



Ms Kim Harris  
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29 May 2019

Dear Ms Harris,

<b>Application No.</b>	1-6966536687
<b>Applicant</b>	IGA Bobbin Head Road Pty Ltd
<b>Application for</b>	Packaged Liquor Licence
<b>Licence name</b>	IGA Bobbinhead Road Plus Liquor
<b>Trading hours</b>	Monday to Sunday 10:00 AM – 7:00 PM
<b>Premises</b>	245 Bobbin Head Road, North Turramurra NSW 2074
<b>Legislation</b>	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 new Packaged Liquor Licence – IGA Bobbinhead Road Plus Liquor**

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

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 <sup>th</sup>	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal Trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 20 April 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.

## 6. **Closed-Circuit Television**

- 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
  - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
  - (b) recordings must be in digital format and at a minimum of 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 to the supermarket/general store, and
    - (ii) all publicly accessible areas (other than toilets) within the licensed 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. The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.

## 8. **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.

Please direct any questions about this letter to the case manager via email to [danielle.hatton@liquorandgaming.nsw.gov.au](mailto:danielle.hatton@liquorandgaming.nsw.gov.au)

Yours faithfully

A handwritten signature in black ink, appearing to be 'D B Armati', written in a cursive style.

D B Armati

Deputy Chairperson

For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 27 September 2018 the Independent Liquor and Gaming Authority (“the Authority”) received from IGA Bobbin Head Road Pty Ltd (“the Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises located at 245 Bobbin Head Road, North Turrumurra NSW 2074 (“Premises”) to be known as *IGA Bobbinhead Road Plus Liquor*.
2. The Authority has considered the Application at its meeting on 13 February 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. Some names of submitters have not been published in this decision letter, at the request of submitters.

### 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 Mr Andrew Chriss, the sole director of the corporate Applicant, dated 29 October 2018.
12. Although the Authority had before it a number of submissions raising concerns about notification, those concerns relate to two previous applications that were subsequently withdrawn by the Applicant by reason of non-compliance with legislative notification requirements.
13. The Authority is satisfied that the trading hours sought by the Applicant in the Application form and subsequently granted by the Authority meet the requirements specified by sections 11A, 12 and 29 of the Act in respect of a daily 6 - hour liquor sales cessation and the standard trading hours for packaged liquor licensed premises.
14. On the basis of the plan/diagram of the Premises and the Applicant's submission dated 28 December 2018, the Authority is satisfied, for the purposes of section 30(1) of the Act, that the proposed liquor sales area will be adequately separated from the rest of the supermarket. That information further establishes, for the purposes of section 30(2) of the Act, that the principal activity carried out in the liquor sales area will be the sale or supply of liquor for consumption away from the licensed premises.

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

15. The Authority is satisfied that:
  - (a) For the purposes of section 45(3)(a) of the Act, the corporate Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding its 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 *Alcohol Management Plan* dated 20 April 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 made on the basis of email correspondence from Ku-ring-gai Council ("Council") dated 2 April 2018 and 9 April 2018. In their submission dated 2 April 2018, Council advise no objection in response to the trading hours sought noting that the last known development consent for use of the Premises is DA0753/07, Condition "17" of which permits trading between

8:00 am to 7:00 pm Monday to Sunday including public holidays. A copy of DA0753/07, determined by Council on 25 September 2007 (and lapsing on 28 September 2009) is also before the Authority permitting “Commercial – additions and alterations to retail/commercial building”. In the submission dated 9 April 2018, Council advise that DA0509/06 was approved on 12 December 2006 permitting “Demolition and construction of a commercial building containing ground floor mini market, first floor office space, employee car parking and signage” with condition 24 restricting trading hours to 8:00 am to 7:00 pm Monday to Sunday. Council further advise that the ground floor mini mart was used by the IGA. A copy of DA0509/06 was provided to licensing staff and the Authority accepts Council’s advice dated 9 April 2018 that the “approved development description and accompanying plans in DA0509/06 would suggest the building at ground floor can be used for selling items by retail, including packaged liquor, for consumption away from the premises”.

#### Community impact statement

16. 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 North Turramurra, and the relevant “broader community” comprises the local government area (“LGA”) of Ku-ring-gai Council (“Ku-ring-gai LGA”).

