



Mr Euripides Viropoulos
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CAMPERDOWN NSW 2050

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Dear Mr Viropoulos

Application for Packaged Liquor Licence – Camperdown Cellars, Rozelle

I am writing to you regarding an application (Application) made by Mr Euripides Viropoulos on behalf of Camperdown Cellars Pty Limited (Applicant), which was received by the Independent Liquor and Gaming Authority on 19 August 2014.

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

Processing of the Application was delayed by reason that the Applicant did not furnish evidence of development approval for the proposed use of the premises situated at 634 Darling Street, Rozelle until 16 March 2015.

The Delegate first considered the Application on 27 April 2015, but a decision was deferred to allow the Applicant sufficient time to respond to a paper published by the NSW Bureau of Crime Statistics and Research in December 2014. The Delegate reconsidered the Application on 3 July 2015 and has decided, pursuant to section 45 of the *Liquor Act 2007*, to *refuse* the Application.

An Authority staff member provided informal advice of the outcome of the Application in an email dated 13 August 2015. This letter provides the formal decision and reasons.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*. The attached statement of reasons has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

If you have any queries, please contact the case manager, Ms Trudy Tafea, via email at trudy.tafea@ilga.nsw.gov.au.

Yours faithfully

Micheil Brodie
Chief Executive

18 SEP 2015

STATEMENT OF REASONS

INTRODUCTION

1. On 19 August 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made on behalf of Camperdown Cellars Pty Limited by its Director, Mr Euripides Viropoulos (Applicant).
2. The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) in respect of premises located at 634 Darling Street, Rozelle, NSW 2039, to be known as "Camperdown Cellars, Rozelle" (Premises).
3. The proposed trading hours of the premises are as follows:

Monday to Saturday	10:00am to 9:00pm
Sunday	10:00am to 8:00pm.
4. Processing of this Application was delayed by reason that development approval for the Premises was not granted by Leichhardt Municipal Council until 26 February 2015. The determination of this Application was further delayed to provide the Applicant with an opportunity to respond to a paper published by the NSW Bureau of Crime Statistics and Research (BOCSAR) in December 2014 titled "The effect of liquor licence concentrations in local areas on rates of assault in NSW".
5. As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to a committee (Delegate) the power to grant certain packaged liquor licence applications that fall within a designated risk threshold. This Application falls within the relevant threshold, enabling the matter to be determined under delegation. The committee comprises the Chief Executive and the Manager, Licensing.

MATERIAL BEFORE THE DELEGATE

6. Application Form and Community Impact Statement (CIS) filed with the Authority on 19 August 2014. In the Application Form, the Applicant discloses that a development application was lodged with Leichhardt Municipal Council (Council) on 6 August 2014 which, as at the date of the Application, was still pending.
7. In the CIS document, the Applicant also made a number of contentions as to the overall social impact of granting the Application. These are discussed in further detail below.
8. Plan of the Premises. A diagram showing the Premises and the boundary of the proposed licensed area.
9. Australian Securities and Investments Commission (ASIC) company extract for Camperdown Cellars Pty Limited, dated 14 March 2013. This document gives details relating to Camperdown Cellars Pty Limited and identifies the Director and Secretary of that company as Mr Euripides Viropoulos.
10. Appointment of manager notice, dated 25 November 2014. This form notifies the Authority of the appointment of a manager to the Premises, pending the approval of the Application. The proposed manager is Mr Simon Osbeiston.
11. Approved manager approval form, dated 25 November 2014. This form seeks approval of Mr Osbeiston as an approved manager of the Premises (Approved Manager).

