



Mr Warwick Caisley  
Lands Legal  
Level 8  
131 York Street  
SYDNEY NSW 2000

[wcaisley@landslegal.com.au](mailto:wcaisley@landslegal.com.au)

Dear Mr Caisley

**Application for the Grant of a Packaged Liquor Licence  
Harris Farm Markets**

I am writing to you about an application made by your client, Harris Farm Markets Drummoyne Pty Limited, to the Independent Liquor and Gaming Authority on 22 September 2014, in respect of a proposed new packaged liquor licence for premises to be located on the ground floor retail space at 121-125 Victoria Road, Drummoyne known as "Harris Farm Markets".

As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to the Manager of Licensing (Delegate) the power to grant certain liquor licence applications that fall within a designated risk threshold. This Application falls within the relevant threshold, enabling the matter to be determined under delegation.

The Application was considered by the Delegate who has decided on 19 June 2015 to grant the Application, pursuant to section 45 of the Act.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Delegate is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*. This letter attaches the statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

The detailed conditions subject to which the licence is granted will be set out in the OneGov record of the liquor licence, to be provided separately by staff assisting the Delegate.

If you have any questions, please contact the case manager, Ms Trudy Tafea, via email at [trudy.tafea@ilga.nsw.gov.au](mailto:trudy.tafea@ilga.nsw.gov.au).

Yours faithfully

Micheil Brodie  
Chief Executive

19 AUG 2015

## STATEMENT OF REASONS

### INTRODUCTION

1. On 22 September 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Harris Farm Markets Drummoyne Pty Limited (Applicant). The Application seeks the grant of a new packaged liquor licence, within the meaning of section 29 of the *Liquor Act 2007* (Act), for premises located at 121-125 Victoria Road, Drummoyne known as "Harris Farm Markets" (Premises).
2. The Premises is a supermarket with the proposed licensed section of the Premises consisting of 14.39 square metres.
3. As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to the Manager of Licensing (Delegate) the power to grant certain packaged liquor licence applications that fall within a designated risk threshold. This Application falls within the relevant threshold, enabling the matter to be determined under delegation.
4. The Application, as amended in an addendum to the CIS dated 7 May 2015, proposes that the packaged liquor business be licensed to sell or supply liquor for consumption off the Premises during the following trading hours:  
  
Monday to Saturday: 8:00am to 10:00pm  
Sunday: 10:00am to 8:00pm.
5. The Application seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between 2:00am and 8:00am.

### MATERIAL BEFORE THE DELEGATE

6. Application Form for Packaged Liquor Licence and Community Impact Statement (CIS) filed with the Authority on 22 September 2014: In the Application form, the Applicant notes that the Premises has development consent from the local Council allowing the Premises to be licenced, indicating that the Development Application (DA) number is 86/2014.
7. The Applicant contends that the Applicant seeks to trade the licence for "...substantially the same time as it trades" the supermarket which will enable "...one-stop shopping particularly for early shoppers".
8. The Applicant contends that "...no harm can arise from the operation of the liquor section, and the availability of liquor in supermarkets should contribute to community life, not be detrimental to it".
9. The Applicant contends that staff will be RSA trained and the House Policy will be implemented to ensure that liquor is sold, supplied or served responsibly. The Applicant has proposed that the licensed trading hours be fixed between 8:00am to 10:00pm Monday through Saturday and 10:00am to 10:00pm Sundays.
10. The various contentions and submissions made by the Applicant in the CIS document regarding the overall social impact of granting the Application are discussed in further detail below. However, the Applicant as part of the CIS Application has attached the following documents:
  - a) List of Parks: outlining the nearby parks in Drummoyne

