



Ms Nicole Beath
JDK Legal
by email: n.beath@jdklegal.com.au

15 February 2022

Dear Ms Beath

Licence No.	LIQP700352736
Applicant	Mr Scott Towers
Licence Name	Red Bottle Waterloo
Application for	Packaged liquor licence removal
Current Premises	Shop L, 1 Shirley Street ALEXANDRIA NSW 2015
Proposed Premises	33 Botany Road WATERLOO NSW 2017
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45, 48, 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for the removal of a packaged liquor licence – Red Bottle Waterloo**

The Independent Liquor & Gaming Authority considered the application above, and decided on 17 November 2021 to **refuse** the application under sections 45 and 59 of the *Liquor Act 2007*.

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

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

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 3 June 2021, Mr Towers (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for the removal of a packaged liquor licence (“Licence”) from Shop L, 1 Shirley Street Alexandria (“Current Premises”) to 33 Botany Road Waterloo (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 17 November 2021 and decided to refuse the Application under sections 45 and 59 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 the Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and the 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 the Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
 - h) Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.
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 Application 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 Proposed Premises is not intended to operate as contemplated by those 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.

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
 - b) practices would be in place from the commencement of licensed trading at the Proposed Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Proposed Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent for the Proposed Premises is in force, based on the Development Application U00-01423 in respect of the Proposed Premises, issued by South Sydney City Council on 22 March 2001 and correspondence from the City of Sydney on 26 May and 15 June 2021.

Community impact

Local and broader communities

15. 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 Waterloo, and the relevant "broader community" comprises the Local Government Area ("LGA") of the City of Sydney.

Licence density

16. The Authority notes that, compared to the NSW state average:
- a) Waterloo and Sydney LGA have a lower and significantly higher saturation of packaged liquor licences, respectively
 - b) Waterloo and Sydney LGA have a slightly lower and significantly higher saturation of licences authorised to sell packaged liquor, respectively
 - c) Waterloo and Sydney LGA have a significantly higher clustering of packaged liquor licences, and
 - d) Waterloo and Sydney LGA have a significantly higher clustering of licences authorised to sell packaged liquor.

Crime data

17. The relevant BOCSAR data indicates that, in the year to June 2021:
- a) the Proposed Premises was located within hotspots for incidents of alcohol-related domestic violence offences, alcohol-related non-domestic violence offences, alcohol-related offensive conduct offences and malicious damage to property offences.

- b) Waterloo recorded higher rates of alcohol-related domestic assault, alcohol-related non-domestic assault, late-night alcohol-related non-domestic assault, alcohol-related offensive conduct and malicious damage to property compared to the NSW state average. The only category of offence usually examined by the Authority which occurred at a slightly lower rate in Waterloo than the NSW state average is alcohol-related non-domestic serious assault.
- c) Sydney LGA recorded higher rates of all categories of offences usually examined by the Authority when compared to the NSW state average, being alcohol-related domestic assault, alcohol-related non-domestic assault, late-night alcohol-related non-domestic assault, alcohol-related non-domestic serious assault, alcohol-related offensive conduct, and malicious damage to property.

Alcohol-related health data

18. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Sydney LGA recorded a higher 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

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

Business model

20. The Authority notes that the Application involves removing packaged liquor licence LIQP700352736, which is currently not trading, about 2.8 kilometres from Alexandria to Waterloo. The Authority notes that the primary purpose of the removal is for the Licence to be closer to the new Waterloo Metro Station, due to be completed in 2024, and the surrounding Waterloo Metro Quarter commercial and residential precinct.
21. The Authority notes that the proposed business model is the sale of packaged liquor via retail for consumption away from the Proposed Premises, selling a diverse range of beer, wine and spirits under the 'Red Bottle' banner. No alcohol is proposed to be consumed on the Proposed Premises other than for the purpose of tastings.

