



Mr Micah Jenkins
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Dear Mr Jenkins

**Application for the Grant of a new Packaged Liquor Licence
The Discerning Drop, Newcastle**

I am writing to you about an application made by your client, Ms Kathryn Brown to the Independent Liquor and Gaming Authority on 22 July 2015, in respect of a proposed new packaged liquor licence for premises to be located at 1/38 Bolton Street, Newcastle known as "The Discerning Drop".

The Application was considered by the Authority at its meeting on 25 November 2015 but was deferred until further information was provided. This was advised in an email from Authority Staff dated 30 November 2015. During its meeting on 16 December 2015 the Authority continued its consideration of the Application and has decided to *approve* the Application, pursuant to section 45 of the *Liquor Act 2007* (Act). This was informally advised in an email from Authority staff dated 17 December 2015.

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

The detailed conditions subject to which the licence has been granted are set out in the OneGov record of the liquor licence, provided separately by staff assisting the Authority.

Please contact the case manager, Ms Trudy Tafea via email at trudy.tafea@ilga.nsw.gov.au if you have any questions.

Yours faithfully

Micheil Brodie
Chief Executive

19 FEB 2016

STATEMENT OF REASONS

INTRODUCTION

1. On 22 July 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) lodged by Mr Micah Jenkins of Jenkins Legal Services on behalf of Ms Kathryn Brown (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), for premises located at 1/38 Bolton Street, Newcastle to trade as "The Discerning Drop" (Premises).
3. The licensed business on the Premises is proposed to occupy "approximately 70 square metres overall with a main shop area of 51 square metres".
4. The Application proposes that the packaged liquor business be licensed to sell or supply liquor for consumption off the Premises during the trading hours of:
Sunday to Wednesday 10:00am to 7:00pm
Thursday to Saturday 10:00am to 8:00pm.
5. The Application seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between "7:01pm" and "10:00am" Sunday through Wednesday and between "8:01pm" and "10:00am" Thursday through Saturday.
6. The Authority notes that Authority Policy is for the 6-hour closure period to usually be fixed at between 4:00am and 10:00am unless an applicant provides a sufficient case that it is in the public interest for alternative period to be specified.
7. [By way of background, the Authority notes that this Application is made in respect of the same premises for which a previous (unsuccessful) application was made in respect of a business proposed to be known as "Le Plonk".]
8. The Applicant's case for a boutique liquor store and provedore has been better developed in this instance, and on this occasion the Applicant has consented to the imposition of mandatory licence conditions restricting the operation to a boutique or specialist liquor supplier, as represented in the Application, and not simply licenced with the capacity to trade as another mainstream liquor store (should the proprietor's commercial focus change).

MATERIAL BEFORE THE DELEGATE

9. Application Form for Packaged Liquor Licence filed with the Authority on 22 July 2015: In the Application form, the proposed licensed trading hours and daily closure period are specified.
10. The Applicant states that the house and liquor policy "outlines the management policy to be adopted" and that they are aware of the "need to practice the responsible service of alcohol".
11. The Applicant contends that the Premises will not sell Ready to drink alcohol or Alcopops and will instead focus on sales of
 - a) "premium wine"
 - b) local and imported beers
 - c) "imported English ciders"
 - d) "limited unique" imported spirits and liqueurs

- e) Cuban and Dominican cigars
 - f) delicatessen products.
12. Community Impact Statement (CIS) filed with the Authority on 22 July 2015: The various contentions and submissions made by the Applicant in the CIS document with regard to the overall social impact of granting the Application are discussed in further detail below.
 13. The CIS material comprises *inter alia*:
 - a) The CIS form itself dated 17 April 2015
 - b) Google Map identifying the location of the Premises
 - c) Notice of intention to apply for a liquor licence or a licence authorisation
 - d) Community Impact Assessment prepared by Key Insights Pty Limited dated July 2015
 - e) Photographs of the outside of the Premises and internal layout of the store
 - f) The Discerning Drop *House and Liquor Policy*.
 14. Google Map: identifying where the Premises is located.
 15. The Notice of intention to apply for a liquor licence or a licence authorisation: outlining the proposed liquor related activities and steps to take to seek further information or provide comment.
 16. Community Impact Assessment prepared by a consultant engaged by the Applicant, Key Insights Pty Limited (Consultant), dated July 2015: This 31-page document addresses the Applicant's submissions on the overall social impact of granting the licence. It outlines the analysis performed by the Applicant in order to conclude that approving the Application "will deliver a net social and economic benefit to the inner City of Newcastle".
 17. In this document the Consultant acknowledges the "unfortunate history of alcohol fuelled anti-social behaviour" but submits that the NSW Bureau of Crime Statistics and Research (BOCSAR) shows that "alcohol related assaults in the Newcastle inner city are trending downwards by 14.1 per cent per annum over the four-year period from January 2011 to December 2014".
 18. This Consultant discusses how Key Insights Pty Limited investigated the likely social costs and benefits of the proposed Premises through community profiling and social impact analysis.
 19. The Consultant discusses "site description and location", "the proposed use" of the Premises and "management" of the business. This discussion is accompanied by a number of images including an aerial map depicting the location of the Premises and photographs of:
 - a) the street view and entry door to the Premises
 - b) the internal view from counter to the exit door
 - c) the view towards the rear of the shop showing the wine rack presentation
 - d) the street looking south across King Street towards offices, the Court House and heritage buildings.
 20. In performing their assessment, the Consultant also refers to the BOCSAR data, Newcastle Local Government Area (LGA) Demographic data, and the Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS).
 21. The Consultant discusses the Revitalisation of the Newcastle CBD and provides three images from Newcastle City Council which the Consultant contends "outline the city's aspirations".

22. The Consultant states that "there were no submissions relating to this Application indicating a low level of community concern". The Consultant then discusses the submission received in relation to the previous application for the same site for "Le Plonk" with the proprietor of the "Discerning Drop" having "taken on board OLGR recommendations and re-branded the proposed business to evoke a more sophisticated image in line with the style of business".
23. The Consultant concludes that it is the style of business "namely a non-traditional packaged liquor outlet selling boutique wines, craft beers and some gourmet goods" which makes this operation "low risk".
24. This Consultant responds to location risk factors by contending that:
 - a) the rate of alcohol-related assaults are "relatively high" while "anecdotally showing improvement"
 - b) rate of offensive behaviour incidents is "reducing" and is "not influenced by this style of business"
 - c) presence of late night transport "is not relevant to this Application"
 - d) Council risk assessment for the proposed use of the Premises was "low" given that Council "have granted a D.A. for this use"
 - e) the proposed business is "not a high risk venue" although there are "several hotels within a 2 km radius as this is an inner city location"
 - f) proportion of diversifying venues is "increasing as city diversifies"
 - g) several late night trading venues are "subject to lock-out and other restrictive practices that have demonstrated to reduce alcohol related crime".
25. The Consultant then discusses impact analysis and mitigation by addressing specific social impact criteria (which included accessibility, demographic change, community issues, community services and facilities, economic impacts, groups with particular needs, amenity and character, transport, safety and environment) and concluding that the "proposed development will deliver a net social benefit to the local community".
26. The following material is attached the Consultant's report:
 - a) A 2-page document discussing the qualifications, experience and other relevant expertise of the author Ms Ellen Davis-Meehan
 - b) The Notice of Intention to apply for a liquor licence or a licence authorisation: outlining the proposed liquor related activities and steps to take to seek further information or provide comment
 - c) A list of the proposed premises products and suppliers
 - d) Six photographs depicting available products which include Auricchio Pecorino Cheese, Acorsa Olives, Colavita Extra Virgin Olive Oil, Colavita Tapenade's, Colavita Pesto and Distilleria Alessandros Fruits in Liqueurs.
27. Six Photographs: depicting the outside of the Premises and internal layout of the store.
28. The Discerning Drop *House and Liquor Policy*: This 3-page internal business policy document prepared by the Applicant discusses *inter alia* Responsible Service of Alcohol (RSA) Certificates, "Responsible Practices", "Consumption of Liquor on Premises", "Minors", "Intoxicated Persons", "Refusal of Entry", "Security Monitoring" and "Responsible Promotion".
29. The House Policy states *inter alia* that:
 - a) all staff "must have completed their Responsible Service of Alcohol (RSA) accredited training before commencing work"
 - b) in accordance with Development Consent and the terms of this policy, "there shall be no sale of alcohol on or from our Premises before 10 am on a daily basis"

