



Mr Grant Cusack
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By email: gc@haziscusack.com.au

15 June 2022

Dear Mr Cusack

Application No.	APP-0008789139
Applicant	Ice Box Liquor Pty Ltd
Application for	Packaged liquor licence
Licence name	George's Cellar
Trading hours	Monday to Saturday 10:00 AM – 9:00 PM Sunday 10:00 AM – 8:00 PM
Premises	Ground floor, 136 Queen Street Woollahra NSW 2025
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – George's Cellar**

The Independent Liquor & Gaming Authority considered the application above, and decided on 16 February 2022 to **refuse** the application under section 45 of the *Liquor Act 2007*.

Statement of reasons

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

If you have any questions, please contact the case manager, through Joanne Zammit, at joanne.zammit@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 12 July 2021, Ice Box Liquor Pty Ltd through its representative Hatzis Cusack Lawyers (“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 Ground floor, 136 Queen Street, Woollahra (“Premises”).
2. The Authority considered the Application at its meeting on 16 February 2022 and decided to refuse to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.

MATERIAL CONSIDERED BY THE AUTHORITY

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

LEGISLATIVE FRAMEWORK

8. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 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.
9. An extract of these sections is set out in Schedule 2.
10. The Authority has also had regard to its *Guideline 6* in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

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

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

13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements and notes the concerns raised by Police which are discussed below.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies, and
- 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.

15. The Authority is satisfied that development consent is in force. However, in correspondence from Woollahra Council ("Council") dated 2 August 2021, the Authority was made aware of the following matters:

- a) A development application DA404/2020/1 was submitted to Council on 16 October 2020 for change of use of the Premises to a wine and liquor store and associated works, including new signage. The development application was refused by Council on 4 February 2021 as the proposal:
 - i. *"does not comply with the aims or the intent of the objectives of the B4 Mixed Use zone of Woollahra Local Environmental Plan 2014, including that the proposed packaged liquor store does not achieve the desired future character of the area in terms of potential social impacts and an over-supply of existing liquor outlets; and*
 - ii. *is unacceptable with regard to Chapter F3 of the Woollahra Development Control Plan 2015, including that the proposal has not adequately demonstrated that it minimises the impact of licensed premises on the amenity of nearby residential properties, the existing and likely cumulative social impacts and the recommendations of the NSW Police who strongly object to the proposal."*
- b) On 21 May 2021, following the refusal of DA404/2020/1, MBC Group issued Complying Development Certificate no 21000217/1 for the "change of use of [the Premises] from [a] fruit and vegetable shop to [a] proposed liquor store, along with associated fitout works."

- c) On 8 June 2021, a related development application DA230/2021 was submitted to “install new shopfront to retail premises and new signage”. That application contained “inaccuracies”, but these did not warrant refusal, and as the application related to a site with a complying development certificate for a liquor store, chapter F3 of the Woollahra Development Control Plan 2015 was not applicable to the proposed works.
- d) On 29 July 2021 Council approved DA230/2021/1 for the shopfront and signage, subject to conditions including:

“A.4 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the following:

- a) Change of use of the Ground Floor premises to wine and liquor store or the likes;*
- b) Change of use to the First Floor premises;*
- c) Modification to the hours of operation to the Ground Floor and First Floor premises; and*
- d) Graphics to the proposed signage”.*

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 Woollahra, and the relevant “broader community” also comprises the Local Government Area (“LGA”) of Woollahra.

Licence density

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

- a) Woollahra and the Woollahra LGA have a **higher** saturation of packaged liquor licences
- b) Woollahra and the Woollahra LGA have a **higher** saturation of licences authorised to sell packaged liquor
- c) Woollahra and the Woollahra LGA have a **higher** clustering of packaged liquor licences
- d) Woollahra and the Woollahra LGA have a **higher** clustering of licences authorised to sell packaged liquor.

