



Mr Luciano Gomes Da Cruz

By email to: luciano@meet.restaurant.com

15 September 2022

Dear Mr Da Cruz

Application No.	1-8154313000 (PSA)
Application date	16 December 2021
Application No.	1-8177371129 (ETA)
Application date	14 January 2022
Applicant	Luciano Gomes Da Cruz
Application for	Primary service authorisation Extended trading authorisation
Licence name	MEET Restaurant
Liquor licence	LIQO660034870
Proposed Trading hours	<u>Primary service authorisation: The tiled area with frontage to Darby Street</u> Monday to Thursday 10:00 AM – 12:00 midnight Friday and Saturday 10:00 AM – 2:00 AM Sunday 10:00 AM – 12:00 AM <u>All other areas of the licensed premises</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Current trading hours	<u>Primary service authorisation: The tiled area with frontage to Darby Street</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>All other areas of the licensed premises</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Premises	2, 9 Darby Street NEWCASTLE, NSW 2300
Legislation	Sections 3, 11A, 12, 21-28, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for an extended trading authorisation and a primary service authorisation – MEET Newcastle

The Independent Liquor & Gaming Authority considered the applications above for on-premises liquor licence LIQO660034870, operating as MEET Newcastle, and decided on 18 May 2022 to **refuse** the application under section 49 of the *Liquor Act 2007*.

The application sought to extend the current trading hours of the primary service authorisation for the tiled area with frontage to Darby Street from:

- Monday to Saturday 10:00 AM – 12:00 midnight and Sunday 10:00 AM – 10:00 PM, to

- Monday to Thursday 10:00 AM – 12:00 midnight, Friday and Saturday 10:00 AM – 2:00 AM and Sunday 10:00 AM – 12:00 AM

Statement of reasons

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

If you have any questions, please contact the case manager, 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 16 December 2021, Mr Luciano Gomes Da Cruz (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application for a primary service authorisation (“PSA”), and on 14 January 2022, an application for an extended trading authorisation (“ETA”) for liquor licence LIQO660034870 (“Licence”) for the premises at 2, 9 Darby St, NEWCASTLE, NSW 2300 (“Premises”).
2. The application for the ETA sought to extend the current trading hours located in the PSA area. The PSA application sought to vary the existing PSA and ensure the PSA area hours aligned with the proposed ETA hours (together, the “Applications”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.

MATERIAL CONSIDERED BY THE AUTHORITY

4. The Authority has considered the Applications, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Applications.
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 Applications 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 the Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in Schedule 1.

LEGISLATIVE FRAMEWORK

8. The Authority has considered the Applications 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 and 28: Specific provisions in respect of an on-premises licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 44: Submissions to Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
 - h) Section 49: General provisions in respect of ETAs.
 - i) Section 51: General provisions relating to licence-related authorisations.

9. An extract of these sections is set out in Schedule 2.
10. The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the Applications 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 Applications.

Validity, procedural and trading hour requirements

12. The Authority is satisfied on the material before it that:
 - a) the Applications have been validly made and meet the procedural requirements under sections 40 and 51 of the Act, and
 - b) the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 25 of the Act in respect of trading and 6-hour closure periods.
13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Applications was prepared in accordance with the relevant requirements.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
 - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the 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 DA2018/00703.01 in respect of the Premises, issued by City of Newcastle on 13 August 2021.

Community impact

Local and broader communities

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

Licence density

16. The Authority notes that, compared to the NSW state average:
 - a) Newcastle and Newcastle LGA have a **higher** saturation of on-premises licences compared to the state;
 - b) Newcastle has a **higher** saturation of on-premises licences with primary service authorisations compared to the state, and
 - c) Newcastle and Newcastle LGA have a **higher** saturation of late-trading outlets compared to the state.

Crime data

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

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 2018/2019, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2018/2019-2019/2020.

SEIFA

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

Business model

20. The Authority notes that the Applicant's proposed business model involves an on-premises restaurant serving food as the primary service and alcohol as the ancillary service to customers past midnight Friday and Saturday.

Purported benefits

21. The Authority has had regard to the Applicant's submissions and notes the Applicant's contention regarding "the proposed hours are to satisfy growing demand for alternatives to late night dining/entertainment experiences".
22. The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Applications.

Stakeholder submissions

23. The Authority has had regard to the submissions from:
- a) **NSW Police Force**, noting objections to the Applications citing issues with licence density and saturation, the proximity of the Premises to crime hotspots and previous infringement notices issued in respect of the Premises in 2020 and 2021. Police also referred to the risk of licensed premises with PSAs morphing into bars, especially after midnight when food is not normally consumed by patrons. Police also raised concerns the community impact statement was not conducted correctly, as the statement failed to detail the ongoing concerns Police had with the proposals.