#### Positive social impacts

17. The Authority is satisfied, on the information provided in the CIS material, that this packaged liquor licence, to be situated within an established IGA supermarket, will provide some additional measure of convenience to those members of the local and broader community who wish to purchase their packaged liquor whilst purchasing groceries at the supermarket.
18. When considering the extent of community benefit, the Authority notes the objections (which are discussed in greater detail below) from members of the community, local businesses, Northern Sydney Local Health District Health Promotion (“Health”), Hornsby and Ku-ring-gai Community Drug Action Team (“CDAT”) and from a petition containing over 400 signatures opposing the Application.
19. However, the Applicant has also provided evidence as to community expectations by way of a petition in favour of the Application, bearing over 700 signatures, primarily on the basis of increased convenience of being able to purchase liquor items at the same time as attending to their grocery shopping.
20. Accepting that there is local support and opposition to the proposal, on balance the Authority is satisfied 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.
21. Notably, a LGNSW list of licensed premises dated 6 December 2018 indicates that the suburb of North Turramurra only has one existing packaged liquor outlet, Tom’s Cellars located at 284 Bobbin Head Road. The suburb has no hotel or club licences (licence types that may potentially sell packaged liquor, depending upon their mode of operations). This data as to limited local availability of packaged liquor stores lends objective support to the position taken by residents who support the proposal.

22. Having regard to the scale of the proposed liquor business and its operation within a major supermarket chain, the Authority finds that the new business will expand the options available to the local community as to how they shop for packaged liquor, offering some increase in choice of retailer and additional convenience, although the extent of increased convenience is constrained by the nearby liquor store.
23. The Authority is satisfied that granting the new packaged liquor licence 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

24. 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.
25. The scale of the Premises, at 83.6 square metres, is substantial in the context of a supermarket offering but smaller than many stand-alone liquor stores.
26. Although the licensed trading hours proposed are reasonably extensive across the course of the week (from 10:00 am to 7:00 pm Monday to Sunday) the potential for liquor sold from this location to negatively impact the community is somewhat mitigated by the fact that the licence will not trade late into the evening on what are generally considered high risk days, such as weekends and public holidays.
27. Notwithstanding the small population of 4,257, the rate per 100,000 persons for packaged liquor licences in the suburb is 23.49 compared to 34.73 for the LGA and 34.46 for NSW. As noted above, licence density is not a compounding risk factor in the local community, with North Turrumurra having only 1 packaged liquor licence.
28. The Authority is further reassured by the BOCSAR crime data for the communities, indicating that the proposed location of the Premises is not subject to localised concentrations of alcohol related crime. It will not operate within a suburb or LGA that is experiencing elevated alcohol related crime rates, including alcohol related domestic violence which is of particular interest when assessing a new packaged liquor licence, given that most packaged liquor will be consumed in the home. Crime rates for both communities are comparatively low.
29. BOCSAR data for the year to September 2018 records:
  - A rate of **0.0** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **13.8** for the LGA and a rate of **115.4** for NSW.
  - A rate of **0.0** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **14.6** for the LGA and a rate of **126.3** for NSW.
  - A rate of **159.5** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **256.6** for the LGA and a rate of **765.8** for NSW.
  - A rate of **0.0** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **1.6** for the LGA and with a rate of **39.0** for NSW.
30. Socio economic index for areas data establishes that the local and broader communities are very advantaged ranking in the highest 10<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs and LGAs within the State.