Crime data

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

- a) the Premises was located within hotspots for incidents of malicious damage to property.
- b) the Premises was located in proximity to hotspots for incidents of alcohol related domestic assault in areas that are likely to be serviced by the Licence
- c) Woollahra recorded **lower** rates of all criminal offence types usually considered by the Authority in these matters, compared to the NSW state average, and
- d) the Woollahra LGA recorded **higher** rates of late-night alcohol-related non-domestic assault and alcohol-related offensive conduct and **lower** rates of alcohol-related domestic assault, alcohol-related non-domestic assault, alcohol-related non-domestic serious assault 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 the Woollahra LGA recorded a **lower** than average level of alcohol-attributable deaths for the period 2017/2018, and a **higher** than average level of alcohol-attributable hospitalisations for the period 2017/2018-2018/2019.

SEIFA

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

Business model

21. The Authority notes that the proposed business model involves a standalone packaged liquor store with direct street frontage onto Queen Street.

Purported benefits

22. The Authority has had regard to the purported benefits of the Application, including that:

- a) the "George's Cellar" sub-brand targets a "mature customer base" who appreciate a carefully selected range of quality products, and high quality, personal service from qualified and experienced staff members
- b) the Premises will provide a variety of local and international wines and liquor products at an affordable price point
- c) the Premises is conveniently located in the centre of the Woollahra retail precinct, and customers can purchase liquor whilst purchasing their other grocery items
- d) the Premises will be fitted out to a high quality standard of a modern liquor store, and
- e) the operator is highly experienced, operating over 20 liquor stores in NSW, with no adverse matters reported for either of the two George's Cellar stores currently operating in Eastern Sydney.

Stakeholder submissions

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

- a) **NSW Police**, which strongly objects to the Application and notes the following, among other things:
 - i. Police also objected strongly to DA404/2020 for the change of use of the Premises to a packaged liquor outlet on the basis that the Application would have a "detrimental social impact" for the local and broader communities, since:
 1. the local community is "oversaturated" with outlets where customers can purchase packaged liquor or otherwise consume liquor, which can lead to alcohol-related harm, and
 2. alcohol-attributable hospitalisation rates for the broader community are higher than the NSW state average as well as the average of major cities of NSW.
 - ii. *"In respect to Part 4 of the CIS, under part 4A "Were any issues raised by local councils or other consent authorities?" the applicant responded "No" despite Woollahra Council refusing the applicant a change of use to a Liquor Store. The development consent process is extensive including public notification which resulted in numerous residential/business objections... [The] application for a*

packaged liquor licence at the location was rigorously assessed by council under the development application process. This resulted in the clear adjudication that the likely social impact to the community was of such detriment to warrant refusal of a packaged liquor store at the location.”

- b) **L&GNSW Compliance**, which does not object to the Application.
- c) **Council**, which strongly objects to the Application and notes (among other things):
 - i. the Premises is located in close proximity to numerous residential properties in surrounding streets and directly opposite the Premises, and
 - ii. the Premises is located less than 250 metres away from two other standalone packaged liquor stores, approximately 100 metres away from a hotel, and in close proximity to two other hotels, indicating that the local community is “over-saturated” with shops where customers can purchase liquor.
 - iii. the potential social impacts on the amenity of residents immediately surrounding the site has not been adequately addressed and the approval “would not be in line with the expectations, needs and aspirations of the local community”.
- d) A public submission objecting to the Application, noting:
 - i. high outlet density in the local community, and
 - ii. that the Queen Street shopping precinct is “frequented by minor and school kids from nearby schools as well as after Saturday morning sports” and “another liquor store smack in the middle of this family friendly shopping strip is not necessary.”
- e) A submission from a business in direct proximity to the Premises in support of the Application.
- f) A petition in support of the Application with over 200 signatures.
- g) **Transport for NSW**, which does not object to the Application.
- h) A statutory declaration made by the business owner of the competitor businesses of the Woollahra Hotel and Moncur Cellars, objecting to the Application and noting that:
 - i. the Applicant engaged promotional staff to actively approach individuals to sign a petition in support of the Application, and
 - ii. Queen Street has concentrated periods in the afternoons and on weekends where many children frequent the part of Queen Street where the Premises is located. This part of Queen Street has the benefit of bench seating outside the various food outlets and convenience stores causing a “concentration of children” and it would be concerning if these children were exposed to liquor promotions and displays.
- i) A submission on behalf of two commercial competitors, being the Woollahra Hotel and Moncur Cellars as well as Jim’s Cellars, objecting to the Application and noting (among other things) that:
 - i. The Applicant “is being disingenuous by not informing the Authority of the refused DA[404/2020]”.
 - ii. Claims made in relation to “convenience” by the Applicant are not borne out by the evidence, which shows there are two outlets where customers can purchase packaged liquor within 250 metres of the Premises.

