



Prudence Farquhar

by email to: prudence@bluekahunas.com

29 November 2022

Dear Ms Farquhar

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|------------------------|---|
| Application No. | APP-0008436997 |
| Applicant | Central Coast Amaro Pty Ltd |
| Application for | Small bar licence Extended trading authorisation |
| Licence name | Bar Mellow |
| Premises | Ground Floor, 744 Hunter Street Newcastle West NSW 2302 |
| Trading hours | Monday to Saturday 11:00 AM – 2:00 AM Sunday 11:00 AM – 10:00 PM |
| Legislation | Sections 3, 11A, 12, 20A-20C, 40, 44, 45, 49, 49A and 51 of the <i>Liquor Act 2007</i> |

**Decision of the Independent Liquor & Gaming Authority
Application for a small bar – Bar Mellow**

The Independent Liquor & Gaming Authority considered the application above and decided on 11 August 2021 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Statement of reasons

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

If you have any questions, please contact the case manager, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

Murray Smith

Deputy Chairperson

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

STATEMENT OF REASONS

DECISION

1. On 5 March 2021, CENTRAL COAST AMARO PTY LTD (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a small bar (“Licence”) for the premises at Ground Floor, 744 Hunter Street, Newcastle West, NSW 2302 (“Premises”).
2. The Authority considered the Application at its meeting on 11 August 2021 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 20 August 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application 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 20A-20C: Specific provisions in respect of a small bar 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 49: General provisions relating to extended trading authorisation
 - h) Section 49A: Extended trading authorisation – small bars.
 - i) Section 51: General provisions relating to licence-related authorisations.
10. An extract of these sections is set out in Schedule 3.
11. The Authority has also had regard to its *Guideline 6* in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

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

- a) the Application has been validly made and meets the procedural requirements under sections 40 and 51 of the Act, and
- b) the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods.

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, and
- c) the requisite development consent is in force, based on the development consent DA2021/00292 in respect of the Premises, issued by the City of Newcastle Council on 6 July 2021.

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 Newcastle West, and the relevant "broader community" comprises the Local Government Area ("LGA") of Newcastle.

Licence density

16. The Authority notes that, compared to the NSW state average:

- a) Newcastle West and Newcastle LGA has a **higher** saturation of small bar licences
- b) Newcastle West and Newcastle LGA have a **higher** saturation of late-trading outlets
- c) Newcastle West and Newcastle LGA have a **lower** clustering of general bar licences
- a) Newcastle West and Newcastle LGA have a **lower** clustering of late-trading outlets

Crime data

17. The relevant BOCSAR data indicates that, in the year to March 2021:

- a) the Premises is located within hotspots for incidents of alcohol-related domestic and non-domestic assault, alcohol-related offensive conduct and malicious damage to property.
- b) Newcastle LGA recorded **higher** rates of alcohol-related non-domestic assault, offensive conduct and malicious damage to property and **lower** rates of alcohol-related domestic assault, 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 the Newcastle LGA recorded a **higher** than average level of alcohol-attributable deaths for the period 2017-2018, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2017-2019.

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2021 indicates that Newcastle West and Newcastle were relatively advantaged compared to other households in NSW.

Business model

The Authority notes that the proposed business model involves the operation of a small bar to sell alcohol for consumption on the premises. The bar will be located on the Ground Floor, 744 Hunter Street, Newcastle West, 2302 with trading hours Monday to Saturday 11:00 AM – 2:00 AM and Sunday 11:00 AM – 10:00 PM.

Purported benefits

20. The Authority has had regard to the Applicant's purported benefits, including that:

- the convenient location, in a newly refurbished building, will enhance community amenity;
- the small bar is conveniently located close to the Market Town Shopping Centre and nearby to the public transport hub and will service nearby businesses, visitors to the area and local residents, and
- a comprehensive plan of management is in place to mitigate risks in relation to intoxication, security and safety at the premises.

Stakeholder submissions

21. The Authority has had regard to the submissions from:

- a) **NSW Police Force** objection, which notes that the premises is located within crime hotspots associated with high density of liquor licences in the Newcastle LGA. Police have recommended separate conditions be imposed on the licence to mitigate potential risks associated with the business activities.
- b) **L&GNSW Compliance**, which notes that there were no adverse findings in relation to the premise or business owner.
- c) **The City of Newcastle Council**, which noted the current development consent in place permits the business proposals and trading hours.
- d) **One member of the public**, citing objections to the grant of the liquor licence submitting the advertising requirements were not completed, the premises is located within a residential area and the business would compromise community safety and amenity.
- e) **One member of the public**, provided support for the proposals submitting the introduction of the business would support diversity in the local area.

22. The Authority has also had regard to the Applicant's submission in response, which notes the use of the premise is permissible under the current development application and includes an acoustic report. As per the requirement, and supported by photos of the premises, the site notice was on display as part of the community engagement process. The applicant submitted security would monitor all patrons at the premises.