Purported benefits

22. The Authority has had regard to the Application's purported benefits, including that:
- a) the future Waterloo Metro development will likely result in an increase in retail, residential and commercial clientele, suggesting an increase in demand for packaged liquor
 - b) the Proposed Premises will be approximately 78m² and operate with the reduced hours of 10:00AM – 8:00PM Monday to Sunday
 - c) the Applicant is an experienced operator of multiple licensed premises within the broader community with good brand recognition and sound compliance records
 - d) the Proposed Premises will have a high quality fit out and stock a range of domestic and international liquor products, and
 - e) the Proposed Premises is very close to an IGA supermarket, benefiting consumers who wish to purchase packaged liquor before or after shopping at the supermarket. However, the Authority also notes that given the small size of the Proposed Premises, there may be a limitation on the range available and shoppers may still prefer to purchase liquor elsewhere.
- The Authority considers the proposed benefits above to be limited by the absence of any substantive evidence of community support for the Application.

Stakeholder submissions

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

- a) **NSW Police Force**, which objects strongly to the Application, noting:
 - i. the Proposed Premises is in very close proximity to a very high-density social housing area with high crime rates, and drug and alcohol issues
 - ii. as a result, there are residential populations in the local community and immediate vicinity of the Proposed Premises who may be more likely to be vulnerable to alcohol-related harms
 - iii. the Proposed Premises is also in an area with known issues of 'street drinking' and as a result there are large alcohol-free zones and alcohol prohibited areas in the local community
 - iv. since the Application is for a packaged liquor licence, the operator can have no control or responsibility over where or how the alcohol is consumed
 - v. packaged liquor outlets in the area are regularly targeted for theft – in the year to June 2021 there were 193 thefts from packaged liquor outlets in the South Sydney Police Area Command
 - vi. the "applicant has not shown any tangible benefit to the local or broader community other than to increase an already extensive supply of alcohol," and
 - vii. the Waterloo Metro and Waterloo Estate developments are both a significant time away from coming to fruition.
- b) **NSW Health** which strongly objects to the Application, noting:
 - i. the Proposed Premises is within approximately 200 metres from an area of 'street drinking' well known to NSW Police, NSW Health and City of Sydney council. Alcohol involved in street drinking is known to usually be purchased from packaged liquor outlets
 - ii. the broader community contains a large homeless population (more than any other LGA and five times higher than the NSW state average) and NSW Health has identified that street drinking is associated with homelessness in the area
 - iii. NSW Health staff "regularly engage" with residents in the area of the Proposed Premises in relation to "harms associated with alcohol use in their local community," including intoxication, aggressive and/or anti-social behaviour, and broken glass in children's play areas
 - iv. there is an existing high clustering of liquor licences in the local community
 - v. there are existing high rates of alcohol related crime in the broader community, including over four times the rate of alcohol-related sexual offences when compared to the NSW state average
 - vi. the location of the Proposed Premises near the future Waterloo Metro Station will not be beneficial to the community, as research indicates that an increased density of liquor outlets near public transport hubs increases the risk of "pre-loading" and alcohol-related harm, and
 - vii. the local community is considerably disadvantaged, with a significant disparity in incomes between residents of one of the NSW's largest housing estates in the immediate vicinity of the Proposed Premises, and residents of the far south and east of the local community. Additionally, the inclusion of other comparatively socio-economically advantaged suburbs such as Zetland, Beaconsfield and

Rosebery in the SEIFA examined by the Authority can cause this data to misrepresent the significant socio-economic disadvantage surrounding the Proposed Premises.

- c) Redfern & Waterloo CDAT which objects to the Application, noting:
 - i. the Proposed Premises is “right in the Redfern/Waterloo high-risk area” and alcohol-related harm will likely increase if the Application is approved
 - ii. the geographic area of the Proposed Premises at SA2 level is relatively advantaged but the immediate area at SA1 level is among the most disadvantaged in New South Wales, and
 - iii. the demographic changes outlined by the Applicant in relation to the Waterloo Metro and Waterloo Estate developments will not be seen for some years.
- d) Inner Sydney Voice, a regional social development council, which objects to the Application, noting:
 - i. the Proposed Premises is located close to the Waterloo Estate, well known for drug and alcohol issues
 - ii. approval of the Application will exacerbate anti-social behaviour problems for local residents, and
 - iii. the ongoing redevelopment of the area may lead to an increase in students who may possibly purchase alcohol from the Proposed Premises for street-drinking purposes.
- e) L&GNSW Compliance, which notes that there have been no adverse findings against the operator, has no objection to the Application and requests no particular conditions.
- f) City of Sydney Council, which does not object to the Application.
- g) NSW Department of Communities & Justice, which does not object to the Application.

