



Ms Jade Hall
Liquor and Gaming Solutions
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25 October 2022

Dear Ms Hall

Application No.	APP-0008238030
Applicant	Merewether Carlton Rugby Club Incorporated
Application for	On-premises liquor licence (catering and sporting facility)
Licence name	Green Room
Premises	Townson Oval 24 Mitchell Street Merewether NSW 2291
Trading hours	Monday to Sunday 10:00 AM – 10:00 PM
Legislation	Sections 3, 11A, 12, 21-28, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for an on-premises liquor licence (catering and sporting facility) – Green Room

The Independent Liquor & Gaming Authority first considered the application above at its meeting on 15 September 2021 and, following the receipt and consideration of further requested information, and pursuant to section 45 of the *Liquor Act 2007*, decided on 30 November 2021 to **approve** the application 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 11 February 2021, Merewether Carlton Rugby Club Incorporated (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for an on-premises liquor licence (catering and sporting facility) (“Licence”) for the premises at Townson Oval, 24 Mitchell Street, Merewether NSW 2291 (“Premises”).
2. The Independent Liquor & Gaming Authority first considered the application above at its meeting on 15 September 2021 and, following the receipt and consideration of further requested information, and pursuant to section 45 of the *Liquor Act 2007* (“Act”) decided on 30 November 2021 to approve the Application subject to imposing conditions.
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 6 December 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying information 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 21-28: Specific provisions in respect of a on-premises 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: Requirement that the Authority must not approve the application unless it is satisfied, having regard to the available information, that the overall social impact of doing so will not be detrimental to the well-being of the local and broader community.

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, 25 and 40 of the Act.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
 - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the development consent DA2015/10115 in respect of the Premises, issued by The City of Newcastle on 11 March 2016.

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

Licence density

16. The Authority notes that, compared to the NSW state average, Merewether and Newcastle LGA have a **higher** saturation of on-premises licences compared to NSW.

Crime data

17. The relevant BOCSAR data indicates that, in the year to March 2021:
 - a) the Premises was located within medium hotspots for incidents of alcohol-related assault, and malicious damage to property and located in proximity to a hotspot for incidents of alcohol-related non-domestic assault.
 - b) Merewether recorded **higher** rates of alcohol-related non-domestic assault and malicious damage to property and **lower** rates of alcohol-related domestic assault and alcohol-related offensive conduct, compared to the NSW state average.

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

Alcohol-related health data

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

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Merewether and Newcastle LGA were relatively advantaged compared to other suburbs and LGAs in NSW.

Business model

20. The Authority notes the Applicant's contention that the proposed business model involves an on-premises liquor licence to enable the Premises to offer liquor to patrons who may be spectating sports or attending the Premises for a function or event. Specifically, the Application's purpose is to licence the function room inside the grandstand building of Townson Oval, which presently operates under a limited licence, and to change the boundaries of the limited licence to exclude the function room so that the two licences do not overlap. As such, the Application was provided alongside an application to significantly expand the boundaries of the limited licence to include the entirety of Townson Oval in order to host functions with a capacity of approximately 2,000 persons.

Purported benefits

21. The Authority has had regard to the Applicant's purported benefits, including that:
- a) the Merewether Carlton Rugby Football Club ("Club") is located at Townson Oval and fields the maximum number of teams possible in the Newcastle competition, comprising of five senior grades, a colt's team and a women's side
 - b) the Club boasts approximately 200 senior and well over 200 junior registered players
 - c) the Club will host a wide range of sporting events at Townson Oval, including local rugby union and rugby league competitions and training sessions
 - d) the catering service at the Premises will supply food at private events and functions
 - e) reduced hours within standard trading hours will apply to the Licence
 - f) clear signage will be permanently placed on the stairwells and lift entrance of the licensed area advising patrons not to remove liquor or bring liquor into the licensed area
 - g) staff are all trained in the licensed area of the Premises, and all entrances can be viewed from the bar area
 - h) all building works at the Premises have been designed in consideration of the amenity of the surrounding area and ensure the operations are managed in such a way as to minimise any adverse impacts to neighbours through noise, waste and the behaviour of patrons.

