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Dear Mr Smith

**Application for the Grant of a new Packaged Liquor Licence  
Chambers Cellars, Clovelly**

I am writing to you about an application made by your client, Mr Steven Chambers on behalf of Kallin Pty Limited, to the Independent Liquor and Gaming Authority on 8 May 2015, in respect of a proposed new packaged liquor licence for premises to be located at 311 Clovelly Road, Clovelly known as "Chambers Cellars".

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

The Delegate considered the Application on 1 December 2015 and after careful consideration of the Application and further submissions provided in relation to the Application, the Delegate decided pursuant to section 45 of the Act to *approve* the Application and grant a new packaged liquor licence. This decision was advised to you informally in an email from Authority staff dated 2 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 Delegate's reasons for the 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 case manager, Ms Santina Causa via email at [santina.causa@ilga.nsw.gov.au](mailto:santina.causa@ilga.nsw.gov.au) if you have any enquires about this letter.

Yours faithfully

Micheil Brodie  
Chief Executive

19 JAN 2016

## STATEMENT OF REASONS

### INTRODUCTION

1. On 8 May 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) lodged by Mr Steven Chambers on behalf of Kallin Pty Limited (Applicant).
2. The Application seeks the grant of a new packaged liquor licence, within the meaning of section 29 of the *Liquor Act 2007* (Act), for premises located at 311 Clovelly Road, Clovelly to trade as "Chambers Cellars" (Premises).
3. The licensed business on the Premises is proposed to occupy 80 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:  
  
Monday to Sunday      10:00am to 10:00pm
5. The Application seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between 4:00am and 10:00am.

### MATERIAL BEFORE THE DELEGATE

6. **Application Form for Packaged Liquor filed with the Authority on 8 May 2015:** In the Application form, the proposed licensed trading hours and daily closure period (as noted above) are specified.
7. The Applicant states that "Kallin Pty Limited is the owner of a number of liquor licences" operating under the name "Chambers Cellars".
8. The Applicant contends that the Premises "will be conducted in accordance with the Act, regulations and any policies advanced by the Authority", that the Premises has its own house policy and that the store will be "equipped with an internal and external CCTV system".
9. **Community Impact Statement (CIS) filed with the Authority on 8 May 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.
10. The CIS material includes:
  - a) the CIS form itself dated 8 May 2015
  - b) geographical map depicting the boundary for the state suburb of Clovelly and the location of the proposed Premises
  - c) geographical map depicting an aerial view of the Premises
  - d) geographical map depicting the 100metre radius in which notifications were distributed
  - e) list of stakeholders consulted in Clovelly
  - f) submission received from NSW Roads and Maritime Services dated 18 December 2014
  - g) submission received from NSW Family and Community Services dated 27 January 2015

- h) demographic profile depicting data for the suburb of Clovelly compared to Randwick Local Government Area and NSW. This data deals with *inter alia* age, marital status, level of education, country of birth, languages spoken, employment, median weekly income and sundry matters
  - i) list of "positive and potential negative impacts" that the Applicant submits may be associated with granting the Application.
11. **Geographical Map:** identifying the boundary for the state suburb of Clovelly and the location of the proposed Premises.
  12. **Geographical Map:** depicting an aerial view of the Premises.
  13. **Geographical Map:** identifying where the Premises is located and the 100 metre radius inside of which the Notice of Intention to make the Application was distributed.
  14. **List of Stakeholders:** The Applicant has provided a list of stakeholders notified of the Application.
  15. **Submission from NSW Roads and Maritime Services (RMS) dated 18 December 2014:** This letter presents statistics for the Randwick Local Government Area (LGA) indicating that during 2013 there were "25 alcohol-related crashes, resulting in 11 casualties". RMS suggest that during the approval process, measures preventing the "likelihood of alcohol involvement in road crashes in the Clovelly area should be discussed". RMS recommend if the Application is approved that the Applicant "maintain awareness" of "local alcohol-related issues"; that the Applicant attend the LGA's Liquor Accord and that public education material, focusing on drink driving and pedestrian-alcohol issues, be "supported" and "displayed within the Premises".
  16. RMS recommend that when there are customers who are "buying large quantities of alcohol for a party or social event" that bottle shop staff draw attention to the "safe party kit available on the police website" or suggest that the purchaser contacts the local police for guidance. RMS suggest that the Proposed Premises display "a list of tips for people hosting social events" containing suggestions that customers ensure that guests "have a transport option to get home safely" or access to details for taxi and public transport options; that non-drinking guests are encouraged "to provide lifts for those who are", that "low alcohol and soft drinks" are available as an alternative; that food is offered; and that guests are prevented from being "pressured into continuing to drink alcohol".
  17. **Submission from NSW Family and Community Services (FACS) dated 27 January 2015:** This letter simply advises that the Department "do not have a response in relation to your Application and will not be providing input into the submission".
  18. **Demographic profile:** Data provided by the Applicant depicting data for the suburb of Clovelly compared to Randwick LGA and NSW. This data deals with *inter alia* age, marital status, level of education, country of birth, languages spoken, employment, median weekly income and sundry matters.
  19. **List of positive and potential negative impacts:** In this 3-page document, the Applicant identifies a list of what it considers to be the positive impacts and potential negative impacts from licensing the Premises.

