



Mr Tony Schwartz
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22 December 2022

Dear Mr Schwartz

Application No.	APP-0009365603
Applicant	James Alexander Scott-Mackenzie
Application for	Packaged liquor licence
Licence name	Dan Murphy's, Griffith
Trading hours	Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
Proposed Premises	75-77 Yambil Street GRIFFITH NSW 2680
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

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

The Independent Liquor & Gaming Authority considered the application above, and decided on 15 July 2022 to **refuse** the application under section 45 of the *Liquor Act 2007*.

Statement of reasons

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

If you have any questions, please contact the case manager, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au.

Yours faithfully

Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

STATEMENT OF REASONS

DECISION

1. On 4 February 2022, Mr James Alexander Scott (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the proposed premises at 75-77 Yambil Street, Griffith NSW 2680 (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 15 July 2022 and decided to refuse 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.

MATERIAL CONSIDERED BY THE AUTHORITY

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. 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.
6. 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”).
7. A list of the material considered by the Authority is set out in Schedule 1.

LEGISLATIVE FRAMEWORK

8. 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.
9. An extract of these sections is set out in Schedule 2.
10. 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

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

Validity, procedural and trading hour requirements

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

- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
 - b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
 - c) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to operate as is contemplated by the sections.
13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Proposed Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Proposed Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on DA197/2020(1) in respect of the Proposed Premises, issued by Griffith City Council on 30 September 2020.

Community impact

Local and broader communities

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

Licence density

16. The Authority notes that, compared to the NSW state average, Griffith has a lower saturation of packaged liquor licences and Griffith LGA has a higher saturation of packaged liquor licences.

Crime data

17. The relevant BOCSAR data indicates that, in the year to March 2022:
- a) the Proposed Premises was located within hotspots for incidents of domestic and non-domestic assault, alcohol-related assault, and malicious damage to property.
 - b) Griffith and Griffith LGA recorded **higher** rates of all offence types normally considered by the Authority, 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 Griffith LGA recorded a **lower** than average level of alcohol-attributable deaths for the period 2018/19 – 2019/20, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2018/19 – 2019/20.

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data indicates that Griffith and Griffith LGA were relatively below average, and average compared to other suburbs and LGAs in NSW.

Business model

20. The Authority notes that the proposed business model involves the retail sale of packaged liquor on the premises for consumption away from the Proposed Premises. The Authority also notes the Applicant's intention that the Proposed Premises will occupy the area of the premises previously occupied by the Griffith Hotel Motel, which is currently in cease to trade status. An application regarding the Griffith Hotel Motel was presented to the Authority at the same time as the current Application.

Purported benefits

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

- a) if the Application is granted along with the application for the Griffith Hotel Motel, the on-premises activities at the hotel will be diminished
- b) enhanced vitality to the Proposed Premises location
- c) there will be economic benefits, including the provision of employment opportunities
- d) an increase in consumer choice.

Stakeholder submissions

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

- a) **NSW Police Force**, which notes that while Police have previously objected to packaged liquor licence applications in the area, Police do not object to this Application as it presents less of a risk than the hotel licence which has extended trading hours
- b) **L&GNSW Compliance**, which notes that there are no adverse findings on the proposed licensee or the interested party 'Endeavour Group Limited' and recommends the imposition of a CCTV and plan of management condition on the Licence
- c) **Griffith City Council**, which does not object to the Application
- d) **Transport for NSW**, which notes the Applicant should install a breath testing device, ensure customers have access to public transport provider information and participate in the local liquor accord
- e) **Six submissions from members of the public**, including local residents, businesses and the Deputy Mayor of Griffith City Council who support the Application on the basis that:
 - i. approving the Application will build a stronger economic foundation for the town
 - ii. the Proposed Premises will stimulate economic growth by providing employment opportunities within the local community
 - iii. the Proposed Premises will stock local wines from wineries in the region, which supports local business
 - iv. having a more commercialised packaged liquor store will provide better choice and brands that are not available in the local community
 - v. a copy of a petition containing 403 signatures in support has also accompanied the Application.
- f) **One submission from a member of the public**, who does not think the Application is adverse, however does hold concerns around an increase in homelessness and intoxication in the area, and that there will be more concentrated traffic on Yambil Street due to Dan Murphy's stores attracting a higher customer base.