- c) any and all incidents "must be recorded in the Incident Register"
 - d) every person who "looks under 25 years of age" will be checked for identification
 - e) service is to be refused "if there is any suspicion that an adult is purchasing alcohol on behalf of a minor"
 - f) minors "will not be employed or involved in trading, cleaning, or touching of liquor on our Premises"
 - g) apart from formal tasting, showcases or specific wine appreciation events being hosted, there will be "no consumption of liquor" on the Premises
 - h) alcohol "will not be sold to intoxicated persons"
 - i) the Premises will "never promote the irresponsible consumption of alcohol".
30. This *House Policy* also states that the Premises is "monitored by 24 hour CCTV security cameras and remote access monitoring"; that "internal cameras are displayed on a split screen monitor displayed above the point of sale and duplicated on the point of sale monitor"; that the CCTV system "has the capability" to be viewed remotely on smart phone; that exterior glass "is fitted with a glass break detector" and hold up buttons.
 31. Copies of stakeholder notices: notifying the Application to various stakeholders as required by the liquor legislation - including Police, Council and the site notice placed on the Premises.
 32. RSA Certificate No. 628734: This certifies Ms Kathryn Brown as having completed her RSA training on 24 March 2010.
 33. Medicare Card, Healthcare Card, Visa Bank Card and Driver Licence for the Applicant providing proof of identity.
 34. Police Certificate No. NCHRC-2015-61066 for Ms Kathryn Brown: This National Police Certificate, issued 1 July 2015, records that Ms Brown has no disclosable court outcomes or outstanding matters within the records of police services in Australia.
 35. Plan of the Premises: The Applicant has submitted a 2-page document depicting the proposed fit-out of the shop and clearly highlighting the boundary of the proposed licenced area in red.
 36. Email submission from local resident, Ms C McKean dated 31 October 2014: The writer, in this 1-paragraph submission, contends that "the majority of people in the area want this shop to open" as the local community needs "something fresh and new" and the proposed new business "sounds perfect".
 37. Ms McKean contends that her friends and families who also live around the area are "big cheese, meat and wine fans" and that there is "no-where else" that "offers this kind of stuff".
 38. In this email, the writer acknowledges that "a neighbouring bottle shop is not helping" with the Application and Ms McKean offers to share any facebook page that the Premises creates and states that "we are all for this and we hope it all works out soon".
 39. Email submission from local resident, Mr W Scott, of Bolton Street, Newcastle dated 31 October 2014: In this 2-sentence submission, the writer full supports the Application and states his "amazement" when the "initial application was not approved". Mr Scott contends that "it does seem harsh when the Aldi's, Coles, Woolworths who all sell heavily discounted liquor gain approval, yet this Application wishing to sell higher grade wines are refused".

40. Email submission from local resident, Mr B Cowen, of Newcomen Street, Newcastle dated 7 November 2014: In this 5-sentence submission, the writer states "I don't see or hear the anti-social behaviour here that I hear some talk about" and contends that the proposed new business "wouldn't add to it anyway".
41. Mr Cowen states that he has "lived in the CBD for about 10 years" and is "excited by all the new little bars and restaurants opening in here especially those featuring craft beers".
42. Letter from local resident, Mr T Lawler, of Watt Street, Newcastle dated 15 May 2015: In this eleven sentence submission, the writer states "I have been a resident of inner city Newcastle for more than 15 years" and contends that "this area has witnessed a resurgence in activity in the last 2-5 years".
43. The writer contends that the "addition of extra businesses, both licensed and un-licensed, had brought vitality to this precinct" and that the area "cannot have too many businesses open" seeing as more businesses equals more foot traffic and more foot traffic means "less-anti-social behaviour".
44. The writer contends that he has "never felt threatened when leaving" his work as the "amount of people out at night makes the area less attractive to loutish behaviour".
45. Letter from business owners of Dogoverboard, Mr D and Mrs C Shaw, of William Street, Adamstown dated 20 May 2014: In this 2-page submission, the writers express "support for the proposed establishment of a Premium Wine and Craft Beer, cheese and limited delicatessen lines business to be located" at the Premises.
46. The writers contend that the proposed business "is the type of development that nicely fits into the government plans to invigorate the inner city areas of Newcastle"; that Newcastle is becoming "more quality residential with emphasis on mature and self-funded retirees"; that the proposed business "fills a need as it aims to cater for the mature and discerning clientele"; and that the proposed business "compliments the hospitality facilities available in inner city Newcastle as the city is being rejuvenated and becoming alive with restaurants, cafes, wine and cocktail bars servicing the ever growing mature and responsible population".
47. The writers contend that this development "will not attract the type of people that cause problems at the night club and pub venues" seeing as it is "positioned well away from the Newcastle West and Hamilton night club and hotel areas".
48. The writers contend that the "proposed facility will positively contribute to the ambience and culture of the inner city"; that the Premises will "compliment and develop on the success of the hospitality areas along Darby Street and at The Junction"; that this "upmarket outlet could not contribute in any way to anti-social behaviour"; that the Premises will "satisfy a need for quality hospitality that does not presently exist in the inner city hospitality areas".
49. The writer supports the proposed availability of "fine premium products which is a unique business concept for inner city Newcastle and especially as it is aimed at catering for mature, discerning and responsible residents"
50. Letter from Miromaa Aboriginal Language and Technology Centre (Miromaa ALTC) of Bolton Street, Newcastle dated 5 November 2014: In this 5-paragraph submission the Miromaa ALTC "fully support" the Application and "agree that it is service that will go extremely well here in the East End of Newcastle".

51. The Miromaa ALTC contend that the business "is absolutely unique and will only attract 'good' people to this area who appreciate the finer things in life"; that "in no way will it impact negatively here in this area"; that it will be "such a positive thing for Newcastle" and that the Premises will "benefit all businesses in the area".
52. Email submission from local resident, Hiren Patel dated 4 November 2014: In this 1-page submission, the writer supports the Application and makes a few suggestions which include:
 - a) "stocking monthly regional specials"
 - b) offering a "local area discount"
 - c) stocking a selection of wines that do not contain "fish guts" for the "wine drinking vegetarians"
 - d) providing wine recommendations.
53. Email submission from local resident, Mr L and Mrs C Grace, of Hunter Street, Newcastle dated 4 November 2014: In this 4-paragraph submission, the writers "welcome the existence" of the proposed establishment as the "concept sounds interesting and unusual".
54. The writers contend that they "cannot see" the proposed business encouraging "anti-social behaviour" as it could be a "shop of destination" that could bring "interested people into the area". The writer also contends that the "establishment of a delicatessen would be most welcome".
55. Email submission from Mr B Bannerman dated 3 November 2014: In this 1-sentence submission Mr B Bannerman provides "support" for the Application.
56. Email submission from local resident, Ms K Deegan, of Bolton Street, Newcastle dated 30 October 2014: In this 5-sentence submission, the writer contends that the "business should be well received in its location, both for us the business residents who would like to purchase your product on the way home from work as well as for when we attend restaurants in the CBD that provide BYO".
57. The writer contends that "there are no other businesses that provide your product, fine wines, beers and ciders" and that in the two years of living and working here the writer has "seen alcohol fuelled bad behaviour" by people who are "drinking low end cheap product".
58. The writer provides "support to this liquor licence for its location".
59. Letter from business owner, Babak Abbaszadeh, of local restaurant *Kaffe Zeytoon* dated 14 May 2014: In this 3-paragraph submission the writer responds to the objection against the liquor licence application of "Le Plonk" and the prospected licensee Kathryn Brown. [The Authority notes this submission was made in relation to the previous Le Plonk application and has been resubmitted by the Applicant in support of this Application]
60. The writer contends that he has owned and run restaurant *Kaffe Zeytoon* for nearly two years and being licensee for almost one year. The writer contends that his restaurant is located across from the Premises and states that "I have never had and heard of" alcohol-fuelled violence in the area.
61. The writer discussed the growth of "upper class residents of the east End Newcastle" and contends that it has "lead to a more homogenous clientele" who are looking for "smaller and more sophisticated venues and experience in terms of drinking".