12. Information relating to the proposed Approved Manager, including a copy of the Approved Manager's driver's licence, bank card, Medicare card, Responsible Service of Alcohol Certificate, and a National Police Certificate. The National Police Certificate declares that the Approved Manager has "...no disclosable Court outcomes or pending charges" as at 25 November 2014.
13. Email submission from NSW Police, Leichhardt Local Area Command (LAC) by Sergeant Scott West, dated 17 September 2014. This submission states that "...Police are very mindful of the criminal history of the Applicant" and that "...Police are concerned with the number of bottle shop premises within the area of the new application". However, Police comment that there are not sufficient grounds to object to the Application.
14. Email submission from a resident of Rozelle (name redacted) to the Authority, dated 28 August 2014 (Public Submission). The Public Submission objects to the Application on the grounds that the Premises is situated metres from Rozelle Public School and from the main thoroughfare for students of Balmain High School to walk to buses on Victoria Road.
15. Submission from the Office of Liquor, Gaming and Racing (OLGR), dated 17 March 2015 (OLGR Report). The OLGR Report does not object to the Application, but expresses concern as to the number of licensed premises in Rozelle that are currently authorised to sell packaged liquor. The OLGR Report notes that there has been no objection made by NSW Police, but that Police have drawn attention to the number of premises licensed to sell packaged liquor in the local area and the criminal history of the Applicant.
16. The OLGR Report also notes the Public Submission objecting to the Application on the basis of the proximity of the Premises to the Rozelle Public School.
17. The OLGR Report submits that the proposed licensed business type (a packaged liquor business) presents as a moderate risk operation. However, while the Director, Compliance and Enforcement does not object to the Application, the OLGR Report raises concerns regarding the existing number of licensed premises in Rozelle, noting that the radial density of liquor licensed premises for the location of the Premises is above the State average.
18. Specifically, the OLGR Report notes that there are two packaged liquor providers (*Liquorland Express* and *Cellarbrations*) and eight hotels licensed to sell packaged liquor within Rozelle. The OLGR Report further comments that there is a multitude of packaged liquor providers in the suburb of Balmain (which the Delegate notes closely neighbours Rozelle).
19. The OLGR Report refers to data from BOCSAR for the period from October 2013 to September 2014 and raises some cause for concern as to comparative crime rates in the suburb of Rozelle. Notably, the OLGR Report refers to the rate of *alcohol related disorderly conduct offences* within Rozelle, which was 128 per 100,000 persons, compared to the State wide rate of 105 per 100,000 persons.
20. Of particular concern to OLGR is the rate of *alcohol related domestic assault* in Rozelle, which was 152 per 100,000 persons, compared to the rate of 135 per 100,000 persons for NSW as a whole. The OLGR Report observes that "...Rozelle appears to have a moderate concentration of alcohol related harm when compared to the State average".
21. National Police Certificate for the Applicant, issued 10 March 2015. This Police Certificate states that there are two disclosable Court outcomes recorded against the

Applicant. The first Court outcome (dated 20 April 2006 at Newtown Local Court) is a conviction for the offence of *maliciously inflict grievous bodily harm*. A fine of \$1,200 is recorded for the offence. The second Court outcome (dated 18 October 2006) is an appeal to the NSW District Court against the conviction for the offence of *maliciously inflict grievous bodily harm*. The appeal upheld the decision of the Local Court.

22. Development Approval number D/2014/694 issued by Leichhardt Municipal Council, dated 26 February 2015 (DA). This document is addressed to Milestone (Aust) Pty Limited and records the grant of development consent for alterations to the Premises for use as a liquor retail shop. The DA confines the hours of use of the Premises (for the purposes of planning legislation) to between 10:00am and 10:00pm Monday to Saturday, and 10:00am and 8:00pm Sunday and public holidays. The DA also deals with, *inter alia*, the regulation of construction, fire safety, maintenance, and amenities.
23. Email submission to the Authority from the Applicant responding to the Public Submission and providing details relating to trading hours, development approval and participation in the Local Liquor Accord, dated 16 March 2015. In this email, the Applicant notes that the proposed licensed trading hours of the Premises are from 10:00am to 9:00pm Monday to Saturday, and from 10:00am to 8:00pm on Sunday.
24. The Applicant submits that the Premises will operate "...pursuant to the Development Consent" and contends that the business will deliver convenience and will not adversely impact the neighbourhood. The Applicant also states that the Approved Manager of the licensed business will join and be an active member of any Local Liquor Accord.
25. In response to the Public Submission, the Applicant contends that while the Premises is located near the Rozelle Public School, the "...young age of the children attending the Primary School" makes it unlikely that they will be "...presenting themselves unattended by a parent or guardian in the Proposed Premises".
26. The Applicant notes that Rozelle Public School was notified of the Application, but no submission in response to the Application was received from the school. The Applicant assumes, on this basis, that the Application does not present a problem for the school.
27. Submission from the Applicant in relation to the Applicant's criminal record, dated 16 March 2015. The Applicant submits that there has never been any incident prior or subsequent to the convictions that are recorded in his National Police Certificate.
28. In relation to his prior conviction, the Applicant contends that he was "...the victim of road rage". The Applicant contends that he became engaged in a confrontation with a cyclist and that as a result of that confrontation, the cyclist "...fell over and injured his wrist". The Applicant notes that the Court did not accept the Applicant's version of events and consequently he was convicted of a serious offence.
29. The Applicant also argues that the conviction does not imply dishonesty or relate to his knowledge of how to sell alcohol or of his obligations in this regard, and as such should not be taken into account in assessing whether or not he is a fit and proper person for the purposes of section 45(3)(a) of the Act.
30. *Camperdown Cellars House Policy* dated March 2015. This document details the business policies of Camperdown Cellars with respect to responsible service of alcohol (RSA). The policies require that staff of Camperdown Cellars do not sell alcohol to any person under the age of 18 by requiring identification in the form of a current driver's or rider's licence, a current passport or NSW Photo ID Card from any person who appears to be under the age of 25. These policies also require the refusal of service to any

person who appears to be intoxicated; refusing service to anyone who is wearing a school uniform (regardless of age); ensuring that liquor is not consumed on the Premises or displayed outside the licensed area and ensuring that all staff involved in the sale and supply of liquor are RSA certified. This document also includes strategies for identifying persons who are under 18 or who are intoxicated.