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

- a) the Applicant consents to the conditions proposed by L&GNSW Compliance
- b) the Proposed Premises will not install breath testing devices as there will be no consumption of liquor on the Proposed Premises and will not provide details of public transport options
- c) the Applicant consents to participating in the local liquor accord
- d) the Applicant challenges the public submitter's submission in that while they have a concern about homelessness and intoxication, the submitter states that this would not affect them
- e) matters relating to traffic have been addressed by Griffith City Council through the issue of the DA
- f) there is no evidence that the Application could adversely affect homeless people.

Findings of concern

24. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that:

- a) an application of the same type for a new packaged liquor licence under the 'Dan Murphy's' banner at the same Proposed Premises was refused by the Authority last year
- b) an application for a new ALDI packaged liquor licence, situated 1.4km from the Proposed Premises, was refused on 19 July 2017
- c) there is a higher saturation rate for packaged liquor licences in the Griffith LGA compared to NSW
- d) there are high-density hotspots in Griffith for incidents of alcohol-related assault, non-domestic assault and malicious damage to property, and a medium density hotspot in Griffith for incidents of domestic assault
- e) there are significantly higher crime rates in both Griffith and Griffith LGA for domestic and non-domestic assault and malicious damage to property, and higher crime rates for alcohol-related offensive conduct, compared to NSW
- f) alcohol-related incidents (domestic assault and malicious damage to property) over a two-year trend in both Griffith and Griffith LGA have remained stable to December 2021, while incidents of alcohol-related non-domestic assault over a two-year trend in Griffith LGA are up 27.3% per year and up 37.9% per year
- g) the proposed business model is a large scale discount featured bottle shop in a suburb and LGA with higher than average crime rates and a higher than average vulnerable population
- h) SEIFA indicates a below average level of socio-economic advantage and disadvantage in Griffith
- i) higher proportion of vulnerable persons, including a higher proportion of Indigenous persons in Griffith and Griffith LGA compared to NSW
- j) the Proposed Premises is situated in an alcohol-free zone
- k) despite operating in the part of the building previously occupied by the Griffith Hotel Motel, if the Application is granted, the Griffith Hotel Motel still has the capacity to recommence trade at any time in the future within its approved licence boundary.

25. The Authority considers that, if the Licence is granted, there is a risk that the liquor sold from the Proposed 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

26. The Authority is satisfied that the factors below go some way towards mitigating these risks:

- a) the absence of any objections from agency stakeholders or from members of the public
- b) the six submissions in support and the petition with 403 signatures supporting the Application
- c) there is a lower saturation rate for packaged liquor licences in Griffith compared to NSW
- d) there is a lower rate of alcohol-attributable hospitalisations and deaths in Griffith LGA compared to NSW
- e) the Applicant contends they are an experienced operator proposing to operate under reduced hours, as compared to the impact a hotel licence would have on the local community
- f) Griffith CDAT no longer objects to the Application following significant consultation with the Applicant
- g) the Applicant contends population growth in Griffith and Griffith LGA may facilitate the demand for packaged liquor.

While Police do not object to the application on this occasion, it appears that is largely based on the present application presenting a lesser apparent risk than the current Hotel premises with extended trading hours on the same site. The Authority notes that Police have previously objected to new packaged liquor licences in the Griffith area on the basis that the existing availability of packaged liquor is contributing to the alcohol-related harm being suffered by members of the local and broader community.

CONCLUSION

27. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, as well as the Applicant's efforts to mitigate the potential risks associated with the Proposed Premises, the Authority is **not** satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.