- b) Geographical Map: identifying where the Premises is located and the neighbouring premises that were notified within a 100 metres of the boundary of the Premises
  - c) Annexure to Category B CIS: this document discusses *inter alia* population characteristics, NSW Bureau of Crime Statistics and Research (BOCSAR) statistics and responses to preliminary notices.
11. Plan of the Premises: being a two page document. The first page shows a detailed map of the layout of the supermarket with the proposed licensed area being highlighted within this layout. The second page shows a zoomed in detailed map of the proposed licensed area. The Plan shows, for the purposes of section 30 of the Act, how the licensed area is separated from the remaining supermarket, and that there will be a separate point of sale (register) for liquor.
  12. Copies of stakeholder notices: notifying the Application to various stakeholders as required by the liquor legislation - including Police, Council and the site notice placed on the Premises.
  13. ASIC current extracts: This nine page document provides the company details for *HARRIS FARM MARKETS DRUMMOYNE PTY LIMITED* (the Applicant), *LIV-BETTER (AUSTRALIA) PTY LIMITED* and *RISANI HOLDINGS PTY LIMITED* (the Premises Owners).
  14. Incident Report Book and House Rules: This three page document outlines that the Applicant records all incidents in their report book that may pertain to "...theft, proof of age, intoxication or any other significant disputes". The House Rules indicate that the Applicant acknowledges Responsible Service of Alcohol (RSA) requirements by making it company policy to "...ask for ID if a person does not look 25 years of age". The Applicant will only accept the following as an acceptable form of identification: passport; driver's licence; proof of age card; and photo card. The House Rules provide that alcohol will not be served unless the cashier is confident that the proof of identification "...is not a fake or been interfered with" and that where cashier believes the identification as being false or interfered with, the document must be retained and the police contacted.
  15. This document outlines *inter alia* the Applicant's policy regarding "...penalties for the inappropriate service of liquor", "...details on how to detect an intoxicated person" and the "...actions required to deal with an intoxicated person". The document indicates that "...members of staff should not, at any time serve intoxicated customers".
  16. City of Canada Bay (Council) response to the Liquor Licence Application - Notice to Local Consent Authority dated 11 June 2015: Senior statutory planner, Peter Giaprakas, responded to the Notice to Local Consent Authority by providing the Development Approval (DA) number as being "86/2014".
  17. Submission from Department of Family and Community Services (FACS), Community Services dated 23 July 2014. FACS notes that the department do not have a response in relation to the Application and will not be providing input into the submission.
  18. Submission from NSW Roads and Maritime Services (RMS) dated 9 July 2014: This letter presents statistics for the Canada Bay local Government Area (LGA) indicating that during 2012 there were "...eight alcohol-related crashes, resulting in five casualties". RMS suggest that during the approval process, measures preventing the "...likelihood of alcohol involvement in road crashes in the Drummoyne area should be discussed". RMS suggest if the Application is approved that the Applicant maintain awareness of local alcohol-related issues; that the Applicant attend the LGA's Liquor Accord and that public

education material, focusing on drink driving and pedestrian-alcohol issues, be supported and displayed within the Premises.

19. RMS suggest that when there are customers who are "...buying large quantities of alcohol for a party or social event" that bottle shop staff draw attention to the "...safe party kit available on the police website" or suggest that the purchaser contacts the local police for guidance. RMS suggest that the proposed Premises display a list of tips for people hosting social events containing suggestions that customers ensure that guests have a transport option to get home safely or access to details for taxi and public transport options; that non-drinking guests are encouraged "...to provide lifts for those who are", that low alcohol and soft drinks are available as an alternative; that food is offered; and that guests are prevented from being "...pressured into continuing to drink alcohol".
20. Email submission from local resident dated 1 July 2014 at 10:05pm: This resident of the new apartment complex purports to "...support the proposal, subject to the strict conditions on sale of alcohol to minors outlined in the proposal". The writer contends that granting the Application will "...add to the overall convenience of the planned development for residents" and "members of the local community".
21. Email submission from local resident dated 18 April 2015 at 7:25am: supporting the Application.
22. Email submission from local resident dated 17 April 2015 at 12:42pm: supporting the Application and contending that "...the convenience in purchasing liquor at the same time of our grocery shop would be well received, subject to conditions such as the restriction on the sale of alcohol to minors".
23. Email submission from local resident dated 16 April 2015 at 5:43pm: supporting the Application.
24. Email submission from local resident dated 16 April 2015 at 7:49pm: supporting the full range of products being proposed by the Applicant.
25. Email submission from local resident dated 16 April 2015 at 4:43pm: This resident lives in the apartments that are located in the building and the writer supports the Application stating that it will "...be a great convenience for all the residents in the building along with the locals of Drummoyne".
26. Email submission from local resident dated 19 April 2015 at 6:03pm: This writer is a resident of the apartments above the Premises and supports the Application.
27. Email submission from local resident dated 21 April 2015 at 3:06pm: supporting the Application.
28. Email submission from local resident dated 21 April 2015 at 9:29am: stating that the writer "can't wait" for the store to open.
29. Email submission from local resident dated 21 April 2015 at 12:04pm: This writer is a resident of the apartments above the Premises and supports the Application.
30. Email submission from local resident dated 29 April 2015 at 5:36pm: providing support for the Application.