20. The Applicant contends that the following positive impacts "will arise from the establishment of a liquor store" at the proposed Premises:
- a) **Competition:** The Applicant contends that "increased competition was, and is, generally regarded as being in the public interest"
  - b) **Choice:** The Applicant contends that "wider choices is intimately related to increased competition and is regarded as being in the public interest"
  - c) **Convenience:** The Applicant contends that packaged liquor is "comparable to groceries, newspapers, bread, meat" in that "many people purchase it frequently in small quantities" and that packaged liquor should therefore "be available close to where people live"
  - d) **Reduction in the need to travel:** The Applicant contends that "at present most residents of Clovelly need to drive to obtain packaged liquor", that reducing the use of motor vehicles is "in the public interest" benefiting both the local and broader community and that "special trips can be reduced" by providing packaged liquor outlets "conveniently" throughout residential areas
  - e) **Appropriate location:** The Applicant contends that the Premises is located in a "B1 Neighbourhood Centre" zone which is "intended to accommodate convenience goods retailing and services" making it "an appropriate place for a convenience liquor store"
  - f) **Strengthening of the cluster:** The Applicant contends that "adding a liquor store to the cluster of businesses will directly strengthen it as it will add liquor to the range of existing goods available there" whilst also indirectly strengthening "other businesses by attracting more customers to the cluster"
  - g) **Compensation for loss of outlets:** The Applicant contends, that in recent years nearby registered clubs being the Clovelly RSL and Bronte RSL have closed and that those clubs provided "sources of packaged liquor for the local community".
21. The Applicant contends in this 3-page letter that the following "potential" negative impacts "may arise" but are "unlikely to affect either the local or broader community appreciably":
- a) **Possibility of increased consumption of alcohol:** The Applicant contends that this is "most unlikely to happen" for reasons including that "people living or working in the surrounding neighbourhood already have access to packaged liquor"; that having packaged liquor available closer to people's homes "is unlikely to change" patterns of consumption or quantity of alcohol consumed; that "all of the residents living in the surrounding neighbourhood have incomes sufficient to enable them to purchase whatever packaged liquor they desire and that the proposed Premises which is a "small convenience" liquor store, "could not" initiate a price war which might result in "cheaper liquor" and "increased consumption"
  - b) **It could lead to an increase in pre-loading:** The Applicant contends that this is "also unlikely to happen" because "there is no obvious destination in the local community which would attract anyone to pre-load except the Clovelly Hotel" which the Applicant contends "maintains a high level of monitoring of intending patrons to avoid intoxication on its premises". The Applicant also contends that establishments at Coogee Beach "could" provide destinations for which there may be pre-loading however, they have "existed for years". The Applicant contends that there are "other established packaged liquor outlets which intending patrons who wish to pre-load may use" and that it is "unlikely" that the proposed Premises would "increase the number of persons who pre-load" or the "quantity of alcohol" they consume"
  - c) **Anti-social behaviour:** The Applicant contends that "Clovelly is not an area where there is any appreciable level of anti-social behaviour" as is evident in the NSW Bureau of Crime Statistics and Research (BOCSAR) data. The Applicant contends that it is "unaware of any appreciable level of anti-social behaviour" near its other

liquor stores trading as Chambers cellars and using the same house policies, nor "any increase in such behaviour following their establishments"

- d) **Demographic factors:** The Applicant contends that the "population living in Clovelly does not exhibit characteristics which are greatly taken as indicative of being exposed to risk from the excessive consumption of alcohol". The Applicant contends that "the area is not one where people are poor or experience a higher level of unemployment"; that there are "few persons" of Aboriginal and Torres Strait Islander descent; that there are "few labourers"; that "families with children make up half of all families while those without children make up a further 37 per cent" and that "it is a very stable area in demographic terms".
22. **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.
23. **ASIC Current Organisation Extracts:** This 2-page document provides the company details as at 30 August 2013 for "Kallin Pty Limited".
24. **Report to the Authority dated 28 July 2015 from a delegate of the (then) Secretary of NSW Trade and Investment (now the jurisdiction of the Department of Justice) via the Compliance and Enforcement Division of the Office of Liquor Gaming and Racing (OLGR):** In this document, OLGR reports that it "does not object to the granting of the Application". OLGR's assessment "did not identify any significant concerns" and the report states that "the granting of this Application is unlikely to result in a significant increase in alcohol-related harm in the neighbourhood".
25. OLGR notes that the proposed licensed trading hours are from Monday to Sunday 10:00am to 10:00pm and that the business model is low risk as the primary purpose of the venue is the sale of packaged liquor, meaning that "tastings is the only consumption of liquor that can occur on the licensed Premises". OLGR further note that the Premises will be located "in a mixed residential and commercial area".
26. OLGR notes that the "radial density of licensed premises in Clovelly is well above the State average"; that BOCSAR data shows that the Premises is located within "low density crime hotspots in relation to alcohol related assaults"; that BOCSAR data shows that from "April 2014 to March 2015, the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Clovelly was **160** (per 100,000 population)" compared to the whole of NSW which had a rate of **301** per 100,000 population; and that the "rate of alcohol related disorderly conduct offences in Clovelly for the same period was **20** (per 100,000 population) compared to **95** (per 100,000 population) for the whole of NSW".
27. OLGR submits on the basis of these statistics that "Clovelly does not appear to have a significant concentration of alcohol-related anti-social behaviour when compared to the whole of NSW".
28. OLGR notes that Sergeant Nerida Pillay of Maroubra Local Area Command of NSW Police provided a submission stating that NSW Police are "not in a position to comment" as the Applicant has "not fulfilled the requirements" in relation to lodging a Development Applications with Randwick Council.
29. OLGR noted the submission received from Mr Allan Graham, Co-ordinator of Regulatory Projects at Randwick City Council (Council), in which Council "object" to the Application on the basis that the required Development Consent "has not been obtained or is in force to operate the Premises as a packaged liquor outlet".

