



Mr Tony Schwartz
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20 August 2021

Dear Mr Schwartz

Application No.	APP-0007677287
Applicant	Mr James Alexander Scott-Mackenzie
Application for	Packaged liquor licence
Licence name	Dan Murphy's
Premises	Shop 16A, 101 Caldarra Avenue Engadine NSW 2233
Trading hours	Monday to Saturday 9:00 am – 9:00 pm Sunday 10:00 am – 7:00 pm
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Dan Murphy's, Engadine**

The Independent Liquor & Gaming Authority considered the application above, and decided on 16 December 2020 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 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, Leonie Jennings, at leonie.jennings@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 24 September 2020, James Alexander Scott-Mackenzie ("Applicant") lodged with Liquor & Gaming NSW ("L&GNSW"), for determination by the Independent Liquor & Gaming Authority ("Authority"), an application ("Application") for a packaged liquor licence ("Licence") for the premises at Shop 16A, 101 Caldarra Avenue, Engadine ("Premises").
2. The Authority considered the Application at its meeting on 16 December 2020 and decided to grant the Licence under section 45 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 23 December 2020, together with the licence document for the 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 *Liquor Act 2007*, 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 44: Submissions to Authority in relation to licence applications
 - f) section 45: Criteria for granting a liquor licence
 - 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.
10. An extract of these sections is set out in Schedule 3.

KEY FINDINGS

11. 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

12. 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 Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act
 - c) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to operate as is contemplated by the sections.
13. 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

14. 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 Premises to facilitate the responsible serving of alcohol, having regard to the Plan of Management documentation for the Premises and the conditions to be imposed on the licence
 - c) the requisite development consent is in force, based on Complying Development Certificate no. 190078-01 in respect of the Premises, issued by Concise Certification on 13 May 2020.

Community impact

Local and broader communities

15. 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 Engadine, and the relevant "broader community" comprises the Local Government Area ("LGA") of Sutherland Shire.

Licence density

16. The Authority notes that outlet saturation and clustering of packaged liquor licences, and licences authorised to sell packaged liquor (this includes packaged liquor outlets, clubs and hotels), in Engadine and Sutherland Shire LGA is **lower** compared to the NSW state average.

Crime data

17. The relevant BOCSAR data indicates that, for the year to June 2020:
- a) the Premises was located within hotspots for incidents of alcohol-related non-domestic violence, alcohol-related offensive conduct, and malicious damage to property, and near a hotspot for alcohol-related domestic violence, in an area that is likely to be serviced by the Licence
 - b) Engadine recorded **lower** rates of alcohol-related assault (domestic and non-domestic), malicious damage to property and alcohol-related offensive conduct, compared to the NSW state average
 - c) Sutherland Shire LGA recorded **lower** rates of alcohol-related assault (domestic and non-domestic) and malicious damage to property, and a **higher** rate of alcohol-related offensive conduct, compared to the NSW state average.

Alcohol-related health data

18. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Sutherland Shire LGA recorded a **lower** than average level of alcohol-attributable deaths for the period 2017/2018, and a **higher** than average level of alcohol-attributable hospitalisations for the period 2017/2018-2018/2019.

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas (“SEIFA”) data as at 2016 indicates that Engadine and Sutherland Shire LGA were relatively **advantaged** compared to other suburbs and LGAs in NSW.

Business model

20. The Authority notes that the Application is for a proposed new Dan Murphy’s liquor store that will be situated with the Engadine Town Square Shopping Centre. The Premises will occupy a licensed area of about 1,689sqm, with a trade area of about 1,177sqm.

Purported benefits

21. The Authority has had regard to the Applicant’s purported benefits, including:
- a) improved amenity and access, submitting that the “comfortable, convenient and modern” store will be a “*destination* location”
 - b) the well-known Dan Murphy’s brand, which has “specific appeal to a wide range of customers”, and offers a loyalty program and knowledgeable customer service
 - c) increased convenience – the nearest Dan Murphy’s store is located approximately 12 kilometres away
 - d) increased choice – the Premises will “feature a significantly better offer ... when compared with a typical suburban retail liquor store”, and will stock a large range of products, some of which are not available through other retailers
 - e) the fit-out and operation of the Premises will result in increased employment opportunities, with the store to employ 15 full time staff who will be assisted by 20 permanent part time/casual staff once opened
 - f) the Premises will contribute to local groups and organisations, noting that the “The aim of Endeavour is to contribute the equivalent of at least 1% of pre-tax profits to the communities in which it operates.” The Authority notes, however, that specific details of *local* contributions have not been provided.
22. The Authority notes, from information provided by the Applicant, that the population of Engadine is forecast to grow by 17.81% in the period between 2020 to 2036 (according to profile.id). Accordingly, the Authority considers that the Licence will service the needs of the growing population.
23. The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application.

