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24 March 2022

Dear Mr Cusack

Application No.	APP-0008864329
Applicant	ALDI FOODS PTY LTD
Application for	Packaged liquor licence
Licence name	ALDI Moonee Beach
Trading hours	Monday to Saturday 8:00 AM – 9:00 PM Sunday 10:00 AM – 8:00 PM
Premises	Shop MM1 & MM2 Moonee Market Shopping Centre 2B Moonee Beach Rd Moonee Beach NSW 2450
Legislation	Sections 3, 11A, 12, 29 – 31, 40, 44, 45, 48 and 103(2) of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – ALDI Moonee Beach**

The Independent Liquor & Gaming Authority considered the application above, and decided on 17 November 2021 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager or individual licensee

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.

Mixed-use checkouts must be closed outside licensed hours

Pursuant to section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

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, Wendy Yeung, at wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au.

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 30 August 2021, ALDI FOODS PTY LTD (“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 Shop MM1 & MM2, Moonee Market Shopping Centre, 2B Moonee Beach Road, Moonee Beach (“Premises”).
2. The Authority considered the Application at its meeting on 17 November 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 1 December 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

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

LEGISLATIVE FRAMEWORK

9. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 44: Submissions to Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
 - h) Sections 103: Specific provisions relating to closure of certain bottle shop area
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 notice of determination issued by Coffs Harbour City Council on 9 July 2021, approving the modification of development consent No. 1708/04DA for the Premises.

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 Moonee Beach, and the relevant "broader community" comprises the Local Government Area ("LGA") of Coffs Harbour.

Licence density

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

- a) Moonee Beach has a **higher** saturation of packaged liquor licences
- b) Coffs Harbour LGA has a **lower** saturation of packaged liquor licences
- c) Moonee Beach has a **higher** saturation of licences authorised to sell packaged liquor (this includes packaged liquor and hotel licences)
- d) Coffs Harbour LGA has a **lower** saturation of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences)
- e) Moonee Beach and Coffs Harbour LGA have a **lower** clustering of packaged liquor licences
- f) Moonee Beach and Coffs Harbour LGA have a **lower** clustering of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences).

Crime data

18. The relevant BOCSAR data indicates that, in the year to June 2021:

- a) the Premises was located in close proximity to hotspots for incidents of alcohol-related domestic assault in areas that are likely to be serviced by the Licence
- b) the rates for alcohol-related offences were not recorded for Moonee Beach due to the low population count
- c) Coffs Harbour LGA recorded **higher** rates of alcohol-related assault (domestic and non-domestic), alcohol-related offensive conduct and malicious damage to property 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 Coffs Harbour LGA recorded a **higher** than average level of alcohol-attributable deaths for the period 2017/2018, and a **lower** 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 Moonee Beach and Coffs Harbour LGA were relatively **advantaged and disadvantaged** respectively compared to other suburbs and LGAs in NSW.

Business model

21. The Authority notes that the proposed business model involves establishing a small liquor sales area of 47 square metres within the proposed ALDI supermarket of 1596 square metres. The Authority notes the Applicant's contention that the provision of liquor will be limited to a range of ALDI branded products, and on occasion a small selection of non-ALDI branded products for limited times.

Purported benefits

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

- a) convenience for customers who wish to engage in "one stop shopping" by purchasing liquor items together with grocery and other items within the supermarket
- b) ALDI is an experienced operator of many packaged liquor licences, each of which conforms to the business model outlined in the Application.

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

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

- a) **NSW Police Force** (Police), which notes that Police strongly object to the Application on the basis that the overall social impact of the Licence may be detrimental to the surrounding community. The Authority noted the number of conditions recommended by Police, should the Licence be granted. The Authority further noted the key concerns raised, which includes:
 - i. licence saturation in Moonee Beach
 - ii. the high alcohol-related crime rates in Coffs Harbour LGA and the significant impact it has on policing and the community

- iii. 3.1 percent of the local community are of indigenous background, compared to 2.9 percent of the population of NSW
 - iv. the rate of alcohol-attributed deaths is higher than the NSW rate
 - v. the number of alcohol-related traffic offences and accidents in Coffs Harbour LGA.
- b) **L&GNSW Compliance** (Compliance), which did not identify any adverse findings regarding the Application. The Authority notes that Compliance has recommended that the Applicant participate in the local liquor accord.
- c) **Transport for NSW** (Transport), which notes the concern that Transport had in relation to the rate of alcohol-related traffic accidents in Coffs Harbour LGA. The Authority notes 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.