31. Court transcript for the matter of *Police v Euripides Viropoulos*, dated 3 February 2006. This transcript has been retrieved from a previous application made by the Applicant for a packaged liquor licence and extended trading authorisation for Camperdown Cellars & Grocer, Double Bay.
32. This transcript records a Court hearing in which the Applicant is charged with the offences of *maliciously inflict grievous bodily harm* and *assault occasioning actual bodily harm*.
33. The altercation that led to the charges occurred between the Applicant and another male who was cycling (Cyclist). The Applicant was driving and overtook the Cyclist, sounding his horn as he overtook. The Cyclist caught up with the Applicant's car while it was stopped in traffic and knocked on his window. The Applicant then got out of his car and an altercation ensued.
34. The transcript includes testimony from the victim, the Cyclist, who alleges that the Applicant sounded his horn in an aggressive fashion and that on approaching the Applicant's car in traffic, he lightly tapped on the window of the car. The Cyclist contends that the Applicant then got out of his car and pushed the Cyclist over, causing a "...comminuted undisplaced fracture" of the Cyclist's wrist which had "...resolved without surgical intervention".
35. The transcript includes testimony from a witness to the incident who gave evidence that the Applicant, after getting out of his car, yelled "...Don't touch my fucking car", then "...pushed [the Cyclist] with open hands" and "he [the Cyclist] fell over".
36. The transcript also includes testimony from the Applicant, who contended that the Cyclist struck the Applicant's car repeatedly with a closed fist. The Applicant contends that he then got out of the car and the Cyclist screamed obscenities at him and moved toward him. The Applicant contends that he then pushed the Cyclist away, using very minimal force, which caused the Cyclist to stumble and fall.
37. The transcript records that the Applicant was convicted by Newtown Local Court of the offence of *maliciously inflict grievous bodily harm*.
38. NSW BOCSAR paper entitled, "*The effect of liquor licence concentrations in local areas on rates of assault in New South Wales*", dated December 2014 (BOCSAR Paper). The BOCSAR Paper investigates the relationship between liquor licence concentrations and assault rates within local government areas in NSW.
39. The BOCSAR Paper finds that the concentration of hotel licences in a local government area was strongly predictive of both domestic violence and non-domestic violence assault rates.
40. The BOCSAR Paper also found an association between the concentration of packaged liquor licences and reported domestic and non-domestic violence assault rates – although that association was slightly weaker than for hotels.

41. Relationships between other types of liquor licences and crime rates were also reported. The BOCSAR Paper concludes that "...authorities should be concerned about increases in liquor outlet density".
42. Authority licensing records dated June 2015. These records, which are updated regularly and are available for purchase from the Office of Liquor, Gaming and Racing, indicate that as of June 2015 within the Leichhardt Local Government Area (LGA) (comprising the suburbs of Annandale, Balmain, Balmain East, Birchgrove, Camperdown, Leichhardt, Lilyfield and Rozelle), there are:
 - (a) thirty (30) packaged liquor licensed premises
 - (b) thirty-three (33) full hotel licensed premises
 - (c) four (4) club licensed premises.
43. The Delegate notes that packaged liquor licensed premises, full hotel licensed premises (as distinct from general bars) and club licensed premises are all types of licensed premises that have the authorisation to sell liquor for consumption off the licensed premises. Authority licensing records disclose a total of 67 licensed premises falling within those three categories across the Leichhardt LGA.
44. Authority licensing records further indicate that there are three packaged liquor licensed premises, nine full hotel licensed premises and one club licensed premises within the State suburb of Rozelle alone.
45. Furthermore, within the close neighbouring suburb of Balmain (to the east of Rozelle), there are six packaged liquor licensed premises, 13 full hotel licensed premises and one club licensed premises. The Delegate notes that the Premises is located towards the Balmain side of Rozelle.
46. Authority licence density data, recording the liquor licence density rate for the population within the 2039 postcode (which contains only the suburb of Rozelle), the Leichhardt LGA and the state of NSW.
47. This data indicates that the 2039 postcode has 50.48 *packaged liquor licences* per 100,000 persons, compared with 24.91 packaged liquor licences per 100,000 persons for the Leichhardt LGA and 32.85 packaged liquor licences per 100,000 persons for NSW as a whole.
48. This data indicates that the 2039 postcode has a rate of 100.96 full hotel licences per 100,000 persons, compared with 19.16 full hotel licences per 100,000 persons for the Leichhardt LGA and 30.36 full hotel licences per 100,000 persons for NSW as a whole.
49. This data indicates that the 2039 postcode has a rate of 37.86 *club licences* per 100,000 persons, compared with 9.58 club licences per 100,000 persons for the Leichhardt LGA and 20.48 club licences per 100,000 persons for NSW as a whole.
50. Publicly available BOCSAR crime mapping data before the Authority for October 2013 to September 2014. This crime mapping data indicates that the Premises is located near a high density hotspot for the concentration of *domestic assault offences*. The Premises is located near a medium density hotspot for the concentration of *non-domestic assault offences* and the Premises is located within a high density hotspot for the concentration of offences involving *malicious damage to property*.
51. Crime data sourced from BOCSAR for calendar year 2013 detailing rates of offences for the Leichhardt LGA compared to NSW as a whole. This data details rates of both *alcohol related incidents* and *non-alcohol related incidents*. It indicates that for calendar year