Findings of concern

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

Mitigating factors

24. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:

- no agency objections (other than Police) were received;
- one public submission of support was received;
- only one other small bar operates in the suburb which trades until midnight only;
- Newcastle LGA is above average for socio-economic advantage;
- there is no increase in trends of incidents within the 5-year crime statistics;
- Compliance found no adverse findings in relation to the previous liquor licence operated by the business owner, and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

25. Having considered the positive and negative social impacts that are likely to flow from granting the Licence and ETA, the Authority is satisfied that the overall social impact of granting the Licence and ETA would not be detrimental to the well-being of the local and broader communities.

26. The Authority is also satisfied that the other legislative criteria for the granting of the Licence and ETA have been met.

27. Accordingly, the Authority has decided to grant the Licence and ETA under section 45 of the Act.

Yours faithfully



Murray Smith

Deputy 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](#) 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](#).

Schedule 1 – Licence conditions to be imposed
Mellow Bar

1. 6-hour closure

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 & NYE (std)

Consumption on premises

Good Friday: 12:00 noon - 10:00 PM

Christmas Day: 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

December 31st: opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. Social impact

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. Plan of Management

The premises is to be operated at all times in accordance with the Plan of Management dated May 2021 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

5. Liquor Accord

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 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 (or, in the case of a premises that is not required to cease trading, continuously at all times),

(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,
- (ii) the footpath immediately adjacent to the premises, and
- (iii) 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. 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.

8. 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.
9. Extended Trading Authorisation: Whole of the licensed premises.

Schedule 2 – Material considered by the Authority Bar Mellow

Application material

1. ASIC business records in relation to the Applicant and CENTRAL COAST AMARO PTY LTD dated 21 February 2021.
2. Floor plan as detailed in the Statement of Environmental effects dated 2 March 2021 for the Premises, indicating where the proposed licensed area and the ETA will apply.
3. Completed application generated 5 March 2021.
4. Completed certification of advertising dated 17 June 2021.
5. Plan of Management documents for the Premises, titled Plan of Management Bar Mellow and dated July 2021.

Development consent

6. Notice of determination issued by the City of Newcastle Council on 6 July 2021, approving the development application for the Premises.

Liquor & Gaming LiveData Report

7. L&GNSW Liquor & Gaming LiveData Report for the suburb of Newcastle West, generated on 8 July 2021, which sets out that:

Outlet diversification

- a. There are **28** authorised liquor licenses in Newcastle West. Of these, 18 are on-premises liquor licences, 2 are authorised to sell packaged liquor. This includes 2 registered club licences, 1 general bar, 1 small bar and 4 hotel licences.

Outlet density (annual rate per 100,000 residents)

- b. saturation of general bar licences in Newcastle West (**161.8**) is **higher** compared to Newcastle LGA (**2.6**), and **higher** compared to NSW (**1.**)
- c. saturation of late-trading outlets in Newcastle West (**809.1**) is **higher** compared to Newcastle LGA (**48.3**), and **higher** compared to NSW (**34.7**)
- d. clustering of general bar licences in Newcastle West (**19**) is **higher** compared to Newcastle LGA (**15**), and **lower** compared to NSW (**39.8**)
- e. clustering of late-trading outlets in Newcastle West (**23.8**) is **higher** compared to Newcastle LGA (**19.7**), and **lower** compared to NSW (**73.1**).

Offence data (annual rate per 100,000 residents)

In the year to March 2021:

- f. alcohol-related domestic assault in Newcastle LGA (**103.9**) was lower compared to all NSW (**112.9**)
- g. alcohol-related non-domestic assault in Newcastle LGA (**183.6**) was higher compared to all NSW (**89.9**)
- h. alcohol-related offensive conduct in Newcastle LGA (**42.9**) was higher compared to all NSW (**22.6**)
- i. malicious damage to property in Newcastle LGA (**1139.1**) was higher compared to all NSW (**649.5**)

Alcohol-attributable hospitalisations & deaths (per 100,000 residents)

- j. In the period 2017-2018 the alcohol-attributable death rate in Newcastle LGA (**26.9**) was higher compared to the average across all of NSW (**20**)
- k. In the period 2017-2019 the alcohol-attributable hospitalisation rate in Newcastle LGA (**524.5**) was lower compared to the NSW average (**542.1**).

SEIFA

- l. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Newcastle West and Newcastle are socio-economically advantaged and advantaged respectively (**Top 44%** and **Top 27%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 8. Submission from member of the public, dated 26 March 2021.
- 9. Submission from L&GNSW Compliance, dated 30 March 2021.
- 10. Submission from member of the public, dated 6 April 2021.
- 11. Submission from City of Newcastle Council, dated 9 July 2021.
- 12. Submission from NSW Police, dated 13 July 2021.
- 13. Submission from L&GNSW Compliance, dated 20 July 2021.