30. OLGR acknowledges the submissions received from RMS and FACS. OLGR notes that both of these submissions "did not state if they support or oppose the Application" and that RMS requested the licensee "maintain awareness of any specific local alcohol-related issues to impact the community by attending the LGA's Liquor Accord". OLGR acknowledge that RMS also requested that the "licensee considers displaying public education material focused in drink drive and pedestrian safety as well as safe party strategies".
31. OLGR notes that of the five public submissions received that object to the Application. OLGR notes that four of these objecting submissions were based on grounds of "potential traffic and parking issues", concerns about "customers congregating in the vicinity of the proposed venue whilst awaiting or eating food ordered from a local fish and chip shop" and issues regarding the potential for "underage and street drinking if the licence is approved".
32. OLGR notes that the remaining objecting submission "cites the number of existing packaged liquor outlets in the region as the basis of their objection". OLGR note that this submission raised concerns regarding the impact of the licensed business on the submitter's "private residence, which is located on the first floor above the proposed premises". OLGR note that this submission focused on the impact relating to "access, rubbish removal and deliveries".
33. OLGR contends that a review of Compliance and Enforcement Division records did not "disclose any adverse information" regarding the Applicant, Kallin Pty Limited, who has "held packaged liquor licenses since 18 May 2005".
34. **Letter from Allan Graham, Co-ordinator Regulatory Projects of Randwick City Council (Council) dated 14 May 2015:** In this letter Council contend that a search of council records has disclosed that "no development consent" has been granted to permit the Premises to operate "as a packaged liquor outlet".
35. Council "objects" to the grant of the Application on the basis that "the requisite development consent has not been obtained or is in force to operate the Premises as a packaged liquor outlet".
36. **Email submission from Licensing Sergeant, Nerida Pillay, at Maroubra Local Area Command (LAC) of the NSW Police, dated 20 May 2015:** In this email, Police submit that they received the Application and CIS, that Kallin Pty Limited is the "owner of a number of liquor licences" operating under the name "Chambers Cellars", that the hours of operation will be "Monday through Sunday 10:00am to 10:00pm", that the packaged liquor store, "Vintage Cellars", and the "Clovelly Hotel" are both "approximately 500 metres" from the proposed Premises.
37. Police acknowledge the four local residents who have raised concerns about "potential traffic and parking issues", the Premises attracting crime and "young people congregating at a take away shop opposite causing issues".
38. However, Police submit that "there is no evidence to support any youth/crime issues" and that "this area is not a 'hot spot' for Police or crime related issues".
39. Police submit that "they are not in a position to comment in relation" to this Application as the Applicant has "not fulfilled the requirement in relation to lodging" a Development Application (DA) with Randwick Council.

