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Dear Mr Hatzis

**Application for Packaged Liquor Licence  
Collaroy Plateau IGA**

I am writing to you on behalf of the Independent Liquor and Gaming Authority (Authority) regarding an application made by your client, Allbest International Pty Limited, received on 19 March 2015.

The Authority considered the Application at its meeting on 16 December 2015 and decided *grant* the Application pursuant to section 45(1) of the *Liquor Act 2007*.

Authority staff informally notified the Authority's decision via email dated 17 December 2015. This letter serves to provide a formal record of the decision to grant the Application.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.

This letter attaches the Authority's statement of reasons. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statement of reasons as soon as practicable.

A record of the licence from the OneGov database specifying all conditions to which the licence is subject has been provided to you in separate correspondence from Authority staff.

If you have any advice or enquiries about this letter please contact the case manager, Ms Santina Causa via email at [santina.causa@ilga.nsw.gov.au](mailto:santina.causa@ilga.nsw.gov.au).

Yours faithfully

Micheil Brodie  
Chief Executive

16 FEB 2016

## STATEMENT OF REASONS

### INTRODUCTION

1. On 19 March 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Allbest International Pty Limited (Applicant).
2. The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) in respect of premises located at Shop 6, 65 Veterans Parade, Collaroy Plateau, NSW, 2097, presently trading as Collaroy Plateau IGA (Premises).
3. The Application seeks licensed trading hours for the proposed new business to be conducted on the Premises to extend from 10:00am to 7:00pm Monday to Wednesday and Friday to Sunday and from 10:00am to 8:00pm on Thursday.
4. The Application seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between 4:00am and 10:00am.
5. By way of background, the Applicant previously applied for a packaged liquor licence during 2014 (2014 Application). Due to apparent deficiencies with respect to compliance with advertising requirements, the Application replaces the 2014 Application.
6. The Authority considered the Application at its meeting of 16 December 2015 when it decided to grant the Application pursuant to section 45(1) of the Act.
7. Authority staff informally notified the Authority's decision to grant this Application in an email dated 17 December 2015. This letter serves to provide a formal record of the decision to grant the Application.
8. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those decisions prescribed by clause 6 of the Gaming and Liquor Administration Regulation 2008. This statement of reasons has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

### MATERIAL BEFORE THE AUTHORITY

9. Application Form and Community Impact Statement (CIS) dated 13 March 2015. In this material the Applicant seeks to exercise licensed trading hours for the proposed new business to be conducted on the Premises from 10:00am to 7:00pm Monday to Wednesday and Friday to Sunday and from 10:00am to 8:00pm on Thursday.
10. The Applicant requests that the 6-hour daily closure period, required by section 11A of the Act, be fixed between 4:00am and 10:00am.
11. The Application lists the Applicant as Allbest International Pty Limited and the owner of the Premises as Hing Lung Pty Limited.
12. The various contentions and submissions made by the Applicant in the CIS document as to the overall social impact of granting the Application are discussed below.

13. Plan of the Premises. The Application is accompanied by this diagram showing the Premises and the boundaries of the proposed licenced area. The licenced area is indicated as 42 square metres.
14. Management Plan and House Policy for Collaroy Plateau IGA, dated March 2015. These two internal business planning documents deal with the management of the proposed liquor department of the Collaroy Plateau IGA and the implementation of responsible service of alcohol (RSA) practices on the Premises. The Management Plan identifies strategies for the prevention of persons under the age of 18 from purchasing liquor or having liquor purchased for them - primarily by requiring the presentation of identification (ID) in the form of a current driver or rider licence, a current passport or NSW Photo ID Card from any person who appears to be under the age of 25. These Policies also require staff to ensure that liquor is not consumed on the Premises nor displayed outside the licensed area; ensuring that all staff involved in the sale and supply of liquor are RSA certified; ensuring that CCTV and other security measures are in place and requiring participation in local liquor accords.
15. Australian Securities and Investment Commission (ASIC) database extract regarding Allbest International Pty Limited, dated 13 February 2015. This document provides company registration details for the Applicant company, Allbest International Pty Limited, and identifies the directors as Mr Jinme Ko, Mr James Liu and Ms Penny Liu Tong.
16. ASIC database extract regarding Hung Lung Pty Limited, dated 11 March 2015. This document provides company registration details for the owner of the Premises, Hung Lung Pty Limited and identifies the directors as Mr Benedict Chan and Mr Turid Chan.
17. National Police Certificate (NPC) for Mr Jinme Ko, issued 3 October 2014. This certificate records three "disclosable court outcomes" against the name *Jinme Ko* on 13 October 1937 within the records of police services in Australia. The offences listed were heard in Hornsby Local Court on 10 June 2011 and are as follows:
  - a) Resist officer in execution of duty" – "fine : \$1,000 costs – court : \$79
  - b) Class A M/V exceed speed > 20 KM/H <= 30 KM/H" – "fine : \$361 costs – court : \$79
  - c) Assault officer in execution of duty" – "fine: \$1000 costs – court: \$79.
18. Notice of Appointment of Manager dated 14 July 2015. This document identifies Mr James Liu as the appointed manager of the licence for the Premises.
19. Warringah Shire Council (Council) Development Application No. 1985/877 (DA), dated 11 March 1986. This DA records the grant of development consent by Council for the "extension of the existing supermarket". The DA also addresses, *inter alia*, the regulation of construction, the regulation of signage, the regulation of deliveries, and amenities.
20. Publicly available Bureau of Crime Statistics and Research (BOCSAR) mapping data for July 2014 to June 2015. These crime maps before the Authority were derived from published BOCSAR sources indicate that the Premises:
  - a) is located near a prevailing *high density hotspot* for the concentration of incidents of *domestic assault*
  - b) is located near a prevailing *high density hotspot* for the concentration of incidents of *malicious damage to property*.
21. Data sourced from BOCSAR for calendar year 2013 detailing rates of offences for the Warringah Local Government Area (LGA) compared to rates for NSW as a whole. This data concerns BOCSAR reported incidents of offences recorded by reporting Police as *alcohol-related*. It indicates that for calendar year of 2013:

- a) the rate of *alcohol-related assault police* incidents was **8** per 100,000 persons compared to **24** per 100,000 persons for NSW as a whole.
  - b) the rate of *alcohol-related domestic-violence assault* incidents was **63** per 100,000 persons compared to **145** per 100,000 persons for NSW as a whole.
  - c) the rate of *alcohol-related malicious damage to property* incidents was **71** per 100,000 person compared to **122** per 100,000 persons for NSW as a whole.
  - d) the rate of *alcohol related non-domestic violence assault* incidents was **99** per 100,000 persons compared to **191** per 100,000 persons for NSW as a whole.
22. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) in 2011, indicating that the state suburb of Collaroy falls within the tenth decile on the Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) for all suburbs in NSW. The Warringah LGA falls within the tenth decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most advantaged).
23. Authority licensing records. These records, which are updated regularly and available for purchase from Liquor and Gaming NSW indicate that within the state suburb of Collaroy Plateau there are:
- a) two existing packaged liquor licenced premises
  - b) no registered club licenced premises
  - c) no full hotel licenced premises.
24. Authority licence density data. This data derived from Authority licensing records indicates liquor licence density in respect of the Warringah LGA compared to the State of NSW as a whole. It indicates that within the Warringah LGA there are:
- a) **3.55** club licences per 100,000 persons compared to NSW as a whole which has **20.48** per 100,000 persons
  - b) **7.10** full hotel licenses per 100,000 persons compared to NSW as a whole which has **30.36** per 100,000 persons
  - c) **9.23** packaged liquor licenses per 100,000 persons compared to NSW which has **32.85** per 100,000 persons.
25. Submission from the (then) Office of Liquor, Gaming and Racing (OLGR – now known as Liquor and Gaming NSW), dated 24 March 2015. This submission does not object to the Application but submits the following:
- a) As the consumption of liquor cannot occur on the licensed premises the OLGR "is of the view that the business model is of low risk".
  - b) The radial density of licensed premises in Collaroy is "above the State average" (the Authority notes that OLGR has not specified the data in support of this assertion, but is presumably based on licenced premises records for the suburb across all licence types).
  - c) Data from BOCSAR indicate that the suburb of Collaroy "has a lower concentration of alcohol-related anti-social behaviour when compared to the whole of NSW".
  - d) BOCSAR data from January 2014 to December 2014 shows that the combined rate of *alcohol related domestic* and *non-domestic assault* in Collaroy was **118** per 100,000 persons compared to NSW as a whole which had **311** per 100,000 persons.
  - e) BOCSAR data from January 2014 to December 2014 shows that the rate of *alcohol related disorderly conduct* offences in Collaroy was **20** per 100,000 persons compared to **100** per 100,000 persons for NSW as a whole.
  - f) OLGR notes that at the time of writing objections to the Application had been received from the Northern Sydney Local Health District and 41 members of the public. Thirteen submissions from the public were received in support of the Application.