- b) **L&GNSW Compliance**, which notes that there were no adverse findings on the premises or against the licensee, however, submitted the plan of management should be updated to include an incident register, crime scene preservation measures and to ensure patrons who appear to be under the age of 25 have their identification verified. L&GNSW Compliance also supports the imposition of licence conditions relating to CCTV and a plan of management.
- c) **City of Newcastle**, noting that the required development consents are in place for the business to operate at the Premises.
- d) **Three community members**, noting that the community consultation process was not conducted correctly, including not distributing the notice of intention to neighbours, the lack of transparency in relation to advertised trading hours and concerns that the proposal would turn the restaurant into a bar.

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

- a) the Premises has operated at its current location for around three years with no incident
- b) the Premises is primarily a restaurant with a bar and there is no intention for it to become a small bar
- c) the average customer seating time in the later part of dining service often means customers are seated past 10:00 PM
- d) the plan of management has been revised as per L&GNSW Compliance's suggestion and the Applicant has consented to conditions relating to incident register, CCTV and plan of management
- e) the Premises has held a PSA since June 2019, and as part of the ETA application process, a new PSA application was required to be submitted to align the PSA with the ETA hours
- f) the notice of intention was distributed correctly, and was amended to include 24-hour format and then re-distributed to the community.

Findings of concern

25. 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 from the Police and members of the public
- b) the Premises is located in high-density hotspots for alcohol-related non-domestic assault, alcohol-related offensive conduct and malicious damage to property
- c) alcohol related non-domestic assault is higher in Newcastle and the Newcastle LGA compared to the NSW state average
- d) alcohol-related offensive conduct and malicious damage to property is higher in Newcastle compared to the NSW state average
- e) alcohol-attributable deaths are higher in the Newcastle LGA compared to the NSW state average
- f) licence saturation for the licence type with associated authorisations is currently very high within the suburb

- g) the ETA area will occupy the same area that the PSA occupies, therefore the Premises could potentially act as a bar during the extended trading period
 - h) the late trading outlet saturation within the suburb is significantly higher compared to the state.
26. The Authority considers that, if the ETA and PSA are granted, there is a risk that the liquor sold from the Premises would exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

Mitigating factors

27. The Authority is satisfied that the factors below go some way towards mitigating these risks:
- a) L&GNSW Compliance notes there are no adverse findings or complaints regarding the licensee or venue
 - b) alcohol-related domestic assault is lower in Newcastle and the Newcastle LGA compared to the NSW state average
 - c) SEIFA data indicated both Newcastle and Newcastle LGA are above average for socioeconomic advantage
 - d) alcohol-attributable hospitalisations are lower in Newcastle LGA compared to the NSW state average
 - e) crime statistics and licence densities may be skewed due to Newcastle's low population and the Premises location in the CBD area, where visitation from other suburbs within Newcastle LGA and beyond occurs
 - f) patron capacity for the ETA and PSA is restricted to 60
 - g) the ETA will only apply from Friday-Sunday
 - h) the area of the ETA and PSA is 88sqm
 - i) there is no other on-premises licence in Newcastle that trades past midnight with a PSA
 - j) existing conditions on the licence prohibit tables being removed to increase patron standing capacity and limits the number of patrons permitted in the PSA area to the number of available seats.

CONCLUSION

28. However, having considered the positive and negative social impacts that are likely to flow from granting the Applications, serious concerns in relation to licence saturation and the social impact of approving the Applications remain, particularly in light of the objections received.
29. The Authority is not satisfied that the above matters mitigate the risks sufficiently such that the overall social impact of granting the ETA and PSA would not be detrimental to the wellbeing of the local and broader communities. Additionally, the Authority is satisfied that granting the ETA and PSA would not facilitate the balanced development, in the public interest, of the liquor industry.

30. Accordingly, the Authority has decided to refuse to grant the ETA and PSA under section 49 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 <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> 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 is at <http://www.ncat.nsw.gov.au/>.

Schedule 1 – Material considered by the Authority MEET Restaurant

Application material

1. Floor plan for the Proposed Premises, dated 8 November 2018, indicating the proposed areas to which the PSA and ETA will apply.
2. Completed Application with associated notices dated 1 December 2021.
3. Completed Category A Community Impact Statement for the ETA dated 1 December 2021.
4. Completed Category A Community Impact Statement for the PSA dated 15 December 2021.
5. Noticeboard correspondence date range 17 January to 7 February 2022.
6. Completed certification of advertising dated 8 March 2022.
7. Plan of Management documents for the Proposed Premises, titled MEET Plan of Management and dated March 2022.

Development consent

8. Notice of determination of modification DA2018/00703.01 issued by City of Newcastle on 13 August 2021, approving the modification of development consent DA2018/00703, dated 14 November 2018, for the Premises.

Liquor & Gaming LiveData Report

9. L&GNSW Liquor & Gaming LiveData Report for the suburb of Newcastle, generated on 4 March 2022, which sets out that:

Outlet diversification

- a. There are **102** authorised liquor licences in Newcastle. Of these, **20** are authorised to sell packaged liquor. This includes **4** packaged liquor stores, **2** registered club licences and **14** hotel licences.

