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18 September 2019

Dear Mr Schwartz

Application No.	1-7051253574
Applicant	Emmanuel Koutsourais
Application for	Removal of a packaged liquor licence
Licence number	LIQP700350725
Current licence name	BWS – Beer Wine Spirits
Current Premises	112 Coogee Bay Road Coogee NSW 2034
Proposed licence name	Dan Murphy's Coogee
Proposed Premises	102-104 Brook Street Coogee NSW 2034
Trading hours	Monday to Saturday 10:00 am – 9:00 pm Sunday 10:00 am – 7:00 pm
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for the removal of a packaged liquor licence – Dan Murphy's Coogee**

The Independent Liquor and Gaming Authority considered the application above at its meeting on 17 April 2019, and decided to **approve** the application under section 59 of the *Liquor Act 2007*, subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 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 and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st 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 removing this licence to the premises at 102-104 Brook Street, Coogee.
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority ("the Authority") in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Authority.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points to the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
- (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. The licensee must display at the point of sale a sign clearly identifying the alcohol prohibited zones in the Coogee Basin area.

Removal of the licence

Notwithstanding the approval of the application, the subject licence (LIQP700350725) remains at 112 Coogee Bay Road, Coogee, subject to the same conditions and trading hours in force immediately before the approval of this application, until Liquor & Gaming NSW is notified that the licence has been removed.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8 am. In accordance with the 6-hour closure period for the current licence, the premises must not trade earlier than 10 am.

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

If you have any questions, please contact the case manager at charles.rivers@liquorandgaming.nsw.gov.au.

Yours faithfully



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

Statement of reasons

Decision

1. On 9 November 2018, Mr Emmanuel Koutsourais (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”).
2. The Application sought to remove a packaged liquor licence numbered LIQP700350725 (“Licence”) from 112 Coogee Bay Road, Coogee (“Current Premises”) to 102-104 Brook Street, Coogee (“Proposed Premises”).
3. The Authority considered the Application at its board meeting on 17 April 2019 and approved the Application under section 59 of the *Liquor Act 2007* (“Act”). In reaching this decision, the Authority has had regard to the material before it and the legislative requirements under the Act and the Liquor Regulation 2018 (“Regulation”).
4. On 1 May 2019 the Authority issued a preliminary advice letter notifying the Applicant of the approval and the relevant conditions.
5. The Licence, once removed to the Proposed Premises, will authorise the sale and supply of liquor in sealed containers at the Proposed Premises, for consumption away from the premises.

Material considered by the Authority

6. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
7. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
8. In accordance with the Authority’s Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
9. A list of the material considered by the Authority is set out in Schedule 1.

Legislative framework

10. The Authority has considered the Application in the context of the following legislative provisions under the Act:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6 hour period during which liquor cannot be sold.
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 45: Criteria for granting a liquor licence.
 - f) Section 48: Requirements in respect of a CIS.
 - g) Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.
11. An extract of these sections is set out in Schedule 2.

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 requirements under sections 40 and 59 of the Act,
- b) the proposed trading hours for the Proposed Premises meet the trading period requirements under sections 12 and 29 of the Act,
- c) if the Application were to be granted, liquor will be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
- d) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to be used for any of the purposes specified in the sections.

14. Section 11A requires a 6-hour closure period from 4 am to 10 am to be imposed for the Proposed Premises, unless the Authority approves otherwise. The Applicant sought a different 6-hour closure period from 3 am to 9 am to enable the Proposed Premises to commence trading from 9 am.

15. The Authority has considered the Applicant's request, and is not persuaded on the information before it that there are sufficient grounds to depart from its default policy position of authorising 10 am opening for packaged liquor facilities. The Authority has also had regard to the concerns raised by some local residents living near the Proposed Premises, which are discussed in further detail later in this decision, in respect of the negative amenity impacts of the proposed trading hours.

16. On the basis of the above, the Authority considers it appropriate to impose the standard 6-hour closure period which only allows the Proposed Premises to commence trading from 10 am.

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

17. Pursuant to sections 45 and 59 of the Act, the Authority accepts on the material provided by the Applicant that, if the Application were to be approved, practices will be in place from the commencement of licensed trading at the Proposed Premises, and will remain in place, to facilitate the responsible serving of alcohol.

18. The Authority is also satisfied that, for the purposes of section 45 of the Act:

- a) the Applicant is a fit and proper person to carry on the business to which the Licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies, and
- b) the requisite development consent is in force, having regard to the NSW Land and Environment Court decision on 17 April 2018 granting development application 248/2015 in relation to the Proposed Premises.

Community impact statement

19. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of approving the Application on the local and broader communities.

20. For the purposes of this decision and consistent with its position in Guideline 6, the Authority is satisfied that the relevant:

- a) "local community" is the community within the suburb of Coogee, and

- b) “broader community” refers to the community within the Local Government Area (“LGA”) of Randwick.