26. Submission from the NSW Roads and Maritime Services (RMS), dated 23 January 2015. RMS advise they do not advise support or oppose the Application but contend, apparently on the basis of RMS road crash data that within the Warringah LGA during 2013 there were 32 alcohol-related crashes, resulting in 13 casualties, including one fatality. RMS request that measures to prevent and decrease the likelihood of alcohol involvement in road crashes should be discussed in the approval process and that public education material focused on drink driving and pedestrian-alcohol issues be available in the Premises. RMS also requests that the following initiatives be considered by the business:
  - a) For customers who are buying larger quantities of alcohol for a party or social event, bottle shop staff could draw attention to the safe party kit available on the police website.
  - b) Display tips for customers relating to the responsible consumption of alcohol.
27. Submission from Warringah Council, dated 24 March 2015. This submission advises that Council does not object to the Application provided that the proposed licensed business:
  - a) Complies with Development Consent 1986/76
  - b) Complies with the *Food Act 2003* and is registered with the NSW Food Authority
  - c) Complies with the *Food Standards Code*
  - d) Complies with the *Building Code of Australia*
  - e) Maintains essential fire safety measures and has a current annual fire safety statement.
28. Submission from NSW Health Northern Sydney Local Health District (Northern Sydney Health), dated 20 March 2015. This submission objects to the Application. Northern Sydney Health notes that it is concerned that the granting of this Application will "increase the likelihood of alcohol related harm". The agency submits that there is already a bottle shop located "several doors" from the Premises and a further six packaged liquor outlets within a 2km radius of the Premises. The agency contends that higher concentration of packaged liquor outlets can lead to "aggressive price discounting" (Treno, Ponicki, Stockwell, Macdonald, Gruenwald, Zhao, Martin, Greer, 2013) which is "already evident" in existing ALDI liquor outlets.
29. Northern Sydney Health notes that the Premises is located within 100 metres of St Rose Catholic Primary School and Wheeler Heights Public School and contends that research (Rowland, Toumbourou, Satyen, Tooley, Hall and Livingston, 2004) indicates that the rate of adolescent alcohol consumption increases with the number of alcohol outlets in an area.
30. Report from A & M Consultants produced by Mr Adam Purcell on behalf of the Applicant, dated 28 August 2015. This report records Mr Purcell's assessment of the Premises and the Collaroy Plateau area. The assessment was conducted on three occasions, Friday 21 August 2015 (3:30pm to 5:30pm), Saturday 22 August 2015 (9:30am to 12:30pm and 11:30pm to 12:30am). In this report Mr Purcell makes the following observations:
  - a) This shopping precinct has off street car parking for approximately 75 cars in addition to on-street parking. "At no time during the period of observation did I observe parking saturation".
  - b) The IGA has an "extensive" range of products on offer.
  - c) Five staff were working on in the public area of the IGA on Saturday morning.
  - d) There were 10 CCTV cameras monitoring the public area within the IGA Supermarket, and only one entrance/exit to the supermarket, located near the checkout.
  - e) On Saturday morning between 10:00am and 11:00am 52 shoppers or small groups of connected patrons entered the Premises, 54 per cent of which purchased more than "top up groceries". Five per cent of patrons were children.

- f) The nearest major supermarkets are Coles (Dee Why and Warriewood) and Woolworths (Dee Why and Narrabeen) all of which are "difficult" to access due to traffic and parking conditions.
  - g) The respective doorways of Augusta Cellars and the Premises are approximately 30 metres apart.
  - h) In a price comparison between Augusta Cellars, Elanora Heights IGA, Balgowlah Heights IGA and Northmead IGA, "some alcohol was significantly cheaper at IGA supermarket packaged liquor outlets compared to Augusta Cellars...however, all alcohol on special at Augusta Cellars was cheaper in comparison to these IGA outlets".
  - i) In a comparison of patron management of the same packaged liquor retailers, all patrons of IGA outlets were required to walk past manned checkout areas to access liquor and the floor was monitored by staff and CCTV cameras. In Augusta Cellars only one attendant was present during the times of observation and often left the counter to assist customers away from the door. Only one CCTV camera could be observed in the Augusta Cellars.
  - j) A comparison of similar retail layouts to those of August Shopping Centre, Elanora Heights shopping strip on Kalang Road features an IGA with a packaged liquor department and a BWS store approximately 80 metres apart both of which "appear to co-exist successfully". Northmead Shopping Plaza features an IGA Supermarket with a packaged liquor department three shops away from a small liquor outlet both of which "appear to be operating successfully".
  - k) The Premises is located in the "vicinity" of two primary schools, St. Rose Catholic Primary School and Wheeler Heights Public School. Observations were carried out during the time when children were leaving school; only five groups of unaccompanied children entered the IGA Supermarket.
  - l) An assessment of the school grounds was carried out on 22 August 2015 and it was found that both school were inaccessible due to high fencing. No rubbish or indicators of liquor consumption could be detected visually from the street.
  - m) An assessment of Vic Huxley Oval and Plateau Park was conducted on 22 August 2015. No evidence of any public drinking was found in Plateau Park. In Vic Huxley Park there was a group of 20 adults who were imbibing alcohol while watching the children play sport. This group was not intoxicated.
31. Mr Purcell makes the following further contentions regarding the social impact of granting the Application:
- a) Patrons of the Premises would "expect and benefit from" purchasing their alcohol and groceries at the same time.
  - b) Augusta Cellars is currently the only option to purchase alcohol near the Premises. It does not offer wide choice and its non-special prices are generally higher than those of the IGA Supermarkets observed.
  - c) The grant of the Application will decrease traffic in the Collaroy Plateau, Wheeler Heights and Collaroy areas.
  - d) The Northmead and Elanora Heights shopping areas exhibit a similar dynamic to Augusta Shopping Centre and do not exhibit any "adverse impact" on the local community or each other's trade.
  - e) There is "no evidence" that the grant of the Application presents any associated risk to family shoppers or children.
  - f) The proposed control measures to be put in place does not provide any real risk for increased underage drinking.
32. Petition in support of the Application submitted by the Applicant. This petition contains 44 pages and approximately 570 signatures. This petition records the following:

- 1 *We, the undersigned, support the grant of a packaged liquor licence for a liquor department within the IGA Supermarket, Shop 6, 65 Veterans Parade, Collaroy Plateau.*
- 2 *We support the application as providing the opportunity for one-stop shopping at the IGA Supermarket.*
- 3 *We support a competitively priced supermarket liquor outlet in our local community. The current liquor store, Augusta Cellars, has a monopoly position in Collaroy Plateau and, in our view, charges excessive prices. We do not want to have to drive out of our local community in order to purchase a reasonable range of liquor products at competitive supermarket prices.*
- 4 *We do not think it excessive for our suburb to offer local community members a basic range of liquor products at competitive, supermarket pricing as well as a larger specialty liquor shop, providing a much wider range at higher prices.*
- 5 *We are in favour of the local community being given a choice in their liquor purchases.*
- 6 *We have no concerns about the grant of this application giving rise to any increase in crime, vandalism, anti-social behaviour, littering or other negative effects. We do not experience that now, even with a large liquor shop on Veterans Parade.*

### **Community submissions in favour of the Application**

33. Submission from a member of the public (address not provided) dated 18 November 2014. This submission records support for the Application. The writer contends that granting the Application would allow for "one-stop shopping" and create "healthy competition". The writer contends that:

*As a resident of the area for a long time, I have not seen youth on the street drinking or in the park, or in the school grounds, so I do not feel that introducing this liquor shop into IGA will increase this either.*

34. Submission from a resident of Kendal Crescent, Wheeler Heights, dated 19 November 2014. The writer contends that the Application would provide at a "competitive supermarket price" and provide "one shop" convenience. The writer further contends that elderly people in the community would benefit as from the delivery service offered by the Application. The writer states that she has been a resident of Collaroy Plateau for 40 years and has "never experienced any issues with underage drinking or bad behaviour in the streets, surrounding parks or any school yards due to alcohol consumption".
35. Submission from a resident of Parkes Road, Collaroy Plateau dated 25 November 2014. The writer contends that granting the Application will increase convenience and is "economically appealing" as it will provide "competitive supermarket prices". The writer also contends that as the Augusta Centre already has a liquor store the Application "can have no additional negative affect on the community".
36. Submission from a resident of Garden Street, Narrabeen, dated 30 November 2014. The writer contends that the Application would provide convenience to the elderly residents of Collaroy Plateau.
37. Submission from an employee of IGA Collaroy Plateau, dated 30 November 2014. The writer contends that the Application would be beneficial as it would create a single store where customers could obtain all their shopping needs and would "implement competitive prices for liquor in the area". The writer contends that "as a resident for 17 years, I do not recall any major incidents involving alcohol in this sensible neighbourhood".
38. Submission from a resident of Edgecliffe Boulevard, Collaroy Plateau dated 1 December 2014. The writer contends that it is "vital" that the local shopping precinct be able to "offer merchandise choice at competitive prices".

