedule 3.
11. The Authority has also had regard to its *Guideline 6* in considering the overall social impact of approving the Application pursuant to section 48 of the Act.

## **KEY FINDINGS**

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

### **Validity, procedural and trading hour requirements**

13. The Authority is satisfied on the material before it that:

- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act
- b) if the Application were to be approved, liquor would be sold in accordance with the authorisation conferred by the licence as required by section 29 of the Act, and
- c) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to operate as is contemplated by the sections.

14. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

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

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

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies
- b) practices would be in place from the commencement of licensed trading at the Proposed Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Proposed Premises and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the Complying Development Certificate number 20000236 /1 in respect of the Proposed Premises, issued by Modern Building Certifiers on 26 June 2020.

## **Community impact**

### ***Local and broader communities***

16. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Redfern, and the relevant "broader community" comprises the Local Government Area ("LGA") of Sydney.

### ***Licence density***

17. The Authority notes that Redfern has a higher density of packaged liquor licences compared to the state average.

### ***Crime data***

18. The relevant BOCSAR data indicates that, for the year to March 2020:

- a) the Proposed Premises was located within hotspots for incidents of alcohol related assault, domestic and non-domestic assault, and malicious damage to property.
- b) Redfern recorded higher rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related disorderly conduct, compared to the NSW state average.
- c) The Sydney LGA recorded higher rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related disorderly conduct, compared to the NSW state average.

### ***Alcohol-related health data***

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that the Sydney LGA recorded a higher than average level of alcohol attributable deaths for the period 2016 - 2017, and a higher than average level of alcohol attributable hospitalisations for the period 2016 - 2018.

### ***SEIFA***

20. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Redfern and the Sydney LGA were relatively advantaged compared to other suburbs and LGAs in NSW.

### ***Purported benefits***

21. The Authority notes the following benefits of the Application:

- a) The benefit to consumers who may wish to purchase packaged liquor while shopping at the adjacent supermarket and engage in "one stop shopping" convenience.
- b) The Proposed Premises location is in the direct vicinity of a number of new residential and mixed-use developments. These recent and other foreseeable development projects and population growth in the suburb suggest that demand for packaged liquor may increase.
- c) The Proposed Premises location is on the second storey of a multi-storey mixed-use commercial and residential development, without direct street access, adding to community security.
- d) The licence was operating at another premises nearby for some decades without any identified compliance issues and will be operated by the Red Bottle Group, who operate a number of other packed liquor outlets of a similar scale around inner-city Sydney.

22. The Authority also notes the petition in support of the Application with approximately 226 signatures.

### ***Stakeholder submissions***

23. The Authority has had regard to the submission from the Sydney Local Health District, noting:

- a) In 2017 the local health district opposed a new application for a packaged liquor licence at the same location in the context of strong community objection, and the Authority refused that application.
- b) Redfern already has a high density of liquor licences.
- c) A high density of packaged liquor outlets has been positively correlated with an increase in domestic violence.
- d) The broader community experiences high rates of alcohol-related crime.
- e) In 2016, emergency department presentations to hospitals covering the Sydney LGA experienced a 96% higher rate of patients assigned a provisional diagnosis of "alcohol problems" when compared to the state average.
- f) Street-drinking is a long-standing issue of concern in the local community and the neighbouring suburb of Waterloo.
- g) The Proposed Premises is within 1km of the largest social housing estate in Australia.
- h) In the 2016 Census, 33% of Redfern residents were born overseas and Redfern was listed as one of the top 20 suburbs for same sex couples – both these population groups are at increased risk of alcohol-related harm.

24. The Authority has also had regard to the Applicant's submission in response, including that:

- a) This Application is not in respect of a new packaged liquor licence, and one reason for the Authority's refusal of an application for a new packaged liquor outlet in a similar location in 2017 was that this licence (at that time not being used) would resume trading in the future. There will be no alteration to licence densities.
- b) The licence was previously operated a short distance away at a site now known as 66 Regent Street.
- c) The Applicant has agreed to a number of licence conditions, including keeping an incident register to record any anti-social conduct.
- d) The Application includes a reduction in total floor space of the packaged liquor outlet as well as a reduction in operating hours (as the previous premises operated until midnight.)
- e) The Redfern area has changed significantly in demographics over the past few years. 2016 Census data indicates that the unemployment rate in Redfern is lower than the state average, and median household income and the percentage of people who work full-time is higher than the state average.
- f) The Proposed Premises will be opposite the Redfern Police station.
- g) There has been no objection to the Application from NSW Police or from any members of the community.

### ***Mitigating factors***

25. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that the broader community has a licence density that is above state average, the local community is subject to a relatively high level of alcohol-related domestic assault, and there are some alcohol-related health issues in the broader community.

