



Ms Lisa Chong
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15 August 2022

Dear Ms Chong

Application No.	APP-0008459940
Applicant	Romans Pal Pty Ltd
Application for Licence name	Packaged liquor licence with an extended trading authorisation Romans Pal Pty Ltd
Trading hours	Monday to Saturday 8:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
Premises	73 Rowe Street Eastwood NSW 2122
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence with an extended trading authorisation – Romans
Pal Pty Ltd**

The Independent Liquor & Gaming Authority considered the application above at its meeting on 15 September 2021 and, pursuant to sections 45 and 48 of the *Liquor Act 2007*, decided to:

- approve the application for a packaged liquor licence
- found the application for an extended trading authorisation (ETA) to be invalid
- impose conditions as set out in Schedule 1

Statement of reasons

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

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

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 30 March 2021, Romans Pal Pty Ltd (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application for a packaged liquor licence (“Licence”) and an extended trading authorisation application (“ETA Application”) for the premises at 73 Rowe Street Eastwood (“Premises”).
2. The Authority considered the Licence application and ETA Application at its meeting on 15 September 2021 and decided to grant the Licence application under section 45 and found the ETA Application to be invalid under section 48 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.
4. A preliminary notification of this decision was sent to the Applicant on 7 October 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

9. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made
 - e) Section 44: Submissions to Authority in relation to licence applications
 - f) Section 45: Criteria for granting a liquor licence
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and

other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community

h) Section 49: General provisions in respect of ETAs.

10. An extract of these sections is set out in Schedule 3.

11. The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

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

- a) the Licence application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act
- b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act
- c) sections 30 and 31 of the Act do not apply to the Licence application, as the Premises is not intended to operate as is contemplated by the sections.

14. The Authority considers that the ETA Application did not meet the procedural requirements under section 40, 48 and 51 of the Act, in that the CIS did not indicate that an application for an ETA had also been made.

15. The Authority is otherwise satisfied that, pursuant to section 48 of the Act, the CIS for the packaged liquor licence was prepared in accordance with the relevant requirements in respect of the Licence application.

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

16. 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 modification of development consent No. MOD2020/0241 to modify LDA2020/0093 in respect of the Premises, issued by City of Ryde on 28 January 2021 and 29 October 2020.

Community impact

Local and broader communities

17. 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 Eastwood, and the relevant "broader community" comprises the Local Government Area ("LGA") of Ryde.

Licence density

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

- a) Eastwood and Ryde LGA have a **higher** saturation of packaged liquor licences

- b) Eastwood and Ryde LGA have a **lower** saturation of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences)
- c) Eastwood and Ryde LGA have a **higher** clustering of packaged liquor licences
- d) Eastwood and Ryde LGA have a **lower** clustering of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences).

Crime data

19. The relevant BOCSAR data indicates that, in the year to March 2021:
- a) the Premises was located within hotspots for incidents of alcohol-related malicious damage to property.
 - b) the Premises was located in close proximity to hotspots for incidents of alcohol related domestic assault in areas that are likely to be serviced by the Licence
 - c) Eastwood recorded **lower** rates of alcohol-related assault, domestic and non-domestic assault, alcohol related offensive conduct and malicious damage to property, compared to the NSW state average.
 - d) Ryde LGA recorded **lower** rates of alcohol-related assault, domestic and non-domestic assault, alcohol related offensive conduct and malicious damage to property, compared to the NSW state average.

Alcohol-related health data

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

SEIFA

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

Business model

22. The Authority notes that the proposed business model involves establishing a small-scale liquor sales area of 5.3 square metres in an existing Asian supermarket – Eastwood Mart. The

Authority notes the Applicant's contention that the provision of liquor will be limited to a small range of Asian liquor products.

Purported benefits

23. The Authority notes the Applicant identifies the benefit of one-stop shopping convenience for customers of the existing Asian supermarket meeting the demands and expectations of the local community.

