



Mr Kim Harris
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16 March 2022

Dear Ms Harris

Application No.	APP-0008545344
Applicant	Monitoring Online Pty Limited
Application for	Packaged liquor licence
Licence name	African Vibe
Trading hours	Monday to Saturday 9:00 AM – 6:00 PM Sunday 10:00 AM – 4:00 PM
Premises	Unit 1 206 Condamine Street Balgowlah NSW 2093
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – African Vibe**

The Independent Liquor & Gaming Authority considered the application above, and decided on 15 September 2021 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 9:00 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, Danielle Hatton, at danielle.hatton@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 26 March 2021, Managing Online Pty Limited (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at Unit 1 206 Condamine Street Balgowlah (“Premises”).
2. The Authority considered the Application at its meeting on 15 September 2021 and decided 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.
4. A preliminary notification of this decision was sent to the Applicant on 6 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.
10. An extract of these sections is set out in Schedule 3.
11. The Authority has also had regard to its *Guideline 6* in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

13. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
 - b) if the Licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and
 - c) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.
14. 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

15. 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 Complying Development Certificate in respect of the Premises, issued by Certified Building Specialists on 2 July 2015 and approved by (the former) Manly Council on 6 July 2015.

Community impact

Local and broader communities

16. 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 Balgowlah, and the relevant "broader community" comprises the Local Government Area ("LGA") of Northern Beaches.

Licence density

17. The Authority notes that, compared to the NSW state average:
- a) Balgowlah and Northern Beaches LGA have a **higher** saturation of packaged liquor licences
 - b) Balgowlah and Northern Beaches LGA have a **lower** saturation of licences authorised to sell packaged liquor
 - c) Balgowlah has a **higher** clustering of packaged liquor licences
 - d) Northern Beaches LGA has a **lower** clustering of packaged liquor licences
 - e) Balgowlah and Northern Beaches LGA have a **lower** clustering of licences authorised to sell packaged liquor.

Crime data

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

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

Alcohol-related health data

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Northern Beaches 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

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

Business model

21. The Authority notes that under the previous application dated 19 February 2020 (2020 Application), the intention of the Applicant was to provide specialty liquor products from southern Africa to complement the niche selection of South African cuisine and groceries sold at the Proposed Premises.
22. Photographs indicated that the store sold an extensive range of pantry/grocery items, along with homewares, apparel and refrigerated products such as boerewors and bobotie.
23. The Authority notes the observation by the NSW Civil and Administrative Tribunal in MJ Trading v Independent Liquor and Gaming Authority [2018] NSWCATAD 260 that:
[19] A mixed business is 'a small grocery shop, which also sells a selection of other merchandise.' According to the Macquarie Dictionary Online, a grocery is a commodity sold by grocers and a grocer is a dealer in general supplies for the table, as in flour, sugar, coffee, etc., and in other articles of household use.
24. Based on the information available to the Authority under the 2020 Application, it appeared the Proposed Premises was a general store. Noting that there were two other packaged liquor licences in relative proximity to the Proposed Premises, the Authority was not satisfied that the 2020 Application met the requirements of section 31(1)(a) of the Act, and as such had refused the 2020 Application.
25. The Authority notes the Applicant's contention that the new business model is that of a specialised South African butchery and delicatessen, with the provision of specialty liquor products from southern Africa. The Authority further notes the Applicant's contention that the grocery items that had been sold under the business model as it was at the time of the 2020 Application will not be retailed under the new business model.

Purported benefits

26. The Authority has had regard to the Applicant's contention that granting the Licence would provide a measure of convenience to customers of African Vibe who wish to engage in one-stop shopping by purchasing southern African produced liquor products together with their butchery items.

The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application, noting that there was also no objection from any members of the community.