31. Email submission from local resident dated 24 July 2014 at 5:00pm: The writer objects to the Application on the grounds of its negative social impact and contends that there are no benefits to this Application. The writer contends that there are "...already packaged liquor outlets nearby within walking distance" and that they "...already have problems with drunk people waking us up at night". The writer contends that a licence allowing liquor to be sold until 10:00pm on a Sunday night "...directly opposite our house in a residential area" is "outrageous".
32. Email submission from local resident dated 16 October 2014 at 11:30am: The writers "...live directly opposite the site of the proposed liquor licence" with their young family. The writer objects to the Application as they believe it will "...have significant adverse amenity impacts on the residential amenity of Formosa Street and the locality generally".
33. The writer contends *inter alia* that "...the majority of customers are likely to use the Formosa Street pedestrian exit, which is a residential street containing many families with young children" and that the writer "...already experiences anti-social behaviour from people purchasing take-away alcohol from the pub in Drummoyne and then walking down Formosa Street creating noise, disturbance, sitting in the gutter drinking, smashing bottles" and leaving their empty bottles and cigarette packets "...on the front fences of our homes or in our front yards".
34. The writer contends that that the Application will "...exacerbate this already poor situation, will result in significant adverse social and environmental amenity impacts" and is not in the public interest. The writer notes the nearby places take-away alcohol is already available and contends that the local residents "...do not require additional services of this nature".
35. The writer contends that if the Application is granted, that sales should be restricted to "...6:00pm on any day to discourage late evening purchases".
36. Email submission from Licensing Coordinator Scott Simmons of the Burwood Local Area Command (LAC) of NSW Police to the Authority dated 7 November 2014 at 11:31am: Police have attached their response to the Application which contends that a background check was conducted on all parties and that Police have no objection to the Application provided that the following six conditions are placed on the licence:
  - (1) that *patrons cannot remove alcohol in open containers*
  - (2) that *no refrigerated liquor products are to be sold*
  - (3) that the Applicant must attend and remain present during the entirety of local Liquor Accord meetings
  - (4) that CCTV cameras are installed to *capture the entire licensed area of the Premises*
  - (5) that CCTV footage be *retained for a minimum of thirty (30) days*, and that
  - (6) a copy of the CCTV recordings is *provided to police on request*.
37. Report to Authority dated 24 February 2015 from a delegate of the (then) Secretary of NSW Trade and Investment (Secretary) via the Compliance & Enforcement Branch of the Office of Liquor, Gaming and Racing (OLGR): OLGR notes that the Premises "...primary purpose is the retail sale/supply of liquor for consumption away from the licensed Premises" and that granting the Application "...is unlikely to result in a significant increase in alcohol related harm in the neighbourhood". OLGR acknowledge that the proposed trading hours are Monday to Saturday 08:00am to 10:00pm and Sunday 10:00am to 10:00pm.

