



Mr Elliot Scali

By email: elliott@notwasted.com.au

Cc: l.archer@jdklegal.com.au

4 October 2022

Dear Mr Scali

Application No.	APP-0009255199
Applicant	NOT WASTED WINE PTY LTD
Application for	Small bar licence
Licence name	Notwasted Wine Bar
Trading hours	Monday to Thursday 3:00 PM – 10:00 PM Friday to Saturday 12:00 PM Midday – 10:00 PM Sunday 12:00 PM Midday – 9:30 PM
Premises	58 William Street Paddington NSW 2021
Legislation	Sections 3, 11A, 12, 20A – 20C, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a small bar licence – Notwasted Wine Bar**

The Independent Liquor & Gaming Authority considered the application above, and decided on 19 August 2022 to **refuse** the application under section 45 of the *Liquor Act 2007*.

Statement of reasons

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

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

Yours faithfully

Murray Smith

Deputy Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**

STATEMENT OF REASONS

DECISION

1. On 1 February 2022, NOT WASTED WINE PTY LTD (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a small bar licence (“Licence”) for the premises at 58 William Street, Paddington NSW 2021 (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 19 August 2022 and decided to refuse to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.

MATERIAL CONSIDERED BY THE AUTHORITY

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in Schedule 1.

LEGISLATIVE FRAMEWORK

8. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 20A, 20B and 20C: Specific provisions in respect of a small bar licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 44: Submissions to Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
9. An extract of these sections is set out in Schedule 2.
10. The Authority has also had regard to its *Guideline 6* in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

12. The Authority is satisfied on the material before it that:
 - a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12, and 40 of the Act, and

- b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 20A of the Act, and
13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the 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 DA465/2021/1 in respect of the Premises, issued by Woollahra Municipal Council on 26 May 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 Paddington, and the relevant "broader community" comprises the Local Government Area ("LGA") of Woollahra LGA.

Licence density

16. The Authority notes that, compared to the NSW state average, Paddington and Woollahra LGA have a **lower** saturation of small bar licences.

Crime data

17. The relevant BOCSAR data indicates that, in the year to March 2022:
- a) the Premises was located within hotspots for incidents of alcohol-related assault and domestic assault
 - b) the Premises was located in close proximity to hotspots for incidents of alcohol-related non-domestic assault and malicious damage to property, in areas that are likely to be serviced by the Licence
 - c) Paddington recorded **lower** rates of all offence types normally considered by the Authority, compared to the NSW state average
 - d) Woollahra LGA recorded **lower** rates of alcohol-related domestic assault, alcohol-related non-domestic assault and malicious damage to property and **higher** rates of alcohol-related offensive conduct, 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 Woollahra LGA recorded a **lower** than average level of alcohol-attributable deaths for the period 2018/19 – 2019/20, and a **higher** than average level of alcohol-attributable hospitalisations for the period 2018/19 – 2019/20.

SEIFA

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

Business model

20. The Authority notes that the proposed business model involves the Applicant operating a small bar to sell and supply liquor for consumption on the Proposed Premises. The Applicant proposes to locate the small bar at the front of the Proposed Premises and also proposes to operate a packaged liquor licence at the rear of the Proposed Premises, which will be a socially responsible natural wine store. The store will sell organic and natural alcoholic and non-alcoholic products from independent and small-scale producers.

Purported benefits

21. The Authority has had regard to the purported benefits of the Application (and related packaged liquor licence application), including that the Proposed Premises will:

- a) promote ethically responsible products
- b) promote product variety in Paddington
- c) increase competition with other packaged liquor outlets
- d) provide employment for approximately six staff members
- e) endeavour to support local community groups and activities.