39. Submission from a resident of Veterans Parade, Collaroy Plateau dated 1 December 2014. The writer states that she prefers to support her local store rather than the nearby Coles and Woolworths stores but misses out on the convenience of purchasing all items within the one store.
40. Submission from a resident of Parkes Road, Collaroy Plateau dated 7 December 2014. The writer contends that granting the Application would provide alcohol "at a reasonable and competitive price" and provide convenience to customers who are "elderly and less mobile".
41. Submission from a resident of Barrenjoey Road, Newport dated 10 December 2014. The writer contends that as a mother of three children who attend school in Collaroy Plateau she has "never seen any liquor waste in or near the school" and "We have had no issues regarding liquor in the area".
42. Submission from a member of the public (address not provided), stored by the Authority on 26 March 2015. The writer contends that granting the Application would allow him to purchase all of his shopping needs in the one location. The writer also contends that increased competition will regulate the prices of both stores and make alcohol "more affordable". The writer states that he has been a resident of the area for 15 years and has "never seen youth drinking in parks or in schools in the area".
43. Submission from a resident of Rose Avenue, Wheeler Heights, stored by the Authority on 26 March 2015. The writer states the following:

*We are local residents that no just want the convenience of our local IGA to sell alcohol but also we believe in supporting local business.*
44. Submission from a resident of Veterans Parade, Collaroy Plateau, stored by the Authority on 26 March 2015. The writer contends that granting the Application will allow for more choice and through greater competition will lower prices to "reflect the true price point of the goods". The writer states that as a resident of the area for 21 years "I have yet to see anyone drinking in the parks surrounding the area" and "There has been little in regards to bottle litter around the area and both the public schools in the surrounds are gated and locked up at night".
45. Submission from a resident of Lynwood Avenue, Dee Why, dated 6 August 2015. The writer contends that granting the Application would provide more competitively priced liquor within walking distance.
46. Submission from a resident of Pittwater Road, Brookvale, dated 6 August 2015. The writer contends that granting the Application would provide convenience by allowing the purchase of alcohol along with groceries and provide competitive prices.
47. Submission from a resident of Edgecliffe Boulevard, Collaroy Plateau, dated 7 August 2015. The writer contends that granting the Application would "enable one-stop shopping", make prices more competitive, and increase the range of wine available.
48. Submission from a resident of Bennett Street, Dee Why dated 6 August 2015. The writer contends that the Application would provide competitive pricing and the convenience of shopping for groceries and alcohol in one location.
49. Submission from a resident of Coutts Crescent, Collaroy, dated 9 August 2015. The writer contends that granting the Application would provide convenience by allowing the purchase of alcohol along with groceries and provide competitive prices.



50. Submission from a resident of Essilia Street, Collaroy Plateau dated 10 August 2015. The writer contends that granting the Application would provide a greater range of products, competition and allow for the purchase of alcohol along with groceries. The writer also contends that he has not "seen youths drinking on the streets, park and school grounds".
51. Submission from a resident of The Crescent, Dee Why, dated 10 August 2015. The writer contends that the prices of the Augusta Cellar are "not comparable to other liquor stores" and that residents believe they are "being ripped off". The writer contends that the Application would allow for "a better, fairer deal" and allow for a "one stop shop".
52. Submission from a resident of Ennerdale Crescent, Wheeler Heights dated 11 August 2015. The writer contends that the Application would provide competitive pricing and the convenience of shopping for groceries and alcohol in one location.
53. Submission from a resident of Warri Close Narraweena, dated 11 August 2015. The writer contends that the Application would allow for more convenient shopping in the one location and provide "more affordable prices". The writer contends that Collaroy Plateau is "extremely friendly and safe" and the addition of an additional liquor store will not become an "issue" in the future.

#### **Community submissions opposed to the Application**

54. Submission from the Principal of St Rose Catholic Primary School Advisory Board, dated 17 February 2015. The writer objects to the Application contending that the St Rose Primary School presently experiences issues with "trespassing youths" and people parking in the school driveways to drink. The writer contends that granting the Application would encourage drinking in the school grounds and make the school and surrounding environment unsafe. The writer contends that children from St Rose and two state schools will visit the Premises unsupervised and would be exposed to alcohol without parental guidance.
55. Submission from a member of the public (no address provided), dated 20 March 2015. The writer objects to the Application contending that:  
  
*To approve another licence would mean making alcohol more readily available. This is unnecessary and as a direct neighbour I oppose its approval.*
56. Two identical submissions from members of the public (no address provided), dated 25 March 2015. The writer objects to the Application contending that more exposure to alcohol "would not be helpful" to the children who shop at the Premises.
57. Submission from a resident of Warriewood Road, Warriewood, dated 25 March 2015. The writer contends more exposure to alcohol "would not be helpful" to the children that shop at the Premises.
58. Submission from a member of the public (no address provided), dated 25 March 2015. The writer objects to the Application contending that the Premises is surrounded by three schools and a church and that exposure to alcohol would "not be helpful" to the children that frequent the Premises.
59. Submission from a resident of Veterans Parade, Collaroy Plateau, dated 31 March 2015. The writer contends that underage drinking and drinking "in general" is a "huge problem" on the Northern Beaches and that "we need less, not more, alcohol outlets".

60. Submission from a resident of Fuller Street, Collaroy Plateau, dated 9 April 2015. The writer objects to the Application stating the following:

*I am specifically worried about underage drinking happening and the effect another place to buy alcohol in the shops will have on young people in the area.*

61. Submission from a member of the public (no address provided), dated 9 April 2015. The writer objects to the Application contending that the Application, if granted, would increase parking problems in the Council Car park and increase alcohol related anti-social behaviour.
62. Submission from a member of the public (no address provided), dated 10 April 2015. The writer objects to the Application submitting that an additional liquor store is "unnecessary" as there are already other bottle shops and a hotel in "the area" (the Authority notes that "the area" is not defined by the writer).
63. Submission from a resident of Hall Avenue, Collaroy, dated 11 April 2015. The writer objects to the Application submitting that another liquor store is "not warranted in our area" and contending that underage drinking is a "real" problem particularly given the proximity of the Premises to schools.
64. Submission from a resident of Fuller Street, Collaroy Plateau, dated 13 April 2015. The writer objects to the Application contending that it is "unlikely" that the demand for liquor is adequate to support two liquor outlets in the same local shopping centre and the outcome of the Application will be to cause the existing bottle store to close. The writer states:
- I have no financial interest in the affected shopping centre, nor to [sic] I know any of the owners or operators, other than as a customer.
65. Submission from a resident of Loftus Street, Narrabeen, received by the Authority on 15 April 2015. The writer objects to the Application, contending that Augusta Cellars "regularly ejects" and "refuses service" to persons under 18 years of age and "do everything within their power" to prevent alcohol related anti-social behaviour but that this "same control" will "not be forthcoming" from the staff at the Premises, in particular because it is frequented by many minors.
66. Submission from a member of the public (no address provided), dated 15 April 2015. The writer objects to the Application submitting that "we do not need another bottleshop" as there is already a bottleshop "a few metres away" from the Premises. The writer contends that the Application, if granted, would increase the risk of underage drinking and violence, and a grocery store would not be well equipped enough to deal with the "problems that can arise". The writer contends that her children may have to deal with inebriated customers while shopping at the IGA grocery store.
67. Submission from a resident of Goodwins Street, Narrabeen, dated 14 April 2015. The writer objects to the Application, contending that there is already a bottle shop 10 metres from the Premises and that an additional bottle shop will increase the likelihood of alcohol-related hospitalisations, drink driving accidents and pedestrian injuries, and increase the exposure of school children who visit the centre to alcohol.
68. Submission from Jade Wong of Wellbeing Pharmacy, dated 14 April 2015. The writer objects to the Application contending that Augusta Cellars, the existing bottle store at Veterans Parade, trades "responsibly and professionally" and is not frequented by children for groceries which allows for more control over underage purchasing of alcohol.