31. The Authority notes that the rate of alcohol attributable hospitalisations across the LGA recorded by NSW Department of Health data was 689.6 per 100,000 persons, moderately above the State wide rate of 580.6 during the 2015 to 2017 period. The LGA fares better for alcohol related mortality, recording a spatially adjusted rate of 11.7 per 100,000 persons compared to a State-wide rate of 18.1 for the 2015 to 2016 period. While alcohol related hospitalisation data is adverse to the Applicant, it is not decisive in this case, noting that the LGA covers a considerable geographical area and the Authority does not have before it more localised data.
32. The Authority has also had regard to the objections received from Health, CDAT, members of the community and local businesses. It does not accept contentions by Health and local residents that there is an “oversupply” of licensed premises, having regard to the licence density data noted above. The Authority does accept the contention that alcohol hospitalisation data is problematic for the broader community but this data, as noted above, has not been decisive in the absence of more focussed localised data and in the context of relatively benign harm minimisation data in respect of both local and broader communities.
33. The Authority accepts contentions made by Health, CDAT, local residents and local businesses that the Premises is within walking distance of the Turrumurra North Public School and two child care centres, a local church that hosts alcoholics anonymous meetings and the Cotswolds Retirement Village. While the proximity of sensitive sites are relevant to assessing the location of the Premises and its scope for adverse impact, those factors have not been decisive in this instance. There is already an incumbent liquor store (Tom’s Cellars) in operation very close to the proposed Premises and no evidence or information indicating how this incumbent liquor store has had an adverse amenity impact upon sensitive sites.
34. A common theme of submissions from local residents and businesses opposing the Application is concern about the economic impact of a licensed supermarket upon the local Tom’s Cellars business. While the Authority accepts that those concerns are genuinely held, the Authority is unable to give weight to concerns that are primarily anti-competitive in nature. The Authority’s focus is the overall social impact, upon the local or broader community, of granting this licence in light of the type of licensed business that is proposed. It is not the Authority’s role to play favourites between incumbent commercial interests and new entrants to a local market. Any concerns that may pertain to abuses of market power are matters for the Australian Competition and Consumer Commission.
35. The Authority has carefully considered whether the new licence may operate to frustrate the objects of local alcohol anonymous meetings. While concerns about sensitive sites are relevant, the Church hosting those meetings is around 300 metres away, and the Church itself has not objected to the proposal. Nor is there information as to how the incumbent business is frustrating the purpose of those meetings. The Authority is unable to give that concern great weight in those circumstances.
36. There is one local submission raising the prospect that liquor sold from the Premises will encourage what it said to be an existing problem of teenagers drinking in Samuel King Oval.
37. The presence of recreation areas is a relevant matter when assessing the scope for negative social impacts to impact the local community from packaged liquor sales from



a new business. However, the information provided by this objector is limited and does not convey the extent and frequency of those amenity impacts occurring at this Oval. The Oval is around 290 metres away from the Premises and in the context of otherwise benign local crime data, with no concerns regarding the Oval raised by law enforcement or Council, the Authority can only give this submission limited weight.

38. The Authority has considered a further, broadly credible concern raised by local residents and local businesses, that liquor sold from the supermarket may impact vulnerable people, including the elderly and residents of a nearby Retirement Village who (for example) may forget how much liquor they have purchased or consumed. Again, more evidence or information indicating the nature and extent to which this is an actual problem may have warranted greater weight being accorded to this submission.
39. With regard to this particular risk the Authority notes that, pursuant to the Applicant's "Direct Alcohol Management Strategy Plan with Customers & Elderly" incorporated as part of the Alcohol Management Plan dated 20 April 2018, should any community members or customers have concerns regarding the sale of alcohol to a specific person, IGA will implement strategies to assist with management of that supply. The Authority has imposed a condition mandating compliance with this Plan.
40. When assessing the scope for negative impacts arising from the operation of this new business, the Authority has taken into account all of the conditions to which the licence will be subject, including a requirement that the business may not operate with greater overall social impact than disclosed in the Application and CIS, that the licensee be an active member of the local liquor accord, that the licensee must operate a CCTV system meeting minimum specifications and maintain an incident register.
41. Most of the harm minimisation measures proposed by Police have been imposed by the Authority as licence conditions. Where Police proposals have overlapped with the Authority's policy approach, the Authority has imposed conditions in its standard form. With respect to Police proposals for a condition mandating a separate cash register, the plan/diagram of the Premises and the Applicant's submission dated 28 December 2018 indicate that the liquor area will contain an express liquor register. The Authority does not consider it necessary to implement a condition reinforcing this proposal at this time. Finally, in the absence of evidence or information identifying a specific risk at this location, the Authority is not satisfied that Police proposals for conditions managing the display of spirits on the Premises, or the use of door sensors, are warranted.

#### Overall social impact

42. Having considered 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.
43. The Application is granted pursuant to section 45(1) of the Act.