62. The writer contends that Le Plonk "will only be another good addition to the area as it aims to attract a higher range of clientele which would make the area safer and more pleasant for families to enjoy themselves other than a certain trouble making groups wandering around the area at night and also daytime".
63. Letter from the Licensee of Reserve Wine Bar, Mr T Bohlsen, of Hunter street, Newcastle dated 15 May 2014: In this 3-paragraph submission the writer contends that since the granting of their small bar license in 2013 "we have experienced no liquor related incidents within our premises since opening" and that the "experience in the broader area of our premises has also been positive". The writer contends that they have perceived "a pick-up in the commercial activity within the immediate area in the inner city of Newcastle". [The Authority notes this submission was made in relation to the previous Le Plonk application and has been resubmitted by the Applicant in support of this Application]
64. The writer contends that opening more businesses in the inner city of Newcastle "will ultimately improve the economic activity to the benefit of ALL business owners" seeing as the "related increase in people 'out and about' will result in the passive monitoring of activity in the area, to the benefit of all owners".
65. Letter from Mr C Bart, of Australian Heritage Restorations, Bolton Street, Newcastle dated 15 May 2014: In this 3-paragraph submission the writer contends that in the seven years of being tenants at Bolton Street, they have "not experienced any incidents that have been related to alcohol anywhere in the vicinity of our office". [The Authority notes this submission was made in relation to the previous Le Plonk application and has been resubmitted by the Applicant in support of this Application]
66. The writer contends that the "calibre of the business that Le Plonk is going to bring to this area should enhance the ambience and will complement the existing café's, restaurants and wine bars in the area".
67. The writer has "no objection" to the proposed premises and contends that "we are excited to welcome a new business to this area that offers such a unique range of complimentary products and high end wine, beer and delicatessen lines".
68. Letter from local resident, Ms M Calder-Mason, of Watt Street, Newcastle: In this 1-page submission the writer acknowledges that "statistics have been produced that would suggest that this area is one in which there is extreme levels of alcohol fuelled violence and anti-social behaviour" and that these statistics were "used to base an objection to the granting of Packaged Liquor License to the proposed Premium Wine and Craft Beer Cheese etc shop to be located at the corner of Bolton and King Streets Newcastle".
69. The writer contends that "in my experience this is a complete misrepresentation of the context and social character and fabric of the area" seeing as it is a "quiet, residential and business area bounded by the Court House, Police Station and many residential buildings".
70. The writer contends that the "restaurants, cafes, Wine and Cocktail Bars operate harmoniously, supportively and responsibly and as a consequence, the streets are safe, quiet and people conduct themselves jovially and harmoniously with decorum".
71. The writer contends that there "cannot" be "too many businesses open in this area" seeing as more businesses equals more foot traffic and more foot traffic means "less anti-social behaviour".

72. The writer contends that "17 new high end apartments" are about to be built on the property she owns meaning that the "addition of extra businesses, both licensed and un-licensed, will bring vitality to this precinct".
73. The writer "support any business being introduced to serve the amenity and hospitality offered to the increasing number of people moving to this area, particularly with the increased population density".
74. Letter from local resident and partner of a local legal firm, Mr R Faraday-Bensley, dated 16 May 2014: In this 1-page letter, the writer contends that "over the past five years the Newcastle CBD has been reinvented into a lively and cultural hub" with the "presence of new bars, restaurants, fashion stores, home wares shops and cafes" having 'changed the face of inner Newcastle".
75. The writer states that "in the past five years I have not seen any incidences of anti-social or drunken and disorderly behaviour in Newcastle CBD" and that "I have been witness to some minor instances however, these occurred in the Newcastle West and Hamilton regions and were in pubs and nightclubs, not takeaway bottle shops".
76. The writer contends that the "new revitalised Newcastle" continues to "need places like Le Plonk to keep opening" and it would "be a shame if the proposed licence was not granted because of anti-social behaviour occurring well outside the parameters of what has become a cultured and lively CBD". [The Authority notes this submission was made in relation to the previous Le Plonk application and has been resubmitted by the Applicant in support of this Application]
77. Letter from Mr G Weiss of local bar Red Baron's, dated 19 February 2015: In this 1-paragraph submission, the writer contends that "in my eighth month of trading" the small bar lounge establishment, "I have not encountered a single incident of alcohol-related violence". The writer also contends that the Red Baron's trade "just 75 metres" from the proposed Premises and he has "not noted any violence within the precinct" during trading hours, nor heard any reported from other business owners with bar licences.
78. Submission from local resident Mr J Penhall, of Honeyeater Place, Tingira Heights dated 5 August 2015: In this 5-paragraph submission on the official submission form, Mr Penhall expresses "support" for the Premises.
79. Mr Penhall reviewed the proposed plans and internal view of the Premises and contends that it "looks great" and is "encouraging to see local residents and business owners who are prepared to invest in the improvement of Newcastle and its streetscapes".
80. Mr Penhall contends that the proposal "will have a positive impact on both the building and surrounds" as the "simple occupation of this currently empty tenancy is a positive outcome".
81. Mr Penhall discusses the "growth in luxury residential development" in Newcastle and contends that the "target audience" of the proposed Premises is "precisely that of the existing and expected future occupants of these types of residential development".
82. Mr Penhall also discusses the "increasingly mature population" which has led to the "growth of other compatible facilities" and contends that the proposed Premises "will complement and improve upon the existing, providing a product that will attract inner city professionals who can purchase goods to take home or to surrounding restaurants".

83. Mr Penhall contends that it will be "positive to see a premises that sells packaged liquor rather than a pub or club, as the product is highly likely to be consumed at home, rather than make any contribution to any anti-social behaviour that a club might exacerbate". Mr Penhall also contends that the "target audience, largely defined by the quality and price point of the products sold further improve upon this aspect of the proposal" and that "a well cultured city that matures as it grows, will be enhanced by proposals such as this".
84. Letter from Mr P O'Sullivan of O'Sullivan Saddington Lawyers, on behalf of the owner of the licensed premises at 55 Hunter Street, Newcastle dated 24 August 2015: In this 2-page submission the owner of 55 Hunter Street, Newcastle "object" to the Application based on the following grounds:
 - a) "The high density of licensed premises within the neighbourhood and Newcastle"
 - b) "Crime data for the neighbourhood and Newcastle".
85. Mr O'Sullivan contends that these two factors "place this application in the high risk category and warrant its refusal".
86. Mr O'Sullivan contends that the Authority recently acknowledged the "relevance of density and crime data" in its "refusal of multiple applications for Primary Service Authorisations in Newcastle and its adjoining suburbs". Mr O'Sullivan contends that the Application "gives rise to greater risk than those applications and on the basis should be refused".
87. Mr O'Sullivan contends that the CIS and the Notice of Intention are "inconsistent: as the "CIS states that only "upmarket wine", craft beer and cider will be available for sale" and the Notice of Intention "indicates an intention to also sell imported spirits and liqueurs".
88. Mr O'Sullivan notes that the CIS states that the product will only be affordable to middle to high income earners and raises concerns from a policy perspective that "certain members of the public shall obtain no positive benefit whatsoever from the grant" of this Application "due solely to their income". Mr O'Sullivan contends that this "should be weighed against the high risk that the application carries".
89. Mr O'Sullivan submits that "if the Authority was mindful to grant the application, despite our objection, we submit that it should only do so subject to the imposition of strict conditions consistent with the Applicant's business model". Mr O'Sullivan contends that the conditions "should restrict sale to wine, craft beer and cider at minimum pricing levels".
90. Mr O'Sullivan contends that the CIS "only recently became available for viewing on the Application Noticeboard" and that a copy was unavailable "last week" and "we were required to ring your office to obtain a copy". Mr O'Sullivan encloses "objections from persons who reside or work in the neighbourhood" of the proposed Premises. His clients "urge the Authority to reject" the Application.
91. Objection Petition form: provided by Mr O'Sullivan contending that
Due to the number of recent License approvals from OLGR, Rowies Bottle Shop is objecting to the latest Off-Premise licence application for Discerning Drop (cnr King & Bolton Sts Newcastle). As a loyal business partner we are asking for support in our objection.
92. Eighteen signed copies of this identical petition were received that state "I hereby give permission for O'Sullivan Saddington Solicitors to note my objection". The petition was signed by the following businesses and local residents:

Mr W Christie, c/o Newism
Mr D Brown
Mr P Hughes of Newcomen Street, Newcastle
Watari of Hunter Street, Newcastle
A. M. Fadyen of Parnell Place, Newcastle East
Mr S Laugier, c/o Le Passe Temps
Local resident of Scott Street, Newcastle
Mr H Abel of Hunter Street, Newcastle;
Mr B Dickson of Shepherds Place, Newcastle East
Mr S Cowen, c/o Fruit-A-Peel;
Ms L Lowe, c/o Newcastle CBD News
Mr J Doyle, c/o Doyle Partners
R D Lundy, c/o City Pharmacy
Mr T Smith
Ms R Campbell of Telford Street, Newcastle East
Mr P Whiteside of Tyrell Street, The Hill
C Briggs of Shepherds Place, Newcastle East
Mr S Campbell of Newcomen Street, Newcastle.

