



Mr Grant Cusack
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Dear Mr Cusack

**Application for Packaged Liquor Licence
"Cellarbrations at Bungendore" – Bungendore**

I am writing to you about the application made on 15 May 2015 by Mr Michael Robert Blore to the Independent Liquor and Gaming Authority regarding premises located at 34-40 Malbon Street, Bungendore that are proposed to trade as "Cellarbrations at Bungendore".

Under section 13 of the *Gaming and Liquor Administration Act 2007*, the Authority delegates the specific functions of the Authority to each position holder specified against that function, subject to two general conditions and to such additional conditions specified in respect of a particular function as is contained in the Regulatory Delegations Manual.

The Application was considered by the Co-ordinator of Licensing on 25 September 2015 (Delegate) who decided, pursuant to section 45(1) of the Act, to *grant* the Application.

Authority staff informally notified the Delegate's decision by email dated 28 September 2015. This letter serves to provide a formal record of the decision.

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

The enclosed document provides a statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

The actual conditions to which the licence is granted are set out in the OneGov record of the liquor licence, which was provided to the Applicant on 28 September 2015.

If you have any advice or enquiries about this letter please contact the case manager via email to trudy.tafea@ilga.nsw.gov.au.

Yours faithfully

Micheil Brodie
Chief Executive

19 FEB 2016

STATEMENT OF REASONS

INTRODUCTION

1. On 25 May 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) regarding premises located at 34-40 Malbon Street, Bungendore that are proposed to trade as "Cellarbrations at Bungendore" to be located at 34-40 Malbon Street, Bungendore 2621 (Premises).
2. The Application is made by Mr Grant Cusack on behalf of Mr Michael Robert Blore (the Applicant) and seeks the grant of a packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) for the Premises.
3. Should the Application be granted, the Applicant will be the licensee of the Premises while the business owner will be Dry Plain Pty Limited. The Premises owner will be KRNC Bros Investments Pty Limited.
4. The Premises will be part of a new shopping development and will adjoin but not be part of an IGA Supermarket in Bungendore that is relocating to this new shopping development at 34-40 Malbon Street, Bungendore.
5. The proposed licensed trading hours for the Premises are from 9:00am to 9:00pm Monday through Saturday and from 10:00am to 8:00pm on Sundays.

DELEGATION

6. Under section 13 of the *Gaming and Liquor Administration Act 2007*, the Authority delegates the specific functions of the Authority to each position holder specified against that function, subject to two general conditions and to such additional conditions specified in respect of a particular function as is contained in the Regulatory Delegations Manual.
7. The Application was considered by the Co-ordinator of Licensing (Delegate) on 25 September 2015. The Delegate decided, pursuant to section 45(1) of the Act, to grant the Application.
8. Authority staff informally notified the Delegate's decision by email dated 28 September 2015. This letter serves to provide a formal record of the decision.
9. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.
10. This document provides a statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.
11. The actual conditions to which the licence is granted are set out in the OneGov record of the liquor licence, which was provided to the Applicant on 28 September 2015.

MATERIAL BEFORE THE DELEGATE

12. Licence Application Form dated 15 May 2015 and received by the Authority on 25 May 2015.
13. Category B Community Impact Statement (CIS) and supporting material dated 15 May 2015 including:

- a. Submission from local resident, Ms Laycock, dated 17 April 2015. Ms Laycock provided the following submission:

I would like to make voice some concerns [sic] regarding the proposed licence application. At present, the location of the Bungendore Liquor store is on Gibraltar Street which runs parallel to Malbon Street. This street and commercial hub has a supermarket, butcher, bakery, other small commercial businesses as well as the Lake George Hotel and restaurant. This area has been the area of Bungendore that has been the commercial core of Bungendore and other than a slight lack of off street parking, is a safe area for shoppers and especially pedestrians and especially children who walk or ride or skate to the supermarket.

The proposed construction on Malbon Street would see the liquor store moved to a new building on the Kings Highway which is a street away from the other two liquor outlets of the Lake George Hotel and the Royal Hotel on Gibraltar Street. This creates concern for the community in that having an alcohol outlet on the Kings Highway and on an already dangerous route for holiday makers travelling from the ACT to Batemans Bay, is a recipe for accident, injury or death. An increase of opening hours to later at night is also a concern and therefore I submit my objection to this application.