D B Armati  
Deputy 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. Two-page letter from Roads and Maritime Services dated 27 October 2017 (in response to the notice of intention to apply for a liquor licence) providing alcohol related crash data and making recommendations to decrease the likelihood of packaged liquor involvement in road crashes.
2. One-page email from Ms P Muller, a local resident of North Turrumurra, dated 27 October 2017 (in response to the notice of intention to apply for a liquor licence) opposing the application for a packaged liquor licence ("Application").
3. One-page letter from Family and Community Services ("FACS") dated 2 November 2017 (in response to the notice of intention) advising that they will not be providing input.
4. One-page email from Ms M Duncan, a local resident of North Turrumurra dated 2 November 2017 (in response to the notice of intention) objecting to the Application.
5. One-page email from the owner of a local business (who later requested not to be identified) dated 9 November 2017 (in response to the notice of intention to apply for a liquor licence) objecting to the Application.
6. One-page email from Ku-ring-gai Council ("Council") dated 14 November 2017 (in response to the notice of intention) advising that the hours set out in the notice of intention are not consistent with the hours approved in the last known development approval ("DA") DA0753/07. Council advise that either an application to modify DA condition 17 needs to be lodged or a new DA is required to trade the proposed licenced hours.
7. One-sentence email from Ms Kim Harris, the legal representative of IGA Bobbin Head Road Pty Ltd ("the Applicant"), to Council dated 17 November 2017 advising that the Application will reflect the hours of use permitted by the development consent, from 8:00 am to 7:00 pm.
8. A petition in support of the Application containing over 700 signatures provided by the Applicant in two parts, the first part submitted via email dated 23 March 2018 and the second part submitted via email dated 15 May 2018.
9. One half page email from Council dated 2 April 2018, advising that the last known development consent for use of the premises ("Premises") currently operated as an IGA supermarket is DA0753/07 and the proposed licenced hours fall within condition 17.
10. Email correspondence between licensing staff and the Applicant from 6 April 2018 to 8 November 2018, regarding two previous applications that were withdrawn by the Applicant due to notification issues.
11. One half page email from Council dated 9 April 2018, advising that the approved development description and accompanying plans in DA0509/06 suggest that the ground floor of this building may be used for selling items by retail, including packaged liquor, for consumption away from the premises.
12. One-sentence email from the Assessments & Analysis Unit of Liquor and Gaming NSW ("LGNSW") dated 12 April 2018, advising that the LGNSW Compliance Unit does not intend to make a formal submission on the Application.
13. Submission on LGNSW form (comprising four paragraphs) lodged by a local resident, Mr N Baker of North Turrumurra, signed and dated 17 April 2018 opposing the Application.
14. Submission on LGNSW form (comprising five paragraphs) lodged by Mr R McGlynn, a resident of Pymble, signed and dated 19 April 2018 raising concerns.
15. Submission on LGNSW form (comprising three paragraphs) from a female local resident of North Turrumurra (name not disclosed in this letter) signed and dated 20 April 2018 raising concerns.

16. Submission on LGNSW form from a local business (name not disclosed in this letter) signed and dated 21 April 2018 accompanied by a one-page objection letter and a petition objecting to the Application with over 400 signatures.
17. Five photographs of the front entrance and noticeboard for the Premises, sent to the Authority via email dated 23 April 2018, from the same local business identified in paragraph 16 above.
18. Submission on LGNSW form (comprising three paragraphs) from a local business (name not disclosed in this letter) signed and dated 26 April 2018 raising concerns.
19. Two-sentence email from Senior Constable Natasha Doggett, Licensing Officer, Hornsby Police ("Police") dated 30 April 2018 asking licensing whether they would like Police to arrange someone to check the site notice on the Premises.
20. Two-paragraph email from Police dated 30 April 2018 advising that Police have conducted checks on the location and proposed licensee/manager and they have no objections to the Application or to the conditions proposed by licensing staff.
21. One-page email from Police dated 1 May 2018 advising no objections but requesting that a number of licence conditions be imposed should the Application be granted.
22. One-sentence email from the Applicant's legal representative dated 21 August 2018 attaching the Australian Securities and Investments Commission ("ASIC") record of registration for business name IGA Bobbinhead Road Plus Liquor of that date.
23. One-page letter from FACS dated 10 September 2018 advising that they do not have a response and will not be providing input.
24. One-sentence email from the same local business noted at para 16 above comprising the LGNSW submission form signed and dated 13 September 2018 raising certain concerns (in three paragraphs) about the Application with ten photographs attached dated 25 August 2018, 4 September 2018 and 7 September 2018.
25. One-page submission opposing the Application from a local business (name not disclosed in this letter) dated 16 September 2018 under the cover of the LGNSW submission form signed and dated 14 September 2018.
26. Four-page submission from Northern Sydney Local Health District Health Promotion ("Health") dated 24 September 2018 objecting to the Application. This submission was sent via email of the same date and included the LGNSW submission form.
27. Two-page submission from Hornsby and Ku-ring-gai Community Drug Action Team ("CDAT") of the Alcohol and Drug Foundation dated 24 September 2018 provided by email of that date, objecting to the Application.
28. Application Form lodged by the Applicant on 27 September 2018 accompanied by the following documents:
  - (a) Notices to Local Consent Authority, Police notice and Public Consultation – Site Notice all signed and dated 27 September 2018.
  - (b) ASIC Current Organisation Extract for the corporate Applicant, IGA Bobbin Head Road Pty Ltd.
  - (c) Appointment of Manager Notice form signed and dated 21 March 2018.
  - (d) Category B Community Impact Statement signed and dated 21 March 2018.
  - (e) Development consent DA0753/07 granted by Council in a determination made on 25 September 2007 for "Commercial – additions and alterations to retail/commercial building".
29. Submission sent by email dated 4 October 2018 from a health professional who resides in North Turramurra (name not disclosed in this letter) comprising the LGNSW submission form signed and dated 29 September 2018 raising concerns (in four paragraphs) about the Application.