93. Submission from Mr C Speek, Acting Team Coordinator, Development Assessment for the City of Newcastle Council (Council) dated 14 July 2015: In this letter, Council advise that "development consent is required and in place" and that the Application "has been reviewed by Council's Community Safety Facilitator, who raises no concerns with the proposal".
94. Submission from Sergeant WD Buck, Licensing Unit at Newcastle City Local Area Command (LAC) of the NSW Police, dated 31 July 2015: Police request that if the licence is granted, that the following conditions be placed upon the licence:
 - a) "no ready to drink (RTD) pre mixed alcohol products are to be sold at the premises"
 - b) "cask wine is not to be sold at the premises"
 - c) "clean skin wines not to be sold at the premises"
 - d) "the premises will not sell heavily discounted alcohol products"
 - e) "the licensee or representative become a financial and active member of the local liquor accord".
95. Letter from the Applicant to Police dated 16 July 2015: confirming that the Premises "have not and will not stock or sell Alcho-pops, Cask Wine nor RTDs, no Clean Skin wines, nor will we engage in flagrant discount of products".
96. The Applicant contends that the business model of the Premises "is solely geared to deliver premium wines, ciders and craft beers along with a limited selection of imported Liqueurs".
97. The Applicant states that "it is our expressed aim, NOT to contribute to pre-loading of alcohol within Newcastle" and contends that "these principles are our point of differentiation to many other Packaged Liquor outlets/bottle shops".
98. Submission from local resident Ms M Cantwell, of Lawes Street, East Maitland dated 2 September 2015: In this 1-page submission on the official submission form, Ms Cantwell contends that the Premises "will add to Newcastle's vibe of small specialist food and beverage shops" as opposed to "big multinational franchise soulless businesses (eg, Dan Murphys) that ultimately erode our communities".
99. Ms Cantwell states that she is "looking forward to a small quality wine shop available in Newcastle". Ms Cantwell refers to other premises such as the "Souk Drawer" and the

"Essential Ingredient" before contending that "having a range of small specialist suppliers in the Newcastle central area is a valuable resource for those of us who enjoy quality food experiences" and who want to "rebuild" a true community in Newcastle.

100. After discussing current liquor stores available to shop at, Ms Cantwell contends that she would "prefer a small specialist experience with personality and passion". Ms Cantwell acknowledges that she lives in east Maitland but contends that she has dinner parties with friends in Newcastle, Hamilton and Dudley.
101. Ms Cantwell contends "this is a valuable part of our community and it helps to bring that quality vibe to our community" and that "cosmopolitan village atmosphere is a vibe that could really work in the continuing re-emergence and transformation of Newcastle". Ms Cantwell contends that "developing Newcastle this way can make a valuable contribution to being one of the sub-cultures to Newcastle".
102. Report to the Authority dated 3 September 2015 from a delegate of the (then) Secretary of the NSW Trade and Investment (now) the Department of Justice via the Compliance and Enforcement Division of the Office of Liquor Gaming and Racing (OLGR): OLGR note the licensed trading hours sought by the Applicant and that this there is "no history of poor venue compliance or violent incidents" seeing as it is a new licence.
103. OLGR state that a review of its Compliance and Enforcement Division records and the National Police Clearance Certificate did not "disclose any adverse information" regarding the Applicant and a review of "open source material did not disclose any adverse findings regarding the fitness" of the Applicant.
104. OLGR note that the Applicant indicated on the Application form that she had not been refused from holding a liquor licence. However, OLGR note that Compliance and Enforcement Division records indicate that "Ms Brown previously applied" for a packaged liquor licence known as "Le Plonk" at the same address as indicated in this Application, and that that application was refused.
105. OLGR note that the Application describes the proposed business model as "a small up market show front selling high end boutique wines, both Australian and international, craft beers and a range of gourmet offerings such as cheeses and cigars". OLGR note that there are "no bulk sales or discounted liquor offerings targeting a young market" and that the trading hours "match the Newcastle dinner market closing at 7:00pm during the week and at 8:00pm on Thursday to Saturday nights". OLGR observe that the business model of the Premises is "low risk in terms of direct harms of access to alcohol by minors and intoxication".
106. OLGR advise "no objection" to the granting of this Application.
107. OLGR note that the Premises is "not seeking extended trading hours" and that trading hours are also restricted by the development consent. OLGR contend that the "internal venue environment" is "not considered to be appealing to minors and the limited size and layout allows for active supervision of customer by venue staff at all times". On this basis OLGR consider the "risk of access to liquor by minors" as being "considerably reduced".
108. OLGR submit that the "radial density of licensed venues in Newcastle is well above the state average" and that BOCSAR data shows that the "venue is centrally located within a high density hotspot in terms of alcohol related assaults". OLGR report that BOCSAR data shows that from "April 2014 to March 2015:

- a) the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in Newcastle was 4,301 (per 100,000 population) compared to the whole of NSW which had a rate of 301 per 100,000 population
 - b) the rate of *alcohol related disorderly conduct* offences in Newcastle for the same period was 4,494 (per 100,000 population) compared to 95 (per 100,000 population) for the whole of NSW.
109. OLGR submit that this BOCSAR data indicates that the Newcastle "appears to have a significant concentration of alcohol-related anti-social behaviour when compared against the state average". However, OLGR contend that "there is no evidence to suggest that the proposed business model, being that of a small scale bottle shop with reduced trading hours, would contribute to an increased risk of alcohol related assaults or disorderly conduct offences within the location".
110. OLGR contend that there are "six Packaged Liquor licences within the suburb of Newcastle however, it is noted that of the six licences, one is currently not trading and two are restricted to on-line or telephone sales only". OLGR note that the "remaining three licences are typical bottle shops, stocking a vast range of beer, wine, spirits and Ready to Drink pre mixed alcohol products".
111. OLGR contend that the proposed layout of the Premises "does not align itself with the typical bottle shop model" and that the Premises will "target local customers who are looking for something different to take home" or to a "local BYO restaurant". OLGR contend that "there is nothing in the proposed business model that would suggest an elevated or unacceptable risk of access to liquor by minors or other alcohol related harms".
112. OLGR acknowledges that "various stakeholders have contended that the high density of licensed premises in the suburb and the crime data for the neighbourhood place this application in the high risk category to warrant its refusal" however, OLGR also notes that "two stakeholders have also provided their support" for the Application.
113. Development Application (DA) consent No 2014/161 from The City of Newcastle Council (Council) dated 9 April 2014: recording that Council has granted "alterations to building, fitout and change of use from florist to retail (bottle shop)".
114. Council granted the DA subject to conditions including that that "the use and occupation" of the premises "is not to give rise to any offensive noise" and that use of the Premises is subject to the following trading hours:
- | | |
|---------------------|--------------------|
| Monday to Thursday | 10:00am to 8:00pm |
| Friday and Saturday | 10:00am to 9:00pm |
| Sunday | 10:00am to 7:30pm. |
115. Email from Authority Staff dated 13 October 2015: Authority staff invited the Applicant to make comment on the submission received by the Authority from NSW Police, OLGR and the public and request that the Applicant provide a signed copy of the Certificate of Advertising and an amended Plan of Management.
116. Authority staff attached a copy of the decision correspondence in relation to the previously refused application in respect of the Premises regarding the business then proposed to be known as *Le Plonk* and request that the Applicant provide reasons why the Authority should grant the current Application.
117. Authority staff also requested the Applicant provide an explanation for not disclosing the previously refused liquor licence application in Part 3 of the Application.

118. Authority staff also invite the Applicant's consent to the proposed imposition of the following standard conditions for packaged liquor licences: that for the purpose of section 11A of the Act, the 6-hour closure period will be between 4:00am to 10:00am; that the business "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"; that the licensee "join and be an active participant in the local liquor accord"; that the Premises "are to be operated at all times in accordance with the Plan of Management" as may be "varied from time to time after endorsement by the Local Area Commander" and that the "licence cannot be exercised unless and until" the Authority has been provided with "evidence that the Premises at this location are complete and ready to trade".
119. Letter from the Applicant's representative Mr Micah Jenkins of Jenkins Legal Services date 20 October 2015: in response to the email from Authority staff dated 13 October 2015. In this 5-page letter the Mr Jenkins contends that "the proposed business model carries a low risk of social harm because of the manner of operations and mitigating factors that the Applicant is implementing to deliver a net social benefit to the local community".
120. Attached to this letter in a signed copy of the Certificate of Advertising dated 16 October 2015 and a copy of the Plan of Management.
121. In discussing the Community Impact test under section 48(5) of the Act, the Applicant contends that the previous Le Plonk application was noted in section 4 of the Community Impact Assessment report prepared by Key Insights Pty Limited dated July 2015, and at page 17 the author identified business strategies in relation to the overall social impact and how OLGR recommendations were taken on board when the proposed business was re-branded. Mr Jenkins also contends that on pages 17-18, the author of the report also addressed location risk factors and venue risk factors.
122. Mr Jenkins contends that the Applicant relies on "the expert findings" provided in the Consultant report, which supports that the overall social impact of the licence being granted will not be detrimental, as the reasons why the Authority should grant the current Application.
123. Mr Jenkins contends that the Applicant "made a reasonable mistake" when answering the question on the Application form as to whether she had been refused or disqualified from holding a liquor or gaming licence in Australia.
124. Mr Jenkins contends that the Applicant "misunderstood this question as relating to her probity being the reason for the refusal of the previous application, whereby our client thought this question was asking whether she had been refused or disqualified for 'non-fitness' such as whether she was a fit and proper person". Mr Jenkins submits that this question should be marked "yes" and has attached an amended replacement page three of the Application form reflecting this change and signed by the Applicant.
125. Mr Jenkins submits that the cover letter enclosed with the Application dated 2 July 2015, where the Applicant requests that the \$1,000 application fee that she paid for the Le Plonk application be relocated to use for this Application and the reference to the previous application in the Consultant report furnished by the Applicant shows that "our client was not attempting to misrepresent that she had not made an application previously.
126. In response to the Police submission, the Applicant "accepts all of the conditions" proposed by Police in relation to the type of alcohol products to be sold at the Premises.