38. The OLGR Director of Compliance & Enforcement objects to the Application until such time as development consent is received and that all conditions proposed by the Police form part of the venue's liquor licence.
39. OLGR assesses the business model is a low risk operation.
40. OLGR notes *inter alia* that the radial density of licensed premises in Drummoyne "...is above the State average"; that the NSW Bureau of Crime Statistics and Research (BOCSAR) data between October 2013 and September 2014 shows the rate of alcohol related assaults that occurred in Drummoyne per 100,000 people was 33 compared to the NSW state average of 321; and that the rate of alcohol related disorderly conduct offences was eight compared to the NSW state average of 105.
41. OLGR notes that Police do not object to the Application, but request six conditions outlined in the Police submission be placed on the liquor licence. OLGR acknowledge that there does not appear to be a Council submission and that two local residents, object to the Application on the grounds of "...density of licensed premises in the Drummoyne area, anti-social behaviour, littering and the possible adverse effect on the amenity of the neighbourhood".
42. OLGR contends that a review of Compliance & Enforcement Division records did not disclose any adverse information regarding the Applicant – Harris Farm Markets Drummoyne Pty Limited.
43. Determination of Development Application number 86/2014 (DA) by City of Canada Bay Council (Council) dated 20 May 2014: This document records the grant of development consent for use of the *fit-out and use of an existing commercial space as a supermarket and Deli Café with associated signage*. The DA specifies certain conditions including, *inter alia*, that hours of operation are "approved at 7:00am – 10:00pm seven (7) days per week for a trial period of twelve (12) months"; that after the trial period, the hours of operation revert to 7:00am to 9:00pm seven days per week; that the Premises *shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupants and residential premises*; and that the Plan of Management *be displayed in prominent locations within the Premises*.
44. Email from Authority Staff dated 20 November 2014 at 3:23pm: Authority staff informed the Applicant that the Certificate of Advertising, Development Consent and the appointment of manager notice form, need to be provided within four weeks.
45. Certification of Advertising: signed by Gian-Maria (Jamie) Fini on 31 October 2014 and the Applicant's representative Mr Warwick Caisley (Lands Legal) dated 20 October 2014.
46. Submission from Mr Warwick Caisley (Lands Legal), on behalf of the Applicant, dated 7 May 2015: The Applicant requests that the Application be processed and has attached further documents which include:
  - a) Addendum to Category B CIS: The Applicant discusses *inter alia* the study from Galaxy Research commissioned by the Applicant, BOCSAR statistics, density of licenses, the email from residents in Formosa Street, and *minimisation of harm associated with use of liquor and responsible attitudes and practices towards the sale of liquor*. The Applicant submits that they are "prepared to amend the Application to cease trading by 8:00pm on Sunday"
  - b) Drummoyne Community Attitudes Study prepared by Galaxy Research on behalf of the Applicant dated April 2015: This document discusses the results from a survey conducted *using computer assisted telephone interviewing (CATI) among a representative sample of 400 Drummoyne residents aged 18 years and older*. The

- Applicant contends that as a result of this research it was concluded that 72 per cent of respondents are in support of the Application
- c) Letter to Drummoyne Residents from the Applicant dated 16 April 2015: This letter informs the residents about the development, parking for customers, the Application and the responsible service of alcohol training that will apply to all staff. The Applicant has requested support from the residents and has attached two concept images.
47. Email from Authority Staff dated 22 May 2015 at 4:48pm: Authority staff inform the Applicant that they need to provide the Authority with a Plan of Management and complying Development Consent for liquor retail sales as the one already provided is for the fit-out and use of the Premises and does not discuss liquor sales. Authority staff informed the Applicant of the submissions received and invited the Applicant to respond.
48. Authority staff requested consent to the following standard conditions:
- a) that for the purpose of section 11A of the Act, the 6-hour closure period will be between 2:00am to 8:00am
  - b) that the Premises *must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected*
  - c) that the Applicant *join and be an active participant in the local liquor accord*
  - d) that the *liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier*
  - e) that the *licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time*
  - f) that the *licence cannot operate until the Authority is satisfied with evidence that the "premises are complete and ready to trade*
  - g) and that the licence cannot be exercised until the Authority is *notified of the appointment of a manager to the licence.*
49. Submission from Mr Warwick Caisley (Lands Legal), on behalf of the Applicant, dated 11 June 2015: in response to the email from Authority staff dated 22 May 2015. The Applicant contends *inter alia* that the DA issue has been overcome as a result of the response received from the senior planner of Canada Bay Council; that the Applicant consents to condition no's 1, 3, 4, 5 and 6 requested by the NSW Police; and that the Application already deals with the statistics that OLGR have noted, the radial density of liquor licensed premises in Drummoyne and rates of alcohol related anti-social behaviour.
50. In response to the submissions received from the public, the Applicant contends that it has:
- a) "...already conceding trading in the liquor section of the supermarket should cease at 8:00pm on Sunday night"
  - b) that premises located at 57 Formosa Street "...are not directly opposite the traffic or pedestrian access to the Premises"
  - c) that while "...some inconvenience might be occasioned by motor vehicle lights at night, this would cease by 10:00pm Monday to Saturday and by 8:00pm on Sunday"
  - d) that the liquor licence will not generate further traffic or pedestrian movement than already exists as a result of shoppers in the supermarket
  - e) that "...it could not be said that the church or its congregation would be affected by noise emanating from the licensed Premises"
  - f) that it is not considered that granting the Application will exacerbate the anti-social behaviour emanating from the pub in Drummoyne.