69. Submission from a resident of Lancaster Crescent, Collaroy dated 14 April 2015. The writer objects to the Application contending that her children often frequent the Premises while not accompanied by an adult and she would not want her children exposed to liquor when she is not present.
70. Submission from a member of the public (no address provided), dated 15 April 2015. The writer contends that granting the Application will result in an increase in "parking pressure" in an "already overcrowded" shopping centre. The writer expresses concern for pedestrian safety, especially children, from the increase in traffic. The writer further contends that the size and access of the loading docks is insufficient for large trucks which could cause queuing on neighbourhood roads and increased noise pollution.
71. Submission from a resident of Lincoln Avenue, Collaroy, received by the Authority on 16 April 2015. The writer contends that the existing bottle shop "serves us all well and responsibly" and that an additional bottle shop will exacerbate any current underage drinking problems.
72. Submission from a resident of Endeavour Drive, Narrabeen, received by the Authority on 16 April 2015. The writer contends that the close proximity of the Premises to schools creates an increased risk of underage drinking.
73. Submission from a resident of Collaroy Plateau, dated 16 April 2015. The writer contends that the close proximity of the Premises to schools creates an increased risk of underage drinking.
74. Submission from a resident of Collaroy Plateau, dated 16 April 2015. The writer contends that granting the Application would be easier for underage persons to access alcohol due to "anonymity at the checkout". The writer also expresses concern that children will be exposed to alcohol marketing while grocery shopping.
75. Submission from a resident of Collaroy Plateau, dated 16 April 2015. The writer contends that the close proximity of the Premises to schools creates an increased risk of underage drinking.
76. Submission from a member of the public (no address provided), dated 17 April 2015. The writer contends that the close proximity of the Premises to schools creates an increased risk of underage drinking.
77. Submission from a resident of Lancaster Crescent, Collaroy, received by the Authority on 20 April 2015. The writer contends that there is no need for an additional liquor licence as the existing bottle shop is sufficient. Furthermore, the writer contends that an additional liquor licence would increase exposure of children visiting the shopping centre to alcohol.
78. Submission from a member of the public (no address provided), dated 20 April 2015. The writer contends that it is "inappropriate" for a grocery store frequented by children to supply liquor. The writer also contends that the staff employed at the Premises are often "young, immature, students with little community regard" who may lack the ability to control secondary sales or address the issue of public drinking in the Premises.
79. Submission from a resident of Fuller Street, Collaroy Plateau, received by the Authority on 20 April 2015. The writer contends that there are three schools and a retirement village in "the area", which is already serviced by two liquor stores and a hotel [The Authority notes that the writer has not defined "the area"]. The writer also contends that

the Premises is "reasonably small" and the installation of a liquor department would reduce the "limited choice" of the grocery items available. The writer contends that an additional bottle store would increase the exposure of school children who visit the centre to alcohol.

80. Submission from a resident of Westmeath Avenue, Killarney Heights, received by the Authority on 20 April 2015. This submission takes the form of a pre-prepared statement signed by the resident and including the resident's name and address. The pre-prepared statement notes the following:

*I strongly oppose the proposal for yet another liquor alcohol outlet.*

*Another bottleshop is not what this community needs. There is already an existing bottleshop trading within 12 metres of the proposed IGA site. Two bottleshops, within such close proximity to the other, is likely to cause a price war leading to increase loitering, drinking, vandalism, domestic violence, violence on our streets and crime in general. We are already adequately served by existing outlets and I am concerned that if this bottleshop goes ahead that it will send the wrong message.*

81. The resident has written in to the pre-prepared statement that "there seems to be a wide spread concern in the local community" in relation to the Application.

82. Submission from a resident of Fuller Street, Collaroy Plateau, received by the Authority on 20 April 2015. This submission is a pre-prepared statement signed by the resident including the residents name and address and in the same terms as the statement described in the previous paragraph. The writer adds the contention that the Premises presently generates a significant amount of noise and contends that granting the Application would increase the amount of noise generated by the Premises.

83. Submission from Willowgifts, Shop 4b, 65 Veterans Parade Collaroy Plateau, received by the Authority on 20 April 2015. The writer objects to the Application making the following contentions:

*...my concerns are that alcohol will be provided within the supermarket environment where lots of children shop with parents and adolescent might not be monitored.*

84. Submission from a member of the public (no address provided), dated 21 April 2015. The writer objects to the Application and contends that granting the Application would diminish the grocery lines at the Premises.

85. Submission from Natasha Prodanovic, Shop 65, 65 Veterans Parade Collaroy Plateau, received by the Authority on 22 April 2015. The writer contends that many school children congregate in the Augusta Shops after school. The writer submits that:

*I do not like the idea of another place in the shops to buy alcohol because it is completely unneeded, will congest the parking situation a lot more, and will have alcohol near school children much more.*

86. Submission from a resident of Fuller Street, Collaroy Plateau, received by the Authority on 22 April 2015. The writer contends that there is "already enough exposure to underage drinking" and the close proximity of the Premises to schools creates an increased risk of underage drinking.

87. Submission from a resident of Ettalong Street, Collaroy Plateau, received by the Authority on 24 April 2015. The writer submits that it is "totally inappropriate" for a small neighbourhood shopping complex to have two bottleshops and contends that granting the licence may cause a "price war" resulting in increased abuse of alcohol. The writer states that he has two children and does not want them to be exposed to more alcohol outlets.

88. Submission from a member of the public (no address provided), dated 28 April 2015. The writer objects to the Application submitting that:

*The IGA Store would benefit our local community if they installed a Deli and improved their Grocery lines not a liquor Store.*

89. Submission from the Chairperson of St Rose Catholic Primary School Advisory Board, dated 29 April 2015. The writer objects to the Application contending that school children often shop at the Premises and that the introduction of a liquor licence would send a "message of acceptance of alcohol" to the children who shop at the Premises.
90. The writer contends that empty alcohol bottles are "often" found at St Rose Primary School after weekends and public holidays, which presents a safety concern for the children who attend the school. The writer contends that granting the Application would cause more underage drinking in the "local area".
91. Submission from the President of the Parent and Friends Committee of St Rose Catholic Primary School, dated 29 April 2015. The writer objects to the Application contending that large numbers of students visit the Premises and would be exposed to "members of the public being intoxicated making them feel vulnerable and insecure". The writer contends that service of alcohol could potentially provide an opportunity for other illegal behaviour "such as consumption and trafficking of illicit drugs".
92. The writer contends that St Rose Primary School has experienced problems with alcohol bottles being found on school grounds which presents a danger to the children attending the school and contends that this would increase if the Application is granted.
93. Submission from a member of the public (no address provided), received by the Authority on 8 May 2015. The writer contends that the Premises already has a limited range of grocery items which would be further limited by granting the Application.
94. Submission from a resident of Fuller Street, Collaroy Plateau, received by the Authority on 8 May 2015. The writer contends that the business on the Premises already generates a "horrendous" amount of noise which would be exacerbated by granting the Application. The writer contends that there are three schools surrounding the Premises and that children from these schools would be "exposed to more alcohol".
95. Submission from Mr Tony Schwartz of Back Schwartz Vaughan Lawyers on behalf of Mercron Holdings Pty Limited (Submitter) the owner of Augusta Cellars, emailed to Authority staff on 1 May 2015. The Submitter objects to the Application and makes the following submissions or contentions:
- a) There is no added benefit of "one-stop shopping" as purported by the petition submitted by the Applicant as the Augusta Cellars is located 12 metres away and has trading hours that are "convenient" to the IGA shoppers. The hours of operation for Augusta Cellars are 9:00 am to 7:30pm Monday to Wednesday; 9:00am to 8:00pm Thursday to Saturday and 10:00am to 8:00pm Sunday.
  - b) The petition provided by the Applicant contends that the Augusta Cellars has a "monopoly position" in Collaroy Plateau but the Applicant has not submitted any evidence that residents of Collaroy Plateau are not shopping at other centres in this region. The writer submits (through Back Schwartz Vaughan) that "the Submitter is aware...that the public are doing their shopping in other major shopping centres" including Warriewood, Dee Why and Narrabeen.
  - c) The writer submits that the petition provided by the Applicant states that prices at the Augusta Cellar are "excessive" but the Applicant has not provided any evidence that this is the case. Furthermore, the writer submits that it is "hardly in the public