I would also like to point out that I would have no objection to the Bungendore Liquor store increasing hours in its present location as the primary concern for the application is for a liquor outlet on the Kings Highway. It is unfortunate that a local business who has been trading in Bungendore for so many years is wanting to relocate with the construction of a supermarket rather than a new operator as the support for local business is strong in Bungendore and there may be reluctance for individuals to place submissions in fear of creating offence.

- b. Response by the Applicant to the submission from Ms Laycock. The Applicant makes the following submission as part of the CIS:

A letter was received from a member of the public who was of the mistaken belief that the application involved the removal of the existing liquor store in Bungendore from its present location to premises at 30-40 Malbon Street, Bungendore. The resident was of the opinion that the current liquor store should remain where it is. The present application is for the new grant of a packaged liquor licence at 34-40 Malbon Street to adjoin a proposed supermarket. Although the IGA is being relocated from its current position, the existing Bungendore Cellars will remain in its current location.

The author has advised that they were concerned with the location of the proposed licensed premises on the Kings Highway as this was a busy route for holidaymakers travelling from the ACT to Batemans Bay and may be more likely to result in accidents.

A report published by Transport RMS in March 2013 titled Kings Highway – Route Safety Review, noted that alcohol was a contributing factor for only 2% of casualty crashes occurring on that highway between 2007 and 2011. Further, we note that Transport RMS does not object to the proposal.

The application is for a packaged liquor licence. Liquor will only be sold in packaged form for consumption away from the premises. As detailed above, the proposed packaged liquor facility will be located in a new development and there will be a large carpark at the site for use by customers. It can be expected that the majority of customers will be persons making use of the Supermarket who will arrive and depart by car and have the substantial convenience of purchasing their liquor needs at the same time as purchasing their grocery needs. The author also refers to the trading hours. The hours sought are detailed above and less than the standard hours permitted for such a licence.

14. Plan of Premises outlining the proposed licensed boundary of the liquor business to operate on Premises.
15. Identification documents for the Applicant: Medicare card, MasterCard, Driver Licence and OLGR Competency Card.
16. National Police Certificate for the Applicant dated 9 April 2015.
17. Australian Securities and Investments Commission (ASIC) extract for KRNC Bros Investment Pty Limited, the proposed Premises owner, dated 30 March 2015.

18. ASIC extract for Dry Plain Pty Limited, the proposed business owner, dated 30 March 2015.
19. Cellarbrations at Bungendore *House Policy*. The internal business policy document addresses, *inter alia*, procedures for the prevention of sale to persons under 18, preventing the sale of liquor to intoxicated persons, limitations upon the consumption of liquor on the licensed premises, responsible service of alcohol training for staff of the business, mandatory signage on the Premises and CCTV on the Premises.
20. Cellarbrations at Bungendore Management Plan dated May 2015. This management plan for the business addresses, *inter alia*, the location of the Premises, manner of operation of the licensed business, hours of trade on the Premises, behaviour of patrons, practices to be implemented to prevent/minimise the likelihood of patrons consuming liquor in surrounding vicinity of the Premises such as the use of appropriate signage and the barring of patrons who fail to comply with a request in this regard, security of the Premises/prevention of crime, responsible sale and supply of liquor from the business, staff, complaint resolution, local liquor accord, liaising with licensing police and monitoring of this management plan.
21. Development Approval (DA.2013.204) issued by Palerang Council (Council) on 7 October 2014. The DA describes the proposed new development on the Premises as the "demolition of existing dwellings, construction of new supermarket".
22. Submission from NSW Transport Roads and Maritime Services (RMS) undated. In this short submission, RMS notes that whilst it does not object to granting this Application "in principle", it is recommended that the Applicant join the appropriate liquor accord.
23. Certificates of Advertising Application signed by the Applicant and his legal representative, Mr Grant Cusack, dated 29 May 2015 and 2 June 2015.
24. Submission from Mr Christophe Gregoire, local licensee of the restaurant, *Le Tres Bon*, in Bungendore dated 16 June 2015. Mr Gregoire provided the following submission:

Please note that there is an existing liquor licence at my restaurant, Le Tres Bon 40 Malbon Street Bungendore. Licence number LIQ0624004420. Please acknowledge this existing licence and inform me of the impact of another licence at the same address 40 Malbon Street, Bungendore. The 40 Malbon Street land will be subdivided – this application does not acknowledge this subdivision by the developer.
25. Submission from a delegate of the Secretary of the (then) NSW Trade and Investment, now the Department of Justice dated 28 July 2015, by an officer within the Compliance and Enforcement Division of the Office of Liquor Gaming and Racing (OLGR).
26. OLGR note that the primary purpose of the licensed business to operate on the Premises is the sale of packaged liquor. OLGR further note the proposed trading hours for the Premises and that these hours represent fewer hours than the standard trading hours available for packaged liquor licenced premises generally. In the context of this proposed business model, OLGR assess the venue to be "of low risk".
27. OLGR submit that the radial density of licensed premises within the town of Bungendore is "well below" the State average.
28. OLGR submit that NSW Bureau of Crime Statistics and Research (BOCSAR) data indicates that from April 2014 to March 2015, the rate of *alcohol related assaults* (domestic and non-domestic) that occurred within Palerang Local Government Area (LGA) was 113 (per 100,000 population) compared to the rate of 301 (per 100,000 population) for NSW as a whole.

29. OLGR submit that the rate of *alcohol related disorderly offences* that occurred in Palerang LGA was recorded during this period at 13 (per 100,000 population) compared to 95 (per 100,000 population) for NSW as a whole.
30. OLGR submit that these figures indicate that the Palerang LGA "does not appear to have a significant concentration of alcohol-related anti-social behaviour when compared to the whole of NSW".
31. OLGR note that BOCSAR statistics were based on the Palerang LGA rather than the state suburb of Bungendore as the BOCSAR website was unable to provide accurate suburb specific data for Bungendore as a stand-alone suburb for comparison against the State average.
32. OLGR note there were two submissions received from members of the local community in respect of the Application. OLGR note that the first submission received from a local resident questioned the suitability of the location of the Premises for a packaged liquor business on the Kings Highway due to this being an existing dangerous route. OLGR note that the second submission was made by the licensee of an on-premises licenced premises located at the same address as the proposed Premises and expresses concern that the Premises will be located at the same address as his restaurant.
33. OLGR state that the Applicant has held limited liquor licences since 2012 and that the Applicant's wife is the licensee of Bungendore Cellars which has operated since May 1999. OLGR state that a review of Compliance and enforcement Division records did not disclose any adverse information in respect of the Applicant or his wife.
34. In addition to this submission, OLGR provided an Environment and Venue Assessment Tool (EVAT) Report which assesses the relative risk associated with each liquor licence application and provides separate assessments of several identified location and venue risk factors. The Report assessed the Application as "low to moderate".
35. Email from staff assisting the Authority to Sgt Jon Cordingley of NSW Bungendore Police (Police) dated 4 August 2015. Police were provided with a copy of the Application and invited to comment.
36. Further email from staff assisting the Authority to Police dated 25 August 2015. Following the absence of any response to the previous email dated 4 August 2015, Police were again invited to provide comment on the Application.
37. Facsimile transmission of the above emails dated 4 and 25 August 2015 sent by Authority staff to Police
38. Email from staff assisting the Authority to Mr Cusack dated 4 August 2015. Mr Cusack was provided with the submission from Mr Gregoire and was invited to comment on any adverse aspects. Further, Mr Tinning was informed that should the Authority be minded to grant the Application, certain standard conditions imposed upon packaged liquor licences may be imposed upon the licence, including a requirement fixing the daily 6-hour closure period for the purposes of section 11A of the Act as between 3:00am and 9:00am, a requirement that the licence not operate with a greater overall social impact on the wellbeing of the community, a condition requiring compliance with Plan of Management dated May 2015, a condition requiring active local liquor accord participation, a proviso that evidence be provided to the Authority that the Premises are complete and ready to trade before the licence may be exercised and a requirement that the licence cannot be exercised until the Authority has approved an application for transfer of the licence to an individual licensee or the Authority is notified of the appointment of a manager (approved manager) to the licence.
39. Submission from Mr Cusack to staff assisting the Authority dated 21 August 2015. Mr Cusack consented to all of the conditions proposed by staff assisting the Authority in their