51. In response to condition 2 proposed in the Police submission pertaining to preventing the sale of refrigerated products the Applicant requests that this condition not be imposed. The Applicant contends *inter alia* that the licensed area is:
- a) substantially less than like areas provided by other supermarket outlets
  - b) that the Applicant anticipates stocking 20 lines of beer, 100 lines of wines and 10-20 lines of spirits
  - c) that the purpose behind the Application is to provide a convenience one-stop shop that allows customers to purchase cold liquor to complement their meals
  - d) that core customers shop around 5:30pm to 7:00pm on their way home from work, picking up what is required for that evening's meal
  - e) that Drummoyne has a higher proportion of people who work full-time, are couples without children and have high incomes
  - f) that the liquor sales area is clearly defined by a partition and will only be open to trade during the hours that the supermarket trades, and for less hours on Sunday evening
  - g) that the small size of the licensed area will ensure staff will be educated in the Plan of Management and can supervise sales to juveniles or intoxicated persons
  - h) that the area will be covered by CCTV surveillance; and that the Application is less likely to result in any adverse negative social impacts.
52. The Applicant contends that if the Premises is allowed to sell refrigerated liquor this would cause no detriment to the public and instead provide a positive benefit. The Applicant accepts the seven (7) conditions suggested by the Authority in the email dated 22 May 2015.
53. Plan of Management: The Applicant contends that the Plan of Management will help to make the Premises a safe, efficient and pleasant environment in which to work and visit. This document discusses the Applicant's policies on identification, responsible service of alcohol, guidelines, CCTV, operational procedures, and the registering of complaints.
54. Photos of outside the Premises: These five images identify *inter alia* the car entrance/exit, pedestrian access and neighbouring premises.
55. BOCSAR Crime Maps based upon data from January 2014 to December 2014 detailing hotspots of offences for the location of the Premises: This data obtained from published BOCSAR sources shows the immediate location surrounding the Premises at 121-125 Victoria Road, Drummoyne, is not within any hotspots for incidents of *non-domestic assault* and *domestic assault*. The data shows, that the Premises is located within a low density area for incidents of *malicious damage to property*.
56. Authority licensing records indicating the addresses of other liquor licenced premises in the suburb of Drummoyne.
57. Authority liquor licensing data: It is noted that the Canada Bay Local Government Area (LGA) had a rate of 17.16 *packaged liquor licences* per 100,000 persons and the postcode 2047 had a rate of 35.17. These statistics for packaged liquor licences in the Canada Bay LGA are lower than the NSW state average of 32.85. However postcode 2047 has a higher rate of *packaged liquor licences than the NSW state average*. The BOCSAR statistics show postcode 2047 as having a higher rate of *club licences, full hotel licences, on premises licences and wholesaler licences* per 100,000 people compared to the NSW state average. Whereas Canada Bay LGA has lower rates than the NSW average for *club licences, full hotel licences, liquor limited licences, on-premises licences, packaged liquor licences and producer wholesaler licences*.