Stakeholder submissions

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

- a) **NSW Police Force**, which objects to the Application on the basis that there are concerns with patron management in the outer areas of Townson Oval, high rates of crime and licence saturation, and that the lack of public transport services may result in potential noise disturbances. Additionally, Police submit the Applicant currently uses a limited licence (multi-function) at Townson Oval and that an additional limited licence is used by a different sporting club at the same location. If the Licence is granted, Police request the Authority consider imposing the six suggested licence conditions.
- b) **L&GNSW Compliance**, which notes there are no adverse findings in relation to the Application.
- c) **Local Council**, which does not object to the Application and notes that there are no objections to the grant of the Licence, and that there are conditions in place to minimise noise disturbance during live or musical entertainment at the Premises.
- d) **Members of the public**, including 51 submissions, supporting the Application on the basis the Premises will be beneficial to the local community in an economic sense and will provide employment opportunities. The submissions do not indicate the Premises will disrupt the local community and instead describe the club as being well regarded.

23. **Members of the public**, which included 40 submissions, objecting to the Application based on parking concerns, oversaturation of liquor licences in the neighbourhood and claims that notification requirements were not met. Additionally, the objections also noted there are concerns with the potential for anti-social behaviour to occur, the trading hours being too long and that the Premises is not suited for privatisation. The Authority has also had regard to the Applicant's submission in response, and notes:

- a) the Applicant's responses to the Police objection, including:
 - i. the Applicant does not consent to the proposed Police conditions
 - ii. the Premises is an enclosed function room and does not overlap with any other liquor licences
 - iii. adjacent limited liquor licences have their own defined spaces
 - iv. bus stops are located near the Premises and operate after 10:00 PM each night
 - v. the Licence can operate independently of any other events happening at the Premises location, and the remaining limited licences (multi-function) require their licensees to nominate dates their licences will operate each year
 - vi. alcohol will not be able to be removed from the Premises
 - vii. licence saturation and crime rates in Merewether are lower compared to NSW, and a noise register is included within the plan of management
- b) the Applicant's responses to the objections received by members of the public, including:
 - i. there is a concern that many of the submissions were received due to a letter of opposition being distributed in the community by two competitors, including their own objections, due to opposing commercial interests

- ii. the Applicant and its representative have provided their own letters to the community outlining the Application's proposal
- iii. the number of submissions received does not reflect the usual number of residents within a 50m radius of the Premises
- iv. the licensee has a lease in place for the Premises
- v. the Premises will no longer be part of the limited licence owned by the Applicant and has a separate licensed boundary in place
- vi. the current limited licence has not received any noise complaints
- vii. evidence has been provided to the Authority confirming public consultation requirements have been met
- viii. the Licence will only trade when a booked function or sporting event is to take place.

Findings of concern

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

- a) there are objections received from Police and 40 members of the public
- b) there are high crime rates for alcohol-related non-domestic assault and malicious damage in Merewether compared to NSW
- c) the Premises is located within medium-density hotspots for alcohol-related domestic assault and malicious damage to property
- d) licence density for on-premises liquor licences are higher in both Merewether and the Newcastle LGA compared to NSW
- e) the rate of alcohol-attributable deaths is higher in the Newcastle LGA compared to NSW
- f) patrons are required to traverse across another limited licence to access and exit the Premises when more than one licence is trading at Townson Oval
- g) two other limited licences use Townson Oval, including the remainder of the grandstand
- h) the proposed manager is remaining as licensee of the associated limited licence

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

Mitigating factors

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

- a) the 51 submissions in support from members of the public
- b) the change of boundaries application submitted alongside the Application by the Applicant has been approved
- c) the lack of objections from The City of Newcastle or L&GNSW Compliance
- d) there is a low crime rate for alcohol-related domestic assault and alcohol-related offensive conduct in Merewether compared to NSW
- e) SEIFA data indicates an above-average level of socio-economic advantage and disadvantage in both Merewether and the Newcastle LGA

- f) the rate of alcohol-attributable hospitalisations is lower in the Newcastle LGA compared to NSW
- g) the Premises' trading hours are reduced
- h) the plan of management outlines that staff are deployed to ensure alcohol is not transported into another licensed area, as well as procedures for patrons escorted from the Premises
- i) the further information provided by the Applicant regarding concerns raised by Police with patron management in the outer areas of Townson Oval and what types of large functions the Applicant intends to hold at the Premises
- j) the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1

CONCLUSION

27. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
28. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
29. Accordingly, the Authority has decided to grant the Licence 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 Green Room

6-hour closure period

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

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

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

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

Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. Restricted trading & NYE
Consumption on premises

Good Friday: Normal trading

Christmas Day: Normal trading

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

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

Liquor accord

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

6. Crime Scene Preservation

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

- (a) Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police, and
- (b) make direct and personal contact with the Police Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
- (c) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.