2013, the rate of *domestic violence assault* incidents across the Leichhardt LGA as a whole was 222 per 100,000 persons, well below the rate for NSW as a whole which was 410 per 100,000 persons. The rate of *non-domestic assault* incidents in this LGA was 297 per 100,000 persons, substantially below the rate of 489 for the State as a whole. The rate of *assault Police* incidents in this LGA was 37 per 100,000 persons, almost the same as the State wide rate at 38 per 100,000 persons. The rate of *malicious damage to property* incidents across this LGA was 992 per 100,000 persons, below but approaching the NSW rate of 1,102 per 100,000 persons.

52. With regard to alcohol related offences, the rate of *alcohol related domestic assault* incidents across the Leichhardt LGA as a whole was 92 per 100,000 persons, below the rate for NSW as a whole which was 145 per 100,000 persons. The rate of *alcohol related non-domestic assault* incidents in this LGA was 132 per 100,000 persons, below the rate of 191 for the State as a whole. The rate of *alcohol related assault Police* incidents in this LGA was 31 per 100,000 persons, above the rate for NSW as a whole of 24 per 100,000 persons. The rate of *alcohol related malicious damage to property* incidents across this LGA was 82 per 100,000 persons, which is below the NSW rate of 122 per 100,000 persons.
53. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) in 2011, indicating that the suburb of Rozelle is ranked in the tenth decile on the Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) for all suburbs in NSW. The 2039 postcode (which contains only the suburb of Rozelle) is ranked in the tenth decile on the IRSAD for all postcodes in NSW, and the Leichhardt LGA is also ranked in the tenth decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most advantaged).

LEGISLATION

54. The power to grant a packaged liquor licence is provided by section 45 of the Act, which states as follows:
 - 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.*
55. 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.

56. Section 48(5) of the Act states as follows:

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.*

57. An application for a packaged liquor licence is a type of licence prescribed by section 48(2) requiring a CIS and satisfaction of the overall social impact test.

58. In determining the Application, the Delegate also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states as follows:

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

CIS Document dated 7 August 2014

59. In the CIS document dated 7 August 2014, the Applicant contends that the Premises will provide variety and range to the community which is presently "...dominated by chain store outlets where the range is strictly controlled and the choice is limited". The Applicant states that the Premises will offer "...a boutique style liquor range with a focus on Fine Wine" and will provide a point of difference by offering "...a range of select and obscure items".

60. The Applicant lists the positive social impacts of the Application as follows:

- (a) Camperdown Cellars is a significant employer. This in turn provides growth for residents, including employment stability in the region
- (b) The Premises will fulfil a genuine expectation by the public to have choice in where they purchase liquor
- (c) The Premises will provide convenience, service and choice
- (d) The Premises will provide a broader range of goods and services.

61. The Applicant states that the Camperdown Cellars business has been operating for more than 50 years and presently operates seven (7) stores across Sydney. The Applicant contends that Camperdown Cellars does not sell large volumes of liquor and that the

average sale across its stores is two items per customer, with an average spend of \$27 or less.