28. Accordingly, the Authority has decided to refuse to grant the Licence under section 45 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 – Material considered by the Authority Dan Murphy's

Application material

1. Floor plan for the Premises, dated September 2019, indicating the proposed licensed area for the Proposed Premises and the area of the Griffith Hotel Motel.
2. ASIC business records in relation to THE GRIFFITH HOTEL PTY LTD extracted on 27 October 2020.
3. Plan of Management documents for the Premises, titled Policies and Procedures of Endeavour Group Limited and dated July 2021.
4. Completed Category B Community Impact Statement dated 28 January 2022.
5. Completed application dated 4 February 2022.
6. Completed certification of advertising dated 8 February 2022.

Development consent

7. Notice of determination issued by Griffith City Council on 30 September 2020, approving the development application 197/2020(1) for the Proposed Premises.

Harm minimisation and community impact data

8. Harm minimisation and community impact data for the suburb of Griffith, generated on 21 June 2022, which sets out that:

Outlet density (annual rate per 100,000 residents)

- a. saturation of packaged liquor licences in Griffith (**21.98**) is **lower** compared to Griffith LGA (**50.70**), and **lower** 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 Griffith (**219.9**) was higher compared to the Griffith LGA (**213.6**), and higher compared to all NSW (**111.7**)
- c. alcohol-related non-domestic assault in Griffith (**204.5**) was higher compared to the Griffith LGA (**154.7**), and higher compared to all NSW (**85.3**)
- d. alcohol-related offensive conduct in Griffith (**40.9**) was higher compared to the Griffith LGA (**29.5**), and higher compared to all NSW (**22.7**)
- e. malicious damage to property in Griffith (**1227.2**) was higher compared to the Griffith LGA (**1001.7**), and higher compared to all NSW (**603.1**)

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

- f. In the period 2018/19 – 2019/20 the alcohol-attributable death rate in Griffith LGA (**19.7**) was lower compared to the average across all of NSW (**6.1**)
- g. In the period 2018/19 – 2019/20 the alcohol-attributable hospitalisation rate in Griffith LGA (**345.9**) was lower compared to the NSW average (**513.2**).

SEIFA

- h. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Griffith (**2**) and Griffith LGA (**4**) are socio-economically disadvantaged and advantaged respectively.

Stakeholder submissions

9. Submission from Griffith City Council, dated 19 October 2021.
10. Submission from a member of the public dated 1 November 2021.
11. Submission from a member of the public, dated 3 December 2021.
12. Submission from a member of the public, dated 6 December 2021.

13. Submission from a member of the public, dated 7 December 2021.
14. Submission from a member of the public, dated 8 December 2021.
15. Submission from a member of the public, dated 14 December 2021.
16. Submission from NSW Police, dated 14 December 2021.
17. Submission from L&GNSW Compliance, dated 4 March 2022.
18. Submission from Transport for NSW, undated.
19. Submission from a member of the public, undated.
20. Petition containing 403 signatures in support of the Application, undated.

Other relevant information

21. A copy of a previous Statement of Reasons of the Authority dated 24 August 2017 refusing an application for a packaged liquor licence for Aldi Griffith under section 45 of the Act.
22. Completed Category B Community Impact Statement dated 21 October 2020.
23. A copy of a previous Statement of Reasons of the Authority dated 28 June 2021 refusing an application for a packaged liquor licence for Dan Murphy's Griffith under section 45 of the Act.
24. Correspondence between L&GNSW Staff and the Applicant between 30 July 2021 and 13 August 2021 regarding a requirement to lodge the CIS again.
25. A submission from the Applicant dated 28 January 2022 regarding a variation to the 6-hour closure period.
26. Correspondence between L&GNSW staff and the Applicant between 4 February 2022 and 1 June 2022 in relation to the assessment of the Application.
27. Correspondence and related documentation dated 14 February 2022 relating to the approval of a change of boundary at The Griffith Hotel Motel.
28. Documentation relating to 'Additional information from the case manager in response to BSV Community Impact Statement'.
29. Google map images extracted from the Google website, showing the location and photos of the Premises in map view, earth view and street view.

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

Dan Murphy's

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.