- interest for a price war to exist" between Augusta Cellars and the IGA Supermarket.
- d) The Applicant claims in its petition that the IGA store would provide a wider range but the Applicant has not provided any evidence of this. The writer contends that the range of products provided by Augusta Cellars is "extensive" [The Authority notes that its product range is not specified]. The writer contends that both IGA and Augusta Cellars use the same (wholesale) supplier, Australian Liquor Markets, as such both stores would stock the same product.
  - e) The writer submits that granting the Application would not fulfil a demand for social or recreational opportunities given that the Augusta Cellars already provides for this.
  - f) The writer submits that the Applicant has not provided specific details of how many additional staff will be employed as a result of this Application and any benefit by way of liquor sales will be off-set by losses from Augusta Cellars.
  - g) The Applicant has asserted that the Application will provide local producers with an alternative outlet for their products, however the writer submits that there are no local producers in the suburb of Collaroy or the "Broader Community" and as such it is unclear which producers the Applicant is referring to. The writer submits that "it is simply unknown and unlikely that the IGA Liquor Store will stock a range of products that are not stocked elsewhere".
  - h) The Applicant claims that the Application will strengthen the viability of other nearby businesses. The writer submits that this is claim that the Applicant did not "properly investigate" in its CIS.
  - i) Given that only 5.2 per cent of occupied private dwellings in Collaroy did not have a vehicle registered to the property the writer submits that "the existing packaged liquor licences in the Broader Community already meet the expectations, needs and aspirations of the community".
  - j) The writer submits that the public interest through the balanced development of the liquor industry "is not achieved by locating two packaged liquor licences 12 metres apart".
  - k) The writer submits that there is no evidence that the Application will contribute to the development of the tourism and hospitality industries.
  - l) The writer submits that "while the Applicant has outlined the general harm minimisation and responsible service of alcohol practices to be adopted, it has not said how they will be effective in this location to manage the risk of two packaged liquor licences being located 12 metres apart".
  - m) The writer submits that there is no evidence that the Application will contribute to ensuring that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
  - n) The writer submits that the CIS fails to satisfy the intent of the legislation in that it "does not properly address the potential for adverse social impact by locating two bottleshops (12 metres apart) within the same small Neighbourhood Centre".
  - o) The writer contends that there is a real potential for an increase in sales to minor and secondary sales, where the sale of liquor is sold as part of the supermarket business, as is proposed here.
  - p) The writer contends that "due to the number of schools, and the location of the bus stops near the Neighbourhood Centre, combined with the ease of access to the Centre by the use of pedestrian crossings, the Centre is regularly patronised by unaccompanied young persons".
  - q) The writer submits that Warringah Council has not considered, as part of the issuing of consent for the IGA Liquor Store, the potential for adverse social impact by approving this Application...unlike situations where an applicant presents a development consent addressing the specific use of a premises as a packaged liquor store, this is not the case here.

- r) The writer submits that there are "no benefits of this proposal...there is nothing that the IGA Liquor Store has purported it will provide that the Augusta Cellars has not been doing for years".
  - s) The writer submits that there is "strong opposition to this Application".
96. "Attachment A" to the submission from Mr Tony Schwartz of Back Schwartz Vaughan Lawyers on 1 May 2015. Attachment A is the "original submission" from the submitter, objecting to the 2014 Application made with respect to the Premises. In addition to the contentions and arguments made by the submitter noted in the paragraph above, this submission makes the following contentions:
- a) Augusta Cellars "does everything within its power to ensure that the sale of alcohol does not adversely impact upon the community...Augusta Cellars has implemented tough policies at its store to ensure minors do not gain access to liquor...staff regularly reject and refuse service to persons under the age of 18 and prevent secondary sales. These types of every day issues do not form part of BOCSAR statistics. The concern with minors and secondary sales can only deteriorate at this location where the sale of liquor is sold as part of the supermarket business".
  - b) The Applicant has provided a report by Genevieve Slattery Urban Planning Pty Limited dated 30 April 2014 which addresses complaints about the proximity of the Premises to Augusta Cellars by contending that "the density of liquor licences within Collaroy Plateau is substantially lower than that of the Warringah LGA and NSW as a whole". However, the Submitter contends that submitters were "concerned about locating a second packaged liquor licence within 12 metres of an existing one" and has provided a report by James Lovell and Associates Pty Limited dated 24 February 2014 which notes that "alcohol related problems are more likely to occur where licenced premises are located in close proximity to one another".
  - c) The Applicant has "emphasised the relevance and importance of their existing and proposed delivery service, giving the impression that no one else is providing a delivery service...in contrast, Augusta Cellars provides a free delivery service".
  - d) In a statement made to the Liquor Licensing Panel, Victoria, relating to a packaged liquor licence application at 147-153 Bell Street, Preston Dr Tanya Chikritzhs of the National Drug Research Institute has indicated that high concentrations of licensed premises located within a short distance of one another may increase the rate of alcohol related harms.
97. Report by James Lovell and Associates (Lovell Report), commissioned by Mercon Holdings Pty Limited, accompanying Attachment A, dated 24 February 2014. This report was commissioned in relation to the 2014 Application made in respect of the Premises. In addition to the contentions made by the submitter's solicitors the Lovell Report makes the following further contentions:
- a) the existing shopping centre is "characterised by some traffic, parking and pedestrian concerns...the addition of a second liquor store could exacerbate those problems".
  - b) it is not the role or function of a "neighbourhood centre" to extend beyond providing "small-scale retail" uses, servicing the "needs of people who live or work in the surrounding neighbourhood".
98. Submissions provided to Mercon Holdings Pty Limited accompanying the submission from Mr Tony Schwartz of Back Schwartz Vaughan Lawyers on 1 May 2015. As many of these submissions have already been provided to the Authority, they are not replicated here. The Authority briefly notes the following
- a) Submission from the President of Wheeler Heights Public School Parents and Citizens Association, dated 11 February 2014. The writer objects to the 2014 Application. The writer contends that the addition of liquor products to the Premises

- will "desensitise" children who frequent the Premises to the purchasing of alcohol and may contribute to underage drinking.
- b) Submission from a resident of Veterans Parade, Collaroy Plateau, dated 5 February 2014. The writer objects to the 2014 Application, contending that children who attend the primary school across the road will experience more exposure to alcohol.
  - c) Submission from the proprietor of shop 2 Augusta Shops, dated 2 February 2014. The writer objects to the 2014 Application contending that "another liquor outlet will not be good for my business or for my customer and their children's futures".
  - d) Submission from a resident of Lancaster Crescent, Collaroy, dated 4 June 2014. The writer objects to the 2014 Application contending that IGA has caused the closure of a fruit shop and the florist in the Augusta Shopping Centre and that if the IGA is granted a packaged liquor licence this will cause the closure of the Augusta Cellars.
99. A petition objecting to the approval of a packaged liquor licence at the Premises, accompanying the submission from Mr Tony Schwartz of Back Schwartz Vaughan Lawyers on 1 May 2015. This submission includes 18 pages and approximately 305 signatures objecting to the 2014 Application. The Petition records the following:
- 1 *The Proposal: To operate a bottleshop at Shop 6, 65 Veterans Parade, Collaroy Plateau, which is to be part of the existing IGA Supermarket.*
  - 2 *The Concerned Residents: I am against this Proposal. I either shop, work or live in or near Collaroy Plateau and therefore this Proposal will impact upon me personally or will impact upon people I know or care about. I agree with the Concerns set out below and/or have added my own comments.*
  - 3 *The Concerns:*
    - (a) *There is plenty of liquor already available in our community; this bottleshop is not needed and in any event is inappropriately located within 12 metres of an existing bottleshop known as Augusta Cellars at Shop 4, 63 Veterans Parade, Collaroy Plateau.*
    - (b) *I fear the Proposal will start a price war which will result in cheaper liquor and more consumption of liquor.*
    - (c) *Consequently, there is a real fear that this Proposal will attract more crime to the area. The safety of residents of Plateau Bay is a concern. The Proposal may increase littering, loitering, drinking, vandalism, the risk of violence on our streets; the risk of violence in the home and crime in general.*
    - (d) *This Proposal increases the convenient access of liquor (at cheaper prices) to young persons and to the more vulnerable members of our community. The risk of underage drinking in our community is real. It is already too easy to get alcohol. This Proposal sends the wrong message.*
    - (e) *The Proposal undermines the efforts of the Government to curb the problems with excessive consumption of alcohol.*
    - (f) *Enough is Enough. We say no to another bottleshop at Collaroy Plateau.*
100. A petition objecting to the approval of a packaged liquor licence at the Premises, accompanying the submission from Mr Tony Schwartz of Back Schwartz Vaughan Lawyers on 1 May 2015. This submission includes 34 pages and approximately 504 signatures objecting to the current Application. The Petition records the following:
- 1 *The Proposal: To operate a bottleshop at Shop 6, 65 Veterans Parade, Collaroy Plateau, which is to be part of the existing IGA Supermarket.*
  - 2 *The Concerned Residents: I am against this Proposal. I either shop, work or live in or near Collaroy Plateau and therefore this Proposal will impact upon me personally or will impact upon people I know or care about. I agree with the Concerns set out below and/or have added my own comments.*



3 *The Concerns:*

- (a) *I am concerned and disappointed that the Applicant is starting the process of obtaining this licence again. I am aware that there was an over-whelming feeling in our community that this Proposal was not appropriate and should not be allowed. Despite being aware of that situation, the Applicant is ignoring those concerns and is now proceeding with a second application.*
- (b) *There is plenty of liquor already available in our community; this bottle shop is not needed and in any event is inappropriately located within 12 metres of an existing bottle shop known as Augusta Cellars at Shop 4, 63 Veterans Parade, Collaroy Plateau.*
- (c) *I fear the Proposal will start a price war which will result in cheaper liquor and more consumption of liquor.*
- (d) *Consequently, there is real fear that this Proposal will attract more crime to the area. The safety of residents of Plateau Bay is a concern. The Proposal may increase littering, loitering, drinking, vandalism, the risk of violence on our streets; the risk of violence in the home and crime in general.*
- (d) *This Proposal increases the convenient access of liquor (at cheaper prices) to young persons and to the more vulnerable members of our community. The risk of underage drinking in our community is real. It is already too easy to get alcohol. This Proposal sends the wrong message.*
- (e) *The Proposal undermines the efforts of the Government to curb the problems with excessive consumption of alcohol.*
- (f) *Enough is Enough. We say no to another bottle shop at Collaroy Plateau.*

## LEGISLATION

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

**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.*

102. 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.