40. **Email submission from Constable Milatos, Licensing Officer at Eastern Beaches LAC of the NSW Police, dated 5 November 2015:** In this email, Police state that "checks with council reveal that the D/A is current and active" and that Police have "no objection" to granting the Application.
41. **Email from Mr G Smith, Design Collaborative on behalf of the Applicant dated 9 September 2015:** In this email the Applicant's representative advises Authority staff that the Application originally "was not accompanied by a development consent permitting trading until 10:00pm" however, Randwick City Council "has now granted development consent" under DA/323/2015 "permitting trading until 10:00pm".
42. Attached to this email was DA Notice of Determination DA/323/2015 from Randwick City Council dated 1 September 2015.
43. **Development Application Notice of Determination DA/323/2015 from Randwick City Council (Council) dated 1 September 2015:** recording that Council has granted consent for the "fit-out and use of the existing premises as a liquor store".
44. Council granted the DA subject to conditions including requirements that "the Premises and the operation of all plant and equipment must not give rise to an offensive noise" and that use of the Premises (for planning purposes) is "restricted" to the following trading hours:
  - a) Monday to Saturday 8:00am to 10:00pm
  - b) Sunday 10:00am to 10:00pm.
45. **Email submission from a local resident of Clovelly Road, Clovelly dated 27 January 2015:** In this 5-paragraph submission, the writer objects to the Application. The writer contends that "street parking would not be able to accommodate an increase in vehicular traffic associated with this type of business" and that residents "have many more cars than car spots, so they rely on unrestricted street parking and park up and down Clovelly Road".
46. The writer contends that groups of youth "already congregate" outside the takeaway shop *Out of the Blue* most Friday to Sundays between 12:00 noon and 10:00pm. The writer contends that "at times there is already a noticeable level of anti-social behaviour" which includes:
  - a) "loud arguments"
  - b) "disrupting the peace"
  - c) "public urination into nearby residential gardens"
  - d) "littering of used glass alcohol bottles and take-away food waste".
47. The writer contends that a "packaged liquor retail outlet in the vicinity to *Out of the Blue* could further fuel this anti-social behaviour to intolerable levels for residents".
48. The writer also raises concerns about the "delivery of stock" and contends that "Arden Lane is constantly used as a thoroughfare by residents whose properties and car parking are accessed via the laneway"; that the laneway "cannot accommodate large delivery trucks due to one side of the laneway being used as parking" and that "trucks have already caused damage to parked resident's vehicles and regularly cause inconvenience by blocking the laneway to unload deliveries". The writer contends that granting this Application would result in "regular deliveries that will further add to the lane way, despite the new loading zone out front of our house".
49. The writer contends that "there is already a Chambers Cellars less than 2kms away in MacPherson Street Bronte", that there is another liquor shop known as Vintage Cellars

"several hundred metres away on Clovelly Road" and that there are "multiple additional liquor outlets at the Coogee beach shopping precinct". The writer also raises concerns that the nature of the proposed business involves cash which "may increase" crime rates.

50. **Email submission from a local resident dated 24 December 2014:** In this 6-paragraph submission, the writer objects to the Application and contends "we don't need another" liquor store as that there is "already a liquor store located in Clovelly Road less than 500 metres" from the proposed Premises.
51. The writer contends that "parking is at a premium in Clovelly Road" and that "adding yet another commercial premises will add to the congestion, the amount of illegal parking that already occurs, and make it almost impossible for local residents to park".
52. The writer contends that the proposed Premises is "opposite the *Out of Blue* takeaway fish shop" which "attracts hundreds of young people each weekend for takeaway fish and chips". The writer contends that granting this Application will "encourage these people to add take out alcohol" which will "add to the debris which is frequently left".
53. The writer submits that there is "no justification for a liquor store to be open until 10:00pm" seeing as "all other businesses close by 8:00pm" except for the Darley Street Bistro.
54. The writer contends that these evening trading hours will "encourage young people to binge drink on weekends and create noise, pollution and worse in the neighbourhood".
55. The writer submits that the hours sought "are irresponsible and totally unacceptable" seeing as even "Vintage Cellars closes at 8:00pm".
56. The writer submits that "residents in this area are looking for ways to create a greater sense of community".
57. **Email submission from a local resident dated 19 January 2015:** In this 2-page submission, the writer provides some background as to the site of the proposed Premises and raises a "few concerns".
58. The writer questions the "need for another bottle shop in this particular area" seeing as there are "already at least three cellars in very close proximity". These businesses include "Vintage Cellars about 600 metres up the hill in Clovelly Road, Camperdown Cellars and Chambers Cellars at 120-128 and 50-54 McPherson Street respectively". The writer also contends that the "Clovelly Hotel is only about 700 metres down the hill on Clovelly Road".
59. The writer raises issues about parking and contends that "parking in this area for existing businesses and residents is already quite difficult and is exacerbated by the pedestrian crossing and bus stop". The writer contends that the "intersection is a busy one" which has become "increasingly difficult to negotiate" as a result of the "expansion of several businesses and the subsequent increase pedestrian traffic".
60. The writer contends that "at the moment groups of people gather around a fish and burger outlet opposite" the proposed Premises and often these groups are "significant" in size.
61. The writer contends that the fish and burger outlet has "resulted in a very grimy and unpleasant situation". The writer also raises concerns that "the convenient presence of a



liquor store may encourage these people to purchase liquor and consume it on the footpath while waiting for, or eating their food". The writer contends that monitoring or controlling this behaviour "may be difficult" and submits that the proposed new business cannot be viewed as a "positive thing for the community in general".