62. The Applicant contends that more than 50 per cent of the goods sold are bottle wine products and less than 5 per cent are pre-mixed drinks, which the Applicant submits illustrates that its clientele are of mature age and are sophisticated liquor consumers.
63. The Applicant describes the scale of the Premises as small with a floor space of approximately 140 square metres.
64. The Applicant refers to ABS census data from 2011 in support of the Application and contends that this data indicates that the residents of the suburb of Rozelle are "...enjoying high socio-economic benefits".
65. The Applicant refers to ABS SEIFA data which indicates that the Leichhardt LGA is ranked in the 91st percentile band for NSW "...and therefore well above the NSW state average". The Applicant submits that income levels and education levels in the Leichhardt LGA are high.
66. The Applicant contends that the BOCSAR crime data indicates that the Leichhardt LGA has low levels of alcohol related crime and "...enjoys low levels of alcohol related assaults, weekend alcohol attributed incidents of assault, alcohol related assault occurring on licensed premises and driving under the influence of alcohol".
67. The Applicant provides a graph sourced from BOCSAR which tracks the number of liquor offences recorded in the Leichhardt LGA from 2007 to 2011. The Applicant submits that in this time, alcohol related offences remain lower than the NSW state average.
68. The Applicant submits that while there are already a significant number of licensed premises that are capable of selling packaged liquor in the suburb of Rozelle, the rates of alcohol related crime indicate that "...the population has demonstrated an ability to consume responsibly".
69. The Applicant makes the alternative submission that with such a high density of existing licences that are capable of selling packaged liquor, the addition of one more licence "...will not generate any new drinkers" nor "...change existing consumer behaviour".
70. The Applicant notes that Police do not object to the Application.
71. The Applicant contends that there are no sensitive facilities located near the Premises, but notes that Rozelle Primary School is located nearby at 663 Darling Street, Rozelle. However, the Applicant submits that as this is a junior school and for this reason it is highly unlikely that the students will be presenting themselves at the Premises.

Further Applicant submission dated 29 April 2015

72. In response to the BOCSAR Paper published in December 2014, the Applicant submits that BOCSAR found that the concentration of hotel licences, rather than the concentration of packaged liquor licences, was most strongly linked with a rise in the incidence of *domestic violence related assault*.
73. The Applicant contends that Rozelle is a low risk community as there are "...no potentially sensitive facilities near the Proposed Store". The Applicant submits that the SEIFA data indicates that Rozelle is an advantaged community, and notes that the Leichhardt LGA has a score of 1,078.9 on the IRSAD.

74. The Applicant further submits, on the basis of BOCSAR crime data for the Leichhardt LGA, that *alcohol related domestic violence* and *alcohol related non-domestic violence* are trending downwards.
75. The Applicant submits that this data indicates that *alcohol related domestic violence* across the Leichhardt LGA has decreased by 9.1 per cent between 2010 and 2014 and that *alcohol related non-domestic violence* has decreased 17 per cent within the same time period.
76. The Applicant contends that the fact that Police have not submitted any objection to the Application reinforces the assertion that there is no problem with alcohol related crime in Rozelle.
77. The Applicant notes the BOCSAR statistics referred to above and submits that they show an increase in the number of packaged liquor outlets from 1997 to 2013 by approximately 76 per cent.
78. The Applicant contends, on the basis of these statistics, that notwithstanding an increase in the number of liquor outlets alcohol consumption levels have remained relatively stable over this time.

DECISION AND REASONS

79. The Delegate is satisfied, for the purposes of section 40 of the Act, that the Application and CIS material establishes that the Application has been validly made and the relevant legislative consultation and advertising requirements were observed.
80. The Delegate must consider, for the purposes of section 45(3)(a) of the Act, whether the Applicant has established that he is a fit and proper person from a probity perspective. Concerns have been raised by NSW Police in regard to the Applicant's criminal record, which reveals that the Applicant committed a significant act of violence in 2006, for which the Applicant was convicted for the offence of *maliciously inflict grievous bodily harm*.
81. The Delegate does not accept the Applicant's submission that "...a serious crime of violence like this is of no relevance to the assessment of a liquor applicant's probity by reason that the offence in question did not involve dishonesty". A conviction for an offence involving violence is clearly relevant to an assessment of the Applicant's character. However, the conviction in question occurred nine years ago, and since the date of that conviction, the Applicant has applied for and has been granted another licence on a previous occasion. While the absence of any further convictions since then may point towards satisfaction of section 45(3)(a) in this case, the Delegate has not needed to make a finding on probity by reason that the Application has been refused on another basis.
82. The Delegate is satisfied that the Applicant is experienced in operating a packaged liquor business and that the *Camperdown Cellars House Policy* provided by the Applicant discloses appropriate policies for the responsible service of alcohol and that these policies would be implemented at the Premises in accordance with the requirements of section 45(3)(b) of the Act.
83. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for conduct of a retail packaged liquor business on the Premises, on the basis of DA number D/2014/694 dated 26 February 2015 issued by Leichhardt Municipal Council, provided to the Authority by the Applicant on 16 March 2015.