127. Mr Jenkins acknowledges the letter from O'Sullivan Lawyers dated 24 August and refers to the "pro forma" objections that cite the number of recent licence approvals as a reason for objections.
128. Mr Jenkins acknowledges that OLGR provide statistics in relation to the packaged liquor licence within the suburb of Newcastle and submits that the "pro forma objections do not refer to any statistics or research to substantiate their claim".
129. Mr Jenkins notes that OLGR have "distinguished" the Applicant's business model from a typical bottle shop. Mr Jenkins submits that the community objections are "substantially the same" as the ones made in respect of the previous Le Plonk application and that section 4 of the Consultant report addresses those concerns. Mr Jenkins submits that these community submissions are "self-serving and should be given no weight".
130. Mr Jenkins further submits that the concerns raised by Mr OSullivan as to the density of liquor licenced premises in the Newcastle CBD is a concern that is "not supported by research, nor is the reference to crime data for the neighbourhood in Newcastle substantiated".
131. Mr Jenkins submits that the "proposed liquor-related activity" to be conducted by this business is that set out on page 2 of the Notice of Intention to Apply for a Liquor Licence or a Licence Authorisation dated 1 May 2015.
132. Mr Jenkins disagrees with the submission from Mr O'Sullivan that there is a policy concern arising from the products sold by this new business only being affordable to middle and high income earners.
133. Mr Jenkins refers to section five of the Consultant report provided by the Applicant and confirms the conclusion of the report that "the proposed development would deliver a net social benefit to the local community".
134. Mr Jenkins submits that the Applicant agrees with the general assessment provided by the OLGR letter.
135. Me Jenkins further advises that the Applicant agrees to the conditions proposed by Authority staff in the email from Authority staff dated 13 October 2015.
136. Amended page three of the Application form: stating that the "application for packaged liquor licence, Le Plonk, Newcastle, was formally refused in notice" from the Authority dated 23 July 2014.
137. The Discerning Drop *Plan of Management* dated 19 October 2015: In this 15-page internal business policy document, the Applicant states that the aim of this Plan is to provide "guidance and day to day operations to prevent the risk of harm as too ongoing development of the business and maintaining points of uniqueness and differentiation from other generic "bottle shop" models".
138. The Plan sets out a range of aspects of the proposed new business dealing with such subject matters as the "proposed hours of operation", "the location", "the tenancy", "development consent conditions", "licencing conditions", "the point of sale", "the promotion of product", "discounting and promotion", "responsible promotion of Liquor", "the Character of the tenancy", "the shop front and public presentation", "supervision and layout", "security", "crime and anti-social behaviour in the locale", "crime scene prevention", "liaison with the public", "noise abatement", responsible service of alcohol and staff matters, "staff training and qualifications" and "intoxication".

139. The document states that:
- a) a "considerable amount of pre-lodgement liaison and discussion was conducted to ensure that the result we were aiming for was clearly supported by Council"
 - b) the point of sale is a "control point and deliberately restricts the entry width at the doorway"
 - c) "bulk purchase discounts shall only be offered to our customers via email and newsletters"
 - d) the business "shall not sell clean skin wines"
 - e) the "mode" of the business is not one that is of appeal to a young market sector
 - f) a "major consideration in the shop layout was visual supervision and monitoring" of the Premises
 - g) "CCTV operates in all areas of the shop and externally, and has the facility of being able to be remotely monitored on a smartphone"
 - h) there shall be "no entertainment" at the Premises.
140. The Plan further states that "all staff must have completed their RSA accredited training before commencing work" and that alcohol "will not be sold to intoxicated persons".
141. The Plan states that the Premises "is monitored by 24-hour CCTV security cameras and remote access monitoring", notes remote hold up buttons and that the CCTV system "records the video taken and records will be held for a 12 month period".
142. Certification of Advertising: signed and dated by the Applicant on 16 October 2015.
143. Letter from the Applicant's representative Mr Micah Jenkins of Jenkins Legal Services date 16 November 2015: in response to the email from Authority staff dated 16 November 2015 requesting the Applicant address section 30 of the Act, the Applicant contends that the "primary purpose" to be carried out on the Premises is the "sale of liquor for consumption away" from the licensed Premises. The Applicant contends that this is evinced by the following matters:
- a) the business name, which "reflects the intention to primarily be a premium wine shop"
 - b) the style of business operations
 - c) the business model
 - d) the development consent
 - e) the proposed fit-out plan
 - f) the sale of "ancillary products" such as "cigars, delicatessen products, chocolates and flowers" are "ancillary" and "complimentary" to the liquor stock.
144. The Applicant submits that the primary purpose of the business is the sale of liquor for consumption away from the Premises and for this reason the requirements as to a liquor sales area referred to in section 30 of the Act are "not applicable".
145. Email from Authority Staff dated 30 November 2015: Authority staff informed the Applicant that the Application was deferred by the Authority at its meeting held on 25 November 2015. Authority staff request the Applicant to respond to the following advice from the Authority:

The Authority is minded to refuse the application on the basis of overall social impact unless the Applicant can provide adequate wording for a licence condition that is sufficiently precise, certain and enforceable to ensure that in practice this licensed business will actually be confined in its operation to a "specialist" liquor store – as generally contended by the Applicant (high end boutique supplier of wines craft beer etc).

The condition may be specified by way of a fixed and limited list of products, specify a maximum number of product lines in each category and or a minimum price point or a combination of the above.

The Authority notes that the product list provided by the Applicant is illegible and will need to be resubmitted."

146. Letter from the Applicant's representative Mr M Jenkins of Jenkins Legal Services date 2 December 2015: in response to the email from Authority staff dated 30 November 2015 the Applicant attaches the following:

- a) A List of Proposed Conditions: which the Applicant submits will "confine" the proposed business operations to "that of a specialist premium liquor store, with specific product categories and price points with respect to wine, spirits and liqueurs"
- b) An indicative wine order list: which is proposed from the Applicant's proposed wholesaler, Domain Wines, and which provides "recommended retail prices"
- c) An indicative liquor product list: which is a "supportive document" to the proposed conditions for the purpose of providing "illustrative examples of the range of high end/low alcohol liquor products" that the Applicant "intends to stock".

147. Applicant's proposed licence conditions: This document contains the Applicant's updated advice as to conditions to which the Applicant consents:

1. *The licensee must not sell at the premises any of the following products:*
 - a) *ready to drink (RTD) pre Mixed Alcohol products;*
 - b) *cask wine;*
 - c) *clean skin wines; and*
 - d) *heavily discounted alcohol products.*
2. *Furthermore, the licensee must not sell any packaged liquor to individual members of the public unless it is confined to the following categories:*
 - a) *wine (including sparkling and fortified wines) with a minimum price point of \$14.99 per bottle;*
 - b) *spirits with a minimum price point of \$34.99 per bottle;*
 - c) *liqueur minimum \$24.99 per bottle;*
 - d) *premium, craft and imported beer; and*
 - e) *premium, craft and imported cider and mead.*
3. *The licensee must not:*
 - a) *promote heavily discounted alcohol products beneath any price points stipulated in condition 2 including using outdoor notice board promotion or window posters;*
 - b) *offer bulk purchase discounts unless offered to the licensee's subscriber list via email and newsletters when these subscribers elect to receive such correspondence;*
 - c) *advertise undesirable liquor products; and*
 - d) *adopt or promote using advertisements, which contain material relating to or concerning the attributes or virtues of alcoholic beverages EXCEPT:*
 - i. *the brand name or names of alcohol beverages offered for sale;*
 - ii. *the type and/or style of the alcohol beverages offered for sale;*
 - iii. *a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;*
 - iv. *the location and/or times at which the alcohol beverages are offered for sale; and*
 - v. *such other matter as is reasonably necessary to enable potential purchasers to identify the retailer.*
4. *The licensee or representative must become a financial and active member of the local liquor accord.*

148. Indicative product lists: This three-page document provides lists for:

- a) International craft beer
 - b) Imported beers
 - c) Australian premium beer
 - d) Premium / imported ciders
 - e) Spirits.
- to be stocked by the business.