58. Data on Crime by LGA and Alcohol Related Status obtained from published BOCSAR sources for calendar year 2013. The rate of recorded *domestic violence related assault* incidents in which alcohol was flagged by reporting Police as a contributing factor across the Canada Bay LGA was 42 per 100,000 persons, which is significantly less than the NSW state average of 145 per 100,000 persons. The rate of *non-domestic violence related assault* incidents flagged by reporting Police as alcohol related in the Canada Bay LGA for 2013 was 49, considerably lower than the rate for NSW of 191. The rate of *offensive conduct* offences flagged by reporting Police as alcohol related in this LGA was 7 per 100,000 persons, which is pointedly lower than the NSW rate of 83. The rate of *assault police* incidents flagged by reporting Police as alcohol related in this LGA was 7, well below the NSW rate of 24. The statistics outline that rate of alcohol related *malicious damage to property* in the Canada Bay LGA is 36, which is significantly lower than the NSW rate of 122.
59. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS): ABS data indicates that the suburb of Drummoyne ranked in the tenth decile, while the Canada Bay LGA as a whole ranked in the ninth decile across the State of NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

## STATUTORY OBJECTS AND CONSIDERATIONS

60. Division 5 of the Act addresses packaged liquor licences and includes the following provisions:
- 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).*

61. The power to grant a new liquor licence is provided by section 45 of the Act, which states, relevantly:

- 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) *...*
  - (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.*
  - (4) *...*
  - (5) *...*
  - (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.*

62. Under section 48(5) of the Act, the Authority *must not* grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.

63. Section 48(5) of the Act states:

- 48 *Community impact*
- (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.

64. An application for a packaged liquor licence is a type of licence prescribed by section 48(2).
65. In determining the Application, the Delegate has also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

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.*

## **APPLICANT CASE ON SOCIAL IMPACT**

66. The Applicant contends that the Application is to provide a liquor section within a supermarket, the principal users of which are likely to be the customers of the supermarket. The Applicant submits that granting this Application would allow customers to carry out one stop shopping in a convenient and safe fashion.
67. The Applicant notes that it has "...22 stores in New South Wales" and as a result it is aware of the necessity for such premises to be conducted in a manner that results in no detrimental effect on the community. The Applicant submits that the Premises will be conducted by an experienced operator of supermarkets.
68. The Applicant contends that customers are entitled to have the choice of purchasing the liquor in the Premises and its presence will strengthen the viability of the other nearby business. The Applicant submits that the introduction of a further licence to the area is unlikely to increase the volume of alcohol consumed and on a positive benefit the Applicant notes that the Application will provide "...employment opportunities for three staff".
69. The Applicant contends that any negative impacts the Application may have will be mitigated through the installation of security cameras and staff that are RSA trained and provided with regular guidance as to their duties. The Applicant also proposes to cease trading by 8:00pm on Sunday as a response to the concerns of residents. The Applicant contends *inter alia* that "...no sale will be made to intoxicated persons"; that "...any person under the age of 25 will be asked to produce the required identification before being supplied with liquor"; and that "...no promotions will be conducted at the Premises which could lead to the misuse or abuse of liquor".

70. The Applicant notes the population characteristics and the BOCSAR crime data for the local community and draws attention to the fact that Drummoyne does not have any hotspots for non-domestic assault or for domestic assault. The Applicant also contends that there will be no social detriment occasioned by a new licence as a result of the local and broader community have very favourable population characteristics when compared to New South Wales averages, the high SEIFA index ratings and the BOCSAR statistics relating to assaults and malicious damage being substantially below the state average for both the local and broader community.
71. The Applicant contends that there is no evidence there are any at risk groups within the local and broader community and even if there were, they would not be impacted adversely by the approval of this Application.
72. The Applicant acknowledges that no other Harris Farm Market currently sells alcohol, however submits that the liquor section will be principally used by customers of the supermarket and it is doubtful that the addition of a liquor section would increase traffic. The Applicant contends that around the Premises there are no sensitive facilities and the area is well serviced by buses.
73. The Applicant submits that the Application is *unlikely to adversely affect* the nearby churches and goes on to conclude that the overall social impact of the Application will not be detrimental to the wellbeing of the local and broader community.
74. The Applicant commissioned a survey by Galaxy research, and as a result, submits on the basis of that survey that 72 per cent of Drummoyne residents support the Application with 50 per cent indicating purchasing liquor from the Premises would be "...more convenient due to congestion, traffic, parking" and chaos than purchasing liquor from nearby premises that sell packaged liquor. The Applicant contends that this study provides the Authority with an "...objective assessment of the expectations, needs and aspirations of the community".
75. The Applicant contends that the Premises will provide customers with a "...safe retail outlet to purchase packaged liquor"; that Application will provide residence with convenience; that there is little misuse or abuse of liquor within the community; and that granting the Application will not detract from the amenity of community life.
76. The Applicant submits that the liquor section is *small, somewhat less than the standard ALDI area and is partitioned from the balance of the store*. The Applicant contends that the Application will provide public interest benefits. These will include strengthening other businesses, providing convenience for Harris Farm Markets customers, creating jobs, proving customers with the ability to avoid special trips for liquor and providing Drummoyne residents with greater choice.