62. **Email submission from a local resident and business owner, Mr P Stubbs, of Clovelly Road, Clovelly dated 27 April 2015 at 6:33am:** In this 5-paragraph submission, Mr Stubbs contends that the fish and chip shop located "across the road" from the proposed Premises is "very popular with young people" and it is "highly likely, actually almost certain" that these young people will "duck across the road and buy beers and hang around on the street drinking" if this Application is granted. Mr Stubbs contends that this "isn't going to be good for the neighbourhood".
63. Mr Stubbs submits that the "10:00pm closing is not a good idea" as it might attract "many drunk people coming up from the Clovelly Hotel around that time". Mr Stubbs contends that "this is already a problem" with "yobbos yelling out, broken glass, blokes urinating on the street".
64. Mr Stubbs contends that closing the business at 10:00pm "will attract" these people and "may make things worse". Mr Stubbs submits that if the Application is to be granted, "closing should be 9:00pm".
65. **Email submission from a local resident and business owner, Mr P Stubbs, of Clovelly Road, Clovelly dated 27 April 2015 at 6:37am:** Mr Stubbs adds to his previous submission dated 27 April 2015 at 6:33am by contending that there is "already a bottleshop not far up Clovelly Road" known as "Vintage Cellars".
66. **Email submission from a local resident, Mr T Smedley, of Clovelly Road, Clovelly dated 20 May 2015:** In this 4-paragraph submission, Mr Smedley objects to the Application and contends that the Application "should not be granted" as he does "not feel" that a bottle shop is "appropriate for this shop" as a result of the already existing bottle shop "just slightly up the hill on Clovelly Road and another one very close down the hill".
67. Mr Smedley contends that the proposed Premises is "opposite a backpackers" and "around the corner" from a primary school which is not a "good idea". Mr Smedley contends that the "opening times are excessive" and raises concerns about over how the Premises will "manage the access to the property the rubbish and the noise".
68. Mr Smedley also raises a number of questions about the coverage of the licence, access to the property, storage of rubbish, deliveries and opening times.
69. **Email submission from a local resident, Mr B Passalacqua, of Clovelly Road, Clovelly dated 13 May 2015:** In this 6-paragraph submission, the writer expresses concern at the Application as his family resides "directly opposite" the proposed Premises.
70. The writer contends that the proposed Premises "will almost definitely result in underage drinking and street drinking on this strip of Clovelly Road" as on a "typical Saturday or Sunday sunny afternoon" there are around "20 to 30 people waiting around the footpath for their fish and chips " from Out of the Blue. The writer contends that these people "are mostly in the 16 to 20 year old age bracket" and granting this Application would "be a perfect recipe to encourage street drinking", the problems "associated with glass bottles", "underage drinking and drink-driving".

71. The writer contends that there is "already a bottle shop 200 metres up Clovelly Road" known as Vintage Cellars, making it unnecessary "for another one so close".
72. The writer also raises issues about the "severe parking problem on this part of Clovelly Road" and contends that there is "no designated resident parking", that parking is "already virtually impossible" and that granting this Application "would only exacerbate this problem".
73. **Email from Authority Staff dated 13 May 2015:** Authority staff inform the Applicant that the following is required in order for the Application to proceed:
  - a) A signed copy of the Certificate of Advertising
  - b) Development consent from local Council
  - c) A plan of the Premises outline in red.
74. **Email from Authority Staff dated 26 October 2015:** Authority staff invite the Applicant to make comment on the submission received by the Authority from local residents and OLGR.
75. Authority staff request that the Applicant provide a Premises plan or diagram of the relevant areas of the Premises, a dated House Policy and Plan of Management and a signed copy of the Certificate of Advertising verifying consultation with stakeholders required by the legislation.
76. 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 Premises "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"; 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".
77. **Email from Mr G Smith, Design Collaborative on behalf of the Applicant dated 29 October 2015:** In this email the Applicant's representative advises Authority staff that the Applicant "has no objection to the conditions proposed" in the email from Authority staff dated 26 October 2015 but are "a little concerned about the need to submit a plan of management".
78. **Email from Mr G Smith, Design Collaborative on behalf of the Applicant dated 5 November 2015:** In this email the Applicant's representative advises Authority staff that the Application "consents to the imposition of the five conditions" set out in their email dated 26 October 2015" and attaches the following documents:
  - a) Plan of the Premises
  - b) Response to submissions received by the Authority
  - c) Chambers Cellars House Policy
  - d) Plan of Management dated 4 November 2015
  - e) Certificates of Advertising signed and dated by Denise Tse on 14 May 2015 and Keith Apps on behalf of Kallin Pty Limited on the 13 May 2015.
79. **Plan or Diagram of the Premises:** The Applicant has submitted a 1-page document clearly identifying the proposed licensed area in red and depicting the internal layout which includes shelving, counter and fridges.