149. Google Map: depicting the location of the Premises.
150. Geographical Map from Council: depicting the location of alcohol free zones and alcohol free areas in 2011 for the Newcastle CBD.
151. BOCSAR Maps based upon data from July 2014 to June 2015 detailing hotspots of offences for the location of the Premises: This data, obtained by Authority staff from published BOCSAR sources, indicates the immediate location and areas surrounding the Premises, at 1/38 Bolton Street, Newcastle *is* located within a high density hotspot for incidents of *domestic assault, non-domestic assault* and *malicious damage to property*.
152. Authority licensing records obtained from Authority licensing records indicating the addresses of other liquor licenced premises located within the inner Newcastle suburbs of Birmingham Gardens, Wallsend, Elermore Vale, Minmi, Maryland, Fletcher, Rankin Park and Newcastle. Licencing records indicated that the suburb of Newcastle itself has:
- a) four club licences
 - b) sixteen full hotel licences
 - c) two general licences
 - d) four limited licences
 - e) seventy four on premises licence
 - f) four packaged liquor licences
 - g) two producer wholesaler licence.
153. Authority liquor license density data: This data indicates that the Newcastle Local Government Area (LGA) as a whole recorded:
- a) a rate of 8.75 *packaged liquor licences* per 100,000 persons, which is lower than the New South Wales (NSW) wide rate of 32.85.
 - b) a rate of 3.37 *club licences* per 100,000 persons, which is below the NSW wide rate of 20.48.
 - c) a rate of 6.73 *full hotel licences* per 100,000 persons, which is lower than the NSW wide rate of 30.36.
 - d) a rate of 5.39 *limited licences* per 100,000 persons, which is below the NSW state wide rate of 21.30.
 - e) a rate of 7.41 *on-premises licences* per 100,000 persons, significantly less than the NSW state wide rate of 121.31.
 - f) a rate of 13.46 *producer wholesaler licences* per 100,000 persons, which is less than the NSW state wide rate of 28.76.
154. Data on *Crime by Local Government Area and Alcohol Related Status* obtained from published BOCSAR sources from July 2014 to June 2015. This document indicates that:
- a) the rate of *domestic violence related assault* incidents that were also recorded by reporting Police as *alcohol related* and occurring across the Newcastle LGA, was 148.7 per 100,000 persons, moderately above the New South Wales rate of 122.6 per 100,000 persons.
 - b) the rate of *non-domestic violence related assault* incidents flagged by reporting Police, as *alcohol related* in the Newcastle LGA for 2013 was 272.5, substantially above the State wide rate of 144.
 - c) the rate of *offensive behaviour* offences flagged by reporting Police as *alcohol related* across this LGA was 168.7 per 100,000 persons, well above the State wide rate of 88.2.
 - d) the rate of *assault police* incidents flagged by reporting Police as alcohol related across the Newcastle LGA was 13.1, which is below the 18.2 per 100,000 persons rate for the State as a whole.

155. SEIFA data published by the ABS: Data, prepared on the basis of the 2011 census, indicates that the Newcastle LGA as whole ranked in the eighth decile and the state suburb of Newcastle ranked in the ninth decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

LEGISLATION

156. Division 5 of the Act addresses concerns packaged liquor licences and includes the following provisions:

29 Authorisation conferred by packaged liquor licence

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

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

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

31 Restrictions on granting packaged liquor licences

- (1) *A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:*
- (a) *in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and*
 - (b) *the grant of the licence would not encourage drink-driving or other liquor-related harm.*
- (2) *A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.*
- (3) *In this section:*
- "general store"** means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.
- "service station"** means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

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

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

45 Decision of Authority in relation to licence applications

- (1) *The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.*
- (2) ...
- (3) *The Authority must not grant a licence unless the Authority is satisfied that:*
 - (a) *the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and*
 - (b) *practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and*
 - (c) *if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.*
- (4) ...
- (5) ...
- (5A) *Without limiting subsection (3)(a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:*
 - (a) *is of good repute, having regard to character, honesty and integrity, and*
 - (b) *is competent to carry on that business or activity.*

158. 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.

159. 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.*

160. An application for a packaged liquor licence is a type of licence prescribed by section 48(2).

161. In determining the Application, the Authority has also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

3 Objects of Act

- (1) *The objects of this Act are as follows:*
 - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community.*
 - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
 - (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
- (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
 - (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
 - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
 - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*

APPLICANT CASE ON OVERALL SOCIAL IMPACT

162. The Applicant contends that premises "within 300 metres" were notified with "some 300 notifications" that were hand delivered so that where possible these individuals could be "personally informed of the proposal and asked to comment, positive or negative".
163. The Applicant contends that "in the process of distributing the notification required prior to preparing a Licence Application, individuals were met and discussed the proposed shop, the product, services, delivery and retail character" and that these were conducted on 28 and 29 October 2014.
164. The Applicant acknowledges the submission from the Miromaa ALTC and argues that "one can conclude that this venture is not considered to be detrimental to the Aboriginal community".
165. The Applicant contends that the proposed business has "been provided with overwhelming support from adjoining businesses and residents" with the only objection from Rowies Liquor Store as a result of a previous application. The Applicant contends that this objection was "clearly on an anti-competitive basis and to the detriment of the local community in relation to choice of product and mode of delivery, product knowledge and service delivery".
166. The Applicant contends that the "local community has recognised the objection for what it was; not a concern about liquor outlet density and its correlation with anti-social behaviour but with the threat to competition and maintaining the businesses monopoly in the heart of Newcastle".
167. The Applicant contends that the "wording of the form letters indicate that the supporters" of the petition "were loyal business customers, and obviously not aware of Lawyer O'Sullivan's covering letter".
168. The Applicant contends that as a result of the previous application being refused by the Authority, "comments expressing shock and dismay" were received and even an "officer of Newcastle Council" contacted the Applicant to enquire as to why the shop was not operating, and was "dumbfounded" that the proposal was approved by Newcastle Council yet refused by the Authority.
169. The Applicant contends that "neither the public notification period during the Development Application Assessment, nor consultation with Councillors and the

Stakeholders consultation period resulted in objections nor concerns for the Community, nor community leaders".

170. The Applicant acknowledges that Newcastle had "an unfortunate history of alcohol fuelled anti-social behaviour" but contends that BOCSAR data shows that "alcohol related assaults in the Newcastle inner city are trending downwards by 14.1 per cent per annum over the 4-year period from January 2011 TO December 2014". The Applicant discusses the BOCSAR crime data and concludes that although the "crime data still needs to improve there are many positive signs".
171. The Applicant contends that the Premises "is a very niche-type of packaged liquor licence that further substantially reduces the risk associated" with this Application; that the "business model is a small up market shop front selling high end boutique wines, both Australian and international, craft beers and a range of gourmet offerings such as cheeses and cigars"; that there are "no bulk sales or discounted liquor offerings targeting a young market" and the trading hours "match the Newcastle dinner market".
172. The Applicant contends that approving the Application will support the "Newcastle Revitalisation strategy so vital to urban renewal" as the Premises "represents a fitting re-use of a currently empty shop in an area of professional offices, artisan and boutique retail and coffee shops and burgeoning up market apartment developments". The Applicant contends that the Newcastle City Council has "detailed strategies supporting this type of development".
173. The Applicant contends that the Premises will be "managed by an experienced manager with a vision that fits with the emerging Newcastle character" and the Premises will supply "Premium Wines, local and imported Craft Beers, imported English ciders, imported spirits and liqueurs, cigars, delicatessen products, chocolates and flowers".
174. The Applicant contends that a "Plan of Management and appropriate RSA strategies will mitigate any possible negative impacts associated with this type of licence" and that "approval will deliver a net social and economic benefit to the inner City of Newcastle".
175. The Applicant contends that "wines will be sourced from vineyards in the Hunter Valley and TWC The Wine Company which sources specialist varieties including Barossa, Marlborough, McLaren Vale, Loire Valley and Pyrenees wines".
176. The Applicant submits that the "target market is local consumers looking for something out of the ordinary to take home or to a local BYO restaurant".
177. The Applicant submits that the "price point for these products will only be in range for middle to high income earners with a discerning palate" and that "many of the intended products are not available at any other packaged liquor or retail outlet in Newcastle city".
178. The Applicant submits that the "design theme" of the new business is "somewhat gothic and exotic and is aimed at attracting an up market clientele" and that the Premises is "not large enough for a traditional packaged liquor outlet".
179. The Applicant contends that the "Newcastle City Council, which has a rigorous assessment process, has given DA approval" with planning staff having met "on site and discussed in detail the plans" for this Application. The Applicant also contends that the Council has a "carefully researched Safe Newcastle policy document for dealing with and preventing alcohol-related risk".