26. The Authority notes that there may be a risk that if the Application for removal were to be granted, liquor sold at the Proposed Premises will, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

27. The Authority is nevertheless satisfied that these risks are sufficiently mitigated by the following:

- a) an existing licence, dormant for approximately two years, is removed from operation
- b) the area in which liquor will be sold or supplied upon removal will be reduced by approximately 60m<sup>2</sup>
- c) the restricted hours agreed to by the Applicant upon removal (a 38-hour reduction when compared with the licence's hours in its previous location), includes a closing time not to be extended past 9:59pm
- d) the fact that, although crime rates and the packaged liquor licence density in the broader community are considerably higher than the state average, this community contains the state's tourism, business and entertainment hub attracting millions of visitors per year, with the large temporary population skewing licence density and crime statistics
- e) the absence of any objections from NSW Police
- f) the experience of the Applicant as an operator of licensed premises with no relevant compliance history, and
- g) the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

## CONCLUSION

28. Having considered the positive and negative social impacts that are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of approving the licence removal would not be detrimental to the well-being of the local and broader communities.
29. The Authority is also satisfied that the other legislative criteria for the approval of the licence removal have been met.
30. Accordingly, the Authority has decided to grant the Application under sections 45 and 59 of the Act.



Philip Crawford  
Chairperson

### Important Information:

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

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

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

## Schedule 1 – Licence conditions to be imposed Redfern Cellars

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 3:00 AM and 9:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading & NYE (std)  
Retail sales

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of the application to remove this licence to the premises at Level 2, "Urba", 7-9 Gibbons street, Redfern NSW.
4. The premises is to be operated at all times in accordance with the Plan of Management dated April 2020 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the premises is required to close,
    - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
    - (c) any recorded image must specify the time and date of the recorded image,
    - (d) the system's cameras must cover the following areas:
      - (i) all entry and exit points to the premises, and
      - (ii) all publicly accessible areas (other than toilets) within the premises.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
    - (c) provide any recordings made by the system to a police officer or Liquor & Gaming NSW inspector within 24 hours of any request by the police officer or Liquor & Gaming NSW inspector to provide such recordings.
7. Incident register
  - 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
    - a) any incident involving violence or anti-social behaviour occurring on the premises,
    - b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
    - c) any incident that results in a person being turned out of the premises under section 77 of the *Liquor Act 2007*,

- d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
  - a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
  - b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

## **Schedule 2 – Material considered by the Authority Redfern Cellars**

### **Application material**

1. Floor plan for the Proposed Premises, dated 6 February 2020, indicating the proposed licensed area.
2. Completed application dated 17 April 2020.
3. Completed Category B Community Impact Statement dated 17 April 2020.
4. Plan of Management documents for the Proposed Premises, titled *Plan of Management and House Policy* and dated April 2020.
5. Completed certification of advertising dated 17 June 2020.
6. ASIC business records in relation to the Applicant.

### **Development consent**

7. Complying Development Certificate number 20000236 /1 in respect of the Proposed Premises, issued by Modern Building Certifiers on 26 June 2020.
8. Emails between Glenn Barry, licencing officer at Liquor & Gaming NSW and David Smith, compliance officer at the Sydney council between 1 May and 1 July 2020.

### **L&GNSW records**

9. L&GNSW liquor licensing records as at 15 June 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 Redfern, Sydney LGA and NSW. The density of packaged liquor licences is 35.80 in NSW, 87.82 in the Sydney LGA, and 37.84 in Redfern.
10. L&GNSW liquor licensing records as at 15 June 2020 listing all packaged liquor licences and full hotel licences in Redfern.
11. An email from a senior compliance officer at L&GNSW Compliance dated 2 July 2020 in relation to the compliance history of the Proposed Premises.

### **Crime data**

12. NSW Recorded Crime Statistics for the period April 2019 – March 2020 comparing certain offences by day of week and time of day in Redfern and Sydney LGA compared to NSW.
13. BOCSAR crime hotspot maps for the year to March 2020, indicating the location of the Proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
14. NSW crime statistics published by BOCSAR indicating that for the year to March 2020, the rates of:
  - a) alcohol-related domestic assault in the Sydney LGA and Redfern were 184.4 and 254.3 respectively, compared to the NSW average of 115.2,
  - b) alcohol-related non-domestic assault in the Sydney LGA and Redfern were 553.2 and 273.8 respectively, compared to the NSW average of 110.1,
  - c) malicious damage to property in the Sydney LGA and Redfern were 987.4 and 1388.8 respectively, compared to the NSW average of 701.8, and
  - d) alcohol-related offensive conduct in the Sydney LGA and Redfern were 263.9 and 45.6 respectively, compared to the NSW average of 32.1.

### **Health data**

15. HealthStats NSW data showing that the Sydney LGA recorded a spatially adjusted rate of:
  - a. 18.5 alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016 - 2017; and

- b. 764.2 alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

### **Socio-economic data**

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

### **Stakeholder submissions**

17. Submission from NSW Police on 29 April 2020 in relation to the Application.
18. Submission from the Sydney Local Health District on 1 May 2020 in relation to the Application.

### **Other relevant information**

19. Correspondence between L&GNSW staff and the Applicant between 8 May 2020 and 19 June 2020 in relation to the assessment of the Application.
20. Google map images extracted from the Google website on 16 June 2020, showing the location and photos of the Proposed Premises in map view, earth view and street view.

## Schedule 3 – Relevant extracts from the *Liquor Act 2007*

### Redfern Cellars

#### 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.

#### 44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) 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 licence.

#### 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.

#### **59 Removal of licence to other premises**

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises 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.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that—
  - (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
  - (b) those practices will remain in place.
- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect—
  - (a) on payment to the Secretary of the fee prescribed by the regulations, and
  - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.