



Mr Grant Cusack
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24 June 2022

Dear Mr Cusack

Application No.	1-7958576671
Applicant	Supermarket Arthur Pty Ltd
Application for	Removal of a packaged liquor licence
Licence name	Mint Fresh IGA Supermarket
Licence number	LIQP700350245
Trading hours	Monday to Saturday 8:00 AM – 8:00 PM Sunday 10:00 AM – 8:00 PM
Current Premises	351-353 Windsor Road BAULKHAM HILLS NSW 2153
Proposed Premises	Shops 1-4, 30-32 Arthur Street BAULKHAM HILLS NSW 2153
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48 and 59 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for the removal of a packaged liquor licence – Mint Fresh IGA Supermarket

The Independent Liquor & Gaming Authority considered the application above, and decided on 11 August 2021 to **approve** the application under section 59 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager or individual licensee

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

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, Mr Jason Owston, at jason.owston@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 8 April 2021, Mr Cusack on behalf of Supermarket Arthur Pty Ltd ('Applicant') lodged an application ('Application') with Liquor & Gaming NSW ('L&GNSW'), for determination by the Independent Liquor & Gaming Authority ('Authority').
2. The Authority reviewed the previous decision on 15 July 2020 to refuse the application on the basis that the proposed premises comprised of a general store under section 31 of the Act, and noted the previous application incorrectly detailed the size of the proposed premises, that being less than 240m². It was noted the Applicant's previous legal advisor incorrectly indicated that the total retail floor area of the supermarket was 190m² with the liquor sales area to comprise an area of 47.4m².
3. The Application sought to remove packaged liquor licence LIQP700350245 ('Licence') from 351-353 Windsor Road BAULKHAM HILLS NSW 2153 ('Current Premises') to Shops 1-4, 30-32 Arthur Street BAULKHAM HILLS NSW 2153 ('Proposed Premises'), to be known as Mint Fresh IGA Supermarket.
4. The Authority decided on 11 August 2021 to approve the Application under section 59 of the *Liquor Act 2007* ('Act').
5. 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.
6. A preliminary notification of this decision was sent to the Applicant on 23 August 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

7. The Authority has considered the Application, the accompanying community impact statement ('CIS'), and all submissions received in relation to the Application.
8. 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.
9. 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').
10. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

11. 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 the 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 59: requirements for an application to remove a liquor licence to another premises and the determination of such an application.

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

13. 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

14. 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

15. 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 in accordance with the authorisation conferred by the Licence as required by section 29 and 30 of the Act
- c) Section 31 of the Act does not apply, as the Proposed Premises does not satisfy the legislative requirements.

16. 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

17. Pursuant to sections 45 and 59 of the Act, the Authority is also satisfied that:

- a) The Applicant is a fit and proper organisation 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 Proposed Premises to facilitate the responsible serving of alcohol, having regard to the Plan of Management documentation for the Proposed Premises and the conditions to be imposed on the licence
- c) The requisite development consent is in force, based on Development Application No. 1058/2016/HA in respect of the Proposed Premises, issued by the Hills Shire Council on 8 April 2016.

Community impact

Local and broader communities

18. 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 Baulkham Hills, and the relevant “broader community” comprises the Local Government Area (‘LGA’) of The Hills Shire.

Licence density

19. The Authority notes that outlet saturation and outlet clustering of packaged liquor licences and licences authorised to sell packaged liquor (this includes packaged liquor licences, clubs and hotels) in Baulkham Hills and The Hills Shire LGA is **lower** compared to the NSW state average.

Crime data

20. The relevant BOCSAR data indicates that, for the year to March 2021:

- a) the Proposed Premises was not located in close proximity to hotspots for incidents of alcohol-related assault (domestic and non-domestic) or alcohol related offensive conduct, however, the Proposed Premises was situated in a hotspot for malicious damage to property
- b) Baulkham Hills and The Hills Shire LGA recorded **significantly lower** rates of alcohol-related assault (domestic, non-domestic and non-domestic serious assault), offensive conduct and malicious damage compared to the NSW state average.

Alcohol-related health data

21. The most recent HealthStats NSW data available at the time of the Authority’s decision indicates that The Hills Shire LGA recorded a **higher** level of alcohol attributable hospitalisations for the period –2017/2018-2018-2019, and a **lower** level of alcohol attributable deaths for the period 2017/2019, compared to the NSW state average.

SEIFA

22. The Authority notes that ABS Socio-Economic Index for Areas (‘SEIFA’) data as of 2016 indicates that households in Baulkham Hills and The Hills Shire LGA are socio-economically advantaged and advantaged respectively in NSW.

Business model

23. The Authority notes, from the information provided by the Applicant in the Community Impact Statement, that the Proposed Premises:

- a) will be an independent family owned and run business.
- b) will operate as a liquor sales area within the existing supermarket.
- c) will have a licensed area of 40m².
- d) will carry a broad range of beers, wines and spirits.