Overall Social Impact

84. With regard to the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the relevant local community comprises the State suburb of Rozelle, and the relevant broader community comprises the Leichhardt LGA.
85. Applying the overall social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local and broader community.

Positive Benefits

86. The Delegate has considered the Applicant's contention that granting the Application will provide some additional measure of convenience to members of the community.
87. The Delegate has also considered the Applicant's submission that granting the Application will provide a measure of further competition and increased consumer choice to the local and broader community in the packaged liquor market in the area.
88. The Applicant makes the general contention that customers will gain the benefits of choice in liquor products – but does not specify the greater range of products to be offered nor explain how *this* licensed business will differ in this regard from the numerous mainstream retail liquor stores that are currently available to the local community of Rozelle.
89. The Authority's licensing data indicates that there is already substantial choice and convenience provided with consumers seeking packaged liquor by retail within the local and broader community.
90. The Applicant has provided little by way of explanation, let alone independent analysis or evidence, substantiating *how* granting this licence will enhance convenience, choice or competition in what is already an apparently crowded local market for the supply of packaged liquor by retail.
91. That is not to say that the claim of potential increased choice or convenience is not credible, but this part of the Application has not been substantiated as a positive community benefit to any great extent in the material before the Delegate. The range and number of licensed premises authorised to sell packaged liquor in Rozelle and Balmain satisfies the Delegate that there is currently a crowded local market for the sale of packaged liquor by retail and it becomes incumbent, in a practical sense, for the Applicant to specify and substantiate the claimed consumer benefits in that environment. The Applicant makes very brief reference to its plans to sell food and imported goods and quality liquor lines but with little by way of explanation as to how this business will in a practical sense differentiate itself from other liquor licensees in the local and broader communities.
92. The Applicant makes some brief and general statements about meeting the needs of customers who seek an "independent" outlet but little evidence is provided as to the extent of those community expectations and how they will materialise by granting this licence. To the extent that the Applicant offers competitive pricing, there is little elucidation of that purported consumer benefit either.
93. Having regard to the location of the Premises and licensing data disclosing the number and location of other licensed premises in Rozelle and nearby Balmain, it is difficult to see how *any* significant local community benefit by way of increased *convenience* is

established through granting this Application. The Delegate finds that any additional convenience will be negligible, and is unable to give weight (on the material before it) to the other claimed consumer benefits of increased choice and competition.

94. In circumstances when an applicant proposes to commence a new packaged liquor business in a location and local community that already enjoys substantial convenience and choice from the number and type of licensed premises authorised to sell packaged liquor by retail, it is incumbent, in a practical sense for an applicant to explain, and ideally substantiate, how its particular proposal will actually advance the "...expectations, needs and aspirations" of the local or broader community and thus further the object of section 3(1)(a) of the Act, or how it will reasonably develop the liquor industry, at the level of the local or broader community, and advance this object of section 3(1)(b) of the Act.
95. While the Applicant has made detailed submissions in response to the potential negative community impacts, this Application neglects to substantiate or explain to any great extent how the claimed positive benefits will flow to the local or broader community.
96. Furthermore, while it may be credible in a general sense to assert that a new business will provide employment benefits to the local community, the Applicant has not provided details, let alone a clear commitment in the Application or further submissions, as to the number of staff that will be employed and whether those staff will actually be sourced from within the local or broader community. The Applicant could have, but did not, substantiate this additional claimed positive community benefit. Accordingly, little weight is given to this contention on the basis of the material before the Delegate.
97. This is not to suggest that the Act requires any applicant to establish "need" for the proposed new licensed business. However, when an applicant for a packaged liquor licence contends that granting a new licence for the licensed business proposed will provide benefits to the *local or broader community*, and not simply the *private business* of the Applicant, then it is incumbent, in a practical sense, to elucidate and ideally provide some evidence, information or analysis substantiating those claims.
98. This type of information or evidence will be of particular assistance to a decision maker in the context of a local and broader community that, according to the Authority's licensing data, already enjoys extensive access to retail packaged liquor through a high concentration and variety of liquor licensed premises authorised to sell liquor for off premises consumption.
99. Publicly available Authority licensing records indicate that as of June 2015 there were thirteen licensed premises capable of selling packaged liquor within the suburb of Rozelle alone. In the close neighbouring suburb of Balmain there are a further six packaged liquor licensed premises, 13 full hotel licensed premises and one club licensed premises.
100. Even if not all of those licensed premises are active at the time of this decision, the high density of licensed premises that are within and conveniently available to the local community of Rozelle greatly diminish the scope for *this* proposed new business in *this* proposed location to significantly enhance convenience or choice for *this* local community - which are the main positive benefits asserted by the Applicant.
101. The incumbent licensees in the local and broader community do not and should not act as a barrier to entry, but the high prevailing density of licensed premises authorised to sell takeaway liquor must warrant some greater substantiation of the community benefits claimed by the Applicant in this case for any significant weight to be given to those benefits.

