



Mr Philip Edwin Elsley
GOOD FOLK BREWING PTY LTD
by email to: beer@goodfolkbrewing.com.au

3 November 2022

Dear Mr Elsley

Application No.	APP-0009026519
Application date	27 July 2021
Applicant	GOOD FOLK BREWING PTY LTD
Application for	Producer wholesaler with drink on premises authorisation
Licence name	Good Folk Brewing
Proposed trading hours	<u>Drink on premises (Sampling, Bar and Dining areas)</u> Monday to Saturday 10:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM <u>Retail</u> Monday to Friday 10:00 AM to 05:00 PM Saturday and Sunday - Closed
Premises	78 Beaumont Street, Hamilton NSW 2303
Legislation	Sections 3, 11A, 12, 32-35, 40, 44, 45, 50 and 51 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for a producer wholesaler with drink on premises authorisation – Good Folk Brewing

The Independent Liquor & Gaming Authority considered the application above and decided on 16 March 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Statement of reasons

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

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

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 27 July 2021, GOOD FOLK BREWING PTY LTD (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a producer wholesaler liquor licence (“Licence”) with a drink on premises authorisation (“DOPA”) for the premises at 78 Beaumont Street, Hamilton NSW 2303 (“Premises”).
2. 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.
3. A preliminary notification of this decision was sent to the Applicant on 4 August 2022, together with the licence document for the Premises.

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 2.

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 32-35: Specific provisions in respect of a producer/wholesaler 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 50: Specific provisions in respect of a drink on premises authorisation.
 - h) Section 51: General provisions relating to licence-related authorisations.
9. An extract of these sections is set out in Schedule 3.
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 proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods, and
- b) the Application has been validly made and meets the procedural requirements under sections 32-35, 40, 50 and 51 of the Act.

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

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

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies;
- b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the notice of determination application DA2020/01129 in respect of the Premises, issued by the City of Newcastle Council on 26 October 2021.

Community impact

Local and broader communities

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

Licence density

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

- a) Newcastle has a **lower** saturation of producer wholesaler licences
- b) Hamilton and Newcastle have a **higher** saturation of licences authorised to sell packaged liquor
- c) Hamilton and Newcastle have a **lower** clustering of licences authorised to sell packaged liquor.

Crime data

16. The relevant BOCSAR data indicates that, in the year to September 2021:

- a) the Premises was located within hotspots for incidents of alcohol-related non-domestic assault, alcohol-related offensive conduct and malicious damage to property
- b) the Premises was located in close proximity to hotspots for incidents of alcohol-related domestic assault

- c) Hamilton recorded **lower** rates of alcohol-related domestic assault and **higher** rates of alcohol-related non-domestic assault, alcohol-related offensive conduct and malicious damage compared to the NSW state average
- d) Newcastle recorded **higher** rates of alcohol-related non-domestic assault and **lower** rates of alcohol-related domestic assault, alcohol-related offensive conduct and malicious damage, compared to the NSW state average.

Alcohol-related health data

17. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Newcastle recorded a **higher** than average level of alcohol-attributable deaths for the period 2018-2019, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2018-2020.

SEIFA

18. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2022 indicates that Hamilton and Newcastle were relatively advantaged compared to other suburbs and LGAs in NSW.

Business model

The Authority notes that the proposed business model involves the production of craft beers made onsite with the addition of brewery tours and tastings at the premises. All wholesale retail sales will be processed online and via phone orders. All direct sales to the public for consumption on the premises and packaged liquor sales for consumption off site will be sold over the bar at the premises.

Purported benefits

19. The Authority has had regard to the Application's purported benefits, including that:
- the premises is located within a newly renovated modern building in the middle of the local suburban high street, adding to community amenity and with better access to the premises;
 - the business is a brand-new brewery operation offering independent specialty artisan craft beers. The production brewery located at the rear of the premises will act as a showpiece and offer small educational classes;
 - the proposed business model seeks to provide approximately 52,000 litres of beer annually on site, and will support local business and provide employment opportunities in the community;
 - a dining area offering local residents, business owners and visitors to the area an array of food and drink pairing options to compliment the in-house craft beers will be located at the front of the premises, and
 - the approved manager has been the licensee of multiple venues in NSW and has successfully managed these liquor licences without any recorded compliance incidents.
- The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application, noting that there was also no objection from any members of the community.

