



Mr Bhopinder Singh
zarickbhupi1@gmail.com

6 June 2019

Dear Mr Singh

Application No.	1-6768369763
Applicant	Mr Bhopinder Singh
Application for	Packaged Liquor Licence
Licence name	Bradfield Street Cellars
Trading hours	Monday to Sunday 10:00 AM – 8:00 PM
Premises	6/9 Bradfield Street Leumeah NSW 2560
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority
Application for a Packaged Liquor Licence – Bradfield Street Cellars**

The Independent Liquor and Gaming Authority considered the above application at its meeting on 13 March 2019 and has decided, pursuant to section 45 of the *Liquor Act 2007* (NSW) (“Act”), to **grant** the application subject to the imposition of the following conditions upon the licence:

1. Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. **Retail sales**

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday, 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 st	Normal Trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated October 2018 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. **Closed-Circuit Television**

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system’s cameras must cover the following areas:
 - (i) all entry and exit points on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

7. **Incident Register**

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
 - (d) any incident that results in a patron of the premises requiring medical assistance.
 - 2) The licensee must, if requested to do so by a police officer or inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
 - 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.
8. The licensee must provide satisfactory evidence to Liquor & Gaming NSW that the use of the premises for the sale of packaged liquor by retail continues to be authorised by the local consent authority after the trial period specified in the relevant development consent ends: twelve (12) months from the date that an occupation certificate (interim or final) is issued (or as may be extended from time to time).

A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

9. If Council does not approve the continuation of the trial development consent, the exercise of the licence must cease and Liquor & Gaming NSW must be notified immediately.

Please direct any questions about this letter to the case manager via email to beatrice.pitpaia@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

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

Statement of reasons

Decision

1. On 18 April 2018 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Bhopinder Singh (“the Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises located at 6/9 Bradfield Street, Leumeah NSW 2560 (“Premises”) to be known as *Bradfield Street Cellars*.
2. The Authority has considered the Application at its meeting on 13 March 2019 and pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) has decided to **grant** the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

Material considered by the Authority

4. The Authority has considered the Application, accompanying Community Impact Statement (“CIS”), and all submissions received in relation to this 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 LGNSW 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 accordance with the following provisions of the Act:
 - (a) Section 3: Statutory objects of the Act and relevant considerations.
 - (b) Section 11A: 6-hour closure period.
 - (c) Section 12: Standard trading period.
 - (d) Sections 29: Authorisation conferred by packaged liquor licence.
 - (e) Section 30: Liquor sales area required if bottle shop is part of another business activity.
 - (f) Section 31: Restrictions on granting packaged liquor licences.
 - (g) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - (h) Section 45: Criteria for granting a liquor licence.
 - (i) Section 48: Requirements in respect of a CIS.
9. An extract of these sections are set out in Schedule 2.

Key findings

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

Validity, procedural and trading hour requirements

11. The Authority finds that the Application and accompanying CIS have been validly made in that they meet the minimum procedural requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation. This finding is made on the basis of the Application, CIS material and the Certificate of Advertising signed by the Applicant and dated 28 May 2018.
12. The Authority is satisfied that the amended trading hours consented to in the Applicant's submission dated 21 September 2018 and the 6-hour liquor cessation period consented to by the Applicant in their submission dated 2 July 2018 meet the requirements of sections 11A, 12 and 29 of the Act.