30. Four-paragraph email from Council dated 5 October 2018 advising that the licensed hours sought in the Application are within the approved hours of use specified in condition 17 of DA 0753/07 and no objection is raised by Council.
31. One-sentence email from the Applicant's legal representative dated 12 November 2018 attaching:
  - (a) A two-page submission dated 3 November 2018 responding to the objections raised by Health and CDAT.
  - (b) NSW Department of Health *HealthStats* data on alcohol attributable hospitalisations, comparisons by age, NSW 2001-02 to 2014-15 and associated information for high body mass attributable hospitalisations extracted on 9 November 2018.
  - (c) Certificate of Advertising signed by Mr Andrew Chriss, the sole director of the corporate Applicant, dated 29 October 2018 accompanied by three photographs of the site notice displayed in the window of the Premises.
32. Licence density data calculated by licensing staff using the 2016 Australian Bureau of Statistics ("ABS") population data and licensed premises information as at 6 December 2018.
33. LGNSW list of licensed premises in the State suburb of North Turramurra at 6 December 2018, as sourced by licensing staff.
34. One-paragraph email from the Applicant's legal representative dated 20 December 2018 responding to the unpublished Bureau of Crime Statistics and Research ("BOCSAR") data on alcohol related crime put to the Applicant for comment on that date.
35. Two-sentence email from the Applicant to licensing staff dated 21 December 2018, consenting to conditions proposed by staff on that date.
36. Four-paragraph email from the Applicant dated 28 December 2018 providing further information addressing Authority Guideline 10.
37. BOCSAR hotspot maps regarding North Turramurra 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 2 January 2019.
38. Google geographical maps and street view images of the Premises and surrounds sourced by licensing staff on 2 January 2019.
39. 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 North Turramurra and the Ku-ring-gai Local Government Area ("Ku-ring-gai LGA"), sourced by licensing staff on 2 January 2019.
40. BOCSAR data on number of selected offences flagged by Police as alcohol related by time of day and week for NSW, Ku-ring-gai LGA and North Turramurra from October 2017 to September 2018, sourced by staff on 2 January 2019.
41. BOCSAR number and proportion of selected offences flagged by Police as alcohol related for Ku-ring-gai LGA and NSW from 2017, sourced by licensing staff on 2 January 2019.
42. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for North Turramurra and Ku-ring-gai LGA, sourced by licensing staff on 2 January 2019.
43. NSW Healthstats data on alcohol attributable deaths (between 2001 and 2016) and alcohol attributable hospitalisations (between 2001 and 2017) in the Ku-ring-gai LGA, sourced by licensing staff on 2 January 2019.
44. Two-sentence email from the Applicant to licensing staff dated 7 January 2019 attaching a one-page response to community objections.

45. Two-sentence email from the Applicant to licensing staff dated 8 January 2019 advising that the Applicant will have the Wangi IGA Plus licence transferred to the current manager as the licensee once this Application is approved.
46. Three-sentence email from the Applicant to licensing staff dated 8 January 2019 attaching the plan/diagram of the Premises highlighting the licensed area in red.
47. Internal email between LGNSW staff dated 22 January 2019 advising no adverse records on RegIS database for Mr Andrew Chriss LIQXA911020358, The A Chriss Family Trust and IGA Galston Plus Liquor LIQP770017225.
48. One-sentence email from the Applicant to licensing staff dated 31 January 2019 attaching the Alcohol Management Plan dated 20 April 2018.

## 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.