Stakeholder submissions

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

- a) **NSW Police Force**, which notes an objection based on existing high licence saturation levels and a noticeable increase in alcohol related incidents in the Hamilton area. Police also noted that changes to the plan of management were required to reference the advertised producer wholesaler licence type and correct legislation. In addition, it was noted that a crime risk assessment that better suited a premises of this size and type and includes a risk assessment in relation to alcohol-related crime/anti-social behaviour should have formed part of the plan of management. Police recommended a suite of conditions be imposed on the licence should the application be approved.
- b) **The City of Newcastle Council**, which does not object to the grant of the liquor licence.
- c) **L&GNSW Compliance**, which notes there are no adverse findings associated with the proposed licensee or manager and supports the CCTV and plan of management conditions being imposed on the licence.

21. The Authority has also had regard to the Applicant's submission in response to the Police submission, which contends that the plan of management was updated as per the Police request and highlights the boutique nature of the production facility with the business focussing on craft products aimed at a higher-end customer market. The applicant also cited they had many years' experience in the hospitality industry operating liquor licences without incident and noted the premises is in a busy hospitality district with numerous venues in close proximity adding value to the area as a food and beverage destination.

Findings of concern

22. Having regard to the potential negative social impacts relating to crime statistics in the local community, health data and the Police objection, the Authority notes that there may be a risk that if the Licence were to be granted, liquor sold from the Premises will, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, and in other areas of the State.

Mitigating factors

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

- a) the venue would be the first producer wholesaler licence with a drink on premises authorisation within Hamilton
- b) crime rates in the Newcastle LGA are either aligned with or lower than the corresponding NSW rate
- c) the trading hours are reduced with retail sales until 05:00 PM Monday to Friday only
- d) alcohol-related hospitalisation rates are lower in the Newcastle LGA compared to NSW
- e) the approved manager has successfully managed multiple liquor licences in the state without any recorded incidents
- f) L&GNSW Compliance found no adverse findings regarding the licensee or manager
- g) the business model focuses on the production of boutique craft beers supplemented by the provision of food offerings
- h) absence of any objections from the local community and agency stakeholders other than Police (as noted above)
- i) the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

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

Yours faithfully



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

Important Information:

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

An application to NCAT must be made within 28 days of notice of this decision being published on the [Liquor & Gaming NSW website](#) and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The [NCAT website](#).

Schedule 1 – Licence conditions to be imposed

Good Folk Brewing

6-hour closure

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

Retail sales

2. Good Friday Normal trading
December 24th Normal trading
Christmas Day Normal trading
December 31st Normal trading Monday to Saturday,
10:00 AM to 12:00 midnight on a Sunday

Restricted trading & NYE – Drink on premises authorisation

3. Good Friday 12:00 noon – 10:00 PM
Christmas Day 12:00 noon – 10:00 PM
December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Plan of management - default

4. The premises is to be operated at all times in accordance with the Plan of Management dated 21 February 2022 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority

Liquor Accord

5. The licensee or its representative must join and be an active participant in the local liquor accord.

Incident register

6. 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.

Crime scene preservation

7. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
 - 3) make direct and personal contact with NSW Police to advise it of the incident, and
 - 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

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

CCTV – licence other than PLL

8. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image, and
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and

- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

No stockpiling

- 9. The licensee shall ensure, by adequate supervision methods throughout the premises, that no patron is stockpiling drinks. For this purpose stockpiling shall mean that any one patron has more than 2 unconsumed drinks at any one time (a patron may purchase up to 4 drinks at the one time).

Schedule 2 – Material considered by the Authority Good Folk Brewing

Application material

1. Floor plan for the Premises, dated 9 March 2020, indicating the proposed licensed area and liquor sales area to which the drink on premises (DOPA) will apply.
2. ASIC business records in relation to the Applicant and RANDOM INVESTMENTS PTY LTD, report generated 26 July 2021.
3. Completed application generated 27 July 2021.
4. Completed certification of advertising dated 29 July 2021.
5. Plan of Management documents for the Premises, titled Proposed Artisan Food & Drinks Industry Good Folk Brewing and dated 21 February 2022.

Development consent

6. Notice of determination issued by the City of Newcastle Council on 26 October 2021, approving the notice of development application DA2020/01129 for the Premises.