7. Incident Register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
 - (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 inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

8. Closed-circuit television system

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

- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

9. LA10 Noise levels

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre (31.5Hz – 8 kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premise shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8Khz inclusive) between midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.

For the purposes of this condition the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises (A-weighted).

10. Neighbourhood Amenity

The licensee must ensure that:

- (a) Patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- (b) The manner in which the business of the premises is conducted, and the behaviour of persons entering and leaving the premises, do not cause undue disturbance to the amenity of the neighbourhood. In this regard, the licensee is responsible for the control of noise and litter generated by persons, and by the operation of the premises. If so directed by Council, the licensee must employ private security staff to ensure that this condition is complied with.
- (c) The licensee must record in a register full details of any disturbance complaints made by a person to the licensee, management or staff in respect to the manner in which the business of the premises is conducted, or the behaviour of persons entering or leaving the premises. Such recording must include time, date, nature of the complaint and, if provided, any details of the complainant.

The licensee must respond to any disturbance complaints in a timely and effective manner. All actions undertaken by the licensee, management and staff to resolve such complaints must be recorded in the register.

11. The following drinks must not be sold or supplied on the Licensed Premises:

Any drink that contains more than 30 mls of spirits or liqueur and that is designed to be consumed rapidly (commonly referred to as a “shot” or a “shooter”).

12. Licensee training must be completed no later than 6 months from the date of grant of the liquor licence.

Schedule 2 – Material considered by the Authority

Green Room

Application material

1. Completed application dated 11 February 2021.
2. Completed certificate of advertising dated 1 May 2021.
3. Plan of Management documents for the Premises, titled Alcohol Management Plan and dated July 2021.
4. Australian Business Register records in relation to Merewether Carlton Rugby Club Incorporated dated 23 July 2021.
5. Floor plan for the Premises indicating the proposed licensed area.

Development consent

6. Notice of determination issued by The City of Newcastle on 11 March 2016, approving development consent DA2015/10115 for the Premises.

Liquor & Gaming LiveData Report

7. L&GNSW Liquor & Gaming LiveData Report for the suburb of Merewether, generated on 23 July 2021, which sets out that:

Outlet diversification

- a. There are **17** authorised liquor licenses in Merewether. Of these, **7** are authorised to sell packaged liquor. This includes **1** packaged liquor licence, **2** registered club licences and **4** hotel licences.

Offence data (annual rate per 100,000 residents)

In the year to March 2021:

- b. alcohol-related domestic assault in Merewether (**43.2**) was lower compared to the Newcastle LGA (**103.9**), and lower compared to all NSW (**112.9**)
- c. alcohol-related non-domestic assault in Merewether (**121**) was lower compared to the Newcastle LGA (**183.6**), and higher compared to all NSW (**89.9**)
- d. alcohol-related offensive conduct in Merewether (**0**) was lower compared to the Newcastle LGA (**42.9**), and lower compared to all NSW (**22.6**)
- e. malicious damage to property in Merewether (**751.8**) was lower compared to the Newcastle LGA (**1139.1**), and higher compared to all NSW (**649.5**).

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

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

SEIFA

- h. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Merewether and the Newcastle LGA are socio-economically advantaged and advantaged respectively (**Top 11%** and **Top 27%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

8. 91 submissions from members of the public, dated between 1 – 16 March 2021, including a table that summarises all submissions.
9. Submission from The City of Newcastle, dated 3 March 2021.
10. Submission from NSW Police, dated 16 March 2021.
11. Submission from L&GNSW Compliance, dated 20 April 2021.
12. Submission from The City of Newcastle, dated 12 July 2021

Other relevant information

13. A copy of a letter from the Liquor and Gaming Solutions on behalf of the Applicant to the Townson Oval/Mitchell Park neighbours regarding the Application dated 8 March 2021.
14. A copy of a letter from the Applicant to the Townson Oval/Mitchell Park neighbours regarding the Application dated 9 March 2021.
15. Correspondence between L&GNSW staff and the Applicant between 1 April 2021 to 4 August 2021 in relation to the assessment.
16. A copy of a short term licence of the Green Room, Mitchell Park between Merewether Carlton Rugby Club and City of Newcastle dated 16 April 2021.
17. A document detailing the on-premises (catering and/or sporting facility) licence saturation statistics dated 26 July 2021, which sets out that:
Outlet density (annual rate per 100,000 residents)
 - a. Saturation of on-premises (catering and/or sporting facility) licences in Merewether (**25.10**) is **lower** compared to Newcastle LGA (**45.45**) and **higher** compared to NSW (**16.40**).
18. Google maps images extracted from the Google website, showing the location and photos of the Premises in map view, earth view and street view compiled 6 August 2021.
19. Photos of a letterbox drop regarding the Application by Souths Newcastle Rugby League Football Club and Merewether District Cricket Club.