Stakeholder submissions

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

- a) **NSW Police Force (Police)**, which notes that Police does not object to the Licence application and ETA Application
- b) **L&GNSW Compliance (Compliance)**, which did not find any adverse findings in relation to the Licence application and ETA Application
- c) **City of Ryde Council (Council)**, which notes that Council does not object to the Licence application and ETA Application. The Authority notes that there was confusion in relation to the CCTV condition which was subsequently resolved by the Applicant
- d) **Northern Sydney Local Health District (Health)**, which notes that Health was concerned with the proposed location, licence saturation and the negative impacts the increased access to alcohol is likely to generate for the Eastwood community. The Authority notes that Health supports the imposition of certain conditions on the licence were the Licence to be granted:
 - i. there will be no discounted wines or cartons of beer, no RTD's (ready-to-drink mixers), no casks, no clean skin wines or other discounted alcoholic products sold on the premises
 - ii. the licensee will not sell refrigerated liquor products from the licensed premises
- e) **a commercial competitor**, who contends that his application approved in 2014 (2014 Application) was approved with the condition that "the licence shall be restricted to the sale of products of Korean origin only". The commercial competitor further contends that the "restriction" placed on his licence should be "lifted to be fair", were the Licence to be granted.

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

- a) the Applicant consents to the condition in relation to no discounted wines and no RTD's, however the Applicant does not consent to not selling refrigerated liquor products. The Authority notes the Applicant contends that the Premises will supply a particular type of

liquor made from fresh fermented rice wine, which requires refrigeration due to its probiotic elements

- b) the Applicant contends that the intended liquor products retailed at the Premises will complement the Asian food that is already retailed at the Asian supermarket, and is not readily available at other packaged liquor licensed outlets in Eastwood.

Findings of concern

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

- a) outlet saturation and outlet clustering of packaged liquor licences in the local and broader community is higher compared to the NSW state average
- b) the alcohol-attributable hospitalisation rate is higher compared to the NSW state average.

Mitigating factors

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

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

- a) relatively small size of the area in which liquor will be sold or supplied
- b) crime rates in the local and broader communities for all offences normally considered by the Authority are lower than comparable NSW averages
- c) absence of any objections from Police, Council and Compliance
- d) the imposition of a specialised liquor products condition
- e) the business model and harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

29. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.

30. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.

31. The Authority considers that the ETA Application did not meet the procedural requirements under section 40, 48 and 51 of the Act, in that the CIS did not indicate that an application for an ETA had also been made.

32. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act and find the ETA Application to be invalid under section 48 of the Act.



Philip Crawford

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 – Licence conditions to be imposed Romans Pal Pty Ltd

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00 AM and 8:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday,
8:00 AM to 12 midnight Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated 30 April 2021 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points to the supermarket/general store, and
 - (ii) all publicly accessible areas (other than toilets) within the liquor sales area.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to sub-clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 15 September 2021 or any premises plan subsequently approved by the Authority.
8. There will be no discounted wines or cartons of beer, no RTD's (ready-to-drink mixers), no casks, no clean skin wines or other discounted alcoholic products sold on the premises.
9. Specialised liquor products
 - 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"):
 - (a) liquor products produced in China, South Korea and Japan;
 - (b) Sake.

- 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.
 - 3) The licensee must ensure that a list of the product lines and products stocked by the Business at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
10. Licensee training must be completed no later than six months from the date of grant of the liquor licence.

Schedule 2 – Material considered by the Authority Roman Pals Pty Ltd

Application material

1. Floor plan for the Premises, dated 14 July 2020, indicating the proposed liquor sales area that will apply.
2. Completed Category B Community Impact Statement dated 12 February 2021.
3. Completed application dated 30 March 2021.
4. Plan of Management documents for the Premises, titled Eastwood Mart – 73 Rowe Street Eastwood Plan of Management and dated 30 April 2021.
5. Completed certification of advertising dated 5 May 2021.
6. ASIC business records in relation to the Applicant.

Development consent

7. Notice of determination issued by City of Ryde Council on 28 January 2021, approving the modification of development consent MOD2020/0241 to modify LDA2020/0093 for the Premises.