22. The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application.

Stakeholder submissions

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

- a) **NSW Police Force**, which notes that Police object to the Application due to concerns the location of the Proposed Premises is not suitable for a small bar as it is located within a dense residential area and any additional liquor licences may result in disturbances to the local community.
- b) **L&GNSW Compliance**, which notes that there were no adverse findings on the Applicant.
- c) **Woollahra Municipal Council**, which notes that the DA was granted following its review of the material.
- d) **Members of the public**, which include 63 submissions lodged by multiple residents. One person provided copies of 47 submissions on behalf of persons who provided submissions to Council when consent was being considered. Of the remaining six submissions, five were provided by one person, and four were provided by members of the same household. Collectively, the submissions raise concerns with the Application, including:
 - i. traffic and street congestion, including parking issues
 - ii. potential noise and undue disturbance impacts to a quiet residential area
 - iii. increasing commerciality of the street will be detrimental and damage to property
 - iv. the potential increase for anti-social behaviour and damage to property.

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

- a) the suitability of the Proposed Premises site was considered by Council and the DA was subsequently approved
- b) the claim that higher rates of alcohol-attributable hospitalisation rates could be alleviated by the above socio-economic advantage in Paddington and Woollahra LGA

- c) similar concerns raised by the members of the public were addressed during the DA process, including traffic management, pedestrian safety and street scape
- d) the proposed reduced trading hours have been presented to address noise concerns
- e) the claim that it is unlikely the Proposed Premises will meaningfully contribute to incidents of anti-social behaviour due to its small operation.

Findings of concern

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

- a) Police object to the Application regarding the availability of liquor and the potential detrimental impact the Application will have on the local amenity
- b) there is significant community concern with 63 objections from members of the public living in close proximity to the Proposed Premises who have concerns regarding the impact of the Proposed Premises
- c) there are higher saturation rates of most other liquor licence types in Paddington and Woollahra LGA compared to NSW rates
- d) there is a higher rate of alcohol attributable hospitalisations in the Woollahra LGA compared to NSW rates
- e) the Proposed Premises is located in a low-density crime hotspot for incidents of alcohol-related assault and in a medium-density crime hotspot for domestic assault
- f) there are high-density hotspots throughout the suburb for malicious damage to property, alcohol-related assault and non-domestic assault.

26. The Authority considers that, if the Licence is granted, there is a risk that the liquor sold at the Proposed Premises would exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

Mitigating factors

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

- a) the Proposed Premises is not located in crime-density hotspots for incidents of non-domestic assault or malicious damage to property
- b) there are low crime rates across all categories
- c) there is a lower rate of alcohol-attributable deaths in the Woollahra LGA compared to the NSW rate
- d) SEIFA indicates an above average level of socio-economic advantage in both Paddington and Woollahra LGA
- e) the maximum patron capacity is set out in both the development consent and liquor plan of management
- f) the Proposed Premises is operating under reduced hours

CONCLUSION

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

29. Accordingly, the Authority has decided to refuse to grant the Licence under section 45 of the Act.



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

Important Information:

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

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

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

Schedule 1 – Material considered by the Authority Notwasted Wine Bar

Application material

1. ASIC business records in relation to the Applicant dated 13 December 2018.
2. Completed Notice of Development Application dated 14 October 2021
3. Floor plan for the Premises, dated 12 October 2021, indicating the proposed small bar licensed area.
4. Completed application dated 1 February 2022.
5. Completed certification of advertising dated 17 February 2022.
6. Plan of Management documents for the Premises, titled Management Plan // Notwasted Small Bar & Bottle Shop and dated 15 July 2022.

Development consent

7. Notice of determination issued by Woollahra Municipal Council on 26 May 2022, approving the development application DA465/2021/1 for the Premises.

Harm minimisation and community impact data

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

Outlet density (annual rate per 100,000 residents)

- a. saturation of small bar licences in Paddington (**0**) is **equal** to Woollahra LGA (**0**), and **lower** compared to NSW (**2.69**)

Offence data (annual rate per 100,000 residents)

In the year to March 2022:

- b. alcohol-related domestic assault in Paddington (**68.7**) was higher compared to the Woollahra LGA (**60.6**), and lower compared to all NSW (**112.6**)
- c. alcohol-related non-domestic assault in Paddington (**61.9**) was lower compared to the Woollahra LGA (**82.4**), and lower compared to all NSW (**85.7**)
- d. alcohol-related offensive conduct in Paddington (**20.6**) was lower compared to the Woollahra LGA (**37**), and lower compared to all NSW (**22.2**)
- e. malicious damage to property in Paddington (**371.2**) was higher compared to the Woollahra LGA (**314.7**), and lower compared to all NSW (**590.8**)

