



Mr Tony Schwartz
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15 November 2022

Dear Mr Schwartz

Application No.	1-8312353241
Applicant	James A Scott-Mackenzie
Application for	Removal of a packaged liquor licence
Licence name	Dan Murphy's Cellars
Licence number	LIQP700352639
Current trading hours	Monday to Saturday 5:00 AM – 12:00 AM midnight Sunday 10:00 AM – 10:00 PM
Current Premises	Room 2, Ground Floor 414-418 Kent Street Sydney NSW 2000
Proposed trading hours	Monday to Saturday 9:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
Proposed Premises	Tenancy 4, Ground Level 53-63 Martin Place Sydney NSW 2000
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48 and 59 of the <i>Liquor Act 2007</i>

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

The Independent Liquor & Gaming Authority considered the application above, and decided on 19 August 2022 to **approve** the application under section 59 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 09:00 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, Zof El-Husseini, at zof.el.husseini@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 14 June 2022, Mr James A Scott-Mackenzie (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for the removal of packaged liquor licence LIQP700352639 (“Licence”) from the premises at Room 2 Ground Floor, 414-418 Kent Street, Sydney NSW 2000 (“Current Premises”) to Tenancy 4, Ground Level, 53-63 Martin Place, Sydney NSW 2000 (“Proposed Premises”), to be known as Dan Murphy’s Cellars.
2. The Authority considered the Application at its meeting on 19 August 2022 and decided to approve the Application under section 59 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
4. A preliminary notification of this decision was sent to the Applicant on 9 September 2022, 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.
 - h) Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.
10. An extract of these sections is set out in Schedule 3.
11. The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

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

- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act
- b) if the 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.

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

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

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

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies
- b) practices would be in place from the commencement of licensed trading at the 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 development consent D/2021/1511 in respect of the Premises, issued by the City of Sydney on 29 March 2022.

Community impact

Local and broader communities

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

Licence density

17. The Authority notes that, compared to the NSW state average, Sydney and Sydney LGA have a **higher** saturation of packaged liquor licences.

Crime data

18. The relevant BOCSAR data indicates that, in the year to March 2022:

- a) the Premises was located within hotspots for incidents of domestic and non-domestic assault, alcohol-related assault and malicious damage to property.
- b) Sydney and Sydney LGA recorded **higher** rates of all offence types normally considered by the Authority, compared to the NSW state average.

Alcohol-related health data

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Sydney LGA recorded a **marginally lower** than average level of alcohol-attributable deaths for the period 2018/19 – 2019/20, and a **higher** than average level of alcohol-attributable hospitalisations for the period 2018/19 – 2019/20.

SEIFA

20. The Authority notes that ABS Socio-Economic Index for Areas (“SEIFA”) data indicates that Sydney and Sydney LGA are relatively advantaged compared to other suburbs and LGAs in NSW.

Business model

21. The Authority notes that the proposed business model involves the sale of packaged liquor via retail sales for consumption off the licensed premises. Specifically, the Applicant notes the Proposed Premises will be a premium wine store, targeted to wine enthusiasts to discover and experience premium wines, and will be a boutique operation compared to the typical Dan Murphy’s store.

Purported benefits

22. The Authority has had regard to the Applicant’s purported benefits, including:

- a) the Proposed Premises will present a new and exciting consumer experience
- b) improved amenity and access
- c) an improved product range
- d) the loyalty program and customer service
- e) an increase in employment and career opportunities
- f) improved neighbourhood safety and security.

Stakeholder submissions

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

- a) NSW Police Force, which objected to the Application on the basis that the Proposed Premises is a sensitive area and place of reflection, and that it is inappropriate for a liquor licence to be issued at the location. Despite these concerns, Police conceded that the City of Sydney approved the Proposed Premises’ location to trade as a bottle shop. Additionally, Police submitted that the suggested conditions for the Licence are adequate, but request a minor change to the liquor plan of management condition.
- b) L&GNSW Compliance, which noted that it has reviewed the Application and will not be providing a formal submission
- c) City of Sydney, which noted no objection with the Application, that it has approved development consent for the fitout and use of the Proposed Premises as a premium wine store (bottle shop) and notes the hours of operation
- d) Aboriginal Affairs, which noted no objection on the basis that the Applicant has also notified the NSW Aboriginal Land Council
- e) Two members of the public, including one commercial operator, who objected to the Application on the basis that a licensed premises should not be placed at the Proposed Premises location as this is a historical and memorial area for Sydney and that they do not want any intoxicated behaviour occurring in the location. Further, the Proposed Premises is located in a crime hotspot, and the Proposed Premises’ plan of management and policies were not made publicly available, which undermines the community consultation requirements of the legislation. The commercial operator’s submission also suggested 16 conditions to be imposed if the Application is granted
- f) A member of the public, who supported the Application on the basis the Sydney city centre requires a premises like this, and that Dan Murphy’s is a “very good retailer”. Additionally, the Proposed Premises will add character and value to the city centre.