email dated 4 August 2015 other than the proposed condition regarding approval of a transfer to an individual licensee or the notification of a manager to the licence. Mr Cusack notes that the condition relating to the transfer of the licence/approval of manager was referred to in the Application "in error" as it was initially proposed that the Applicant would be a company, not a natural person. Mr Cusack submits that since the Applicant is an individual who will be the manager of the Premises, this condition is no longer necessary or required.

40. In response to the submission received from Mr Gregoire, Mr Cusack made the following submissions:

Of the numerous neighbouring occupiers notified of the application, only one provided a response to the Authority. A submission was received from the licensee of a nearby restaurant. The licensee does not object to the application but asks that the Authority be aware of the existence of his licensed premises. The proposed liquor store and supermarket will comprise part of a large subdivision at land [sic] at 34-40 Malbon Street, Bungendore. The existing licensed Restaurant is located on part of that land but some distance from the proposed liquor store and supermarket. The operations of the proposed liquor store are not likely to adversely impact on the operations of the Restaurant, which is the subject of an on-premises licence and only allows liquor to be sold and supplied for consumption on the premises with or ancillary to the consumption of meals.

41. Email from staff assisting the Authority to Mr Cusack dated 25 August 2015. Mr Cusack was provided with the OLGR submission and invited to provide comment on any adverse aspects of it.
42. Submission from Mr Cusack to staff assisting the Authority dated 25 August 2015. In response to the submission from OLGR, Mr Cusack first notes that OLGR does not object to the granting of the Application and makes the following submissions:

OLGR is of the view that the granting of the application is unlikely to result in a significant increase in alcohol-related harm in the neighbourhood. OLGR is of the view that the business model is of low risk. OLGR refers to certain crime statistics for Palerang LGA which are well below State averages. OLGR indicate that Palerang LGA does not appear to have significant concentration of alcohol-related anti-social behaviour when compared to the whole of NSW. OLGR advise that a review of the compliance branch records do not disclose any adverse information regarding the applicant. Further it is advised that the applicant's wife has been licensee of Bungendore Cellars since May 1999 (more than 16 years) and that a review of the Compliance Branch records did not disclose any adverse information relating to the applicant's wife. Based on the above, OLGR has no objection to the application. An EVAT Assessment Report was also provided. Risk factors referred to in the Report are categorised as either being low, moderate or mitigating.

43. Liquor licensing data sourced from Authority licensing records noting the licence type and address for all registered club, hotel and packaged liquor licenced premises for the suburbs of Bungendore, Bywong and Geary's Gap. Within the suburb of Bungendore there are two club licences, two hotel licences, four on-premises licences, one packaged liquor licence and two producer wholesaler licences.
44. BOCSAR data for the Palerang LGA regarding incidents of liquor offences, malicious damage to property, assault (domestic assault) and assault (non-domestic assault) offences for the calendar year 2013.

LEGISLATION

45. In determining the Application, the Delegate has considered the relevant provisions of the Act, including the statutory 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.*

46. Section 45 of the Act provides the power pursuant to which the Authority may grant or refuse to grant, an application for a new liquor licence. Relevantly this section 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) *The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.*
- (3) *The Authority must not grant a licence unless the Authority is satisfied that:*
 - (a) *the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates and*
 - (b) *practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place and*
 - (c) *if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates-that development consent or approval is in force.*

Note : Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

47. Division 5 of the Act makes provision for packaged liquor licences. Sections 29 to 31 state:

29 Authorisation conferred by packaged liquor licence

- (1) *Retail sales A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:*
 - (a) *during the standard trading period or such other period as may be authorised by an extended trading authorisation, or*
 - (b) *in the case of any Sunday that falls on 24 December-from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.*
- (2) *No retail trading on restricted trading days Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.*
- (3) *Selling liquor by wholesale or to employees A packaged liquor licence also authorises the licensee:*
 - (a) *to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail) and*
 - (b) *to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.*
- (3A) *An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.*
- (4) *Tastings A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.*