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

13. The Authority is satisfied that:
 - (a) For the purposes of section 45(3)(a) of the Act, the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that a National Criminal History Check on the Applicant dated 28 March 2018 identified no disclosable court outcomes and on the basis of the LGNSW Compliance Detail Report for the Applicant extracted on 21 February 2019 indicating no issues of concern with regards to Mr Singh in his former role as licensee at Cringila Cellars LIQP700358122. The Authority also notes that no issues of concern were raised regarding Mr Singh's probity following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the compliance section of LGNSW.
 - (b) For the purposes of section 45(3)(b) of the Act, practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's *Liquor Store "House Policy" and Plan of Management* dated October 2018.
 - (c) For the purposes of section 45(3)(c) of the Act, the requisite development consent permitting the conduct of a packaged liquor licensed business on the Premises is in force. This finding is based on the development approval ("DA") 1671/2017/DA-C issued by Campbelltown City Council ("Council") on 12 December 2017 for "Fitout and use of premises as a neighbourhood shop for the purpose of a liquor shop". Condition 12 of the DA restricts trading between 10:00 am and 10:00 pm Monday to Sunday. By reason that Condition 2 of the DA provides that the consent is for a trial period of 12 months from the date that an occupation certificate is issued, the Authority has imposed conditions on the licence requiring evidence that consent remains in place for use of the Premises for the sale of packaged liquor by retail at the end of this trial period. If permission is not extended, the sale of liquor from the Premises must cease.

Community impact statement

14. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Leumeah, and the relevant “broader community” comprises the local government area (“LGA”) of Campbelltown City Council (“Campbelltown LGA”).

Positive social impacts

15. The Authority is satisfied, on the information provided in the CIS material, that this independent standalone packaged liquor licence, to be situated within a small local strip mall comprising seven retail shops will provide some additional measure of convenience to those members of the local and broader community seeking to purchase packaged liquor in this part of Leumeah.
16. Accepting that there is some opposition to the Application from Police and through concerns raised by two local residents via a telephone call and an email (discussed in greater detail below), the Authority is nevertheless satisfied on balance that granting the licence will advance, to some extent, the statutory object of regulating liquor in a manner consistent with the “expectations, needs and aspirations” of the local and broader community, for the purposes of section 3(1)(a) of the Act.
17. LGNSW licensed premises information dated 18 February 2019 indicates that the State suburb of Leumeah only has one existing packaged liquor licence, which according to Google maps is approximately a 1.7 kilometres drive from the Premises. Although the suburb has 2 club-licensed premises and 1 full hotel licensed premises, all of these licensed premises are, according to Google maps, further than a one-kilometre drive from the Premises. This lends objective support to the proposition that granting the licence will advance convenience and choice at the level of the local community.
18. The Authority is further satisfied that granting a new independently run packaged liquor licence in a suburb with one existing packaged liquor licensed business will contribute to the balanced development of the liquor industry in the local community, advancing the statutory object of section 3(1)(b) of the Act.

Negative social impacts

19. The licence type in question is a packaged liquor licence, which aside from product tastings authorises the sale of liquor for consumption away from the Premises only. At 87.42 square metres, the scale of licensed business is moderately below the scale of many stand-alone liquor stores, which tend to be around 100-120 square metres in scale.
20. Although the proposed licensed trading hours are reasonably extensive across the course of the week (from 10:00 am to 8:00 pm Monday to Sunday) the Authority notes that packaged liquor businesses may potentially sell liquor as late as 11:00 pm Monday to Saturday. This business will not trade later into the evening on what are generally considered high-risk days, such as weekends and public holidays.
21. Licence density is not a compounding risk factor in both the local and broader community with a rate of 10.17 packaged liquor licences per 100,000 persons in the suburb and 18.47 for the LGA, compared to 34.66 for the State as a whole.