24. The Authority has also had regard to the Applicant’s submission in response, and notes:

- a) Police are not concerned with the Application, but rather the Proposed Premises’ location

- b) prior to commencing the Application, representatives of the Endeavour Group discussed this Applications' proposal with the immediate families of the two individuals who died in the Lindt Café siege in 2014 and that no concerns were raised
- c) similar consultation was undertaken during the development application process
- d) a large number of stakeholders were informed of the Application with little to no adverse feedback received
- e) Police agree with the suggested list of conditions for the Proposed Premises to trade as a bottle shop following City of Sydney's approval, indicating that Police support the approval of the Application
- f) the recommended change to the liquor plan of management condition is inappropriate because the same policies and procedures apply across the entire chain of licensed premises that are managed by the Endeavour Group
- g) that one of the public objections is motivated by commercial self-interest
- h) the proposed conditions will limit the ability of the Proposed Premises to sell and supply liquor to the public.

Findings of concern

25. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that
- a) there are objections from Police and two members of the public
 - b) the presence of high-density hotspots for incidents of non-domestic assault, malicious damage to property and alcohol-related assault and medium density-hotspots of domestic assault
 - c) there is a higher licence saturation of packaged liquor licences in Sydney and Sydney LGA compared to NSW
 - d) there are higher crime rates in Sydney and Sydney LGA compared to NSW
 - e) there is a higher rate of alcohol-attributable hospitalisations in Sydney LGA compared to NSW.
26. 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.

Mitigating factors

27. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the lack of agency objections from Council, L&GNSW Compliance and the Aboriginal Affairs
 - b) the marginally lower rate of alcohol-attributable deaths in Sydney LGA compared to NSW
 - c) SEIFA indicates a higher level of relative socio-economic advantage and disadvantage in Sydney and Sydney LGA compared to NSW
 - d) the outlet density will remain the same if the Application is approved
 - e) the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Sensitivity of the Proposed Premises site

28. The Authority refers to section 3(1)(a) of the Act which provides that one of the objects of the Act is 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.
29. The Authority notes that the Application carries a level of sensitivity as the Proposed Premises site is the former Lindt Café site, where two individuals lost their lives as a result of a siege which took place in December 2014. The Authority also notes the objections of Police and

members of the public in relation to the site's sensitivity and history. The Authority recognises the importance and sensitivity of the Proposed Premises site and is sympathetic to the individuals and families which were affected as a result of the siege.

30. The Authority also notes that only a very small number of submitters raised concerns regarding the sensitivity of the site.
31. The Authority notes the Applicant's submission that the proposal was discussed with the immediate families of the two individuals who lost their lives prior to lodging the Application. The Authority also notes the Applicant's submission that the Application would not have proceeded if those families disagreed with the proposal, and that the Applicant continued to engage with the families during the DA process.
32. The Authority notes that the area where the Proposed Premises site is located is becoming more residential, that the Proposed Premises site has been vacant for some months and that it will be a premium wine store and not a standard Dan Murphy's packaged liquor outlet.

CONCLUSION

33. Having considered the positive and negative social impacts that are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of removing the Licence to the Proposed Premises would not be detrimental to the well-being of the local and broader communities.
34. The Authority has also considered the expectations of the community, including in respect of the importance and sensitivity of the Proposed Premises site, and is satisfied that granting the removal is broadly consistent with the expectations, needs and aspirations of the community, including those most directly impacted by the 2014 siege.
35. Finally, the Authority is also satisfied that the other legislative criteria for the granting of the Application have been met. Accordingly, the Authority has decided to grant the Licence under section 59 of the Act.