- 30 Liquor sales area required if bottle shop is part of another business activity**
- (1) *If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises ("the liquor sales area") that is adequately separated from those parts of the premises in which other activities are carried out.*
 - (2) *The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.*
- 31 Restrictions on granting packaged liquor licences**
- (1) *A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:*
 - (a) *in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public and*
 - (b) *the grant of the licence would not encourage drink-driving or other liquor-related harm.*
 - (2) *A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.*
 - (3) *In this section:*
"general store" means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.
"service station" means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.
"take-away food shop" means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

SOCIAL IMPACT TEST

48. Pursuant to 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.
49. Section 48(5) states:

48 Community impact

 - (5) *The Authority must not grant a licence, authorization 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, authorization or approval being granted will not be detrimental to the well-being of the local or broader community.*
50. An application for a packaged liquor licence is a type of "relevant application" that is prescribed by section 48(2).
51. The CIS usually provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to sensitive facilities such as hospitals or health facilities, nursing homes, schools and churches.

LOCAL AND BROADER COMMUNITIES

52. As noted in Authority *Guideline 6: Consideration of Social Impact*, the Authority will identify the relevant "local" community by reference to the locality in which the licensed premises is

situated, while the "broader" community will usually be the local government area in which the licensed premises is situated.

53. For the purposes of this Application, the Delegate is satisfied that the relevant "local community" comprises the community located within the town or State suburb of Bungendore while the "broader community" comprises the Palerang LGA.

Applicant Submissions on Social Impact

54. In the CIS, the Applicant made the following submissions and contentions as to the overall social impact of granting this Application upon the community:

Convenience: customers of the IGA Supermarket will have the convenience of being able to buy liquor in conjunction with their grocery shopping (a convenience which the vast majority of supermarket shoppers of various other supermarkets have enjoyed for many years and a convenience which all members of the public have come to demand or expect). The regulation of the sale of alcohol is required to be carried out in a manner which is consistent with the expectations, needs and aspirations of the community: S3 (1)(A) Liquor Act 1987. The public expectation to be able to buy liquor in conjunction with grocery shopping must therefore be accorded considerable weight in determining this application,

Avoidance of special trips: customers of the IGA Supermarket will no longer be required, in many cases, to make a 'special trip' to acquire liquor,

Choice: customers will gain access to a wider range of alcohol at competitive prices.

Facilitating Social/Recreational Opportunities: legitimate community demands for alcohol in conjunction with social and recreational opportunities will be serviced by the grant of the application,

Strengthening the Viability of Other Nearby Businesses: taking away the need for customers to make a 'special trip' for liquor will encourage customers to undertake other shopping in the vicinity of the IGA Supermarket and packaged liquor facility, thus strengthening the viability of nearby local businesses,

Economic Spin-Offs: grant of the application will contribute to the economic health of the local and broader communities, through the employment of staff servicing the liquor accord (including delivery, warehouse and supply-chain staff),

Outlet for Local Producers: grant of the licence will provide purchasers with an alternative outlet to sell their liquor products.

...

As it is anticipated the majority of customers of the proposed licensed premises will be persons attending the Supermarket to purchase their grocery needs who arrive and depart by car, it is not likely that the granting of the licence will result in any adverse impact by way of noise, litter, traffic congestion etc.

Various responsible service of alcohol practices will be implemented to ensure that liquor is sold and supplied responsibly. Practices will also be in place to ensure that minors do not gain access to liquor. This will include security measures such as CCTV surveillance.

...

Studies reveal that assaults on licensed premises principally occur at hotels and nightclubs and outside of the hours that the proposed packaged liquor licence will trade.

REASONS

55. The Delegate has critically examined the Application and all the material before it pertaining to that Application. The Delegate has decided to grant the Application pursuant to section 45(1) of the Act.
56. The Delegate is satisfied, on the basis of the Application and CIS material and in the absence of any information to the contrary, that the Application has been validly made for the purposes of section 40 of the Act and that the minimum procedural requirements including advertising, CIS and consultation requirements have been satisfied.