Stakeholder submissions

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

- a) **NSW Police Force** (Police), which notes that Police object to the Application. The Authority notes that Police support the imposition of certain conditions on the Licence were the Application to be granted. The Authority further notes the concerns that Police had raised in its submission, in particularly:
- i. licence saturation
 - ii. nearby suburb of Manly is a high-density hotspot for alcohol-related crime
 - iii. additional outlets likely to increase alcohol-related crime regardless of the type of alcohol sold
 - iv. failure of Applicant to provide a plan of management at the time of application
- b) **L&GNSW Compliance**, which did not identify any adverse findings regarding the Application.
- c) **Northern Beaches Council** (Council), advising that Council has no objection to the Application subject to the Applicant's compliance with the development consent.
- d) **Transport for NSW** (Transport), which notes that Transport does not object to the Application. Transport recommended measures to help prevent and decrease the likelihood of road crashes associated with the consumption of alcohol, which the Applicant has taken into consideration and committed to implementing as appropriate. The Authority further notes that Transport has recommended that the Applicant participate in the local liquor accord.
- e) **Northern Sydney Local Health District** (Health), which notes the Health submission neither opposes nor supports the Application. The Authority notes the concerns raised by Health, in particular:
- i. licence saturation of the suburb and the accessibility to various liquor outlets authorised to sell package liquor in the surrounding suburbs
 - ii. according to the Australian Urban Observatory, the average distance to the closest bottle shop in Balgowlah is 414.9 metres. This ranks Balgowlah as one of the worst performing suburbs across all Australian major cities in terms of excessive alcohol access
 - iii. Northern Beaches LGA has "consistently exceeded the NSW rate for alcohol-attributable hospitalisation over the last 10 years and is currently 39% higher" than the state average
 - iv. Health incorrectly submits that the Proposed Premises is located within a high density hotspot for domestic assaults, "indicating a higher proportion of these offences occurring within close proximity to the Proposed Premises". The Authority notes that this is contradicted by BOCSAR data which indicates that the Proposed Premises is located in proximity to a low density hotspot for domestic assault
 - v. the view of Health that the Proposed Premises still constitutes a general store and should not be licensed due to its close proximity to other takeaway liquor outlets.

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

- a) the Applicant submitted a plan of management dated February 2021 at the time of submitting the Application through the L&GNSW online system
- b) the Applicant's intention to provide a small range of items targeted towards a "niche market and sold at premium prices". The Applicant contends that the nature of its

business model will have a “negligible impact on saturation and crime issues in the Northern Beaches area”

- c) the Applicant contends that the existing packaged liquor outlets on the Northern Beaches do not offer the southern African varieties that the Applicant’s business intends to. The Applicant further contends that customers of African Vibe currently have to travel to Lane Cove or Rouse Hill to purchase the products that the business intends to provide
- d) the Applicant’s intention to engage Health and L&GNSW to discuss product lines and implement recommended strategies for the promotion of responsible service of alcohol.

Findings of concern

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

- a) Balgowlah and Northern Beaches LGA have a higher saturation of packaged liquor licences
- b) the rate of alcohol-attributable hospitalisations in Northern Beaches LGA is significantly higher than the NSW average
- c) the Proposed Premises is located in a medium-density hotspot for malicious damage to property.

Mitigating factors

30. 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.

31. 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) specialised nature of the liquor products
- c) relatively moderate licensed trading hours
- d) crime rates in the local and broader communities for all offences normally considered by the Authority are lower than comparable NSW averages
- e) the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1

CONCLUSION

32. 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.

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

34. Accordingly, the Authority has decided to grant the Licence under section 45 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 African Vibe

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 3:00 AM and 9:00 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 August 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 licensed business in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the licensed business 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 licensed business, 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 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 licensed business 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. 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 Southern Africa.
 - 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.

- 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.
 - 4) For every liquor product that is available for sale under sub-clause 1, the licensee must maintain and make available for inspection on the premises documentation from the supplier confirming that the product meets the relevant definition specified in this condition. For liquor products available for sale under sub-clause 2, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.
9. The information submitted in the process of obtaining this licence presented the business model as primarily a specialised butchery and delicatessen.