Positive social impacts

21. Coogee is a densely populated area and a popular tourist destination. Both the Current Premises and Proposed Premises are located in Coogee, approximately 420 metres apart. The Applicant proposed to operate a Dan Murphy’s store at the Proposed Premises, and to shut down the BWS store trading at the Current Premises following the removal of the Licence.
22. Section 59 of the Act requires the Authority to deal with the Application as if it were an application for a new packaged liquor licence for the Proposed Premises.
23. The Authority accepts that granting a packaged liquor licence for the Proposed Premises would provide local residents, tourists and other visitors to the area with access to a large and modern packaged liquor facility, and would benefit those who prefer to purchase liquor from a Dan Murphy’s store.
24. These positive impacts are weakened by the removal of the Licence from the Current Premises nearby, and the associated loss of access to liquor at that location. If the Application is approved there would be no change to the density of packaged liquor licences in Coogee or Randwick LGA.
25. The Proposed Premises, however, is of a significant larger scale (occupying 1006 square metres) compared to the Current Premises (approximately 280 square metres in size). The Authority accepts on this basis that moving the Licence to the Proposed Premises will likely result in a net increase in liquor choices and convenience for local and visiting customers.
26. The Authority has had regard to 11 submissions from members of the public, including some residents of the building which houses the Proposed Premises, in support of the Application. The Authority notes, however, that there are also objections from the community in relation to the Application, as discussed in the section below.

Negative social impacts

27. In considering the negative social impacts that may result from approving the Application, the Authority has had regard to the following statistics and stakeholder submissions.
28. The BOCSAR crime data for the year to December 2018 indicates that:
- a) the Proposed Premises was located within or on the edge of high-density hotspots for incidents of alcohol-related assault, domestic assault, non-domestic assault and malicious damage to property,
 - b) Coogee recorded higher rates of alcohol-related non-domestic assault and alcohol-related disorderly conduct, and lower rates of alcohol-related domestic assault and malicious damage to property, compared to the NSW state average, and
 - c) Randwick LGA recorded lower rates of alcohol-related domestic assault, alcohol-related non-domestic assault and malicious damage to property, and a higher rate of alcohol-related disorderly conduct, compared to the state average.
29. The most recent HealthStats NSW data before the Authority indicates that Randwick LGA recorded a lower than average level of alcohol attributable deaths for the period 2015-16, and a higher than average level of alcohol attributable hospitalisations for the period 2015-17.
30. The ABS Socio-Economic Index for Areas (“SEIFA”) data as at 2016 indicates that Coogee and Randwick LGA ranked among the most advantaged suburbs and LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.

31. Randwick City Council (“Council”), eight members of the public and one commercial competitor of the Applicant’s liquor sales business made submissions either opposing the approval of the Application or expressing concerns. The main issues raised in these submissions include:
- a) the close proximity of the Proposed Premises to alcohol free zones,
 - b) prevailing levels of alcohol-related crimes and hospitalisations in the local and broader communities,
 - c) oversupply and concentration of packaged liquor facilities in the area
 - d) research linking increased availability and lowered pricing of alcohol to increases in alcohol-related harm,
 - e) safety and amenity concerns including noise disturbances, street drinking and alcohol-fuelled anti-social behaviour in the neighbourhood, and
 - f) lack of evidence substantiating the Applicant’s purported social benefits of removing the Licence to the Proposed Premises.
32. The concerns raised in these submissions and the accompanying expert reports had been considered by the NSW Land and Environment Court in *Woolworths Limited v Randwick City Council* [2018] NSWLEC 1183. The Court granted the relevant development application for the Proposed Premises and found that the concerns were insufficient to support refusing the application on social impact grounds. While the Authority is not bound by the Court’s decision, it has had regard to the Court’s discussion of the relevant issues.
33. The Authority accepts that there are mixed views within the community about the social impact of approving the Application. To the extent that Council’s objection turns on adverse local amenity impacts, the Authority considers that the objection would have had greater force if the concerns were supported by relevant localised information, such as the extent to which Council receives complaints about public drinking and alcohol-fuelled noise disturbances and other disorderly conduct.
34. Mindful of the aforementioned requirement of section 59 of the Act, the Authority accepts that there is a risk that granting a new packaged liquor licence for the Proposed Premises will contribute to an increase in alcohol-related crimes, health problems and other social and amenity issues in the local and broader communities.
35. The Authority nevertheless considers the risk to be sufficiently mitigated by the following:
- a) NSW Police opted not to oppose the approval of the Application, subject to the imposition of certain licence conditions which the Applicant has consented to.
 - b) The removal of an existing packaged liquor licence from a location within a short distance of the Proposed Premises, which will likely offset some of the negative social impacts associated with licensed trading at the Proposed Premises, though not completely given the significantly larger scale of the Proposed Premises.
 - c) The Proposed Premises will cease trading by no later than 9 pm on any day.
 - d) The harm minimisation measures set out in the plan of management for the Proposed Premises.

Overall social impact

36. Having considered the positive and negative social impacts that are likely to flow from the removal of the Licence, the Authority is satisfied that the overall social impact of approving the Application would not be detrimental to the well-being of the local and broader communities.
37. The Authority notes that this finding is finely balanced and based on all of the information available before it.
38. The Authority is also satisfied that the other legislative criteria for the granting of the Application have been met.