57. The Delegate is satisfied, on the basis of the NSW National Police Check and the absence of information to the contrary from OLGR that, for the purposes of section 45(3)(a) of the Act, the Applicant is a fit and proper person.
58. The Delegate 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 *Plan of Management, House Policy* and submissions provided by the Applicant and noting an absence of any adverse submission from OLGR or Police in this regard.
59. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act that the required development consent is in place for the proposed use of the Premises (for planning purposes) as a packaged liquor licenced business. This finding is made on the basis of the DA provided by the Applicant.

Overall Social Impact

60. The Delegate is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will not be detrimental to the wellbeing of the local or broader community.
61. Determining the overall social impact of granting the Application requires a degree of speculation about what is likely to occur in the event that the Application is granted – albeit speculation that is informed by the prevailing circumstances in the relevant local and broader communities.
62. As noted above, with regard to the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the local community comprises the state suburb of Bungendore and the broader community comprises the Palerang LGA.

Positive Benefits

63. The Applicant has provided a reasonable amount of submissions and explanation in support of the positive benefits that are contended to flow to the local or broader community from permitting the Premises to sell packaged liquor by retail.
64. The Delegate accepts the Applicant's contention that granting this 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. They will be able to do so during the licensed trading hours at the Premises (from 9:00am to 9:00pm Monday to Saturday and 10:00am to 8:00pm on Sunday).
65. The Delegate is satisfied that by granting the Application, the enhanced choice and convenience for customers of the Supermarket will be consistent with the expectations, needs and aspirations of the community within the meaning of section 3(1)(a) of the Act. This finding is further supported by the apparently low density of liquor licensed premises in the local community as indicated in the Authority's licensing records and noted on the submission from OLGR. In this respect the new liquor outlet based next to a supermarket may also be said to develop, to some extent, the local liquor industry which is an object of section 3(1)(b) of the Act. That benefit of developing the industry is limited, however, because the Applicant has not contended that the new business will stock products not already available from the incumbent outlets.
66. While the Applicant contends that granting this Application will support employment opportunities at the Premises, the Applicant has not provided clear or unequivocal undertakings as to the number of employees will actually be sourced from within the relevant local or broader communities and little weight is given to this purported community benefit.

67. Similarly, while the Applicant contends that granting the Application will support local producers who will have an alternative outlet to sell their liquor products, the Applicant has not provided clear or unequivocal undertakings that the Premises will actually stock product lines from producers within the local or broader communities. Little weight is given to this purported community benefit.

Negative Impacts

68. The Delegate accepts that over time there will more likely than not be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact on amenity from a minority of customers who abuse packaged liquor that is purchased from the Premises.
69. A minority of patrons of the new business may also contribute to other adverse packaged liquor related impacts upon local amenity, such as drinking in public, pre-fuelling before attending licensed premises or alcohol related litter. However, there are no submissions before the Delegate drawing attention to localised problems of that nature pertaining to the local or broader community.
70. The 2014 BOCSAR *Report on Crime by Local Government Area and Alcohol Related Status for 2014* (based on data from January to December 2013) satisfies the Delegate that the rate for Palerang LGA for alcohol related incidents are well below the average rates for NSW as a whole.
71. The report indicates that in the Palerang LGA, there were no recorded incidents of *alcohol related assault police* compared with a NSW total of 22.6 per 100,000 population. The rate per 100,000 population for *alcohol related domestic violence offences* was 46.5 compared with a NSW total of 137.3. The rate of *alcohol related non-domestic violence related offences* was 53.1 compared with a NSW total of 181.0.
72. In relation to the suburb of Bungendore, BOCSAR mapping data for the period from April 2014 to March 2015, reveal that the Premises is not located in a sensitive location in terms of concentration of prevailing crime impacts, in that within the Palerang LGA, the Premises is not situated within any concentration "hotspot" for the occurrence of reported domestic assault, non-domestic assault, or the occurrence of reported malicious damage offences (noting that such matters may or may not be recorded as alcohol related).
73. In addition to the relatively favourable BOCSAR data, the Delegate is satisfied on the basis of the Application and material provided by the Applicant that there are well-developed business, CCTV and security practices and plans for the new business which will constrain the contribution this business may have on alcohol related crime. The Delegate notes OLGR's submission that the granting of the Application is "unlikely to result in a significant increase in alcohol-related harm in the neighbourhood".
74. The Delegate notes that within the local community there is only one existing standalone packaged liquor licence known as Bungendore Cellars, which is approximately a 6-minute walk from the Premises. Bungendore Cellars is owned by the Applicant and the current licensee is the Applicant's wife. The Delegate notes that licence density across all licence categories is higher in the local community than the State average, but those figures are skewed by a relatively small local population in Bungendore.
75. As noted by OLGR, a review of the Compliance and Enforcement Division records did not disclose any adverse information regarding the licence of Bungendore Cellars despite it having been in operation since 1999. This provides the Delegate with further comfort that the Applicant has experience in managing the risk of contribution that this new outlet may otherwise make to potential alcohol related social problems in the local or broader communities.