Purported benefits

24. The Authority notes that both Baulkham Hills and The Hills Shire LGA have a lower density of all liquor licence types compared to the state average, and considers that the Proposed Premises will provide the community with increased access to packaged liquor, choice and convenience.

25. The Authority has had regard to the Applicant's purported benefits, including:

- a) improved amenity and access to convenient one-stop shopping
- b) IGA (Independent Grocers of Australia) has been operating in Australia since 1988
- a) the Applicant currently operates a number of IGA supermarkets that are subject to a packaged liquor licence throughout the state
- b) the approval will result in a reduction in the approved area set aside for the sale, supply, and display of liquor in the local community
- c) the removal will also result in a reduction in the approved licence hours applying to the licence.

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

Stakeholder submissions

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

- a) **NSW Police Force** ('Police'), which notes that Police do not object to the Application. The Authority notes Police recommended the imposition of licence conditions relating to a plan of management, crime scene investigation and CCTV, all of which the Applicant has consented to. The Authority has determined to impose the ILGA approved suite of recommended conditions on the Licence
- b) **The Hills Shire Council** ('Council'), which notes that Council does not object to the Application on the condition that the trading hours are within the approved hours of operation under the Development Application
- c) **L&GNSW Compliance**, which did not identify any adverse findings regarding the Application
- d) **Transport for NSW**, which requested the Applicant maintain awareness of any specific local-alcohol related issues impacting the community, recommended the Applicant participate in the local Liquor Accord and provide access to local public transport information and taxi services
- e) **One member of the public**, objecting to the Application on the basis that that there is sufficient availability of licensed premises in the local community, and raising concerns that approval of the Application would result in increased domestic violence in the broader community
- f) **One member of the public**, objecting to the Application on the basis of concerns regarding the proposed benefits to the community including reduced traffic, convenience, the proximity of the Proposed Premises to a church and preschool, the reduction of floor spaced designated to the sale of alcohol in the suburb and that increasing alcohol availability increases its use and crime.

Findings of concern

28. Having regard to the relevant statistics and the submissions received, including the Applicant's submissions in response, the Authority finds:

- a) there are two objections from members of the public on the basis of high crime rates, parking amenities, traffic congestion and proximity to a pre-school
- b) alcohol-attributable deaths in the Hills Shire LGA are higher than the NSW state average
- c) the Proposed Premises is located within high-density hotspot for malicious damage to property
- d) previous application for packaged liquor licence removal was refused by the Authority on the basis that the proposed premises comprised of a general store under section 31 of the Act, and that there were other take-away liquor services reasonably available.

Mitigating factors

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

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

- a) Proposed Premises is not located in a crime hotspot for alcohol-related assault (both domestic and non-domestic), or alcohol-related offensive conduct, nor are these hotspots present in Baulkham Hills
- b) alcohol-attributable hospitalisations in The Hills Shire LGA are lower than the NSW average
- c) Baulkham Hills and The Hills Shire are socioeconomically advantaged
- d) the Proposed Premises' low risk model, with a modest liquor sales area that sits wholly within a larger IGA supermarket operating under reduced hours
- e) outlet saturation and outlet clustering of packaged liquor licences and licences authorised to sell liquor in the local and broader communities is lower compared to the NSW state average, and the removal will not increase the density or clustering rate of packaged liquor licences in Baulkham Hills
- f) crime rates in the local and broader communities for all offences normally considered by the Authority are significantly lower than comparable NSW averages
- g) no agency objections
- h) experience of the Applicant as an operator of multiple licensed premises
- i) there will be a reduction of 140m² in size from the previous liquor store (171m²) to the liquor sales area (40m²)
- j) fit out of the Proposed Premises is not to commence until grant of licence
- k) harm minimisation measures set out in the Plan of Management and licence conditions as set out in Schedule 1.

CONCLUSION

31. Having considered the positive and negative social impacts that are likely to flow from approving the Application, the Authority is satisfied that the overall social impact of removing the License to the Proposed Premises would not be detrimental to the well-being of the local and broader communities.

32. The Authority is also satisfied that the other legislative criteria for approving the Application have been met.

33. Accordingly, the Authority has decided to approve the Application under section 59 of the Act.

Yours faithfully



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
Mint Fresh IGA Supermarket

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 removing this licence to the premises at Mint Fresh IGA Supermarket, Shops 1-4, 30-32 Arthur Street, Baulkham Hills NSW.
4. The premises is to be operated at all times in accordance with the Plan of Management dated February 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. 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 11 August 2021 or any premises plan subsequently approved by the Authority.
7. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
 - 3) make direct and personal contact with NSW Police to advise it of the incident, and
 - 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
 - 5) In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

8. 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 premises 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, 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.