103. 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.*

104. An application for a packaged liquor licence is a type of licence prescribed by section 48(2) requiring a CIS and satisfaction of the overall social impact test.
105. In determining the Application, the Authority 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.*

**SUMMARY OF APPLICANT CASE ON OVERALL SOCIAL IMPACT**

106. In the Applicant's CIS document received by the Authority on 18 March 2015, the Applicant addressed the potential for the proposed new packaged liquor business to positively and negatively impact the "local community" (which the Applicant identifies as the suburbs of Collaroy Plateau, Collaroy and Wheeler Heights) and the "broader community" (which the Applicant identifies as the Warringah LGA).
107. The Applicant describes the nature of the proposed new licensed business in the CIS document. The Applicant notes that the proposed liquor department is to be located within an existing IGA Supermarket and will comprise approximately 40 square metres and will sell "substantially less" lines of liquor than a "traditional liquor store".
108. The Applicant submits that "a number of studies" (citing Nicholas 2006; Briscoe and Donnelly 2003) demonstrate that the "most problematic" venues in terms of *assault and alcohol related harm* are "typically hotels and nightclubs concentrated in late-night entertainment districts" and "bear no similarity to the modes packaged liquor department that will be responsibly operated by the applicant".
109. On the proposed licensed trading hours the Applicant states that the proposed hours of trade would be from 10:00am to 7:00pm daily with the exception of Thursday which would be from 10:00am to 8:00pm. The Applicant submits that the proposed licensed hours are "very modest" and less than the hours permitted by the Liquor Act and the hours typical of those liquor stores associated with a major supermarket.
110. The Applicant submits that the licensed area will be separated from the rest of the Supermarket by partitioning and all purchases of liquor will be paid for at the designated checkout within the licensed area which will be attended only by staff who have

completed an approved RSA. The Applicant also notes that the Premises is presently equipped with CCTV surveillance which will also cover the proposed licensed area.

111. The Applicant contends that the following further harm reduction measures will be implemented at the Premises:
- a) ensure that "adequate practices are in place relating to the responsible promotion, sale, supply and service of liquor"
  - b) a detailed House Policy relating to the responsible service of liquor be prepared and implemented...The House Policy "will be brought to the attention of all staff members involved in the sale and supply of liquor"
  - c) no promotions are to be conducted on the Premises "which could lead to irresponsible consumption of liquor or misuse or abuse of liquor"
  - d) all staff involved in the sale and supply of liquor on the Premises will complete an Approved RSA course
  - e) "particular attention is paid to ensuring that minor do not gain access to liquor and that the likelihood of secondary supply of liquor is minimised"
  - f) the Applicant will join and, through its staff, be an active participant in any local liquor accord for the area
  - g) "various measures" will be implemented to ensure that liquor is sold responsibly and that minor do not gain access to liquor including by way of secondary supply. This will include checking the identification of anyone suspected of being under 25
  - h) confectionary and other items attractive to children will be removed to an area at the opposite end of the checkout section of the IGA Supermarket.
112. On the issue of development consent for the proposed liquor business the Applicant submits that the proposed licensed premises will only comprise a small area of the IGA Supermarket development and this use will be "ancillary to the dominant use as a supermarket, according to the principles set out in *Foodbarn Pty Limited & Ors v Solicitor-General* (1975) 32 LGRA 157". That is, the liquor business will fall within the existing development consent for use of the Premises as a retail supermarket. The Applicant notes that a letter was received from Warringah Council advising that it had no objection to the Application.
113. On the issue of prevailing licence density in the communities the Applicant has provided the following data for registered clubs, hotels, and packaged liquor licenses based on population statistics obtained via ABS and derived from the 2011 Census:
- a) The license density per 100,000 persons for NSW as a whole is:
    - i. 20.03 for clubs
    - ii. 31.93 for hotels
    - iii. 35.48 for packaged liquor licenses.
  - b) The license density per 100,000 persons for the Local Community (which the Applicant has defined as the suburbs of Collaroy Plateau, Collaroy and Wheeler Heights) is:
    - i. 13.86 for clubs
    - ii. 6.93 for hotels
    - iii. 20.79 for packaged liquor licenses.
114. [The Authority notes that the Applicant has not identified whether this is for *all* hotel licences or full-hotel licences. The Authority assumes the Applicant refers to all hotel licences.]
115. The Applicant notes that the density of packaged liquor licences in this local community (as defined by the Applicant) is "significantly" less than for the state of NSW as a whole. The Applicant submits the following:

- a) One of the three packaged liquor licences in the local community, Virtuoso Wines Pty Limited is limited to the sale of liquor only by telephone or by facsimile or mail order or through an internet site.
  - b) Neither of the registered clubs, nor the hotel offer a "separate dedicated packaged liquor facility".
  - c) A new packaged liquor licence has not been granted in the local community (as defined by the Applicant) since 1979.
  - d) There are currently no supermarkets housing packaged liquor facilities located anywhere in the local community (as defined by the Applicant).
116. With regard to the ABS SEIFA data, the Applicant contends that local community (as defined by the Applicant) and the broader community are "highly advantaged". The Applicant submits that the suburb of Collaroy (which the Applicant is using in place of Collaroy Plateau, which was not categorised as a suburb until after the 2011 Census) scored 1111 on IRSAD and the Warringah LGA scored 1095 on the IRSAD.
117. The Applicant contends that the Application would provide the following community benefits:
- a) Convenience – customers of the IGA Supermarket will be able to purchase liquor in conjunction with their grocery shopping, which is consistent with the needs, expectations and aspirations of the community within the meaning of section 3(1)(a) of the Act.
  - b) Choice – IGA customers will gain access to a wider range of alcohol at competitive prices.
  - c) Facilitating social/recreational opportunities – the licensed area at the Premises will satisfy "legitimate community demands" for packaged liquor products to be available for social and recreational opportunities.
  - d) Economic spin-offs – granting the Application will "contribute to the economic health of the local and broader communities" by creating jobs such as in retail at the liquor outlet, as well as delivery, warehouse and supply-chain staff.
  - e) Outlet for local producers – granting the Application will provide an alternative outlet for producers to sell their liquor products.
118. The Applicant's solicitor Mr Cusack submitted an email on behalf of the Applicant on 4 November 2015. This email makes a number of additional submissions.
119. In relation to the National Police Certificate (NPC) for Mr Jinme Ko, director and shareholder of Allbest International Pty Limited, the Applicant submits that the three offences committed by Mr Ko were dealt with by Hornsby Local Court on 10 June 2011. These offences related to Mr Ko being pulled over by a police officer for a traffic offence, "remonstrating" with the officer, and then assaulting the officer.
120. The Applicant contends that Mr Ko is not involved with the everyday running of Allbest International and has not had any involvement with the criminal justice system since he appeared in court in June 2011.
121. The Applicant further proposes that a condition be imposed upon the licence:
- Jinme Ko, born 13 October 1937, is not to be involved in the sale or supply of liquor from these premises.*
122. In relation to the suburb of Collaroy Plateau the Applicant contends that Collaroy Plateau is an "affluent" suburb with a median house price of \$1.3 million (according to realestate.com.au sourced on 12 October 2015) and 2011 Census data indicates "the

area has a high median weekly income, low rate of unemployment and higher than average proportion of professionals".

123. The Applicant submits the following further socio demographic data for the suburb of Collaroy (which, in 2011, included the suburbs now known as Collaroy, Collaroy Plateau and Wheeler Heights) based on the 2011 Census data which the Applicant submits demonstrates relative socio economic advantage in the community:
  - a) Persons of Aboriginal and Torres Strait Islander background – 0.4% for Collaroy compared to 2.5% for NSW as a whole
  - b) Public Housing – 0.1% for Collaroy compared to 4% for NSW as a whole
  - c) Unemployed – 3.3% for Collaroy compared to 5.9% for NSW as a whole
  - d) Professionals – 25.0% for Collaroy compared to 22.7% for NSW as a whole.
  - e) Household median weekly income – \$1,862.00 for Collaroy compared to \$1237.00 for NSW as a whole.
  - f) Occupied private dwellings owned outright – 35.4% for Collaroy compared to 33% for NSW as a whole.
  