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 Dan Murphy’s Cellars

1. 6-hour closure period
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. Retail Sales

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday 8:00 AM to 12:00 AM midnight Sunday
Christmas Day	Not permitted
December 31 st	Normal trading
3. Social impact (removal)
The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to the premises at Tenancy 4, Ground Level, 53-63 Martin Place Sydney NSW 2000
4. Participation in the local liquor accord
The licensee or its representative must join and be an active participant in the local liquor accord.
5. Liquor plan of management
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.
6. CCTV
 - 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 on 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. 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:
 - (a) take all practical steps to preserve and keep intact the area where the act of violence occurred,

- (b) 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 and Gaming NSW website,
- (c) make direct and personal contact with NSW Police to advise it of the incident, and
- (d) 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 (eg. crowd controller or bouncer) on or about the premises.

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

Schedule 2 – Material considered by the Authority Dan Murphy’s Cellars

Application material

1. Plan of Management documents for the Premises, titled Policies and Procedures of Endeavour Group Limited and dated July 2021.
2. Floor plan for the Premises, dated 20 December 2021, indicating the proposed licensed area.
3. Completed application dated 13 May 2022.
4. Completed Category B Community Impact Statement dated 17 May 2022.
5. ASIC business records in relation to the Applicant extracted on 17 May 2022.
6. Completed certification of advertising dated 15 June 2022.
7. Trading hours and 6-hour closure period and proposed licence conditions.

Development consent

8. Notice of determination issued by City of Sydney on 29 March 2022, approving the development application D/2021/1511 for the Proposed Premises.

Harm minimisation and community impact data

9. Harm minimisation and community impact data for the suburb of Sydney, generated on 27 June 2022, which sets out that:

Outlet density (annual rate per 100,000 residents)

- a. saturation of packaged liquor licences in Sydney (**198**) is **higher** compared to Sydney LGA (**100.65**), and **higher** compared to NSW (**41.35**)

Offence data (annual rate per 100,000 residents)

In the year to March 2022:

- b. alcohol-related domestic assault in Sydney (**346.8**) was higher compared to the Sydney LGA (**147.1**), and higher compared to all NSW (**112.6**)
- c. alcohol-related non-domestic assault in Sydney (**2654.3**) was higher compared to the Sydney LGA (**325.2**), and higher compared to all NSW (**85.3**)
- d. alcohol-related offensive conduct in Sydney (**852.6**) was higher compared to the Sydney LGA (**175.3**), and higher compared to all NSW (**44**)
- e. malicious damage to property in Sydney (**1445.2**) was higher compared to the Sydney LGA (**728.1**), and higher compared to all NSW (**590.8**)

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

- f. In the period 2018/19 – 2019/20 the alcohol-attributable death rate in Sydney LGA (**19.5**) was lower compared to the average across all of NSW (**19.7**)
- g. In the period 2018/19 – 2019/20 the alcohol-attributable hospitalisation rate in Sydney LGA (**713.6**) was higher compared to the NSW average (**513.2**).

SEIFA

- h. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Sydney (**9**) and Sydney LGA (**8**) are socio-economically advantaged.

Stakeholder submissions

10. Submission from a member of the public, dated 17 March 2022.
11. Submission from a member of the public, dated 18 March 2022.
12. Submission from City of Sydney, dated 23 March 2022.
13. Submission from Aboriginal Affairs, dated 31 March 2022.
14. Submission from L&GNSW Compliance, dated 29 June 2022.

15. Submission from NSW Police, dated 4 July 2022.
16. Submission from City of Sydney, dated 7 July 2022.
17. Submission from NSW Police, dated 12 July 2022.
18. Submission from a member of the public, dated 14 July 2022.

Other relevant information

19. Google map images extracted from the Google website in 2022 and April 2021, showing the location and photos of the Premises in map view, earth view and street view.
20. Correspondence between L&GNSW staff and the Applicant between 30 May 2022 and 25 July 2022 in relation to the assessment of the Application.
21. A submission from the Applicant dated 17 May 2022 regarding a variation to the 6-hour closure period.
22. Documentation relating to numerous previously refused liquor licence applications.

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

Dan Murphy's Cellars

3 Objects of Act

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

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.

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.
 - (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—
 - (i) the live music industry,
 - (ii) the arts sector,
 - (iii) the tourism sector,
 - (iv) community or cultural sector.
- (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.

59 Removal of licence to other premises

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises must—
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.

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