102. In conclusion, there is a very high rate of liquor licenced premises in and readily available to the local community of Rozelle authorised to sell liquor for consumption off licensed premises compared to the rate of such premises across New South Wales as a whole.
103. The issue of license density was squarely raised by Police and OLGR and this should have prompted the Applicant to substantiate how its new business will deliver the community benefits contended, as a consequence of granting *this* Application for *this* Premises. On the material before it the Delegate gives little weight to the positive community benefits contended in this Application. The Delegate is not satisfied that any significant benefits will flow to the local or broader community from granting this Application.

Negative Impacts

104. The Delegate is satisfied, on the basis of the BOCSAR data, that over time, there will likely be some contribution from the liquor sold at the proposed new licensed business to the abuse of packaged liquor in the local and broader community, alcohol related crime and disturbance or impact upon amenity from a minority of customers who choose to abuse packaged liquor purchased from the Premises.
105. The Delegate has considered those factors outlined in *Authority Guideline 6* that the Authority will usually apply when assessing the overall social impact of a proposed new liquor business. The Applicant has made a number of submissions as to why the negative impacts of this business upon the local or broader community will be reduced or constrained. Some of those submissions are persuasive, others are not.
106. The *scale* of the proposed packaged liquor business, at approximately 140 square metres, is not “small” as contended by the Applicant. While the Applicant is not proposing a “big box” liquor operation in the style of a Dan Murphys store, this is nevertheless a substantial scale retail packaged liquor business that would be larger than many standalone liquor stores throughout New South Wales.
107. The *trading hours* sought by the Applicant are extensive. The Application seeks to sell or supply liquor for consumption off the Premises from 10:00am to 9:00pm every day of the week except Sunday, on which it would trade from 10:00am to 8:00pm. The Delegate notes that licensed businesses may only sell takeaway liquor until 10:00pm at the latest each night across NSW.
108. The *location* of the Premises provides some cause for concern as to the capacity for liquor sold from this new licensed business to contribute, along with the incumbent licensees, to local social problems linked to the abuse of packaged liquor, which the Delegate accepts will likely occur off the premises with any packaged liquor licence.
109. BOCSAR crime mapping data satisfies the Delegate that the Premises is situated near medium or high density hotspots for the incidence of offences of *domestic assault*, *non-domestic assault*, and *malicious damage to property*. The location of domestic assault hotspots is a matter of particular concern to the Delegate.
110. The Delegate accepts that packaged liquor is likely to play a significant role in that proportion of domestic violence events that are also alcohol related – the overwhelming majority of which (according to BOCSAR’s published *NSW Recorded Crime Statistics for 2014*, to which the Authority routinely refers, as referred to in Authority Guideline 6) occurs in private residences where packaged liquor may primarily be expected to be consumed.

111. The Delegate accepts the Applicant's submission that the SEIFA data indicates that the local and broader communities are relatively very advantaged. This is a positive factor in that the communities do not indicate the overrepresentation of at risk social groups that are associated in the research (identified in *Authority Guideline 6*) with adverse alcohol related outcomes.
112. Nevertheless, some communities may be relatively advantaged and yet still exposed to higher rates of alcohol related crime, due to the concentration of licensed premises. The City of Sydney is an example.
113. The Delegate is aware of the body of research, noted in *Authority Guideline 6*, identifying an association between higher liquor outlet density and rates of domestic violence – particularly 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 and Livingston, M. "A longitudinal analysis of alcohol outlet density and domestic violence", *Addiction* (2011), Society for the Study of Addiction.
114. Although those studies were not performed at the level of *this* local or broader community, this association provides a general cause for concern, from a social impact perspective, when in this case the licence density for the local community is already very high and there is some indication (from the BOCSAR data provided by OLGR) that the local community of Rozelle has a moderate prevailing problem with domestic violence and some other forms of alcohol related misconduct.
115. The Delegate accepts the Applicant's submission, made by reference to BOCSAR crime data that rates of alcohol related crime across the broader community of the Leichhardt LGA as a whole are below the average for NSW. That is a positive aspect of the Application with regard to an assessment of social impact *vis-a-vis* the broader community in which this new business will operate.
116. The Delegate has also considered the measures proposed by the Applicant to implement the responsible service of alcohol. The Delegate does not consider that the Applicant or its staff would knowingly sell liquor to minors, intoxicated persons, or persons associated with acts of violence but in practice the Applicant's ability to monitor or respond to alcohol related impacts arising from the abuse of packaged liquor will not extend beyond the point of sale and conduct that occurs in the immediate vicinity of the store.
117. While BOCSAR crime data is relatively benign across the broader community of the Leichhardt LGA, at the level of the local community the Delegate accepts the submission by OLGR that BOCSAR data from October 2013 to September 2014 indicates that the rate of *alcohol related domestic assault* in the local community of Rozelle was higher than NSW as a whole.
118. This data indicated that there were **152** instances of alcohol related domestic assault per 100,000 persons in Rozelle compared with NSW as a whole, which had **135** incidents per 100,000 persons.
119. Moreover, the Delegate notes that there is some concentration of offences in the categories of *malicious damage to property*, *non-domestic assault* and *domestic assault* evident from the BOCSAR crime maps for 2013 and 2014 which indicate a concentration of offending either at the location of the Premises or in areas close to the location of the Premises.