Stakeholder submissions

24. The Authority has had regard to the submissions from Sutherland Shire Council, L&GNSW Compliance, Aboriginal Affairs NSW, and Transport for NSW, which did not raise any objections or concerns in relation to the Application.
25. The Authority has had regard to the submission from a local business, which raised no objections to the application, noting that there was a bottle shop in the Engadine Town Square Shopping Centre previously, and that the submitter “cannot see any reasons for the proposed liquor license [sic] to be of any concern.” The submitter also stated that “local liquor store will be of benefit to many local businesses in the area as it will promote shoppers to do all of their shopping in the local area. This will lead to more foot traffic in the area in turn attracting more customers to other businesses. As well as this another business in the town centre will lead to more employment opportunities for local people. Also, greater autonomy for shoppers to complete all of their shopping locally and have their needs met.”

26. The Authority has had regard to the submission from NSW Police Force ("Police"), which objected to the Application and raised concerns that:

- a) an additional outlet of this scale may lead to increased alcohol related domestic assault, noting the presence of an alcohol-related domestic violence hotspot in close proximity to the Premises
- b) the granting of an additional packaged liquor licence in Engadine would increase outlet saturation of packaged liquor licences in the local community above the state average
- c) alcohol-attributable hospitalisations in the broader community are above the state average, with the rate increasing by 31.6% between the 2015-2017 and 2017-2019 financial years
- d) Police were not able to request planning controls via a Development Application process due to the Applicant securing planning approval via a Complying Development Certificate
- e) the dormant Chambers Cellars liquor licence in Engadine Town Square Shopping Centre will not be removed or redefined to accommodate this Application. Police submit that the Chambers Cellars licence should be surrendered, which would allay Police concerns in respect of licence saturation.

27. The Authority had also had regard to the submission from the occupier of a building located within 100 metres of the Premises, which objects to the Application on the basis that the Licence "is likely to contribute to further alcohol-related harm, property damage and negative health outcomes for the local community of Engadine, as well as the wider community." The submitter notes presence of crime hotspots and elevated rates of alcohol-attributable hospitalisations, and contends that the needs of the local community are being satisfied by the five existing packaged liquor outlets (it is noted that one of these outlets is situated outside of the local community in the neighbouring suburb of Yarrawarrah).

28. The Authority has had regard to the Applicant's submissions in response, which notes that:

- a) Police have "ignored that for this Application all related crime in the local community (LC) of Engadine, and the broader community (BC) of Sutherland Shire is lower than the benchmarks for NSW and "Major Cities of Australia (NSW)". Alcohol related domestic violence statistics in this LC are less than half that of the NSW benchmark"
- b) the rate of licences authorised to sell packaged liquor (this includes packaged liquor licences, clubs and hotels) in the local community will remain below the state average if the Licence is granted
- c) there is no evidence that the size of a packaged liquor outlet alone has an adverse impact on the long-term trend of crime. The Applicant notes that there has been a reduction in alcohol consumption in NSW and Australia in recent years while at the same time the density of bottle shops have increased substantially; and that the growth in the packaged liquor market in the local and broader communities is achieved through an increase in their adult populations
- d) the applicant has no ownership or control over the Chambers Cellars liquor licence.

Mitigating factors

29. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority notes the presence of crime hotspots in the local community, the elevated rate of alcohol-related hospitalisations in the broader community, and that Engadine will have a licence density that is above state average if the Licence is granted.

30. The Authority considers that, if the Licence is granted, there is a risk that the liquor sold from the Premises would exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, particularly given the large scale of the Premises.
31. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the local and broader communities are relatively advantaged
 - b) crime rates in the local community for all offences normally considered by the Authority are lower than comparable NSW averages
 - c) saturation and clustering of packaged liquor licences and licences authorised to sell packaged liquor in the local and broader communities are lower than NSW averages for these licence types
 - d) the Applicant's contentions that the Premises will have site-specific design and layout features to minimise the potential for risk, including (but not limited to) CCTV, back to base security system, bright lighting, duress buttons, and electronic article surveillance gates
 - e) experience of the applicant as an operator of multiple licensed premises with sound compliance records
 - f) harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

32. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
33. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
34. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford

Chairperson

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

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 Dan Murphy's, Engadine

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 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 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 obtaining this licence.
4. The premises is to be operated at all times in accordance with the policies and procedures of the Endeavour Group Limited, as submitted to the Independent Liquor and Gaming Authority ("the Authority") in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the 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 ten (10) 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. 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.