80. **Response to submission received by the Authority in their email dated 26 October 2015:** In this 4-page submission the Applicant responds to the submission from OLGR. The Applicant contends that the OLGR report was "prepared in July before Randwick City Council granted the development consent" for the proposed Premises to trade until 10:00pm and that "Police were consulted in relation to that application by the Council" in which "no objection" was made.
81. The Applicant acknowledges the submissions made by Police and submits that Police have identified "no record of any youth/crime issues near the proposed Premises" and that they have "no objection" to the Application.
82. In response to the submission received by local resident on 19 January 2015, the Applicant submits that the existence of the other packaged liquor outlets in the adjoining suburbs of Coogee and Bronte have been acknowledged in the CIS; that the proposed new business to operate on the Premises along with all of the "25 other businesses along Clovelly Road" do "not provide any parking for customers" and that local councils "do not differentiate between different types of shops when assessing parking requirements".
83. The Applicant contends that the "bulk" of customers of this new business will be those people "who can walk" to the Premises, or who "alight from buses" in front of the Premises or who visit the "cluster of businesses for other purposes" and that the proposed new business is "purely a convenience shop".
84. The Applicant acknowledges the take-away food shop opposite the Premises. The Applicant contends that "enquiries made of the former occupant of the proposed Premises and other businesses nearby did not reveal any perceived problems with customers either in behaviour or in congregation outside the take-away food shop". The Applicant submits that there is "no BOCSAR hotspot for any crime at this location" and that Police submission "supports this assessment".
85. The Applicant contends that the Premises has a "strict house policy aimed at preventing sales to minors which will be adhered to" and "CCTV coverage" in front of the Premises "ought to assist in deterring any potential anti-social behaviour near it".
86. In response to the submission received on 24 December 2014 regarding the proposed trading hours, the Applicant contends that the new business "would not remain open if there was insufficient trade to justify it doing so". The Applicant contends that the new business "probably will not trade until 10:00pm every night" and that the "actual trading hours will be determined by experience".
87. The Applicant contends that granting this Application "would allow local residents to satisfy their requirements for liquor without leaving the community which they are required to do now".
88. In response to the submission received on 27 January 2015, the Applicant contends that the new business on the Premises "proposes to utilise the loading zone in Clovelly Road" for deliveries instead of Arden Lane. The Applicant submits that there are "no packaged liquor outlets in the suburb of Clovelly" as the only licensed premises, the Clovelly Hotel, does "not operate a separate bottle department". In response to the concern about cash on the Premises the Applicant contends that "a substantial and increasing proportion of sales made" in other Chambers Cellars stores "are now paid for by credit card rather than cash" and that its other eastern suburbs outlets have "not attracted any robbery since it commenced trading in that area in 2005".

89. In response to the submission received on 13 May 2015 regarding the risk of sales to minors, the Applicant contends that the Premises "has a strict policy requiring proof of age before selling liquor to anyone who appears to be a minor". The Applicant contends that the proposed CCTV coverage of Clovelly Road to be provided by the business "should discourage consumption on the street" near the Premises. The Applicant counters that Vintage Cellars business is actually located "400 metres away and up a hill, not 200 metres away".
90. In response to the submission received on 20 May 2015, the Applicant contends that the primary school is "some 70 metres from the rear of the Premises (measured in a straight line and as disclosed in the CIS) and some 130 metres, by foot, from its doorway".
91. In response to the questions posed by this submission, the Applicant contends *inter alia* that:
- a) the licensed Premises "would be confined to the ground floor shop"
  - b) no access to the proposed Premises is proposed from Arden Lane
  - c) waste "will be stored in a room to be constructed inside the Premises and will be carried through the outlet to the Kerbside of Clovelly Road for collection"
  - d) deliveries "will be made through the front door of the Premises"
  - e) the Premises may actually only exercise licensed trade until 10:00pm "on one or two nights each week and in busy periods such as pre-Christmas"
  - f) there is "no apparent reason" why the operation of the new business on the Premises should "interfere with the amenity of the residents of the flat above"
  - g) the new business to be conducted on the Premises "will not generate noise, smell or vibration".
92. **Chambers Cellars Responsible Service of Alcohol House Policy:** The Applicant in this 2-page House Policy states that:
- a) only persons 18 plus years are sold alcohol
  - b) persons under 18 years of age must not purchase liquor or have liquor purchased on behalf of them"
  - c) staff must "always ask" themselves before serving any customer whether the person could be under 24 years of age and if the answer is yes "ask for ID"
  - d) a sale "must not be made" if upon request "a person cannot produce an approved form of Proof of Age identification"
  - e) liquor "is not to be sold or supplied to a person who is in a state of intoxication"
  - f) staff must "ensure that potential problems are identified and steps taken to avoid serious situations"
  - g) no liquor is to be consumed "in the immediate area outside the licensed premises"
  - h) a range of "low alcohol and non-alcoholic products are available for purchase"
  - i) all legally required signage is to be "displayed at all times"
  - j) all staff "are properly trained in all areas of responsible service of alcohol in particular as to stop secondary supply".
93. **Plan of Management for Chambers Cellars dated 4 November 2015:** This 2-page document states that its purpose is to "ensure compliance with the responsible service provisions of the Liquor Act 2007" and to "reduce the potential of criminal offences" at the proposed Premises.
94. The document specifies that the business to operate on the Premises "shall not be open to the public for retail sale of liquor between 10:00pm and 10:00am the following day, on any day".
95. The document outlines a plan for responsible service which provides that liquor "will not be sold to a minor"; that all customers appearing "to be under the age of 25" will be