Outlet density (annual rate per 100,000 residents)

- a. saturation of on-premises licences with ETA and PSA in Newcastle (**36.32**) is **higher** compared to Newcastle LGA (**3.86**), and **higher** compared to NSW (**5.11**)
- b. saturation of late-trading outlets in Newcastle (**544.9**) is **higher** compared to Newcastle LGA (**45.7**), and **higher** compared to NSW (**34.1**)
- c. clustering of late-trading outlets in Newcastle (**35.2**) is **higher** compared to Newcastle LGA (**16.7**), and **lower** compared to NSW (**66.5**).

Offence data (annual rate per 100,000 residents)

In the year to September 2021:

- d. alcohol-related domestic assault in Newcastle (**127.2**) was **higher** compared to the Newcastle LGA (**101.5**), and **lower** compared to all NSW (**227.8**)
- e. alcohol-related non-domestic assault in Newcastle (**1653.4**) was **higher** compared to the Newcastle LGA (**206.6**), and **higher** compared to all NSW (**176.5**)
- f. late-night alcohol-related non-domestic assault in Newcastle (**445.2**) was **higher** compared to the Newcastle LGA (**65.2**), and **higher** compared to all NSW (**50.7**)
- g. alcohol-related non-domestic serious assault (**763.1**) was **higher** compared to the Newcastle LGA (**83.3**), and **higher** compared to all NSW (**65.9**)
- h. alcohol-related offensive conduct in Newcastle (**477**) was **higher** compared to the Newcastle LGA (**42.3**), and **higher** compared to all NSW (**45.7**)

- i. malicious damage to property in Newcastle (**2798.1**) was higher compared to the Newcastle LGA (**1153**), and **higher** 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 2018/2019-2019/2020 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 Newcastle and Newcastle LGA are socio-economically advantaged and advantaged respectively (**Top 9%** and **Top 27%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

10. Submission from a member of the public dated 24 December 2021.
11. Submissions from NSW Police dated 21 December 2021 and 31 January 2022.
12. Submission from City of Newcastle dated 23 February 2022.
13. Submission from a member of the public dated 4 March 2022.
14. Submission from a member of the public dated 10 March 2022.
15. Submission from L&NSW Compliance dated 4 March 2022.

Other relevant information

16. A document indicating five-year crime statistics for Newcastle and Newcastle LGA between September 2017 to September 2022.
17. Noise Assessment undertaken by Rapt Consulting for the Premises dated June 2018.
18. Various documentation regarding a prior application by the Applicant for an on-premises licence and PSA at the Premises, granted on 6 March 2019.
19. Original notices provided with the Application dated 1 December 2021.
20. Correspondence between L&NSW staff between 14 January 2022 until 17 January 2022 regarding an issue with the L&NSW noticeboard.
21. Correspondence between L&NSW staff between 4 February 2022 and 7 February 2022 regarding L&NSW noticeboard reset with new notices.
22. A document indicating the number of current licences with consumption on premises and extended trading authorisation in Newcastle dated March 2022
23. A document indicating on-premises licence saturation in Newcastle, Newcastle LGA and NSW dated 4 March 2022.
24. Correspondence between L&NSW staff and the Applicant between 10 December 2021 and L&NSW response to NCG Network Group dated Monday 14 March 2022
25. 25 March 2022.
26. Extract of the Premises' liquor licence, extracted on 28 March 2022.
27. Google maps images extracted from the Google website in 2022, showing the location and photos of the Premises in map view, earth view and street view.

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

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).

Note—

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) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (*the liquor sales area*) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

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,
 - (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, and
 - (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.

49 Extended trading authorisation—general provisions

- (1) **Application of section** This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**)—
- (a) a hotel licence,
 - (b) a club licence,
 - (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
 - (d) a packaged liquor licence,
 - (e) a producer/wholesaler licence.
- (2) **Extended trading authorisation for consumption on premises** In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods—
- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
 - (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
 - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
 - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
- (2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods—
- (a) a specified period between 5 am and noon on a restricted trading day,
 - (b) a specified period between 10 pm and midnight on a restricted trading day.

Note—

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

- (3) Despite subsection (2)(a), the Authority may, in the case of a hotel—
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
 - (b) situated in the Kings Cross precinct, or
 - (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or

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

- (4) **Extended trading authorisation for take-away sales on Sundays** In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following—
- (a) a specified period between 5 am and 10 am on a Sunday,
 - (b) a specified period between 10 pm and 11 pm on a Sunday.
- (5) **Nature of extended trading authorisation** An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises—
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
 - (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
 - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (5A) Despite subsection (2)(a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified** In granting an extended trading authorisation, the Authority is to specify—
- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
 - (b) the part or parts of the licensed premises to which the authorisation applies.
- (7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues** Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods—
- (a) between 5 am and noon on a restricted trading day,
 - (b) between 10 pm and midnight on a restricted trading day,
 - (c) between midnight and 5 am on any day immediately following a restricted trading day.
- (8) **Restrictions on granting extended trading authorisation** The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that—
- (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and

(b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

(9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

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.