8. Crime scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor & Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

9. The licensed premises must cease to trade by 8:00 pm on public holidays.

Schedule 2 – Material considered by the Authority Dan Murphy's, Engadine

Application material

1. Plan of Management documents for the Premises, titled The Policies and Procedures of Endeavour Group Limited, and dated February 2020.
2. Completed Category B Community Impact Statement, dated 27 August 2020, attaching:
 - a. Attachment A: The terminology adopted in this Application
 - b. Attachment B: The Assessment
 - c. Attachment C: Stakeholder list
 - d. Attachment D – The statistical evidence incorporating the LiveData Report as at 24 August 2020
 - e. Attachment E – LiveData hotspot maps
 - f. Attachment F: Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at Dan Murphy's stores in NSW
 - g. Attachment G: Product range exclusive to Woolworths' retail liquor stores
 - h. Attachment H: Photos of the Site and immediate surrounds
 - i. Attachment I: Apparent Consumption of Alcohol (total and by category) – illustrates the change (over time) in the types of liquor products that are consumed
 - j. Attachment J – Alcohol free zones and prohibited areas
 - k. Attachment K: Map that illustrates the geographical area of South Eastern Local Health District
 - l. Attachment L: The neighbouring premises map
3. 6-hour closure period submission, dated 27 August 2020.
4. Completed application and covering letter, dated 24 September 2020.
5. Completed application notices, dated 24 September 2020.
6. Completed certifications of advertising, dated 29 September 2020 and 1 October 2020.
7. ASIC business records in relation to the business and Premises owners.
8. Probity documents in relation to the Applicant.
9. Floor plan for the Premises indicating the proposed licensed area.

Development consent

10. Notice of determination of Development Application No. DA09/0378, issued by Sutherland Shire Council on 2 July 2009, in relation to the Premises.
11. Complying Development Certificate no. 190078-01 issued by Concise Certification on 13 May 2020, approving the construction of an inter-tenancy wall and fitout of two new retail tenancies including Dan Murphy's in Shop 16A for the sale of liquor.

L&GNSW records

12. L&GNSW Liquor & Gaming LiveData report for the Premises, dated 16 November 2020.
13. L&GNSW liquor licensing records as at November 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 Engadine, Sutherland Shire LGA and NSW. The density of packaged liquor licences is **29.2** in NSW, **26.1** in Sutherland Shire LGA, and **28.8** in Engadine. The density of licences authorised to sell packaged liquor (including clubs and hotels) is **74.8** in NSW, **46.7** in Sutherland Shire LGA, and **46** in Engadine.

14. L&GNSW liquor licensing records as at 16 November 2020 listing all liquor licences in Engadine.

Crime data

15. BOCSAR crime hotspot maps for the year to June 2020, indicating the location of the Premises relative to hotspots for alcohol-related domestic and non-domestic violence, alcohol-related offensive conduct, and malicious damage to property.
16. NSW crime statistics published by BOCSAR indicating that for the year to June 2020, the rates of:
- a) alcohol-related domestic assault in Engadine and Sutherland Shire LGA were **50.4** and **86.4** respectively, compared to the NSW average of **113.2**
 - b) alcohol-related non-domestic assault in Engadine and Sutherland Shire LGA were **44.8** and **77.7** respectively, compared to the NSW average of **97.1**
 - c) malicious damage to property in Engadine and Sutherland Shire LGA were **458.8** and **504.8** respectively, compared to the NSW average of **681.9**
 - d) alcohol-related offensive conduct in Engadine and Sutherland Shire LGA were **28** and **41.5** respectively, compared to the NSW average of **28.4**.

Health data

17. HealthStats NSW data showing that Sutherland Shire LGA recorded a spatially adjusted rate of:
- a. **16.8** for alcohol-attributable deaths per 100,000 of population, compared to the corresponding NSW figure of **20**, in the period 2017/2018
 - b. **650.2** for alcohol-attributable hospitalisation per 100,000 of population, compared to the corresponding NSW figure of **542.1**, in the period 2017/2018-2018/2019.

Socio-economic data

18. ABS SEIFA data based on the 2016 Census indicating that households in Engadine and Sutherland Shire LGA are socio-economically **advantaged**, and fall within the **top 14%** and **13%** respectively of NSW households.

Stakeholder submissions

19. Submission from Aboriginal Affairs NSW, dated 22 July 2020.
20. Submission from a local business, dated 22 July 2020.
21. Submission from Transport for NSW, dated 29 July 2020.
22. Submission from the occupier of a building located with 100 metres of the Premises, dated 21 August 2020.
23. Submission from L&GNSW Compliance, dated 13 October 2020.
24. Submissions from Sutherland Shire Council, dated 22 October 2020.
25. Submission from NSW Police Force, dated 15 November 2020.

Other relevant information

26. Unexecuted lease for the Premises, dated 2019.
27. Correspondence between L&GNSW staff and the Applicant between 9 October 2020 and 24 November 2020 in relation to the assessment of the Application.
28. Correspondence between L&GNSW and the legal representatives of Chambers Cellars, Engadine, in relation to withdrawing a change of boundaries application, between 14 October 2020 and 13 November 2020.
29. Freehold owner's consent to the Application, dated 22 October 2020.

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

Dan Murphy's, Engadine

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)(b), the ***standard trading period*** for premises to which this subsection applies ends at midnight on a Sunday that falls on 24 or 31 December.
- (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 midnight 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 of liquor for consumption away from the licensed premises—
- (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
 - (b) on any other day—after midnight.
- (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
 - (a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, 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.