iii. The population of the South Eastern Sydney Local Health District has one of the highest levels of alcohol consumption at levels posing immediate risk to health when compared with any other Sydney Local Health District. The “George’s Cellars” brand offers a membership program where members receive monetary discounts off purchases and exclusive offerings on products at a discounted rate, encouraging harmful levels of alcohol consumption.

j) A petition objecting to the Application with approximately 64 signatures.

24. The Authority has also had regard to the Applicant’s submission in response, and attachments, noting:

- a) Packaged liquor outlets that are relatively close to the Premises have poor parking options and there are more parking options close to or outside the Premises (although the Authority notes that there is also only on-street parking at the Premises).
- b) The store will offer increased employment opportunities for members of the local and broader communities.
- c) Data in relation to outlet saturation is overstated as a result of the inclusion of a dormant licence for a much larger store. This dormant licence would face difficulty commencing trade as the relevant development consent has lapsed.
- d) Alcohol-attributable hospitalisation rates in the broader community have been declining steadily over the last few years.
- e) The socio-economic advantages enjoyed by the local and broader communities provide protection against alcohol-related harm.
- f) The fact that the area in which the Premises is situated is frequented by children is immaterial to the Application as this can be said of any high street location which might house a packaged liquor outlet.
- g) The Premises will not drive down pricing in the local community, introduce “cheap” alcohol. Instead, the Premises will provide a “reasonable range of products in a convenient location.”
- h) The Applicant’s development consent is valid and lawful.
- i) The engagement of promotional staff to accurately reflect the views of members of the public in relation to the Application is fair and lawful.

Findings of concern

25. Having regard to the relevant statistics and the submissions received, including the Applicant’s reply to submissions, the Authority finds that both the local and broader communities have a licence saturation and clustering that is above the State average, and that there are some alcohol-related health issues in the broader community.

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

Mitigating factors

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

- a) the relatively small size of the area in which liquor will be sold or supplied,

approximately 61m²

- b) the fact that crime rates in the local community for all offences normally considered by the Authority are lower than comparable NSW averages
- c) the experience of the applicant as an operator of multiple licensed premises with sound compliance records, and
- d) the harm minimisation measures set out in the plan of management document submitted with the Application.

CONCLUSION

28. However, having considered the positive and negative social impacts that are likely to flow from granting the Licence, serious concerns in relation to outlet clustering and the social impact of approving the Application remain particularly in light of the objections received.
29. The Authority is not satisfied that the above matters mitigate the risks sufficiently such that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities. Rather, the Authority is satisfied that the additional liquor licence would not facilitate the balanced development, in the public interest, of the liquor industry.
30. Accordingly, the Authority has decided to refuse the Application 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 – Material considered by the Authority George’s Cellar

Application material

1. Floor plan for the Premises, certified by MBC Group as at 12 April 2021, indicating the proposed licensed area.
2. Completed application dated 7 June 2021.
3. Completed Category B Community Impact Statement dated 7 June 2021.
4. Plan of Management documents for the Premises, titled Plan of Management and dated November 2021.
5. Completed certifications of advertising dated 17 December 2021.
6. ASIC business records in relation to the Applicant and associated companies.

Development consent

7. Complying Development Certificate no 21000217/1 in respect of the Premises, issued by MBC Group on 12 April 2021.
8. Development Application DA 230/2021 in respect of the Premises, approved by Woollahra Council on 29 July 2021.