- "required to produce proof of age before being served"; that liquor will not be sold to "any person showing signs of intoxication"; that liquor will not be sold to "any person reasonably suspected to be purchasing liquor for the purpose of secondary supply to a minor or intoxicated person" and that "liquor shall not be consumed on the premises" except for organised tastings or consumption by staff with authorization from a manager.
96. The Plan of Management further outlines the CCTV system, which provides coverage of the Proposed Premises "at all times the Premises are open for trade and for, at least, 30 minutes before opening and after closing". The CCTV system is stated to be comprised of equipment that is "of high grade quality" and "capable of identifying customers and offenders". The Plan provides that "all reasonable measures will be taken to rectify" any CCTV malfunctions; that images captured by CCTV will "not be destroyed for, at least thirty (30) days"; that upon request Police will have access to the images captured; that a hard drive storing images shall be located in a "secure container beneath the sales counter"; that staff at the serving counter will be able to see a "screen showing real time images from all CCTV cameras"; and that signs will be displayed indicating CCTV surveillance is installed and operating.
  97. **Certification of Advertising:** signed and dated by Denise Tse on 14 May 2015 and Keith Apps on behalf of Kallin Pty Limited on the 13 May 2015.
  98. **Submission from the Applicant submitted on 30 April 2014:** on the official form notifying the Authority of the appointment of Mr Mario Scognamiglio as manager of the Premises.
  99. **Geographical maps:** These three maps depict an aerial view of the location of the Premises.
  100. **Google Street image:** depicting the street view of the proposed Premises.
  101. **BOCSAR Crime Maps based upon data from July 2014 to June 2015 detailing hotspots of offences for the location of the Premises:** This data, obtained by the Delegate from published BOCSAR sources, indicates the immediate location and areas surrounding the Premises, at 311 Clovelly Road, Clovelly, is not located within any hotspots for incidents of *non-domestic assault*. However, the data indicates that the Premises is located within a high density hotspot for incidents of *domestic assault* and a low density hotspot for incidents of *malicious damage to property*.
  102. **Authority licensing records** indicating the addresses of other liquor licenced premises located within the suburbs of Randwick and Clovelly. Licencing records indicate that within the suburb of Clovelly are:
    - a) one club licenced premises
    - b) one full hotel licenced premises
    - c) seven on premises licenced premises
    - d) one packaged liquor licenced premises
    - e) one producer wholesaler licenced premises.
  103. **Authority liquor license density data:** This data indicates that the Randwick Local Government Area (LGA) as a whole recorded:
    - a) a rate of **10.08 packaged liquor licences** per 100,000 persons, which is lower than the NSW state wide rate of **32.85**
    - b) a rate of **3.88 club licences** per 100,000 persons, which is below the NSW state wide rate of **20.48**

- c) a rate of **7.75** *full hotel licences* per 100,000 persons, which is lower than the NSW state wide rate of **30.36**
- d) a rate of **6.20** *limited licences* per 100,000 persons, which is below the NSW state wide rate of **21.30**
- e) a rate of **8.53** *on-premises licences* per 100,000 persons, significantly less than the NSW state wide rate of **121.31**
- f) a rate of **15.50** *producer wholesaler licences* per 100,000 persons, which is less than the NSW state wide rate of **28.76**.

104. **Data on Crime by LGA and Alcohol Related Status obtained from published BOCSAR sources** for calendar year 2013. 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 Randwick LGA, was **95** per 100,000 persons, substantially below the NSW wide rate of **145** per 100,000 persons
- b) the rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Randwick LGA for 2013 was **152**, below the State wide rate of **191**
- c) the rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA was **53** per 100,000 persons, less than the State wide rate of **83**
- d) the rate of *assault police* incidents flagged by reporting Police as alcohol related across the Randwick LGA was **26**, above the **24** per 100,000 persons rate for New South Wales as a whole
- e) this data also indicates that the rate of alcohol related *malicious damage to property* across the Randwick LGA is **65**, well below the State wide rate of **122**.

105. **Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS):** ABS data, prepared on the basis of the 2011 census, indicates that the Randwick LGA ranked in the ninth decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD) (with a decile ranking of 10 being the most advantaged).

106. This data also indicated that the state suburb of Clovelly ranked in the tenth decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage.

## LEGISLATION

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

**29 Authorisation conferred by packaged liquor licence**

- (1) *Retail sales* A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:
  - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
  - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.
- (2) *No retail trading on restricted trading days despite subsection (1)*, a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
- (3) *Selling liquor by wholesale or to employees* A packaged liquor licence also authorises the licensee:
  - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and

- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
- (3A) An extended trading authorisation must not authorise the sale after 10pm 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).

108. 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.*

109. 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.