9. Licensee training must be completed no later than six (6) months from the date of grant of the liquor licence

Schedule 2 – Material considered by the Authority Mint Fresh IGA Supermarket

Application material

1. Trading hours and 6-hour closure period and proposed licence conditions
2. Floor plan for the Proposed Premises, dated 25 May 2016, indicated the proposed liquor sales area will apply
3. ASIC business records in relation to the business and Proposed Premises owners dated 17 June 2020.
4. Plan of Management for the Proposed Premises dated February 2021
5. Completed application dated 29 March 2021.
6. Completed Category B Community Impact Statement dated 29 March 2021.
7. Applicant's submission in respect of the 6-hour closure period dated 29 March 2021.
8. Completed certificate of advertising dated 26 May 2021
9. Decision of the Authority issued 28 September 2020 regarding an earlier application for the removal of a packaged liquor licence by the Applicant.

Development consent

10. Notice to Applicant of Determination of Development Application No. 1058/2016/HA in respect of the Proposed Premises, issued by the Hills Shire Council on 8 April 2016.

Liquor & Gaming LiveData Report

11. L&GNSW Liquor & Gaming LiveData Report for the suburb of Baulkham Hills, generated on 11 July 2021, which notes that:

Outlet diversification

- a) There are **38** authorised liquor licenses in Baulkham Hills. Of these, **12** are authorised to sell packaged liquor. This includes **7** packaged liquor stores, **3** registered club licences and **2** hotel licences.

Outlet density (annual rate per 100,000 residents)

- b) saturation of packaged liquor stores in Baulkham Hills (**18.9**) is **lower** compared to The Hills Shire (**26.1**), and **lower** compared to NSW (**30.3**).
- c) saturation of licences authorised to sell packaged liquor in Baulkham Hills (**32.4**) is **lower** compared to The Hills Shire LGA (**36.9**), and **lower** compared to NSW (**75.8**).
- d) clustering of packaged liquor stores in Baulkham Hills (**2.9**) is **higher** compared to The Hills Shire (**1.9**), and **lower** compared to NSW (**3**).
- e) clustering of licences authorised to sell packaged liquor in Baulkham Hills (**1.7**) is **higher** in The Hills Shire LGA (**1.4**), and **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 rate in Baulkham Hills (**37.3**) was lower compared to The Hills Shire LGA (**39.3**), and lower compared to the rate for all NSW (**112.9**).
- g) alcohol-related non-domestic assault rate in Baulkham Hills (**9.9**) was lower compared to The Hills Shire LGA (**23.6**), and lower compared to all of NSW (**89.9**).

- h) Alcohol-related non-domestic serious assault rate in Baulkham Hills (**2.5**) was lower compared to The Hills Shire LGA (**5.1**), and lower compared to all NSW (**32.5**).
- i) alcohol-related offensive conduct rate in Baulkham Hills (**2.5**) was lower compared to The Hills Shire LGA (**6.2**), and lower compared to all of NSW (**22.6**).
- j) malicious damage to property rate in Baulkham Hills (**248.5**) was lower compared to The Hills Shire LGA (**286.6**), and lower compared to all of NSW (**649.5**).

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

- k) In the period 2017/2018 the alcohol-attributable death rate in The Hills Shire LGA (**12.8**) was **lower** compared to the average across all of NSW (**20**).
- l) In the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in The Hills Shire LGA (**633.6**) was **higher** compared to the NSW average (**542.1**).

SEIFA

- m) According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Baulkham Hills and The Hills Shire LGA are socio-economically advantaged and advantaged respectively (**Top 7%** and **Top 7%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 12. Submission from Transport for NSW dated 20 January 2021.
- 13. Submission from the Hills Shire Council dated 4 May 2021.
- 14. Submission from L&GNSW Compliance dated 11 May 2021.
- 15. Submission from a member of the public dated 7 May 2021.
- 16. Submission from a member of the public dated 8 May 2021.
- 17. Submission from NSW Police dated 13 May 2021.

Other relevant information

- 18. Correspondence between L&GNSW staff and the Applicant between 8 April 2021 and 29 June 2021 in relation to the assessment of the Application.
- 19. Letter from Australian Liquor Marketers Pty Ltd regarding the Application dated 20 May 2021.
- 20. Key liquor licence details for licence number LIQP724010017, recorded as of 11 July 2021.
- 21. SIX Maps and Google Map images extracted from the SIX Maps and Google websites, showing the location and photos of the Proposed Premises in map view, earth view and street view.
- 22. Google Map extract indicated distance between existing premises and Proposed Premises.

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

Mint Fresh IGA Supermarket

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
 - (d) the need to support employment and other opportunities in the:
 - (i) live music industry, and
 - (ii) arts, tourism, community and cultural sectors.

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

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).

- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
 - (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
 - (a) if the primary purpose of the business carried on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.

- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

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 10 pm 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 after 10 pm on any day of liquor for consumption away from the licensed premises.

(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.

- (7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following:
- (a) the live music industry,
 - (b) the arts sector,
 - (c) the tourism sector,
 - (d) the community or cultural sector.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
 - (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following:
 - (i) the live music industry,
 - (ii) the arts sector,
 - (iii) the tourism sector,
 - (iv) community or cultural sector.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.

- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (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.

59 Removal of licence to other premises

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises 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.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that—
 - (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
 - (b) those practices will remain in place.
- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect—
 - (a) on payment to the Secretary of the fee prescribed by the regulations, and
 - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.