Liquor & Gaming LiveData Report

9. L&GNSW Liquor & Gaming LiveData Report for the suburb of Woollahra, generated on 5 December 2021, which sets out that:

Outlet diversification

- a. There are **21** authorised liquor licenses in Woollahra. Of these, seven are authorised to sell packaged liquor. This includes three packaged liquor licences and four hotel licences.

Outlet density (annual rate per 100,000 residents)

- b. saturation of packaged liquor licences in Woollahra (**40.5**) is **lower** compared to the Woollahra LGA (**44.2**), but **higher** compared to NSW (**30.7**)
- c. saturation of licences authorised to sell packaged liquor in Woollahra (**94.5**) is **lower** compared to the Woollahra LGA (**103.2**), but **higher** compared to NSW (**76.3**)
- d. clustering of packaged liquor licences in Woollahra (**7**) is slightly **lower** compared to the Woollahra LGA (**7.3**), but **higher** compared to NSW (**3.1**)
- e. clustering of licences authorised to sell packaged liquor in Woollahra (**11.3**) is **higher** compared to the Woollahra LGA (**9.8**), and **higher** compared to NSW (**7.2**).

Offence data (annual rate per 100,000 residents)

In the two years to June 2021:

- f. alcohol-related domestic assault in Woollahra (**24.7**) was lower compared to the Woollahra LGA (**48.8**), and lower compared to all NSW (**115.7**)
- g. alcohol-related non-domestic assault in Woollahra (**24.7**) was lower compared to the Woollahra LGA (**70.7**), and lower compared to all NSW (**98.3**)
- h. late-night alcohol-related non-domestic assault in Woollahra (**0**) was lower compared to the Woollahra LGA (**30.3**), and lower compared to all NSW (**28.6**)
- i. alcohol-related non-domestic serious assault in Woollahra (**0**) was lower compared to the Woollahra LGA (**21.9**), and lower compared to all NSW (**36.2**)
- j. alcohol-related offensive conduct in Woollahra (**0**) was lower compared to the Woollahra LGA (**25.3**), and lower compared to all NSW (**24.9**)
- k. malicious damage to property in Woollahra (**346.2**) was higher compared to the Woollahra LGA (**338.5**), but lower compared to all NSW (**658.3**)

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

- l. In the period 2017/2018 the alcohol-attributable death rate in Woollahra LGA (14.7) was lower compared to the average across all of NSW (**20**)
- m. In the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in Woollahra LGA (**643.2**) was higher compared to the NSW average (**542.1**).

SEIFA

- n. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Woollahra and the Woollahra LGA are socio-economically advantaged (**top 2%** of NSW households in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 10. Submission from Jean Chu dated 15 July 2021.
- 11. Submission from NSW Police dated 21 July 2021.
- 12. Submission from L&GNSW Compliance dated 22 July 2021.
- 13. Submission from Woollahra Council dated 2 August 2021 and attaching a decision of Woollahra Council in DA 404/2020 dated 4 February 2021
- 14. Submission on behalf of the Woollahra Hotel, Moncur Cellars and Jim's Cellars dated 18 August 2021.
- 15. Submission from Costi Seafood Woollahra dated 4 November 2021.
- 16. Statutory Declaration made by Alister Campbell dated 7 December 2021
- 17. Submission from Transport for NSW dated 17 December 2021.

Other relevant information

- 18. Petition objecting to the Application with 64 signatures.
- 19. Petition in support of the Application with over 200 signatures.
- 20. Decision on refusal of DA404/2020 by Woollahra Council dated 04 February 2021
- 21. Correspondence between L&GNSW staff and the Applicant between 19 July 2021 and 3 February 2022 in relation to the assessment of the Application.
- 22. Google map images extracted from the Google website (undated), showing the location and photos of the Premises in map view.
- 23. 2016 Development consent premises at 109 Queen Street, currently the location of a dormant packaged liquor licence for a "Vintage Cellars" store.

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

George's Cellar

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 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 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.