22. BOCSAR hotspot maps for the local community between October 2017 and September 2018 indicate some localised concentration of crime occurring in areas within the communities that are likely to be serviced by this licensed business. Of particular note are some concentrations of domestic assault and malicious damage to property. The Premises is located within a low-density hotspot of domestic assault, which connects to a large high-density hotspot that extends beyond the boundaries of the local community. The Premises is also located within a medium-density hotspot for incidents of malicious damage to property, which also connects to a large high-density hotspot that extends beyond the boundaries of the local community.
23. BOCSAR data for the year to September 2018 records:
- A rate of **158.7** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **145.6** for the LGA and a rate of **115.4** for NSW.
 - A rate of **119.0** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **78.7** for the LGA and a rate of **126.3** for NSW.
 - A rate of **843.3** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **903.3** for the LGA and a rate of **765.8** for NSW.
 - A rate of **49.6** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **18.0** for the LGA and with a rate of **39.0** for NSW.
24. The rate of alcohol related domestic violence is above the State average and this is an adverse factor which has been given some weight in the Authority's assessment of the social impact test.
25. Socio economic index for areas ("SEIFA") data establish some, albeit non-acute, relative disadvantage in the local community, with Leumeah ranking in the 3rd decile on the Index of Relative Socio-Economic Advantage and Disadvantage. The broader community presents a more average profile, ranking in the 5th decile compared to other suburbs and local government areas across the State.
26. The Authority also notes that the spatially adjusted rate per 100,000 population of alcohol attributable deaths across the LGA recorded by NSW Department of Health data was slightly elevated at 20.1 compared to the State-wide rate of 18.1 between 2015 to 2016. The LGA fares better for alcohol attributable hospitalisations recording a spatially adjusted rate per 100,000 population of 498.3 compared to the State-wide rate of 580.6 for 2015 to 2017.
27. Police and residents raised concerns about the proposed hours of operation and the potential for anti-social behaviour such as loitering, theft and drunk and disorderly conduct to be exacerbated. The Authority acknowledges the concerns raised by Police in relation to theft which included the following:
- From January 2017 to December 2017, BOCSAR crime data indicated that Campbelltown LGA was rated one of the highest areas in NSW of retail theft, with 8.2% of incidences occurring on licensed premises, and 18.6% of robberies occurring in retail stores. Within that same period 50% of retail theft occurred on licensed premises within Leumeah alone.
 - 24 people were arrested for stealing during an operation by Police on 17 May 2018 in Campbelltown, Minto and the Macarthur retail areas.

28. Police concerns around theft predominantly relied on the “minimum physical surveillance” at the location due to the closing times of the existing businesses at the shopping strip. However, the Applicant has reduced the risk profile of the Premises by amending the Application, in line with Police submissions, to reduce the licensed opening hours from 8:00 am to 10:00 am Monday through Saturday and reduce the licensed closing hours from 10:00pm to 8:00pm on those days.
29. This will mean that the hours of the liquor store more closely align to the other retailers at the strip mall, increasing scope for passive surveillance and reducing opportunities for theft in the evenings. The security measures (video surveillance from 8 cameras, internal and external lighting, security bollards and security/trellis doors) have also been taken into account with respect to managing the risk of alcohol product theft.
30. Neither Police nor the two local objecting residents have provided a great degree of specificity as to the nature and extent of the issues raised by them. Police have established that local operations targeting shoplifting have occurred and note the relevant BOCSAR crime data. However, there is not a great deal of information at the level of the suburb, or the locality, demonstrating problems with alcohol related crime or disturbance in Leumeah that would move the Authority to refuse the licence
31. The BOCSAR data establishes that the communities are experiencing elevated levels of alcohol-related domestic violence with some evidence of malicious damage to property offences. This data provides the main adverse factor when assessing social impact. However, licence density is not high and there is not a confluence of other negative factors, to move the Authority to refuse the Application.
32. While Police and two local objectors note the number and location of existing licensed premises, licence density for packaged liquor licences in the suburb and LGA is comfortably below State averages. Google maps indicate that the existing hotel, clubs and packaged liquor licence in the suburb are further than a 1-kilometre drive from the Premises, so there is some convenience for those who do not drive, given the limited availability of public transport in this outer suburban location.
33. The Authority acknowledges, as submitted by Police and the two local residents, that the Premises is located in a predominantly residential area. When assessing the potential for adverse amenity impact, the Authority has taken into account the Plan of Management dated October 2018, which will become enforceable through a licence condition, which addresses neighbourhood amenity and patron conduct. The reduced hours proposed in the amended application have also reduced the scope for amenity impacts.
34. The Authority is further reassured by the fact that Council has only approved the development consent for use of the Premises as a liquor shop on a 12 months trial basis. Condition 2 of the DA requires that a complaints register must be maintained and submitted with any development modification application lodged with Council to obtain approval for the continuing use of the Premises as a liquor shop.
35. Police and one resident submitter also raised concerns about the potential for drink driving, with Police submitting that within Campbelltown City Police Area Command between May 2017 and April 2018, of the persons detected driving under the influence of alcohol, 62% were recorded as being linked to home/private residences. The Authority accepts that drink driving is a relevant risk facing the broader community and