39. Accordingly, the Authority has decided to grant the removal of the Licence from the Current Premises to the Proposed Premises.



Philip Crawford
Chairperson

Important Information:

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

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

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

Schedule 1 – Material considered by the Authority

1. Report prepared by Alison Ziller on 1 October 2015 titled “Review of an SIA and advice re a proposed Dan Murphy’s at 100 Brook Street, Coogee for Randwick City Council”.
2. 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 10th decile being the most advantaged and 1st decile the most disadvantaged, Coogee ranked in the 10th decile, and Randwick LGA ranked in the 9th decile.
3. Report prepared by the UTS Institute for Public Policy and Governance on 19 October 2017 titled “Social Planning Report, Statement of Evidence Woolworths Limited v Randwick City Council NSW Land and Environment Court Proceedings Case number: 154399 of 2016”.
4. The NSW Land and Environment Court decision on 17 April 2018 in *Woolworths Limited v Randwick City Council* [2018] NSWLEC 1183.
5. HealthStats NSW data showing that Randwick LGA recorded:
 - a. for the period 2015-16, a spatially adjusted rate of 17.2 per 100,000 of the population for alcohol attributable deaths, compared to the NSW rate of 18.1, and
 - b. for the period 2015-17, a spatially adjusted rate of 676.2 per 100,000 of the population for alcohol attributable hospitalisation, compared to the NSW rate of 580.6.
6. Submission from NSW Aboriginal Affairs on 23 August 2018 in relation to the Application.
7. Submission from NSW Family & Community Services on 27 August 2018 in relation to the Application.
8. Submission from NSW Transport Roads & Maritime Services on 28 August 2018 in relation to the Application.
9. Completed Category B CIS form dated 8 October 2018, with supporting documents attached.
10. Completed application form dated 22 October 2018 and the relevant notices of application and documents in respect of the Applicant’s identity and probity.
11. Completed certifications of advertising dated 4 December 2018.
12. BOCSAR Crime Hotspot Maps for the year to December 2018, indicating the location of the Proposed Premises relative to hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
13. NSW crime statistics published by BOCSAR indicating that, for the year to December 2018, the rates of:
 - i. alcohol-related domestic assault in Randwick LGA and Coogee were 79.7 and 85.8 respectively, compared to the NSW average of 116.5,
 - ii. alcohol-related non-domestic assault in Randwick LGA and Coogee were 107.9 and 257.3 respectively, compared to the NSW average of 123.9,
 - iii. malicious damage to property in Randwick LGA and Coogee were 527.2 and 422.7 respectively, compared to the NSW average of 755.1, and
 - iv. alcohol-related disorderly conduct in Randwick LGA and Coogee were 41.5 and 202.2 respectively, compared to the NSW average of 37.9.
14. BOCSAR NSW Recorded Crime Statistics for the year to December 2018 showing the number of incidents of domestic assault, non-domestic assault and offensive conduct flagged as alcohol-related in NSW, Randwick LGA and Coogee by time of day and days of the week.
15. Email from L&GNSW Compliance Unit on 12 December 2018 in relation to the Application.
16. Submissions from Randwick City Council on 5 September and 13 December 2018 in relation to the Application
17. Submission from Police on 20 January 2019 in relation to the Application.

18. Submissions from 20 members of the community between 17 August 2018 and 28 February 2019 in relation to the Application.
19. Media articles in relation to the Land and Environment Court's decision in respect of the development application for the Proposed Premises, provided by the Applicant on 12 February 2019.
20. Report prepared by RM Planning in February 2019 in relation to the Application.
21. L&GNSW liquor licensing records as at 12 March 2019 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in NSW, Randwick LGA and Coogee. The density of packaged liquor licences is 34.73 in NSW, 26.3 in Randwick LGA and 46.02 in Coogee.
22. L&GNSW liquor licensing records as at 12 March 2019 listing all liquor licences in Coogee.
23. Google map images extracted from the Google website on 29 March 2019, showing the location and photo of the Proposed Premises in map view, earth view and street view.
24. Plan of Management documents titled "Endeavour Drinks Group Liquor Store House Policy – NSW", and "Endeavour Drinks Group Woolworths Best Practice Policy and Interventions".
25. Premises plan for the Proposed Premises.
26. Applicant's response to the submissions received.
27. Maps and an article indicating alcohol-free zones and areas with alcohol bans in Coogee.

Schedule 2 – Relevant extracts from the *Liquor Act 2007*

3 Objects of Act

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

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

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

12 Standard trading period for certain licensed premises

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

Note. Small bars are subject to the 6-hour closure period under section 11A.

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

29 Authorisation conferred by packaged liquor licence

(1) Retail sales

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

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

(2) No retail trading on restricted trading days

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

(3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

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

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

(4) Tastings

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

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

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

31 Restrictions on granting packaged liquor licences

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

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

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

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

40 Licence applications

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

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

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

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

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

45 Decision of Authority in relation to licence applications

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

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
 - (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of,a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and

- (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
 - (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
 - (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:

relevant application means any of the following:

 - (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
 - (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
 - (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
 - (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
 - (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:

- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

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.