The licence cannot be exercised if the primary purpose of the business does not remain a specialised Southern African butchery and delicatessen

Schedule 2 – Material considered by the Authority African Vibe

Application material

1. Completed Category B Community Impact Statement dated 19 February 2021.
2. Completed application dated 26 March 2021.
3. Completed certification of advertising dated 10 August 2021.
4. Plan of Management documents for the Premises, titled Alcohol Management Plan and dated August 2021.
5. ASIC business records in relation to the Applicant.
6. Floor plan for the Premises, indicating the proposed liquor sales area will apply.

Development consent

7. Complying Development Certificate CD10412015 (DSK467D1) issued by Certified Building Specialists on 2 July 2015 and approved by (former) Manly Council on 6 July 2015.

Liquor & Gaming LiveData Report

8. L&GNSW Liquor & Gaming LiveData Report for the suburb of Balgowlah, generated on 5 August 2021, which sets out that:

Outlet diversification

- a. There are **21** authorised liquor licenses in Balgowlah. Of these, **6** are authorised to sell packaged liquor. This includes **4** packaged liquor licence, **2** registered club licence and **0** hotel licence.

Outlet density (annual rate per 100,000 residents)

- b. saturation of packaged liquor licences in Balgowlah (**50.2**) and Northern Beaches LGA (**30.4**), are **higher** compared to NSW (**30.3**)
- c. saturation of licences authorised to sell packaged liquor in Balgowlah (**75.4**) and Northern Beaches LGA (**56.9**), are **lower** compared to NSW (**75.8**)
- d. clustering of packaged liquor licences in Balgowlah (**4**) is **higher** compared to NSW (**3**)
- e. clustering of packaged liquor licences in Northern Beaches LGA (**2.1**), is **lower** compared to NSW (**3**)
- f. clustering of licences authorised to sell packaged liquor in Balgowlah (**3.3**) and Northern Beaches LGA (**1.8**), are **lower** compared to NSW (**7.1**).

Offence data (annual rate per 100,000 residents)

In the year to March 2021:

- g. alcohol-related domestic assault in Balgowlah (**23.3**) was **lower** compared to the Northern Beaches LGA (**45**), and **lower** compared to all NSW (**112.9**)
- h. alcohol-related non-domestic assault in Balgowlah (**23.3**) was **lower** compared to the Northern Beaches LGA (**76.4**), and **lower** compared to all NSW (**89.9**)
- i. late-night alcohol-related non-domestic assault in Balgowlah (**0**) was **lower** compared to the Northern Beaches LGA (**19.7**), and **lower** compared to all NSW (**24.9**)
- j. alcohol-related non-domestic serious assault in Balgowlah (**11.6**) was **lower** compared to the Northern Beaches LGA (**29.6**), and **lower** compared to all NSW (**32.5**)
- k. alcohol-related offensive conduct in Balgowlah (**0**) was **lower** compared to the Northern Beaches LGA (**20.8**), and **lower** compared to all NSW (**22.6**)
- l. malicious damage to property in Balgowlah (**395.3**) was **lower** compared to the Northern Beaches LGA (**411.3**), and **lower** compared to all NSW (**649.5**)

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

- m. In the period 2017/2018 the alcohol-attributable death rate in Northern Beaches LGA (**14.1**) was **lower** compared to the average across all of NSW (**20**)

- n. In the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in Northern Beaches LGA (**760.3**) was **higher** compared to the NSW average (**542.1**).

SEIFA

- o. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Balgowlah and Northern Beaches LGA are socio-economically advantaged respectively (**Top four percent** and **Top eight percent** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

9. Submission from Council, dated 12 January 2020 and 26 April 2021.
10. Submission from Health, dated 28 January 2020.
11. Submission from Police, dated 25 February 2020 and 12 August 2021.
12. Submission from Transport for NSW, dated 19 January 2021.
13. Submission from L&GNSW Compliance, dated 10 August 2021.

Other relevant information

14. Correspondence between L&GNSW staff and the Applicant between 6 April 2021 and 19 August 2021 in relation to the assessment of the Application.
15. Google map images extracted from the Google website, showing the location and photos of the Premises in map view.

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

African Vibe

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.