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

Green Room

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).

21 Certain kinds of premises not to be licensed

(1) An on-premises licence must not be granted in respect of any premises if the premises—

- (a) are used primarily for the purposes of carrying out a business or activity, or
- (b) are of a kind of premises, prescribed by the regulations for the purposes of this section.

(2) The authorisation conferred by an on-premises licence does not apply if the licensed premises—

- a) are used primarily for the purposes of carrying out any such business or activity prescribed by the regulations, or
- b) are premises of any such kind prescribed by the regulations.

22 Primary purpose test

(1) An on-premises licence must not be granted in respect of any premises if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor.

(2) The authorisation conferred by an on-premises licence does not apply if the primary purpose of the business or activity carried out on the licensed premises at any time is the sale or supply of liquor.

(2A) To remove any doubt, subsection (2) applies in relation to—

- a) an on-premises licence that specifies the kind of business or activity carried out on the licensed premises, and
- b) an on-premises licence that specifies the kind of licensed premises to which the licence relates.

(3) Subsections (1) and (2) do not apply if the premises to which the licence or proposed licence relates—

- a) are part of an airport, or
- b) are located on land occupied by a tertiary institution and cater for students of that institution.

(4) Subsections (1) and (2) are also subject to such exceptions as may be prescribed by the regulations.

23 On-premises licence must specify business/activity or kind of licensed premises

(1) An on-premises licence must specify the kind of business or activity carried out on the licensed premises or the kind of licensed premises to which the licence relates.

(2) Without limiting the kinds of businesses or activities (or the kinds of premises) in respect of which on-premises licences may be granted, an on-premises licence may be granted in respect of a public entertainment venue.

(3) More than one kind of business or activity or kind of premises may be specified in an on-premises licence. However, a separate on-premises licence is, except in the circumstances referred to in section 25(6), required for each set of premises.

- (4) The licensed premises to which an on-premises licence relates may be described by reference to the kind of business or activity carried out on the premises or the kind of premises concerned.

Note—

For example, the terms “licensed restaurant” and “licensed public entertainment venue” are used in this Act to refer to premises in respect of which an on-premises licence relating to a restaurant or public entertainment venue, respectively, is granted.

- (5) The business or activity, or the kind of premises, specified in an on-premises licence may, on application by the licensee, be varied by the Authority. Any such variation may include the addition of a specified business or activity, or a specified kind of premises, in respect of the licence.
- (6) The authorisation conferred by an on-premises licence does not apply if—
- a) the business or activity carried out on the licensed premises is not the business or activity specified for the time being in the licence, or
 - b) the licensed premises at any time do not comprise premises of the kind specified for the time being in the licence.
- (7) The regulations may provide for requirements in relation to the business or activity carried out on licensed premises that are a licensed restaurant.

24 On-premises licence—sale or supply of liquor must be with or ancillary to other product or service

- (1) An on-premises licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises.
- (2) Regulations may limit products or services provided on licensed premises. A product or service is not to be considered a product or service for the purposes of subsection (1) if it is, or is of a class, specified by the regulations for the purposes of this subsection.
- (3) Authorisation to sell or supply liquor without other product or service. Despite subsection (1), the Authority may, on application by the holder of an on-premises licence, endorse the licence with an authorisation that allows liquor to be sold or supplied for consumption on the licensed premises otherwise than with, or ancillary to, the other product or service referred to in that subsection.

Note—

Section 51 applies to any such authorisation.

- (3A) However, the other product or service must be available on the licensed premises at all times while the authorisation operates to allow liquor to be sold or supplied otherwise than with, or ancillary to, the product or service.
- (4) Subsection (1) does not apply if the premises to which the licence relates—
- a) are part of an airport, or
 - b) are located on land occupied by a tertiary institution and cater for students of that institution, or
 - c) are exempt from the primary purpose test referred to in section 22.