Liquor & Gaming LiveData Report

8. L&GNSW Liquor & Gaming LiveData Report for the suburb of Eastwood, generated on 9 July 2021, which sets out that:

Outlet diversification

- a. There are **64** authorised liquor licences in Eastwood. Of these, **12** are authorised to sell packaged liquor. This includes **7** packaged liquor licences, **2** registered club licences and **3** hotel licences.

Outlet density (annual rate per 100,000 residents)

- b. saturation of Packaged liquor licences in Eastwood (**39.2**) and Ryde LGA (**31**), are **higher** compared to NSW (**30.3**)
- c. saturation of licences authorised to sell packaged liquor in Eastwood (**67.2**) and Ryde LGA (**49.9**), are **lower** compared to NSW (**75.8**)
- d. clustering of packaged liquor licences in Eastwood (**4.4**) and Ryde LGA (**3.1**), are **higher** compared to NSW (**3**)
- e. clustering of licences authorised to sell packaged liquor in Eastwood (**3.1**) and Ryde LGA (**2.1**), are **lower** compared to NSW (**7.1**).

Offence data (annual rate per 100,000 residents)

In the year to March 2021:

- f. alcohol-related domestic assault in Eastwood (**50.9**) was **lower** compared to the Ryde LGA (**57.1**), and **lower** compared to all NSW (**112.9**)
- g. alcohol-related non-domestic assault in Eastwood (**20.4**) was **lower** compared to the Ryde LGA (**25.9**), and **lower** compared to all NSW (**89.9**)
- h. late-night alcohol-related non-domestic assault in Eastwood (**0**) was **lower** compared to the Ryde LGA (**6.9**), and **lower** compared to all NSW (**24.9**)
- i. alcohol-related non-domestic serious assault in Eastwood (**10.2**) was **higher** compared to the Ryde LGA (**7.6**), and **lower** compared to all NSW (**32.5**)
- j. alcohol-related offensive conduct in Eastwood (**0**) was **lower** compared to the Ryde LGA (**1.5**), and **lower** compared to all NSW (**22.6**)
- k. malicious damage to property in Eastwood (**310.7**) was **higher** compared to the Ryde LGA (**296.3**), and **lower** compared to all NSW (**649.5**)

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

- l. In the period 2017/2018 the alcohol-attributable death rate in Ryde LGA (**13.5**) was **lower** compared to the average across all of NSW (**20**)
- m. In the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in Ryde LGA (**665**) was **higher** compared to the NSW average (**542.1**).

SEIFA

- n. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Eastwood and Ryde LGA are socio-economically advantaged (**top 14 percent** and **top 13 percent** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 9. Submission from Health, dated 10 December 2020.
- 10. Submission from a commercial competitor, dated 31 March 2021.
- 11. Submission from Compliance, dated 29 April 2021.
- 12. Submission from Police, dated 3 June 2021.
- 13. Submission from Council, dated 3 June 2021 and 18 August 2021.

Other relevant information

- 14. Correspondence between L&GNSW staff and the Applicant between 14 April 2021 and 3 September 2021 in relation to the assessment of the Application.
- 15. Case to vary 6-hour closure period, titled "The modification request for standard 6-hour closure".

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

Romans Pal

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.

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

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

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

- (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.

Note—

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

- (1B) Despite subsection (1)(b), the **standard trading period** for premises to which this subsection applies ends at midnight on a Sunday that falls on 24 or 31 December.
- (1C) Subsection (1B) applies to the following premises or part of premises—
 - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may—
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2)(a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

- (1) **Retail sales** A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only—
 - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
 - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to midnight on that day.
- (2) **No retail trading on restricted trading days** Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
- (3) **Selling liquor by wholesale or to employees** A packaged liquor licence also authorises the licensee—
 - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
 - (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
 - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
 - (b) on any other day—after midnight.
- (4) **Tastings** A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

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

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that—
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and

- (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section—

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
- (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:
- (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

Note. Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

- (4) An application for a licence must:
- (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- Note.** See also section 48 which requires a community impact statement to be provided with certain licence applications.
- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
- (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
 - (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of,
 - a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
 - (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

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.
- (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.