124. On prevailing crime in the suburb of Collaroy for the year ending in 2015 the Applicant submits the following data based on 2011 Census population statistics for, what was at that time, the suburb of Collaroy:
  - a) Alcohol related domestic violence assault – 90.12 per 100,000 persons for Collaroy, 56.6 per 100,000 persons for Warringah LGA, and 126.3 per 100,000 persons for NSW as a whole.
  - b) Alcohol related non-domestic assault – 62.39 per 100,000 persons for Collaroy, 75.9 per 100,000 persons for Warringah LGA, and 148.2 per 100,000 persons for NSW as a whole.
  - c) Alcohol related malicious damage to property – 152.51 per 100,000 persons for Collaroy, 139.7 per 100,000 persons for Warringah LGA, and 293.3 per 100,000 persons for NSW as a whole.
  
125. The Applicant submits that "objective crime data shows that the local community does not experience problematic levels of alcohol-related crime".
  
126. The Applicant notes that a consultant, Mr Adam Purcell of A & M Consultants, has been engaged to assess the Premises and has produced a report which indicates that the Premises is "low risk" in respect of the likelihood of crime occurring. This opinion was based on the 10 CCTV cameras monitoring the Premises and the single exit/entrance located near the checkout.
  
127. In relation to the competitor business, Augusta Cellars, the Applicant notes that the report produced by Mr Purcell identifies that in a price comparison "pricing was mixed" with some liquor products being "significantly more expensive at Augusta Cellars". Mr Purcell also noted that during the period of his observation of Augusta Cellars there was only one staff member working, who frequently moved away from the counter to assist customers, leaving the store "extremely vulnerable" to theft.
  
128. In relation to the co-existence of the proposed licence and Augusta Cellars, the Applicant notes that Mr Purcell was able to identify two "analogous" examples, Eleanora Heights Shopping Centre and Northmead Shopping Centre both of which feature two packaged liquor retailer which "appeared to be well-patronised and co-existing successfully".
  
129. In relation to the issue of public drinking after hours in primary schools the Applicant notes the Mr Purcell assessed two primary schools and found that both were inaccessible due to fencing and did not appear to have any indicators of liquor

consumption on the grounds. Similarly, the Applicant notes that Mr Purcell did not find any evidence of public drinking at Vic Huxley Oval or Plateau Park.

130. In response to North Sydney Local Health District the Applicant makes the following submissions:
- a) Customers who attend the Augusta Shopping Centre are "already exposed to liquor" by way of the incumbent packaged liquor outlet.
  - b) The local community is "underprovided for" in relation to all types of liquor licence and the "objective evidence" (the Authority assumes that the Applicant is referring to the crime data provided by the Applicant) suggests that the local community does not have a "predisposition" for alcohol related anti-social behaviour.
  - c) It is "unlikely" that the type of modest competition that will flow from the grant of this Application will "encourage any appreciable increase in liquor consumption".
  - d) The residents of the local community are "relatively affluent, they are less likely to be driven to increase their liquor consumption in response to any reduction in pricing".
  - e) Figures provided in the National Drug Household Survey (NDSHS) 2013 published by the Australian Institute of Health and Welfare show that, since 2007, there has been an 16 per cent increase in abstention among all young people aged 12-17 (a total of 72 per cent, up from 56 per cent in 2007) and fewer people aged 14 or older are drinking at levels that present either a single occasion risk or a lifetime risk.
  - f) The "objective evidence in this case does not suggest that second-hand sales are at all problematic in this local community".
131. The Applicant provides the following response to the submissions made by members of the public:
- a) In relation to the school being located near the Premises the Applicant contends that these school are primary schools attended by children aged between five and eleven years and "there is negligible risk of secondary supply of liquor to minor in respect of children falling within this age bracket".
  - b) The licenced area of the supermarket will be segregated from the rest of the supermarket, including those areas that children would access such as the confectionary isle.
  - c) It would be "very difficult" for children to access liquor, even if they wished to" as there are 10 CCTV cameras, only one entry/exit and staff on the floor.
  - d) Persons suspected of being under 25 will be required to produce identification before being supplied with liquor.
  - e) Children are "already exposed to alcohol" by way of other licenced facilities in the community including the Augusta Cellars and through advertising.
  - f) As the Application is for a packaged liquor licence it is "highly unlikely that intoxicated persons will be in attendance at the proposed licensed premises".
  - g) The Applicant contends that the local community does not have an alcohol-related crime issue. The rate of *liquor offences* in the local community in the year ending 2015 according to BOCSAR data was 97.05 per 100,000 persons, well below the NSW as a whole which had 163.5 per 100,000 persons. The rates of *alcohol-related assault* in the local community are "much lower than the corresponding NSW rates".
  - h) In relation to consumption of alcohol in the schools and parks located near the Premises the Applicant notes that in his report Mr Purcell did not observe any empty bottles or broken glass at either of the local primary schools or local parks.
  - i) In relation to the co-existence of the Augusta Cellars and the proposed liquor department the Applicant contends that the proposed liquor facility will be different to the Augusta Cellars in that it will be a "liquor department within a smaller footprint" rather than a "traditional stand-alone bottleshop". The Applicant contend

that it will provide "one-stop shopping" but with a "more limited range" than a traditional bottle shop.

- j) In relation to parking at the Shopping Centre the Applicant contends that, the main appeal of the proposed liquor department is to people who are already within the supermarket shopping and as such it is "unlikely that the provision of a liquor department will appreciably increase the demand for parking".
  - k) In relation to community support for the Application the Applicant contends that "there is evidence of public support for this application, based upon the desire for greater convenience, competitive liquor facilities and choice".
  - l) On the contention that grant of the Application would result in a "price war" the Applicant submits that IGA is not a "deep discounter" and that Mr Purcell found that IGA prices are "not uniformly lower" than Augusta Cellars.
  - m) In relation to traffic conditions near the Premises, the Applicant contends that the grant of the Application is only likely to reduce local traffic as residents will not have to drive to other further afield locations to purchase groceries and liquor. The Applicant notes that all deliveries to the Premises will take place between the hours of 8:00am and 6:00pm to the loading to loading dock at the Supermarket.
  - n) In relation to the contended depletion of grocery lines on the Premises to accommodate liquor the Applicant submits that, it is "envisioned" that space will be provided for the liquor department through a more efficient layout and the removal of some "slow moving" grocery lines.
132. In response to Augusta Cellars the Applicant makes the following submissions:
- a) The Applicant submit that not specifying the exact distance between the Premises and Augusta Cellars in the CIS document does not amount to a "substantive deficiency" with the document as there is no requirement in the legislation to specify distances to other premises.
  - b) On the prospect of increased sales to minors the Applicant contends that "controls" already in place combined with the Plan of Management will present "very effective safeguards". The Applicant further contends that there is no objective data to suggest that a liquor store in a supermarket is any more likely to result in sales to a minor than a stand-alone liquor store. The Applicant notes the lack of objection from Police.
  - c) On the issue of whether Warringah Council has considered the social impact of the Application, the Applicant contends that Council submitted a response indicating no objection to the Application.
  - d) In response to the contention that the IGA Supermarket is only used for "top-up" shopping, the Applicant provides figures (which the Applicant has requested remain confidential) indicating the average number of weekly customer and average amount of weekly sales, which the Applicant argues indicates that the IGA Supermarket is "very well patronised". Additionally, the Applicant notes that the consultant Mr Purcell observed in his report that between the hours of 10:00am and 11:00am on Saturday morning he observed 52 shoppers enter the Supermarket, more than half of which purchased "more than what could be accurately described as top-up grocery shopping".

## REASONS

133. The Authority is satisfied, on the basis of the Application material and submissions before it that, for the purposes of section 40 of the Act, the Application and CIS material establishes that the Application has been validly made and relevant consultation and advertising requirements of the legislation were observed.
134. The Authority is satisfied, for the purposes of section 45(3)(a), that the Applicant company is a fit and proper corporate person from a probity perspective and that no

probity concerns have been raised in submissions from the other stakeholders, particularly NSW Police or OLGR, in this regard. There is cause for concern as to the probity of Mr Jinme Ko, a director of the Applicant company, arising from his conduct with Police arising from a traffic offence during 2011 but on balance the Authority is satisfied that any such concerns have been addressed by the condition to which the Applicant has consented.

135. The Authority is further satisfied that the Applicant's *House Policy and Management Policies and Strategies* disclose that a comprehensive risk mitigation regime has been devised by the Applicant and will be in place at the Premises.
136. The Authority is satisfied, for the purposes of section 45(3)(b), that responsible service practices will be in place with the commencement of licensed trading, on the basis of the *House Policy and Management Policies and Strategies* and submissions provided by the Applicant and noting an absence of adverse submission from OLGR or from Police with regard to the Applicant in this regard.
137. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for proposed use of the Premises to include the sale of packaged liquor by retail within the IGA Supermarket, on the basis of the Warringah Shire Council DA1985/877 dated 11 March 1986.