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

- a) both the suburb and the LGA are popular tourist destinations, furthermore, Coffs Harbour Local Growth Management Strategy 2020 estimates the population of Moonee Beach will increase to 4,662 persons by 2040.
- b) the Premises is one of only four shopping centres within the LGA and is the only shopping centre servicing the north-eastern section of the LGA. The shopping centre caters for Moonee Beach and five other surrounding suburbs
- c) a number of developments have either been recently completed or are presently underway in the suburb of Moonee Beach. Additionally, in October 2021, the Minister for Planning approved significant development consent for 103 residential lots on the Pacific Highway at Moonee Beach. The recent and foreseeable developments suggest demand for liquor and licensed premises in Moonee Beach may increase
- d) the Applicant's contention that BOCSAR data revealed that there have only been a small number of incidents of alcohol-related crime in Moonee Beach for the past three years, and neither NSW Health nor neighbouring occupier or special interest group raised any concern to the Application
- e) there is currently only one other packaged liquor licence in Moonee Beach, granting the Licence would provide competitive prices and choices for residents and visitors to the area
- f) the Applicant's contention that "there appear to be no logic or empirical basis to apprehend that the grant of this Application would be at all likely to increase the level of road crashes or road crash casualties in the Coffs Harbour LGA". Furthermore, granting the Application, would provide the "additional convenience to people" and "is likely to reduce the potential for motor vehicle crashes by reducing the need for people to travel further afield"

Findings of concern

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

- a) saturation of packaged liquor licence and outlets authorised to sell packaged liquor to be higher than the NSW state average

- b) crime rates for the offences normally considered by the Authority in Coffs Harbour LGA were higher than NSW averages

Mitigating factors

26. The Authority notes that there may be a risk that if the Licence were to be granted, liquor sold from the Premises would, 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.
27. 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) relatively moderate licensed trading hours
 - c) lower than average liquor licence density in the broader community
 - d) outlet saturation and outlet clustering of packaged liquor licences and licences authorised to sell packaged liquor in the broader community is significantly lower compared to the NSW state average
 - e) experience of the applicant as an operator of multiple licensed premises with sound compliance records
 - f) harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1

CONCLUSION

28. 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.
29. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
30. 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 ALDI Moonee Beach

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00 AM and 8:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 AM to 12 midnight Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence on 17 November 2021.
4. The premises is to be operated at all times in accordance with the ALDI Management Policies and Strategies and House Policy documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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 Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system’s cameras must cover the following areas:
 - (i) all entry and exit points to the supermarket/general store, and
 - (ii) all publicly accessible areas (other than toilets) within the liquor sales area.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 17 November 2021 or any premises plan subsequently approved by the Authority.
8. The licensee must not sell refrigerated liquor products from the licensed premises.
9. There is to be no display of liquor in the second checkout area included within the liquor sales area (Checkout 2).

Schedule 2 – Material considered by the Authority ALDI Moonee Beach

Application material

1. Completed Category B Community Impact Statement dated 6 August 2021, attaching:
 - a. List of stakeholders and special interest groups
 - b. Alcohol Regulated Areas
 - c. Additional Information - Application and Community Impact Statement Application by ALDI FOODS PTY LIMITED for a Packaged Liquor Licence in Respect of Premises Situated at Shops MM1 & MM2, Moonee Market Shopping Centre, 2B Moonee Beach Road, Moonee Beach and to be known as “ALDI Moonee Beach” (“The Liquor Department”)
2. Completed application dated 30 August 2021.
3. Completed certification of advertising dated 13 October 2021.
4. Floor plan for the Premises, dated January 2021, indicating the proposed boundaries of the liquor sales area.
5. Plan of Management documents for the Premises, titled Management Policies and Strategies ALDI Liquor - NSW.
6. ASIC business records in relation to the Applicant and associated companies.

Development consent

7. Notice of determination issued by Coffs Harbour City Council on 9 July 2021, approving the modification of development consent No. 1708/04DA for the Premises.