76. The Delegate notes the Applicant's submission that the populations of the local and broader communities are expanding. In particular, the Delegate notes the Applicant's submission that at the 2011 Census, the population of Palerang LGA exceeded the 2006 Census figure by approximately 16 per cent, while the population of Bungendore increased by more than 40% during the same period. Furthermore, the population of Palerang LGA was estimated by the Australian Bureau of Statistics (ABS) as being 15,510 in 2014, indicating that the population has grown by an estimated 8% over a three year period.
77. This continued expansion of the populations of the local and broader communities and their close proximity to Canberra are further factors that support the granting of the Application in that there will be two standalone packaged liquor licences in the growing community of Bungendore. This is a further indication that granting the Application is consistent with the expectations, needs and aspirations of the community within the meaning of section 3(1)(a) of the Act.
78. While the Authority received a submission from a local resident, Ms Laycock, objecting to the grant of the Application, the Delegate notes that Ms Laycock was under the misapprehension that the existing Bungendore Cellars licence was re-locating, which is not the case.
79. The Delegate notes Ms Laycock's concern regarding the location of the Premises on the Kings Highway and the suggestion that this may be more likely to result in accidents. While the Delegate accepts that those concerns are genuine, the Delegate notes that RMS have made an adverse submission in this regard and neither Council nor Police have provided submissions objecting to the Application. The Delegate further notes and gives weight to the Applicant's reference to a report published by RMS in March 2013 titled 'Kings Highway – Route Safety Review' which reported that alcohol was a contributing factor for only 2 per cent of casualty crashes occurring on the Highway between 2007 and 2011. This provides some support for the Applicant's claim that the location of the Premises is not particularly problematic in terms of road accidents.
80. The Delegate notes the submission received from the licensee of a local on-premises licence who expressed concern that the Premises will have the same address as his restaurant. The Applicant has clarified that the location will be sub-divided and the new IGA Supermarket will be part of the redevelopment.
81. The Delegate notes that the proposed trading hours for the Premises are 9:00am to 9:00pm on Monday to Saturday and 10:00am to 8:00pm on Sunday. These opening hours are quite extensive and objectively expand the scope for this licensed business to contribute to adverse social impacts in the local and broader community. The licensed hours are an adverse aspect of the Application but not a decisive one in light of what is known about this local and broader community.
82. Having considered together the positive benefits of granting the Application and the factors noted above that objectively reduce the negative impacts arising from the particular circumstances relating to this Application, the Delegate is satisfied that the overall social impact of granting the Application will not be detrimental to the local and broader community for the purposes of section 48(5) of the Act.
83. In making this decision, the Delegate has determined that the 6-hour daily closure period for the purposes of section 11A(3) of the Act shall be fixed at between 3:00am and 9:00am. The Delegate notes that while the default policy position is for the 6-hour closure period to be fixed between 4:00am and 10:00am daily, the Authority's usual practice is to entertain applications for potentially as early as 8:00am in the case of liquor stores that are part of or associated with a supermarket. The Applicant seeks 9:00am opening and that is consistent with Authority policy on opening hours for packaged liquor stores.

84. In making this decision the Delegate has considered all of the statutory objects and considerations prescribed by section 3(2) of the Act. The Delegate 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).

Yours sincerely



Micheil Brodie
Chief Executive

DATED 19 FEB 2016