## REASONS

77. The Delegate is satisfied, on the basis of the Application material before the Delegate and the absence of any submissions to the contrary that, for the purposes of Section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
78. The Delegate is satisfied, on the basis of the Application material, plans and conditions consented to by the Applicant in further submissions, that additional requirements as to packaged liquor businesses required by section 30 and 31 of the Act have also been satisfied.

79. The Delegate is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. The Delegate notes the Applicant's ASIC Current Extract and is satisfied on the basis that no issues of concern were raised with regard to the Applicant company or its directors' probity following consultation with relevant law enforcement agencies, including Police and OLGR.
80. The Delegate is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service practices will be in place with the commencement of licensed trading, on the basis of the *Plan of Management*, the *House Rules* and submissions provided by the Applicant. The Authority also noted an absence of adverse submission regarding this from OLGR or Police.
81. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for use of a packaged liquor licence at the Premises, on the basis of the DA and comment provided by senior statutory planner, Peter Giaprakas on behalf of Council.

### **Overall Social Impact Test**

82. The Delegate is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will *not* be detrimental to the wellbeing of the local or broader community.
83. Applying the social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local or broader community.
84. For the purposes of the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the local community comprises the state suburb of Drummoyne while the relevant broader community comprises the Canada Bay LGA.

### **Positive benefits**

85. The Delegate is satisfied the Applicant has demonstrated that granting the licence will provide benefit to members of the local and broader community who wish to conveniently purchase packaged liquor whilst grocery shopping.
86. The Delegate accepts the Applicant has established, with supporting research, that granting the Application will be consistent with the "...expectations, needs and aspirations of the community" in respect of the local community of Drummoyne, being an object of section 3(1)(a).
87. The Delegate accepts that the Applicant distributed notifications within the 100 metre radius whilst also engaging an independent company to conduct a survey from a sample of "...400 Drummoyne residents aged 18 years and older". The Delegate acknowledges that positive and negative submissions were received from the community, but is satisfied that the Applicant adequately addressed the concerns raised by *inter alia* agreeing to Police conditions and noted that the Applicant has modified the initially proposed Sunday licensed trading hours to 8pm.
88. The Delegate is satisfied a packaged liquor licence within a Harris Farm Market grocery shop, would diversify the range of options available to the local community seeking to purchase packaged liquor within the local community of Drummoyne. In this sense the Delegate is satisfied that the proposed new business will develop, in the public interest,

the liquor industry that serves the local and broader community, for the purposes of section 3(1)(b) of the Act.