24. The Authority has also had regard to the Applicant’s submissions in response, particularly:

- a) that there is no objection to the Application from Council
- b) that the Applicant has agreed to operate under the reduced trading hours of 10:00AM – 8:00PM Monday to Sunday
- c) the increased convenience for customers of the Proposed Premises due to proximity to the future Waterloo Metro development
- d) the significant experience of the operator in operating relatively small packaged liquor stores in densely populated areas in the broader community, including in Elizabeth Street Surry Hills
- e) that the Proposed Premises brings increased competition to the area
- f) that the applicant has consented to all requested conditions
- g) that the local and broader communities are both relatively advantaged
- h) that licence density in the local or broader communities is irrelevant as the Application is for the removal of an existing licence
- i) that 2016 Census data used by NSW Health in its submissions is aged and should not be weighed heavily in assessing the likely social impact of the Application
- j) that, in relation to the submission from Inner Sydney Voice, “new student populations are majority overseas students where drinking is uncommon”

- k) the Applicant's target market is "the local apartment dweller or worker buying bottled wine to drink at home or in a local restaurant. Red Bottle is not a discount or bulk retailer...we do not compete on price but rather convenience and quality"
- l) that the Application contains comprehensive harm minimisation measures as set out in the plan of management documents
- m) the likely change in population size and demographics in the local community as a result of the Waterloo Metro and Waterloo Estate developments indicates that claims that approval of the Application will likely lead to an increase in alcohol-related harm are overstated. Rather, the change in population demographics will create "an environment where anti-social behaviour, such as street drinking, becomes unacceptable"
- n) that if Application is refused, the Proposed Premises may remain vacant and the space will likely continue as a space well suited to street drinking
- o) that crime trends in the area, although high, are stable or reducing, and
- p) that concerning crime and alcohol-attributable hospitalisation rates in the broader community are skewed by the fact that Sydney is Australia's largest city and experiences significant numbers of tourists and visitors. As a result, these numbers are not reflective of the resident population who may be visitors to and/or affected by the Proposed Premises.

Findings of concern

25. Having regard to all the matters outlined above, the Authority finds that:

- a) the Proposed Premises is in a high offence density hotspot for most of the categories of criminal offending usually considered by the Authority in these types of applications (alcohol-related domestic violence, alcohol-related non-domestic violence and malicious damage to property)
- b) the local community in which the Proposed Premises is located recorded higher rates than the NSW state average of every category of offence usually examined by the Authority except alcohol-related non-domestic serious assault
- c) there are alcohol-related health issues in the broader community (noting that these statistics may be skewed by the fact that Sydney is Australia's largest city and experiences significant numbers of tourists and visitors)
- d) the local community in which the Proposed Premises is located has a significantly higher rate of outlet clustering than the NSW state average
- e) the Proposed Premises is located very close to a facility providing drug and alcohol services to members of the community vulnerable to alcohol-related harm, and
- f) the Proposed Premises is located very close to the highest density part of one of NSW's largest social housing estates, known as Waterloo North, and this estate is likely to be retained in its current form and use for the next 10-15 years.

26. The Authority considers that, if the Application is approved, there is a high risk that the liquor sold from the Proposed 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 following factors may go some way towards mitigating these risks:

- a) the relatively small size of the area in which liquor will be sold or supplied
- b) the relatively moderate licensed trading hours
- c) the harm minimisation measures the Applicant has included in its plan of management documents
- d) the experience of the Applicant as an operator of multiple licensed premises with sound compliance records, and
- e) the increased residential and business activity that will likely occur close to the Proposed Premises around the opening of the Waterloo Metro Station and Waterloo Metro Quarter precinct in 2024.

CONCLUSION

28. Having considered the positive and negative social impacts that are likely to flow from approving the Application, the Authority is nevertheless satisfied that the overall social impact of approving the Application would be detrimental to the well-being of the local and broader communities.

29. Accordingly, the Authority has decided to refuse the Application under sections 45 and 59 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 Red Bottle Waterloo

Application material

1. Floor plan for the Premises, dated March 2021, indicating the proposed licensed area.
2. Plan of Management documents for the Proposed Premises, titled Red Bottle Plan of Management and House Policy dated April 2021.
3. Completed application dated 10 May 2021.
4. Completed Category B Community Impact Statement dated 10 May 2021.
5. Completed certification of advertising dated 8 June 2021
6. ASIC business records in relation to the Applicant.