Other relevant information

- 14. Statement of Heritage Impact report dated 18 February 2021.
- 15. Correspondence between L&GNSW staff and the Applicant between 26 March and 15 July 2021 in relation to the assessment of the Application.
- 16. Statement of Environment Effects dated 2 March 2021.
- 17. Acoustic report dated April 2021.
- 18. Small bar density data dated 4 July 2021.
- 19. LiveData report dated 8 July 2021.
- 20. Google map images extracted from the Google website and compiled on 16 July 2021, showing the location and photos of the Premises in map view.
- 21. 5-year comparison - Incidents of crime data compiled 16 July 2021.

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

Bar Mellow

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.
 - (d) the need to support employment and other opportunities in the—
 - (i) live music industry, and
 - (ii) arts, tourism, community and cultural sectors.

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 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 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).

20A Authorisation conferred by small bar licence

- (1) A small bar licence authorises the licensee to sell liquor by retail on the licensed premises—
- (a) for consumption on the premises, or

(b) as house-made cocktails in sealed containers for consumption away from the premises.

(2) In this section—

house-made cocktails, in relation to licensed premises—

- a) means alcoholic beverages that are mixed on the licensed premises, but
- b) does not include cocktails that are pre-mixed away from the licensed premises for the licensee to sell by retail.

Note—

Gaming machines in small bars are prohibited under the [Unlawful Gambling Act 1998](#).

20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) An extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.

Note—

Small bars may apply for longer trading periods under section 49A.

- (3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are—
 - a) between midnight and 5 am, if authorised by an extended trading authorisation, and
 - b) between noon and 10 pm.

(4), (5) (Repealed)

20C Small bar licence—miscellaneous conditions

- (1) Maximum number of patrons Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.
 - (2) Small bars must be open to general public The business carried out under a small bar licence must not be, or include a business that is limited to the sale or supply of liquor only—
 - a) to persons who have been invited to use or attend the small bar, or
 - b) to a particular class, or particular classes, of persons using or attending the small bar.
- (2A) To avoid doubt, subsection (2)—
- (a) does not prevent a small bar being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
 - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.
 - (4) Food must be made available Liquor may only be sold or supplied in a small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or

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

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

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

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

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

44 Submissions to Authority in relation to licence applications

- 1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- 2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

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

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
 - (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of, a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
 - (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.
- (7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—
 - (a) the live music industry,
 - (b) the arts sector,
 - (c) the tourism sector,
 - (d) the community or cultural sector.

49 Extended trading authorisation—general provisions

- (1) **Application of section** This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**)—
 - (a) a hotel licence,
 - (b) a club licence,
 - (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
 - (d) a packaged liquor licence,
 - (e) a producer/wholesaler licence.
- (2) **Extended trading authorisation for consumption on premises** In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods—
 - (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
 - (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
 - (c) in any case—a specified period between 5 am and 10 am on a Sunday,

(d) in any case—a specified period between 10 pm and midnight on a Sunday.

(2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods—

(a) a specified period between 5 am and noon on a restricted trading day,

(b) a specified period between 10 pm and midnight on a restricted trading day.

Note—

The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25(3).

(3) Despite subsection (2)(a), the Authority may, in the case of a hotel—

(a) situated in the area constituting the City of Sydney (as at 1 July 1994), or

(b) situated in the Kings Cross precinct, or

(b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or

(c) situated in the Kosciuszko National Park, authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.

(4) **Extended trading authorisation for take-away sales on Sundays** In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following—

(a) a specified period between 5 am and 10 am on a Sunday,

(b) a specified period between 10 pm and 11 pm on a Sunday.

(5) **Nature of extended trading authorisation** An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises—

(a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or

(b) if the authorisation so provides—on a special occasion that takes place on a specified date, or

(c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.

(5A) Despite subsection (2)(a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.

(6) **Extended trading period to be specified** In granting an extended trading authorisation, the Authority is to specify—

(a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and

(b) the part or parts of the licensed premises to which the authorisation applies.

(7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues** Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods—

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

49A Extended trading authorisation—small bars

- (1) The Authority may, on application by the holder of a small bar licence, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during a specified period outside of the standard trading period for small bars.

Note -

Small bars are, on the granting of the small bar licence, authorised to trade between midnight and 2 am. See section 20B(2).

- (2) An extended trading authorisation for a small bar cannot authorise the sale or supply of liquor after 5 am or before 10 am on any day of the week.
- (3) An extended trading authorisation in relation to a small bar operates to authorise the sale or supply of liquor on the licensed premises—
 - (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
 - (b) if the authorisation so provides—on an occasion considered by the Authority to be a special occasion and that takes place on a specified date, or
 - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (4) In granting an extended trading authorisation for a small bar, the Authority is to specify the trading hours during which the licensee is authorised to sell or supply liquor.
- (5) Section 49(8) applies in relation to an extended trading authorisation granted by the Authority under this section.

51 General provisions relating to licence-related authorisations

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

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