that packaged liquor consumption is playing a role. However, in the absence of more localised data indicating that a new liquor store in this location is well placed to contribute to that problem, noting the other sources of packaged liquor serving the communities, the Authority is unable to give this submission decisive weight. Roads and Maritime Services provided a standard submission but did not object.

36. Police refer to their *Alcohol Strategy 2014-2018* noting the role of at- risk groups including aboriginal communities and young adults and the general need to reduce the supply of liquor to reduce adverse alcohol consumption impacts.
37. The ABS data provided with the CIS indicates some moderate elevation of the Aboriginal and Torres Strait Islander (“ATSI”) community in that 3.5% of the Lumeah population is of ATSI descent compared to 2.8% for NSW as a whole (the Authority notes that the current State figure is 2.9%). The data does not establish a substantial over representation of ATSI or young people in the relevant communities. There is a moderate degree of social disadvantage at the local community level while the broader community has a more average socio- economic profile. While the presence of at- risk groups is a relevant concern for submitters to raise, in the absence of submissions from social welfare or ATSI agencies, the available data for these communities is insufficient to warrant substantial weight.

Overall social impact

38. Notwithstanding the presence of some adverse risk factors, having considered together the positive benefits and negative impacts that are likely to flow from granting the Application, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting this new packaged liquor licence would not be detrimental to the well-being of the local community or broader community.
39. The Application is granted pursuant to section 45(1) of the Act.



Philip Crawford
Chairperson

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 the New South Wales Civil and Administrative Tribunal (“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 and gaming website <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions> 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 before the Authority

1. Application Form for a Packaged Liquor Licence (“Application”) lodged by Mr Bhopinder Singh (“the Applicant”) on 18 April 2018 accompanied by a submission addressing Part 5 of the Form; Notices dated 18 April 2018 to the local Consent Authority, Police, Public Consultation and Site Notices; National Criminal History Check for the Applicant dated 20 March 2018, Applicant identification documents and an undated Australian Securities and Investments Commission (“ASIC”) Company Extract for Rathbrox Pty Ltd (the employer for a liquor licence in NSW that the Applicant was associated with, Cringila Cellars LIQP700358122).
2. Category B Community Impact Statement (“CIS”) lodged on 18 April 2018 accompanied by a thirty-four page document prepared by consultant Sarah George Consulting dated March 2018 making submissions on the community impact of granting the licence. This was accompanied by:
 - (a) A demographic profile table comparing demographic characteristics from the Australian Bureau of Statistics (“ABS”) for the Statistical Area Level 1, Leumeah Suburb, Campbelltown Local Government Area (“LGA”), Greater Sydney and NSW.
 - (b) The notice of intention to apply for a licence or authorisation dated 15 February 2018.
 - (c) A list of notified properties and stakeholders.
 - (d) A two-page letter from Roads and Maritime Services dated 2 March 2018 providing alcohol related road crash statistics and making recommendations.
 - (e) A one-page letter from Family and Community Services dated 5 March 2018 advising that they have no legitimate grounds of concern.
3. Email correspondence between licensing staff and the Applicant dated 7 May 2018, 2 July 2018, 3 July 2018, 3 August 2018, 14 August 2018, 16 August 2018, 6 September 2018, 20 September 2018, 21 September 2018, 25 September 2018, 29, September 2018, 12 October 2018, 18 October 2018 and 22 October 2018. This correspondence addresses, *inter alia*, proposed licence conditions, the amendment of licensed trading hours, updating the Plan of Management, responding to community submissions, the proposed business name, the proposed licensee, the date the CIS was completed and the proposed transfer of the licence. The following documents were provided in the course of this correspondence:
 - (a) The Certificate of Advertising signed by the Applicant and dated 28 May 2018.
 - (a) A one-page email from ASIC dated 25 September 2018 regarding the record of registration for Bradfield Street Cellars.
 - (b) ASIC Record of Registration for Business Name Bradfield Street Cellars as at 25 September 2018.
 - (c) A file note recorded by licensing staff dated 15 October 2018 in relation to a telephone conversation with the Applicant.
 - (d) A ten-page submission from Sarah George Consulting on behalf of the Applicant dated 18 October 2018, sent to licensing staff via email of the same date, responding to outstanding information.
 - (e) Liquor Store “House Policy” and Plan of Management dated October 2018.
 - (b) Plan/diagram highlighting the licensed area of the premises in red.
4. Three-sentence email advice from Liquor and Gaming NSW (“LGNSW”) dated 11 May 2018 advising that the Compliance Unit does not intend to make a formal submission.
5. A ten-page submission from Senior Constable Henry of Campbelltown City Police Area Command of NSW Police dated 25 May 2018 objecting to the Application.
6. Three-sentence email from Campbelltown City Council (“Council”) dated 4 June 2018 attaching an annotated copy of the Local Consent Authority Notice and advising that the proposed trading