180. After discussing the SEIFA data, the Applicant concluded that "the majority of suburbs in the Newcastle LGA are trending upwards, that is the relative disadvantage is lessening, in the period from 2006 to 2011" and that the "improving SEIFA trend for inner Newcastle (and the City of Newcastle) is highly likely to continue".
181. The Applicant discusses the Newcastle Revitalisation and contends that "the proposal for a boutique wine and gourmet goods outlet as approved by Newcastle City Council is an excellent example if the small diversified businesses that are being encouraged to populate the city centre".
182. The Applicant also contends that the "nature of liquor outlets in the inner city is changing from larger entertainment venues to small bars and boutique licensed premises".
183. The Applicant contends that OLGR recommendations from the previous application for Le Plonk were "taken on board" and the Applicant has "re-branded the proposed business to evoke a more sophisticated image in line with the style of business". The Applicant contends that the style of business is a "non-traditional packaged liquor outlet selling boutique wines, craft beers and some gourmet goods" and this makes the "operation low risk".
184. The Applicant contends that the "venue risk factors are determined to be low" as a result of the following:
- a) The licence type - "this is a packaged liquor licence which the literature shows to present a lower risk" than a hotel licence
 - b) Patron capacity - "the small shop size dictates that there will be only small numbers (possibly less than 10) customers in the store at any one time"
 - c) Extended trading - "low risk due to trading hours with the discerning Drop closing at 7:00pm most nights and 8:00pm on Thursday, Friday and Saturday"
 - d) Liquor Accord membership - "the Manager will be a signatory to the Newcastle Liquor Accord"
 - e) Other mitigation strategies - "the boutique style of this business is the most significant mitigating factor" and there is also a "management plan prepared that will address RSA and staff training".
185. The Applicant contends that "given the history of the inner Newcastle it is important for the licensee to remain diligent on RSA and maintain a well-managed bottle shop" which the Applicant will do by adhering to the RSA, adopting the Plan of Management and being an active participant in the Newcastle Liquor Accord.
186. The Applicant contends that the "development will deliver jobs during the renovation phase and contribute to demand for local services once operational" and that there will be "at least one full-time staff person and several part-time positions". The Applicant contends that it will "use local contractors and suppliers as far as possible".
187. The Applicant contends that "given the nature of the business and the proposed latest closing times of 8:00pm Thursday to Saturday there is little risk" that this licensed premises "will present an increased crime risk".

REASONS

188. The Authority is satisfied, on the basis of the Application material before the Authority that, for the purposes of Section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied. This finding is made on the basis of the Application and CIS material and certification of advertising provided by the Applicant.

189. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. This finding is made on the basis of the National Police Certificate provided by the Applicant and the fact that no issues of concern were raised with regard to the Applicant's probity by Police or OLGR who have apparently considered the Application.
190. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Management Plan* and the *House Policy* provided by the Applicant.
191. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent to sell liquor products by retail from the Premises is in place, on the basis of the DA No. 2014/161 issued by the City of Newcastle Council on 9 April 2014 which records the "alterations to building, fit-out and change of use from florist to retail (bottle shop)". The Authority notes that the proposed licensed trading hours sought by the Application fall within permitted hours of use of the Premises (for the purposes of environmental planning legislation) prescribed by this development consent.

Overall Social Impact Test

192. The Authority 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 well-being of the local or broader community.
193. Applying the social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local or broader community.
194. 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 in which the proposed licensed premises is to be located.
195. For the purposes of the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the local community comprises the state suburb of Newcastle while the relevant broader community comprises the Newcastle LGA.

Positive benefits

196. The Authority is satisfied the Applicant has demonstrated, in this Application, that granting the licence will provide some benefit to members of the local and broader community who wish to purchase liquor from an up-market or boutique liquor store that specialises in the type of liquor products that the Applicant proposes to provide and that also stocks certain ancillary gourmet produce.
197. The Authority accepts the Applicant has established that granting the Application will be consistent with the "expectations, needs and aspirations of the community" being an object of section 3(1)(a). The Authority accepts that the Applicant distributed the consultation notice to stakeholders and neighbouring premises and did not receive any adverse comments or complaint from Police, OLGR OR Council. [The Authority notes the absence of adverse submissions from public health agencies and the positive submission from the Miromaa ALTC.]

198. The Authority is satisfied that the current Application received 18 submissions in support of the Application although four of those submissions were made in respect of the previous application and re-submitted for this Application.
199. The Authority is satisfied that one objection was made by the business owner of 55 Hunter Street Newcastle, supported by identically worded petitions signed by 18 people.
200. The Authority notes that the cover submission provided by O'Sullivan Saddington lawyers, raises relevant concerns about licence density and crime data while the identical objecting petition, organised by the owner of 55 Hunter Street Newcastle, refers to concerns by the petitioners about the number of recent licence approvals while indicating some degree of support or customer loyalty for the business making this objection.
201. The Authority is wary of submissions from commercial competitors and pro forma responses arranged by commercial competitors which are likely motivated at least in part by anti-competitive concerns.
202. Nevertheless, competitors, like other residents, may draw the Authority's attention to any prevailing social impact issues in a community - particularly if the data they cite is from a source that is independent from the competitor.
203. The submission from Mr O'Sullivan raises relevant concerns and refers to independent data regarding local crime rates and liquor outlet density. The submission also raises legitimate concerns as to the extent to which this Application as it was initially framed would actually ensure that the type of specialty liquor business proposed by the Applicant would actually be maintained over time.
204. The extent to which a community is already serviced by a range and number of liquor operators is relevant to an assessment of overall social impact in that the number and range of incumbent suppliers in a community may diminish or increase the scope for a new business of the type proposed to provide additional positive community benefits by way of (for example) increased convenience or choice. Those benefits may be objectively reduced if there is already a number and range of licensed businesses providing similar products or services to the community to that proposed by a new applicant.
205. If licence density is already high, this may provide cause for concern, particularly if the community is already vulnerable or over exposed to adverse alcohol related social impacts. By contrast, if prevailing licence density and variety of licensed premises is limited then this may assist an applicant to establish that it will genuinely offer benefits by way of convenience or choice or development of the industry.
206. When pressed by the Authority to do so, the Applicant has proposed, in the later stages of this Application, the imposition of conditions that would structure the licensed business operating on the Premises. The Authority is satisfied, on the basis of the Applicant's proposal and these Conditions, that the licensed business will be a smaller "boutique" style of operation that stocks "specialist" wines and "boutique products" alongside the ancillary gourmet produce described in the Application.
207. The Authority is satisfied that this type of business would diversify the range of options available to the local and broader community seeking to purchase packaged liquor within Newcastle.

208. In this sense the Authority is satisfied that the proposed new business will develop, in the public interest, the liquor industry that serves the local and broader community, which is an object of section 3(1)(b) of the Act.
209. The Authority often receives submissions to the effect that a proposed new liquor business will serve a "sophisticated" clientele. However, the Authority is aware that once a new licence is granted the business may change hands, business managers may change, licensees may change and premises owners may change over time.
210. The licence is issued in respect of a premises and remains attached to those premises until removed, surrendered, or cancelled pursuant to disciplinary action or failure to pay annual licence fees.
211. The Applicant have now agreed to enforceable conditions that will meaningfully restrict the type of liquor business to operate on the Premises, including enforceable licence conditions restricting the business to wine with a minimum price point of \$14.99 per bottle, spirits with a minimum price point of \$34.99 per bottle, liqueur with a minimum price point of \$24.99 per bottle, premium, craft and imported beer and premium, craft and imported cider and Mead. The Authority notes that the Applicant also consented to conditions that it will not sell ready to drink pre mixed alcohol products, cask wine, clean skin wines and heavily discounted alcohol products.
212. These conditions help establish the positive case for granting this licence and also assist the Authority is finding satisfaction that the negative impacts that may otherwise be expected to arise from the operation of a mainstream liquor store will be reduced.

Negative impacts

213. The Authority accepts that over time there will likely be some contribution from the liquor sold at the Premises to alcohol related crime, disturbances or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
214. The Authority does not accept the Applicant's submission that the style of business or the type of products to be stocked will cause little or no harm to the community. Alcohol is regulated by the Act by reason that it is a dangerous product capable of having substantial adverse impacts upon a community.
215. Some communities demonstrate greater relative exposure or vulnerability to alcohol related harm than others. In those cases, close scrutiny will be given by the Authority when assessing the overall social impact of granting a new licence, given the potential for a new business to at least contribute to a challenging regulatory environment in those communities.
216. Notwithstanding the Applicant's somewhat self-serving submissions to the effect that certain persons were "dumbfounded" by the Authority's rejection of the previous application, any reasonably well informed person who has read Authority Guideline 6 and is aware of the many published decisions on the Authority's web site will appreciate that an applicant seeking a new liquor licence in a community that is overexposed to alcohol related crime or antisocial conduct will need to provide a well-supported case to satisfy the Authority as to the test prescribed by section 48(5) of the Act.
217. Notwithstanding the Applicant's submissions that certain crime rates in Newcastle are declining over time and that the socio economic profile of Newcastle is improving (which the Authority accepts to be the case) the crime data for the local and broader community

remain problematic and pose serious concerns as to the nature and extent of adverse liquor related impacts in the Newcastle LGA and the suburb of Newcastle.