Liquor & Gaming LiveData Report

7. L&GNSW Liquor & Gaming LiveData Report for the suburb of Hamilton, generated on 16 February 2022, which sets out that:

Outlet diversification

- a. There are **34** authorised liquor licenses in Hamilton. Of these, 9 are authorised to sell packaged liquor. This includes 2 packaged liquor licence, 1 registered club licence and 6 hotel licences.

Outlet density (annual rate per 100,000 residents)

- b. Saturation of packaged liquor licences in Hamilton (**47.3**) is **higher** compared to Newcastle LGA (**32.8**), and **/higher** compared to NSW (**30.7**).
- c. Saturation of licences authorised to sell packaged liquor in Hamilton (**212.8**) is **higher** compared to Newcastle LGA (**104.9**), and **/higher** compared to NSW (**75.8**).
- d. Clustering of packaged liquor licences in Hamilton (**3**) is **higher** compared to Newcastle LGA (**2.2**), and **lower** compared to NSW (**3.1**).
- e. Clustering of licences authorised to sell packaged liquor in Hamilton (**6.9**) is **higher** compared to Newcastle LGA (**4.9**), and **lower** compared to NSW (**7**).

Offence data (annual rate per 100,000 residents)

In the year to September 2021:

- f. Alcohol-related domestic assault in Hamilton (**111.6**) was higher compared to the Newcastle LGA (**101.5**), and lower compared to all NSW (**227.8**).
- g. Alcohol-related non-domestic assault in Hamilton (**1272**) was higher compared to the Newcastle LGA (**206.6**), and higher compared to all NSW (**176.5**).
- h. Alcohol-related offensive conduct in Hamilton (**178.5**) was higher compared to the Newcastle LGA (**42.3**), and higher compared to all NSW (**45.7**).
- i. Malicious damage to property in Hamilton (**2410.2**) was higher compared to the Newcastle LGA (**1153**), and **/lower** compared to all NSW (**1247.8**).

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

- j. In the period 2018-2019 the alcohol-attributable death rate in Newcastle (**25.2**) was higher compared to the average across all of NSW (**19.7**).
- k. In the period 2018-2020 the alcohol-attributable hospitalisation rate in Newcastle (**445.8**) was lower compared to the NSW average (**513.2**).

SEIFA

- l. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Hamilton and Newcastle are socio-economically advantaged and advantaged respectively (**Top 41%** and **Top 27%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 8. Submission from NSW Police dated 11 November 2021.
- 9. Submission from L&G Compliance dated 23 December 2021.
- 10. Submission from the City of Newcastle Council dated 2 February 2022.
- 11. Submission from City of Newcastle Council dated 9 February 2022.

Other relevant information

- 12. Correspondence between L&GNSW staff and the Applicant between 29 July 2021 and 23 February 2022 in relation to the assessment of the Application.
- 13. LiveData report dated 16 February 2022.
- 14. Google map images extracted from the Google website compiled on 17 February 2022, showing the location and photos of the Premises in map view.
- 15. Producer wholesaler saturation data report dated 25 February 2022.
- 16. Acoustic Report dated 31 May 2021.
- 17. Social Impact Comment report dated September 2020.
- 18. Crime Risk Assessment report dated September 2020.

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

Good Folk Brewing

3 Objects of Act

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

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

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:

- (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
- (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

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

Note—

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

- (1B) Despite subsection (1)(b), the **standard trading period** for premises to which this subsection applies ends at midnight on a Sunday that falls on 24 or 31 December.
- (1C) Subsection (1B) applies to the following premises or part of premises—
- (a) if the primary purpose of the business carried on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may—

- (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises— specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2)(a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

32 Wholesale suppliers of liquor

A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wholesale supplier of liquor—

- (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—
 - (i) to the employees of the licensee or of a related corporation of the licensee, and
 - (ii) to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

33 Producers—authorisation conferred by licence

- (1) A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wine producer, as a producer of cider, perry or mead or as a producer of beer or spirits—
- (a) to sell the licensee’s product 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 the licensee’s product by retail on the licensed premises, for consumption away from the licensed premises only and only if it is supplied in sealed containers, on any day of the week during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
 - (c) to sell or supply the licensee’s product, at any time on the licensed premises, to customers or intending customers for consumption while on the licensed premises, but only for the purposes of tasting, and
 - (d) to sell or supply the licensee’s product at an industry show, but only if the local police and the Authority have been notified, in accordance with the regulations, about the industry show by the organiser of the show at least 7 days before it is held, and
 - (e) to sell or supply the licensee’s product at a producers’ market or fair, but only if the local police and the Authority have been notified, in accordance with the regulations, about the market or fair by the organiser of the market or fair at least 7 days before it is held, and
 - (f) to sell or supply the licensee’s product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee, and
 - (g) to sell or supply liquor in accordance with a drink on-premises authorisation.