hours do not conform to condition 12 of development consent 1671/2017/DA-C. Attached to this submission was a copy of 1671/2017/DA-C issued by Council on 12 December 2017.

7. Licence density data calculated by licensing staff using the 2016 ABS population data and licensed premises information as at 18 February 2019.
8. LGNSW list of licensed premises in the State suburb of Leumeah at 18 February 2019, as sourced by licensing staff.
9. Bureau of Crime Statistics and Research (“BOCSAR”) hotspot maps regarding the suburb of Leumeah from October 2017 to September 2018 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property, sourced by licensing staff on 20 February 2019.
10. Google geographical maps and street view images of the Premises and surrounds sourced by licensing staff on 20 February 2019.
11. BOCSAR Crime data for October 2016 to September 2018 comparing the count and rate per 100,000 persons for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) for NSW, the suburb of Leumeah and the Campbelltown LGA, sourced by licensing staff on 20 February 2019.
12. BOCSAR number and proportion of selected offences flagged by Police as alcohol related for Campbelltown LGA and NSW from 2017, sourced by licensing staff on 20 February 2019.
13. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for Leumeah and Campbelltown LGA, sourced by licensing staff on 20 February 2019.
14. NSW Healthstats data on alcohol attributable deaths (between 2001 and 2016) and alcohol attributable hospitalisations (between 2001 and 2017) in the Campbelltown LGA, sourced by licensing staff on 20 February 2019.
15. LGNSW *Compliance Detail Individual Report* for Mr Bhopinder Singh and *Compliance Detail Report* for LIQP700358122 for Cringila Cellars between 1 January 2016 to 21 February 2019, sourced by licensing staff on 21 February 2019.
16. ABS 2016 Census QuickStats data on the suburb of Leumeah and the Campbelltown LGA, sourced by licensing staff on 11 March 2019.
17. Three sentence email from the Applicant’s consultant, Sarah George, dated 11 March 2019 providing a copy of the one-page email submission from a local resident dated 15 February 2018 raising concerns about the Application.

Schedule 2

Relevant extracts from the *Liquor Act 2007* (NSW)

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) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
 - (a) if the primary purpose of the business carried on 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 10 pm on that day.

(2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

(3) **Selling liquor by wholesale or to employees**

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

(4) **Tastings**

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

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

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

31 Restrictions on granting packaged liquor licences

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

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

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

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

40 Licence applications

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

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

- (4) An application for a licence must:
- (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- Note.** See also section 48 which requires a community impact statement to be provided with certain licence applications.
- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

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
 - (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.