218. The BOCSAR report *Crime by Local Government Area and Alcohol Related Status* for calendar year 2014 noted above satisfy the Authority that the rates of:
- alcohol related domestic assault*
 - alcohol related non-domestic assault*
 - alcohol related offensive behaviour*
- are all significantly above State wide rates, some substantially so.
219. The Authority is further satisfied that BOCSAR data from July 2014 to June 2015 that indicates that the Premises *is* located within:
- high density hotspots for incidents of *domestic assault*
 - high density hotspots for *non-domestic assault*
 - high density hotspots for *malicious damage to property*.
220. However, the Authority accepts that this boutique liquor store may be less likely to be targeted by youths or young adults seeking to utilise liquor for impulse consumption, public drinking and pre fuelling given its focus on specialist products, higher price range and reduced trading hours.
221. The Authority does not consider that licence density for the broader community of the Newcastle LGA is particularly high. The Newcastle LGA as a whole recorded a rate of 8.75 *packaged liquor licences* per 100,000 persons, which is substantially lower than the NSW state wide rate of 32.85. The LGA as a whole recorded a rate of 3.37 *club licences* per 100,000 persons, which is substantially lower than the NSW state wide rate of 20.48. The LGA also recorded a rate of 6.73 *full hotel licences* per 100,000 persons, which is substantially lower than the NSW state wide rate of 30.36. The Authority accepts that Newcastle LGA also had significantly lower rates of *limited licences, on-premises licences* and *producer wholesaler licences*.
222. Licence density at the level of the local community is higher, particularly in respect of hotels and on premises licensed venues (which mostly comprise restaurants). The Authority notes that the Licencing records indicate that the suburb of Newcastle has:
- four club licences
 - sixteen full hotel licences
 - two general licences
 - four limited licences
 - seventy four on premises licence
 - four packaged liquor licences
 - two producer wholesaler licence.
223. There is cause for concern arising from the prevailing licence density in respect of those licensed businesses authorised to sell packaged liquor in the local community – packaged liquor, full hotels and registered clubs. This is an adverse factor and a cause of concern as to overall social impact – in that higher outlet density is associated in the research with adverse social impacts (see for example Livingston, M: "Alcohol outlet density and harm: Comparing the impacts on violence and chronic harms" Drug and Alcohol Review (September 2011) Australasian Professional Society on Alcohol and Other Drugs, as noted in Authority Guideline 6).
224. Ordinarily, the range and number of businesses that are already selling retail packaged liquor in a local community would also tend to diminish the cumulative benefits of granting another packaged liquor licence, although in this case the Applicant has sufficiently distinguished this business as discussed above.

225. Alcohol related domestic violence rates in a community is of particular concern to the Authority when assessing a packaged liquor application, given that BOCSAR data for this community and NSW generally typically records that the overwhelming locus of this crime occurs in private residences, where packaged liquor is also intended to be consumed.
226. In this respect the crime rates for the broader community of the Newcastle LGA on alcohol related domestic violence is above State averages, albeit not as problematic as the other alcohol related crime categories.
227. In summary, the crime data in respect of the local and broader community is such that the Authority would not have granted a licence for this location at this time but for the boutique nature of the business and the enforceable licence controls that were consented to by the Applicant.
228. The Authority notes that SEIFA data from ABS indicates that the Newcastle LGA ranked in the eighth decile and the state suburb of Newcastle ranked in the ninth decile compared to other local government areas in the state on the IRSAD (with a decile ranking of 10 being the most advantaged). This data substantiates the Applicant's claims as to the increasing affluence of the relevant communities and that a licensed business of this type may serve the expectations, desires and aspirations of the local community. It also provides re-assurance that the local and broader community are not exposed to the potentially compounding effects of socio economic disadvantage, which is recognised as a compounding risk factor noted in the research with regard to domestic violence (Livingston, M: "A longitudinal analysis of alcohol outlet density and domestic violence" *Addiction* (2011) Society for the Study of Addiction, as noted in Guideline 6). While the cause of domestic violence and complex, lower socio economic status is a factor associated with the prevalence of domestic violence in a community. The relatively high socio economic status of the local community is a positive factor in support of this Application and also assist to establish the Applicant's bona fides in providing an up market option.
229. The Delegate is satisfied that the following aspects of the particular business proposal will objectively operate to constrain the extent of adverse social impact arising from the abuse of packaged liquor. These factors have played a central role in the decision to grant the licence.
230. First, the business will be constrained by the following conditions consented to by the Applicant:
1. *The licensee must not sell at the premises any of the following products:*
 - a) *ready to drink (RTD) pre Mixed Alcohol products;*
 - b) *cask wine;*
 - c) *clean skin wines; and*
 - d) *heavily discounted alcohol products.*
 2. *Furthermore, the licensee must not sell any packaged liquor to individual members of the public unless it is confined to the following categories:*
 - a) *wine (including sparkling and fortified wines) with a minimum price point of \$14.99 per bottle;*
 - b) *spirits with a minimum price point of \$34.99 per bottle;*
 - c) *liqueur with a minimum price point of \$24.99 per bottle;*
 - d) *premium, craft and imported beer; and*
 - e) *premium, craft and imported cider and mead.*
 3. *The licensee must not:*
 - a) *promote heavily discounted alcohol products beneath any price points stipulated in condition 2 including using outdoor notice board promotion or window posters;*

- b) *offer bulk purchase discounts unless offered to the licensee's subscriber list via email and newsletters when these subscribers elect to receive such correspondence;*
 - c) *advertise undesirable liquor products; and*
 - d) *adopt or promote using advertisements, which contain material relating to or concerning the attributes or virtues of alcoholic beverages EXCEPT:*
 - i. *the brand name or names of alcohol beverages offered for sale;*
 - ii. *the type and/or style of the alcohol beverages offered for sale;*
 - iii. *a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;*
 - iv. *the location and/or times at which the alcohol beverages are offered for sale; and*
 - v. *such other matter as is reasonably necessary to enable potential purchasers to identify the retailer.*
4. *The licensee or representative must become a financial and active member of the local liquor accord.*

231. While a business operating under these restrictions is not immune to risk, the Authority is satisfied that these conditions will more likely than not reduce the appeal of this business to minors or young adults engaging in anti-social conduct associated with the abuse of packaged liquor, such as under-age drinking, public drinking or pre fuelling before attending licensed premises.

232. In addition to these conditions, the Authority acknowledges that the Applicant has also consented to the proposed imposition of the following standard conditions imposed with respect to packaged liquor licences: that for the purpose of section 11A of the Act, the 6-hour closure period will be between 4:00am to 10:00am; that the business "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"; that the licensee "join and be an active participant in the local liquor accord"; that the Premises "are to be operated at all times in accordance with the Plan of Management" as may be "varied from time to time after endorsement by the Local Area Commander" and that the "licence cannot be exercised unless and until" the Authority has been provided with "evidence that the Premises at this location are complete and ready to trade".

233. The Authority notes that the licensed trading hours sought by the Applicant are as follows:

Sunday to Wednesday	10:00am – 7:00pm
Thursday to Saturday	10:00am – 8:00pm.

234. The Authority notes that the licenced trading hours sought are relatively moderate by comparison to the potential standard trading hours available for packaged liquor businesses and the hours exercised by many supermarket aligned and stand-alone liquor stores. The proposed business will not trade into traditionally higher risk times of the day or week, such as later on weekend evenings. This has been another factor objectively mitigating the scope for this liquor business to adversely impact the local and broader community and has been influential in granting the licence.

235. The Authority notes the absence of any adverse submissions Police, Council, Miromaa ALTC or OLGR. That is, no submissions have been made identifying localised concerns with the abuse of packaged liquor in or near the particular location of the Premises, although the Authority considers it obvious from the BOCSAR mapping data that there remains a considerable problem with alcohol related crime in the local and broader community – particularly alcohol related offensive conduct, assault police and non-domestic assault.

236. The Authority is satisfied that the moderate size of the venue is another mitigating factor. The licensed area of the shop will constitute a relatively small scale venue of approximately 70 square metres.

237. The Authority has also had regard to the comprehensive harm minimisation measures through its *House Policy* and *Plan of Management* dated 19 October 2015. This document satisfies the Authority that the Applicant and all staff members will be adequately trained and will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the Premises is constrained.

CONCLUSION

238. Considering together the found positive benefits and taking into account the factors which are likely to objectively constrain or minimise the extent of negative impacts arising from the operation of this business in this community, 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.
239. In making this decision the Authority has considered all of the statutory objects prescribed by section 3(1) of the Act and the considerations prescribed by section 3(2) of the Act.
240. The Authority is satisfied that it is in the public interest to grant the licence with the trading hours as per the Application. For the purposes of section 11A of the Act the daily 6-hour closure period will be fixed at between 4:00am and 10:00am daily.
241. In making this decision the Authority emphasises, for the information of the current or any future licensee, that the Applicant has only been successful in receiving a packaged liquor licence by reason of the commitments made by the Applicant as to the scope and nature of the business, the scale of business, licence conditions and trading hours proposed by the Applicant, CIS and subsequent submissions.



Micheil Brodie
Chief Executive

DATED 19 FEB 2016