Note—

See section 50(2) for trading hours in relation to drink on-premises authorisations.

- (2) The authorisation conferred by subsection (1) does not apply unless the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of wine, or the sale or supply of cider, perry or mead, or the sale or supply of beer or spirits, that is the licensee's product.
- (3) For the purposes of this section, a product is the **licensee's product** if—
- (a) in the case of wine or cider, perry or mead—it has been produced on the licensed premises (or a vineyard related to the licensed premises) from fruit grown or honey produced on the licensed premises or vineyard, or
 - (b) in the case only of wine—it is uniquely the licensee's (or a related corporation of the licensee's) own product, but only if that product contains not less than a percentage of wine, as prescribed by the regulations, that has been produced—
 - (i) by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises or a vineyard related to the licensed premises, or
 - (ii) on the licensee's behalf from fruit grown on the licensed premises or a vineyard related to the licensed premises, or
 - (c) in the case only of cider, perry or mead—it is uniquely the licensee's (or a related corporation of the licensee's) own product that has been produced—
 - (i) by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises, or
 - (ii) on the licensee's behalf from fruit grown or honey produced by the licensee, or
 - (d) in the case of beer or spirits—it has been produced on the licensed premises and is uniquely the licensee's (or a related corporation of the licensee's) own product.
- (4) For the purposes of subsection (3), a vineyard is **related** to licensed premises if it—
- (a) is operated by the licensee (or a related corporation of the licensee), and
 - (b) is within 500 metres of the licensed premises.
- (5) In this section—
- industry show** means a wine, beer, spirits or other liquor show at which liquor products are promoted and that is held by an industry association.
- producers' market or fair** means a market or fair—
- (a) at which farmers or primary producers display and sell their products directly to the public, and
 - (b) that is conducted in accordance with such requirements as may be prescribed by the regulations (including requirements relating to the number of stalls at the market or fair).

34 (Repealed)

35 Producers—miscellaneous provisions

- (1) This section applies in relation to a producer/wholesaler licence under which the licensee carries on business as a wine producer, as a producer of cider, perry or mead or as a producer of beer or spirits.
- (2) **Multiple premises** Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may, in the case of a wine producer only, comprise more than one set of premises, but only if—
- (a) each set of premises is operated by the licensee, and
 - (b) the premises are all located in the same wine region (as determined in accordance with the regulations).

- (3) **Industry shows** Liquor may only be sold or supplied by the licensee at an industry show in accordance with section 33(1)(d)—
 - (a) to customers or intending customers for consumption at the licensee’s display area, but only for the purposes of tasting, or
 - (b) in sealed containers for consumption away from the industry show.
- (4) **Producers’ markets or fairs** Liquor may only be sold or supplied by the licensee at a producers’ market or fair in accordance with section 33(1)(e)—
 - (a) to customers or intending customers for consumption at the licensee’s stall, but only for the purposes of tasting, and
 - (b) in sealed containers for consumption away from the market or fair.
- (5) Liquor must not be sold or supplied by the licensee at any such industry show, or at any such market or fair, to a person who is intoxicated.

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.

50 Drink on-premises authorisation

- (1) The Authority may, on application by the holder of a producer/wholesaler licence, endorse the licence with an authorisation (referred to as a drink on-premises authorisation) relating to the sale, supply and consumption of liquor on the licensed premises.
- (2) A drink on-premises authorisation authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only—
- (a) on any day of the week (except a restricted trading day)—during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
 - (b) on 31 December in any year—from the start of the standard trading period for that day until 2 am on the next succeeding day, and
 - (c) on a restricted trading day—from noon to 10 pm.

51 General provisions relating to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act—
- (a) an extended trading authorisation,
 - (b) a drink on-premises authorisation,
 - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
 - (d) a minors area authorisation,
 - (e) a minors functions authorisation,
 - (f) a minors authorisation.
- (2) An application for an authorisation to which this section applies must—
- (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations, and

- (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation—
 - (a) is subject to such conditions—
 - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
 - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) the Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has—
 - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.