25 Authorisation conferred by on-premises licence (generally)

- (1) An on-premises licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the premises only.

- (2) Trading hours for consumption on premises The times when liquor may be sold for consumption on the licensed premises are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (3) Restricted trading days Despite subsection (2), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows—
- a) between midnight and 5 am on that day (but only if authorised by an extended trading authorisation),
 - b) between 5 am and noon on that day (but only if authorised by an extended trading authorisation and only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises),
 - c) between noon and 10 pm on that day (but only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises),
 - d) between 10 pm and midnight on that day (but only if authorised by an extended trading authorisation and only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises).
 - e) Note—
 - f) Section 49(7) restricts the granting of an extended trading authorisation for licensed public entertainment venues on restricted trading days.
- (4) Subsection (3) does not apply to—
- a) licensed premises that are part of an airport, or
 - b) an on-premises licence that relates to a catering service.
- (5) Trading on new year's eve On 31 December in any year, liquor may be sold for consumption on the licensed premises from the start of the standard trading period for that day until 2 am on the next succeeding day. This subsection does not limit the operation of any extended trading authorisation that applies in relation to the licensed premises concerned.
- (6) Trading on premises other than licensed premises An on-premises licence also authorises the licensee to sell liquor by retail on such premises and in such circumstances as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as are specified by the Authority in the licence. Any such premises are, subject to the regulations, taken to be licensed premises for the purposes of this Act.
- (7) The regulations may make provision for or with respect to the granting of an authorisation under subsection (6) (including limiting the circumstances for which such an authorisation may be granted by the Authority).

Note—

Section 51 also applies to an authorisation under subsection (6).

- (8) Special provisions relating to licensed accommodation premises An on-premises licence that relates to accommodation premises also authorises the licensee to sell liquor by retail on the licensed premises—
- a) for consumption on the licensed premises only—at any time on any day (including a restricted trading day) to a resident (or a guest of a resident while in the resident's company) or an employee of the licensee, and
 - b) to a resident at any time for consumption away from the licensed premises, but only if—
 - i. the sale is ancillary to the provision of a meal for consumption away from the licensed premises, and

- ii. the volume of liquor supplied to any such resident on any one day does not exceed 2 litres.
- (9) Special provisions relating to licensed vessels Despite any other provision of this section, an on-premises licence that relates to a vessel authorises the licensee to sell liquor by retail to passengers on board the vessel, for consumption on board the vessel only—
- (a) between the period commencing one hour before the vessel starts any voyage or passage and ending 30 minutes after the voyage or passage is completed, or
 - (b) at such other times, or in such other circumstances, as the Authority may, on application by the licensee, authorise.

Note—

Section 51 applies to an authorisation referred to in paragraph (b).

26 Authorisation to sell liquor for consumption away from licensed premises in special circumstances

- (1) Despite section 25(1), liquor may be sold by retail on the licensed premises to which an on-premises licence relates for consumption away from the licensed premises if the licence is, on application by the licensee, endorsed by the Authority with an authorisation for the purposes of this section.
- (2) An authorisation under this section does not authorise the sale of liquor on a restricted trading day.
- (3) In granting an authorisation under this section, the Authority is to specify the circumstances in which, and the times when, liquor may be sold for consumption away from the licensed premises.
- (3A) An 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) The regulations may make provision for or with respect to the granting of an authorisation under this section (including limiting the circumstances for which such an authorisation may be granted by the Authority).

Note—

Section 51 applies to an authorisation under this section.

27 Requirement to provide food on licensed premises

- (1) Liquor may only be sold or supplied on the licensed premises to which an on-premises licence relates if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied under the authorisation of the licence.
- (2) If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.
- (3) Subsection (1) is subject to such exceptions as may be approved by the Authority in relation to any particular licensed premises.

28 Certain licensed premises must be open to general public

- (1) This section applies to an on-premises licence that relates to—
 - (a) a restaurant, or
 - (b) a public entertainment venue.

- (2) The business carried out under an on-premises licence to which this section applies must not be, or include, a business that is limited to the sale or supply of liquor only—
 - (a) to persons who have been invited to use or attend the licensed premises, or
 - (b) to a particular class, or particular classes, of persons using or attending the licensed premises.
- (2A) To avoid doubt, subsection (2)—
 - (a) does not prevent a restaurant or public entertainment venue to which an on-premises licence applies being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
 - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular licensed premises or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.

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.