Liquor & Gaming LiveData Report

8. L&GNSW Liquor & Gaming LiveData Report for the suburb of Moonee Beach, generated on 24 October 2021, which sets out that:

Outlet diversification

- a. There are **4** authorised liquor licenses in Moonee Beach. Of these, **2** are authorised to sell packaged liquor. This includes **1** packaged liquor licence, **0** registered club licence and **1** hotel licence.

Outlet density (annual rate per 100,000 residents)

- b. saturation of packaged liquor licences in Moonee Beach (**51.7**) a, is **higher** compared to NSW (**30.5**)
- c. saturation of packaged liquor licences in Coffs Harbour LGA (23.3), is **lower** compared to NSW (**30.5**)
- d. saturation of licences authorised to sell packaged liquor in Moonee Beach (**103.5**) is **higher** compared to NSW (**76.1**)
- e. saturation of licences authorised to sell packaged liquor Coffs Harbour LGA (**65.8**), is **lower** compared to NSW (**76.1**)
- f. clustering of packaged liquor licences in Moonee Beach (**0**) and Coffs Harbour LGA (**1.2**), is **lower** compared to NSW (**3**)
- g. clustering of licences authorised to sell packaged liquor in Moonee Beach (**0**) and Coffs Harbour LGA (**0.9**), is **lower** compared to NSW (**7.2**).

Offence data (annual rate per 100,000 residents)

In the year to June 2021:

- h. alcohol-related domestic assault in Coffs Harbour LGA (**254.9**) was **higher** compared to all NSW (**115.7**)

- i. alcohol-related non-domestic assault in Coffs Harbour LGA (**210.9**) was **higher** compared to all NSW (**98.3**)
- j. late-night alcohol-related non-domestic assault in Coffs Harbour LGA (**45.3**) was **higher** compared to all NSW (**28.6**)
- k. alcohol-related non-domestic serious assault in Coffs Harbour LGA (**89.3**) was **higher** compared to all NSW (**36.2**)
- l. alcohol-related offensive conduct in Coffs Harbour LGA (**51.8**) was **higher** compared to all NSW (**24.9**)
- m. malicious damage to property in Coffs Harbour LGA (**974.4**) was **higher** compared to all NSW (**658.3**)

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

- n. in the period 2017/2018 the alcohol-attributable death rate in Coffs Harbour LGA (**22.2**) was **higher** compared to the average across all of NSW (**20**)
- o. in the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in Coffs Harbour LGA (**497.9**) was **lower** compared to the NSW average (**542.1**).

SEIFA

- p. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Moonee Beach and Coffs Harbour LGA are socio-economically advantaged and disadvantaged respectively (**top 35 percent** and **bottom 46 percent** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 9. Submission from Police, dated 23 September 2021.
- 10. Submission from Compliance, dated 19 October 2021.
- 11. Submission from Transport, dated 30 September 2021.

Other relevant information

- 12. Correspondence between L&GNSW staff and the Applicant between 20 October 2021 and 28 October 2021 in relation to the assessment of the Application.
- 13. Documents from Council's Moonee Regional Area & Local Strategic Planning Statement 2020.

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

ALDI Moonee Beach

3 Objects of Act

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

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

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

12 Standard trading period for certain licensed premises

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

- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.

Note—

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

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

29 Authorisation conferred by packaged liquor licence

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

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

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

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that—
- (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.

(3) In this section—

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

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

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

40 Licence applications

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

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

- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note. See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

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

45 Decision of Authority in relation to licence applications

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

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.

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

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and

- (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

49 Closing of certain hotels and bottle shop areas

- (1) A hotelier must—
- (a) at any time when the hotel is not authorised to be open for the sale or supply of liquor, and
 - (b) at any time when the sale or supply of liquor is permitted only for consumption in a specific part of the hotel, close and keep closed to the public every bar area of the hotel, and every other part of the hotel in which liquor is ordinarily sold or supplied to the public, except a bar area or other part open in accordance with the conditions of the licence in a part of the hotel referred to in paragraph (b) or a bar area permitted by the regulations to be used solely for purposes other than the sale or supply of alcoholic drinks at that time.
- (2) The holder of a packaged liquor licence must, at any time when the licensed premises are not authorised to be open for the sale of liquor, close and keep closed to the public that part of any counter or place at or in which liquor is usually sold or supplied under the licence.