### Negative impacts

89. The Delegate is satisfied that over time there will likely be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact upon amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
90. This is particularly the case in light of the extensive licensed trading hours sought by the Applicant, which have been reduced during the course of the Application but only in respect of Sunday evenings. The extensive licensed trading hours are a factor militating against the grant of the Application.
91. The Delegate acknowledges the objections to the Application made by local residents who have concerns about the impact that granting the licence will have on the amenity of the community due to noise and intoxication.
92. The Delegate notes that licence density data for the local community suggests that licence density rates are around State averages for packaged liquor. Postcode 2047 (the state suburb of Drummoyne) has 35.17 *packaged liquor licences* per 100,000 people compared to 32.85 for NSW but the Postcode has higher rates of licence density for *club licences, full hotel licences, on-premises licences* and *producer wholesaler licences*.
93. Nevertheless, the Delegate is satisfied that the following aspects of the proposal will objectively operate to constrain the extent of adverse social impact arising from the abuse of packaged liquor in the circumstances of the Application.
94. The BOCSAR crime data indicates that the Premises is located in an area that shows no hotspots for incidents of *non-domestic assault* and *domestic assault*. The only hotspot that the data shows is for *incidents of malicious damage*, however the Delegate notes that this hotspot is of low density. The hotspot data does not provide a particular cause for concern as to the concentration of alcohol related crime in the local community.
95. Moreover, the BOCSAR data on alcohol related crime before the Delegate satisfies the Delegate that the broader community is exposed to relatively low rates of alcohol related crime compared to NSW as a whole. The Delegate notes the rate of *alcohol related domestic violence related assault* incidents across the Canada Bay LGA was 42 per 100,000 persons, which is significantly lower than the NSW state average of 145 per 100,000 persons. Alcohol related domestic violence data is of particular interest when assessing a packaged liquor application given that packaged liquor tends to be consumed in the home, where most domestic violence occurs. In addition to this the Delegate also acknowledges that the rate of *non-domestic violence related assaults, offensive conduct, assault police* and *malicious damage to property* are all significantly lower than the rates for NSW.
96. The Delegate also acknowledges the SEIFA data that contends that the Suburb of Drummoyne is ranked with the most advantaged decile of 10. That is, it is socio-economically very well resourced and on the whole not demonstrative of socio-demographic traits that are associated in the literature with vulnerability to adverse alcohol related impacts.
97. The Delegate is satisfied that a mitigating factor is the scale of the licensed business. The licensed area of the Premises will constitute a very small scale venue of

approximately "14.39 square metres" which is somewhat less than the standard ALDI area of around 50 square metres. In addition, the Delegate is satisfied that the area in which the licence covers will be adequately separated from the rest of the supermarket ensuring access to the licensed area can be easily monitored.

98. The Delegate is satisfied that the Applicant has consented to a number of conditions that will also operate to reduce or constrain the social impact that the Premises may otherwise have. The Applicant has agreed to all conditions imposed by the Police except for the condition that liquor must not be sold refrigerated. The Delegate acknowledges that the Applicant has agreed to the conditions:
- a) that *patrons cannot remove alcohol in open containers from the venue*
  - b) that the Applicant will *attend all general meetings of the Burwood/Canada Bay Liquor Accord*
  - c) that *CCTV Cameras be installed to capture the entire licensed area of the Premises*
  - d) that *CCTV recordings be retained for a minimum of thirty (30) days*
  - e) that *a copy of CCTV recordings are to be provided to police on request.*
99. However, the Delegate is satisfied that in light of the credible concerns raised by local resident submitters about prevailing localised alcohol related adverse impacts upon amenity, it is in the public interest that all of the conditions proposed by the Police should be imposed on the licence. The Delegate is satisfied that the condition requiring that "...no refrigerated liquor products are to be sold", is a prudent additional harm minimisation measure that will help discourage, to some extent, the prospect of the impulse consumption of liquor products purchased from the Premises in nearby public areas.
100. The Delegate is satisfied that this measure is warranted in light of the extensive licensed hours sought by the business on Friday and Saturday night, the density of hotel club and on-licensed venues in the local and broader community and the prospect that a minority of patrons of the business may engage in pre-fuelling before attending licensed premises, public drinking and/or alcohol related littering.
101. The Delegate is also satisfied that the Applicant has implemented comprehensive harm minimisation measures through its Plan of Management. The steps outlined in this document satisfy the Delegate that the Applicant and all staff members will be adequately trained and will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the Premises is constrained.

## CONCLUSION

102. Considering together the found positive benefits and taking into account the factors which are likely to objectively constrain or minimise the extent of negative impacts arising from the operation of this business in these local and broader communities, the Delegate is satisfied that the overall social impact of granting this Application for a packaged liquor licence will not be detrimental to the well-being of the local or broader community provided that the conditions proposed by Police are imposed upon the licence.

DATED: 17 / 8 / 2015



Micheil Brodie  
Chief Executive