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

- f. In the period 2018/19 – 2019/20 the alcohol-attributable death rate in Woollahra LGA (**16.1**) was lower compared to the average across all of NSW (**19.7**)
- g. In the period 2018/19 – 2019/20 the alcohol-attributable hospitalisation rate in Woollahra LGA (**637.2**) was higher compared to the NSW average (**513.2**).

SEIFA

- h. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Paddington (**10**) and Woollahra LGA (**10**) are socio-economically advantaged and advantaged respectively.

Stakeholder submissions

9. Submission from a member of the public, dated 16 November 2021.
10. Submission from a member of the public, dated 4 February 2022.
11. Submission from a member of the public dated 6 February 2022.

12. Submission from L&GNSW Compliance, dated 7 February 2022.
13. Submission from a member of the public dated 14 February 2022, which includes:
 - a. a copy of an objection to Council from the member of the public dated 7 November 2021
 - b. a copy of an objection to Council from a community group dated 26 November 2021
 - c. copies of 47 objections to Council from other members of the public
 - d. a submission from the member of the public, dated 14 February 2022
 - e. a submission from the member of the public, dated 14 February 2022
 - f. a submission from the member of the public, dated 17 February 2022
 - g. a submission from the member of the public dated 29 May 2022.
14. Submission from a member of the public, dated 17 February 2022.
15. Submission from a member of the public, dated 17 February 2022.
16. Submission from a member of the public, dated 24 February 2022.
17. Submission from a member of the public, dated 26 February 2022.
18. Submission from a member of the public, dated 2 March 2022.
19. Submission from a member of the public, dated 28 May 2022.
20. Submission from a member of the public, dated 30 May 2022.
21. Submission from a member of the public, dated 31 May 2022.
22. Submission from Woollahra Municipal Council, dated 20 June 2022.
23. Submission from NSW Police, dated 29 June 2022.

Other relevant information

24. Correspondence between L&GNSW staff dated 10 February 2022 regarding the escalation of the Application to the Authority.
25. Correspondence between L&GNSW staff and the Applicant between 11 February 2022 and 3 August 2022 in relation to the assessment of the Application.
26. An extract of a liquor licence for Not Wasted Wine LIQP770017255 dated 14 July 2022.
27. SIX Maps images extracted from the SIX Maps website and Google map images extracted from the Google website, showing the location and photos of the Proposed Premises in map view, earth view and street view.

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

Notwasted Wine Bar

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).

20A Authorisation conferred by small bar licence

- (1) A small bar licence authorises the licensee to sell liquor by retail on the licensed premises—
- (a) for consumption on the premises, or
 - (b) as house-made cocktails in sealed containers for consumption away from the premises.
- (2) In this section—
- house-made cocktails**, in relation to licensed premises—
- (a) means alcoholic beverages that are mixed on the licensed premises, but
 - (b) does not include cocktails that are pre-mixed away from the licensed premises for the licensee to sell by retail.

Note—

Gaming machines in small bars are prohibited under the Unlawful Gambling Act 1998.

20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) An extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.

Note—

Small bars may apply for longer trading periods under section 49A.

- (3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are—
- (a) between midnight and 5 am, if authorised by an extended trading authorisation, and
 - (b) between noon and 10 pm.
- (4), (5) (Repealed)

20C Small bar licence—miscellaneous conditions

- (1) **Maximum number of patrons** Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.

(2) **Small bars must be open to general public** The business carried out under a small bar licence 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 small bar, or
- (b) to a particular class, or particular classes, of persons using or attending the small bar.

(2A) To avoid doubt, subsection (2)—

- (a) does not prevent a small bar 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 small bar 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.

(4) **Food must be made available** Liquor may only be sold or supplied in a small bar 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 on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

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.