Development consent

7. Notice of determination issued by South Sydney City Council on 22 March 2001, approving the development application U00-01423 in respect of the Proposed Premises.
8. Correspondence from David Smith, Compliance Officer at City of Sydney dated 26 May and 15 June 2021 in relation to the Application.

Liquor & Gaming LiveData Report

9. L&GNSW Liquor & Gaming LiveData Report for the suburb of Waterloo, generated on 27 September 2021, which sets out that:

Outlet diversification

- a. There are 47 authorised liquor licenses in Waterloo. Of these, 11 are authorised to sell packaged liquor. This includes four packaged liquor licences and seven full hotel licences.

Outlet density (annual rate per 100,000 residents)

- b. saturation of packaged liquor licences in Waterloo (27.4) is lower compared to Sydney LGA (58.1), and lower compared to NSW (30.4).
- c. saturation of licences authorised to sell packaged liquor in Waterloo (75.3) is lower compared to Sydney LGA (231.8), and slightly lower compared to NSW (76).
- d. clustering of packaged liquor licences in Waterloo (9.3) is lower compared to Sydney LGA (17.4), but higher compared to NSW (3).
- e. clustering of licences authorised to sell packaged liquor in Waterloo (14.8) is lower compared to Sydney LGA (61.3), but higher compared to NSW (7.2).

Offence data (annual rate per 100,000 residents)

In the year to June 2021:

- f. alcohol-related domestic assault in Waterloo (**200**) was higher compared to the Sydney LGA (**175.4**), and higher compared to all NSW (**115.7**)
- g. alcohol-related non-domestic assault in Waterloo (**205.4**) was lower compared to the Sydney LGA (**344.6**), but higher compared to all NSW (**98.3**)
- h. late-night alcohol-related non-domestic assault in Waterloo (**54.1**) was lower compared to the Sydney LGA (**127.9**), but higher compared to all NSW (**28.6**)
- i. alcohol-related non-domestic serious assault in Waterloo (**27**) was lower compared to the Sydney LGA (**97.8**), and lower compared to all NSW (**36.2**)
- j. alcohol-related offensive conduct in Waterloo (**43.2**) was lower compared to the Sydney LGA (**196.1**), but higher compared to all NSW (**24.9**), and
- k. malicious damage to property in Waterloo (**951.3**) was higher compared to the Sydney LGA (**817.2**), and higher 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 Sydney LGA (21.6) was higher compared to the average across all of NSW (20)
- m. In the period 2017/2018 – 2018/2019 the alcohol-attributable hospitalisation rate in Sydney LGA (820.5) was higher compared to the NSW average (542.1).

SEIFA

- n. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in the Waterloo SA2 (code 117031338) and Sydney LGA are socio-economically advantaged (top 38% and top 12% of NSW households, in terms of household income and residents in skilled occupations, respectively).
- o. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in the Waterloo SA1 (code 1133839) are significantly socio-economically disadvantaged (bottom 7% of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

- 10. Submission from NSW Health (Sydney Local Health District) dated 4 February 2021.
- 11. Submissions from NSW Police dated 5 February and 25 June 2021.
- 12. Submission from NSW Department of Communities & Justice dated 26 February 2020.
- 13. Submissions from City of Sydney council dated 26 May 2021 & 15 June 2021.
- 14. Submission from Redfern & Waterloo CDAT dated 18 June 2021.
- 15. Submission from L&GNSW Compliance received 23 June 2021.
- 16. Submission from Inner Sydney Voice Regional Social Development Council, undated.

Other relevant information

- 17. Statement of Reasons in the refusal of application number 1-7091866174 in respect of premises located at Shop 6 Pittwater Place, 10 Park Street, Mona Vale, dated 7 June 2019.
- 18. Correspondence between L&GNSW staff and the Applicant between 7 June and 4 November 2021 in relation to the assessment of the Application.
- 19. Licence document for Licence number LIQP700352736, currently located at Shop L 1 Shirley Street, Alexandria, printed 11 June 2021.
- 20. Google map images extracted from the Google website, showing the location and photos of the Proposed Premises in map view.

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

Red Bottle Waterloo

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.

59 Removal of licence to other premises

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