#### **Local and Broader Community**

138. For the purposes of assessing the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the relevant local community comprises the State suburb of Collaroy Plateau, while the broader community comprises the Warringah LGA.
139. The Authority notes that the Applicant has posited in its submissions that the local community comprises the suburbs of Collaroy Plateau, Collaroy and Wheeler Heights of the proposed new packaged liquor business.
140. The Act does not define what "local community" means. Consistent with the Authority's *Guideline 6* and its long established practice, the Authority is satisfied that the local community comprises the State suburb or town (as the case may be) in which the proposed licensed premises is to be located.
141. While the Authority accepts that the Applicant has provided reasoning for identifying its (broader) expected *catchment area* for patronage of the business, the Authority nevertheless takes the view that to define a local community in such a manner would tend to lose any "local" focus for the purposes of assessing social impact.
142. For the sake of administrative consistency and regulatory certainty, the Authority prefers to identify the state suburb of Collaroy Plateau as the relevant local community, while the broader community comprises the Warringah LGA.

#### **Overall Social Impact**

143. Applying the overall social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local and broader community.



## **Positive Benefits**

144. The Authority accepts the Applicant's contention that granting the Application will provide some additional measure of convenience to those members of the local and broader community who wish to purchase liquor for consumption off the Premises at the same time as buying their groceries from the IGA supermarket, as they will be able to do during the licensed trading hours at this IGA Supermarket.
145. The Authority is satisfied that there is a degree of support for the proposal demonstrated among the local community and a degree of local opposition to a new liquor store. Support was provided by way of a petition with approximately 570 signatures and number of letters submitted to the Authority by members of the local community.
146. The Authority is further satisfied that a number of letters and a petition with 504 signatures in opposition to the proposal indicate a degree of local opposition to granting another licence in this local community.
147. The Authority also notes that the Applicant has resubmitted letters from the public and a petition containing 305 signatures, which were prepared in opposition to the 2014 Application, but many of those submissions were duplicated in the opposition to the current Application.
148. In this respect the evidence is divided as to whether granting the licence is consistent with promoting the "expectations, needs and aspirations" of the local and broader community within the meaning of section 3(1)(a) of the Act.
149. On balance, the Authority is satisfied that granting the Application will, to some extent provide a benefit by way of one stop shopping for customers of this IGA supermarket in the local and broader communities. The extent of convenience benefit is reduced by the proximity of an incumbent liquor retailer close by.
150. The Authority is satisfied, on the basis of the report commissioned by the Applicant and Authority licencing records that there are presently no other packaged liquor licences in this local community that are also located within supermarkets and in this sense, granting the Application may be said to develop, albeit to a modest extent, the liquor industry in the local community for the purposed of section 3(1)(b) of the Act.
151. While the Applicant's submission that granting the Application will, to some extent, provide employment opportunities within the Supermarket may be credible in a general sense, these contended employment benefits have not been specified nor substantiated to any great extent and little weight is given to these contended benefits. It is difficult to discern from the material before the Authority what additional staff the supermarket would require to stock liquor products rather than its current items and whether and if so how many persons would be hired from within the local or broader communities.
152. The Authority is not satisfied as to contended community benefits by way of sales from local producers. The Applicant has not specified any local producers that would benefit from this Application and it not clear that there are any local producers of alcohol within the local or broader communities.

## **Negative Impacts**

153. The Authority accepts that over time there will more likely than not be some contribution made from the liquor sold at this Supermarket to alcohol related crime, disturbance or

impact on amenity in the local or broader community from a minority of customers who abuse packaged liquor purchased from this Supermarket.

154. A minority of patrons of the new business may also contribute to a variety of other likely adverse impacts upon local amenity associated with the abuse of packaged liquor, as distinct from on premises liquor – such as drinking in public, underage drinking, pre-fuelling before attending licensed premises or alcohol related litter.
155. Many of the submitters raise concerns about the proximity of the Premises to local primary school and the impact that the presence of an additional liquor licence will have on children who frequent the Premises, either through exposure of children to alcohol products and marketing or alcohol related litter left on school grounds.
156. The Authority finds both of these community concerns to be genuine and broadly credible. However, it is not clear that the addition of this packaged liquor licence in this location will present any substantially greater risk to the youth of the local and broader community than the existing packaged liquor licence in the same shopping facility, particularly given the security measures demonstrated by the Applicant.
157. The Authority accepts on the basis of local submissions and informed by its experience with packaged liquor applications that alcohol related liquor from packaged liquor businesses provides a real source of nuisance to persons and organisations operating near liquor businesses. That problem will vary from case to case and while the Authority accepts that concerns about alcohol related liquor are generally credible the submissions do not provide sufficient information or evidence for the Authority to gain a clear sense of the nature, extent and frequency of this particular problem.
158. On the material before it the Authority is not satisfied that this potential adverse impact is sufficient, in this case, to warrant refusal of the Application. This finding is made in the context of an absence of submission from Police or Council that the location of the Shopping Centre is a known location for anti-social conduct and a local and broader community that objectively performs well in terms of alcohol related crime, as demonstrated by the BOCSAR data.
159. Should the issue of alcohol related liquor manifest once the business is operating it would be open to a regulator to take future action to remedy the problem, such as a licence condition requiring the business to conduct a clean-up of alcohol related liquor in a designated location.
160. The Authority notes that for the local and broader community as a whole, prevailing licence density in the local and broader community is not at levels to give rise to objective concern. Authority licencing data indicates -
  - a) NSW as a whole has 20.03 club licences per 100,000 persons, 31.93 hotel licences per 100,000 persons and 35.48 packaged liquor licences per 100,000 persons
  - b) Warringah LGA has 3.55 club licences per 100,000 persons, 7.10 hotel licences per 100,000 persons and 9.23 packaged liquor licences per 100,000 persons
  - c) The suburb of Collaroy Plateau has no registered club licenced premises or full hotel licenced premises and two packaged liquor licenced premises.
161. The presence of some hotspots for the concentration of *domestic assault* and *malicious damage to property* are an objective factor of concern with respect to assessment of overall social impact arising from the grant of a packaged liquor licence.
162. However, this concern is mitigated by the low *rate* of alcohol related crime experienced by the Warringah LGA. BOCSAR statistics for 2013 satisfy the Authority that:

- a) the rate of *alcohol-related assault police* incidents was 8 per 100,000 persons compared to 24 per 100,000 persons for NSW as a whole.
  - b) the rate of *alcohol-related assault* incidents was 99 per 100,000 persons compared to 191 per 100,000 persons for NSW as a whole.
  - c) the rate of *alcohol-related domestic-violence assault* incidents was 63 per 100,000 persons compared to 145 per 100,000 persons for NSW as a whole.
  - d) the rate of *alcohol-related malicious damage to property* incidents was 71 per 100,000 person compared to 122 per 100,000 persons for NSW as a whole.
163. The Authority is satisfied that the following aspects of the proposal and the relevant communities concerned will operate to constrain the extent of contribution that this outlet makes to the prevailing alcohol related social problems in the local and broader communities.
164. The relatively small scale of the Premises provides an objective mitigating factor, in that the licensed area of the Premises will constitute approximately 40 square metres (as indicated by the diagram of the premises provided by the Applicant), accessible only through an existing IGA Supermarket and enclosed by fixed barriers.
165. The proposed trading hours of the licensed business are moderate. The business will not trade before 10:00am every day or beyond 7:00pm on every day except Thursday, objectively reducing the capacity of liquor purchased from this business to contribute to adverse social impacts such as public drinking or pre-fuelling at night time, in particular on higher risk times of the week such as Friday and Saturday evening.
166. The comprehensive harm minimisation measures outlined in the *House Policy and Management Plan* provided by the Applicant as part of the Application, including use of CCTV surveillance, also satisfy the Authority that steps will be taken by the Applicant and its staff to ensure that the extent of adverse impact arising from the abuse of liquor sold from the Premises is constrained.
167. That is another factor that will assist in minimising the social impact that the operation of this packaged liquor business may otherwise have over time in the local or broader community. The location of the liquor business, within a busy supermarket, provides another measure of passive surveillance that may be of assistance in managing patron misconduct, at least or near at the location of the Premises.

## **CONCLUSION**

168. Considering together the modest positive benefits found in this case and the factors which objectively constrain or reduce the extent of likely negative impacts that may otherwise arise from the sale of liquor from this proposed new department upon these communities, the Authority 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.
169. In making this decision the Authority has had regard to all of the statutory objects of section 3(1) and has taken into account all of the considerations prescribed by section 3(2).
170. The Authority has had regard to the need to minimise harm associated with the misuse and abuse of liquor within the meaning of section 3(2)(a) and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from the amenity of community life within the meaning of section 3(2)(c).

171. In making this decision, the Authority has determined the 6-hour closure period under section 11A(3) of the Act as the period from 4:00am to 10:00am.

A handwritten signature in black ink, appearing to read 'M Brodie', written in a cursive style.

Micheil Brodie

**Chief Executive**

for and on behalf of the **Independent Liquor and Gaming Authority**

**DATED 16 FEB 2016**