120. In summary, the BOCSAR crime data and crime mapping data in relation to domestic violence in the local community is a moderate cause for concern, which combined with the prevailing high licence density rate, provides a cause for close scrutiny as to the contribution this business may make to the prevailing local adverse alcohol related impacts.
121. The Delegate notes that while raising certain regulatory concerns neither OLGR nor NSW Police have formally objected to the Application in their submissions. The Delegate further notes that the Applicant has received planning permission from Leichhardt Municipal Council to operate the proposed business.
122. However, the Delegate shares the concerns raised by OLGR and Police with regard to liquor licence density, particularly with regard to the local community. High liquor licence density may or may not translate into alcohol related crime or disturbance, but in this case there is some objective evidence of higher than state average rates of *alcohol related domestic violence* occurring in the local community. Crime mapping data indicates a concentration of such events near the location of the proposed Premises, which will be likely to service people in those areas, along with the incumbent licensed premises.
123. While the Delegate does not have sufficient evidence or analysis to project whether the addition of one more liquor licence in this local community will mean an increase in the overall volume of liquor consumed at the community wide level, or an increase in alcohol related offending at the community wide level, the Delegate is satisfied that liquor sales from this new business (of substantial scale and extensive trading hours) will more likely than not contribute, along with the incumbent licensees who are authorised to sell takeaway liquor, to the prevailing adverse social problems linked to the abuse of liquor in this local community.
124. The Delegate has considered the Applicant's contention that the Premises would not attract new drinkers but rather would cannibalise the existing market. There is insufficient evidence or analysis to support or refute this contention. New South Wales does not mandate the collection of the type of liquor sales data that have enabled researchers in other jurisdictions to track the volumes of liquor sold with the assault rate in a given local government area (Liang and Chikritzhs, 2011 – as noted in *Authority Guideline 6*).
125. Nevertheless, the Delegate is satisfied, on the basis of the BOCSAR Report that was put to the Applicant for comment and the work of Livingston *et al* (referred to in *Authority Guideline 6*) that there is an association between off premises liquor outlet density and domestic violence.
126. The Delegate is satisfied that there are high rates of liquor licence density for the suburb of Rozelle and the elevated rates of alcohol related domestic violence, compared to State wide rates, in this local community provide some moderate cause for concern.
127. In light of the evidence pertaining to this local community's prevailing exposure to alcohol related domestic violence and other alcohol related offences, considered alongside licensing data pertaining to the local community, the Delegate is satisfied that a new business of this scale, trading hours and location is at least likely to *contribute*, along with the incumbent licensed premises, to increased liquor outlet density and the prevailing levels of alcohol related adverse impacts that are associated with the abuse of packaged liquor - particularly alcohol related domestic violence, which according to the BOCSAR data occurs mostly within the home. Even if the business does no more than cannibalise market share that is a negative aspect of the Application to which the Delegate has given

some weight when considering the overall social impact of granting *this* Application with regard to *this* local community.

128. In conclusion, noting in particular the *type, scale, location* and *trading hours* of the proposed licensed business, and the limited explanation of the positive community benefits provided by the Applicant, the Delegate is not satisfied that the overall social impact of granting *this* Application for Premises to be situated in *this* location will not be detrimental to *this* local community.
129. In making this decision, the Delegate has had regard to all of the statutory objects of section 3(1) of the *Liquor Act 2007* and has taken into account all of the statutory considerations prescribed by section 3(2) of the Act.

CONCLUSION

130. Having considered together the Delegate's findings on positive benefits and negative impacts on the material before it, the Delegate is *not* satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting *this* Application would not be detrimental to the well-being of *this* local community.



Micheil Brodie

Chief Executive

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

DATED *18/9* / 2015