110. 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.*

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

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

**3 Objects of Act**

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

**APPLICANT CASE ON SOCIAL IMPACT**

113. The Applicant submits that the issues raised in opposing submissions were in part "based on misconceptions because the Premises are already a shop and the proposed liquor store would not cause greater parking or traffic problems than many other types of shops".

114. The Applicant contends that when the Application is granted the "approved manager would be available to discuss any issues that may arise with any member of the public and to take whatever measures that might reasonably be possible to resolve the issues raised".

115. The Applicant submits that the Premises would "become part of the Chambers Cellars chain of outlets and would be operate in the same manner as the chain's outlets in the



Eastern Suburbs". The Applicant contends that none of its stores located at Frenchmans Road, Randwick or Mcpherson Street, Bronte have "caused any apparent adverse social impact".

116. The Applicant submits that the new Premises "would be small with some 80 sqm of sales space" and that while the licensed Premises "would be able to trade from 10:00am to 10:00pm daily" it is "possible that it would close before 10:00pm if there is insufficient demand to warrant keeping it open". The Applicant contends that "nearby outlets close before 10:00pm".
117. The Applicant contends that the commercial premises on either side of the proposed Premises (the *Darley Street Bistro* and *Top Hat Coffee*) have "on-premises licenses" and that there are "25 businesses clustered along Clovelly Road".
118. The Applicant contends that the state of development surrounding the cluster of business premises is "almost entirely residential" ranging from "low-rise residential flat buildings to freestanding cottages". The Applicant contends that the "resulting density of the population is much higher than in most suburban residential areas".
119. The Applicant analysed the characteristics of the population of Clovelly and submits that:
  - a) the median age of the population was higher than that of the City but lower than NSW
  - b) Clovelly contained a higher proportion of persons under the age of 15 than the City
  - c) Clovelly contained a lower proportion of persons aged between 20 and 40 than the City
  - d) While the proportions of Clovelly's population attending primary or secondary schools was higher than the City, those proportions were similar to those in NSW's population
  - e) Clovelly has a much lower proportion of university students than the City's population
  - f) 61.9% of the Clovelly workforce was classified as professional or managerial compared to 48.1% in the City's and 36% for NSW
  - g) only 1.6% of the workforce in Clovelly was classified as labourers compared to 4.6% in the City and 8.7% for NSW
  - h) median incomes in Clovelly were almost twice those in NSW and well above those in the City
  - i) the percentage of single parent families was lower than in the City or NSW
  - j) the percentage of households with weekly incomes of less than \$600 was half that in NSW and much lower than that in the City
  - k) the percentage of households in rental properties which were experiencing housing stress was about two-thirds of that in the City but comparable to that in NSW
  - l) the percentage of persons making housing repayments and experiencing that stress was about 50% higher than in the City but similar to that in NSW.
120. The Applicant submits that Clovelly's SEIFA data was "in the highest decile of suburbs in NSW and Australia" making its population "very advantaged compared to the rest of the State.
121. The Applicant contends that "there is nothing in the characteristics of the population to suggest that it would be prone to succumb to over-indulgence in alcohol to an extent where it would cause social harm although there may be individuals in the population who do".
122. In relation to the issue of prevailing licence density, the Applicant contends *inter alia* that:
  - a) there is "no existing packaged liquor outlet in Clovelly"

- b) Clovelly Hotel is "some 600 metres east of the proposed Premises and "does not include a packaged liquor outlet"
  - c) the nearest packaged liquor outlet is Vintage Cellars" which fronts Clovelly Road some "400 metres west" of the proposed Premises and "lies in the state suburb of Coogee"
  - d) another Chambers Cellars outlet is located some "700 metres further west" and the Duke of Gloucester Hotel is in the state suburb of Randwick
  - e) the Chambers Cellars store at Macpherson street Bronte is located about "80 metres" to the north of the Premises
  - f) to the south about a kilometre away are the hotels and packaged liquor outlets in the Coogee Bay shopping centre.
123. The Applicant contends that "some 230 occupiers of premises within 100 metres" of the Premises were notified of the Application along with all required bodies and "10 potential interest groups".
124. In response to resident submission expressing concern about the congregation of young people at the site, resulting in littering, obstruction to pedestrians and anti-social behaviour, the Applicant contends that "the operators of the most affected premises and the previous tenant/owner of 311 report that they were unaware of any such problems".
125. The Applicant further submits that "BOCSAR mapping of crimes does not indicate the cluster of businesses around 311 records any appreciable level of non-domestic violence related assaults"; that Clovelly "records few such assaults"; that the "cluster of businesses is clear of any hotspots for incidents of malicious damage to property"; that this cluster of businesses "lies in a medium intensity hotspot for domestic violence related assaults" however that hotspot "extends over a large area to the south and west" and does not cover much of Clovelly and that these facts "suggest that the cluster of businesses is not the scene of any significant level of anti-social behaviour".
126. The Applicant contends that the operation of the new business on the Premises will not "exacerbate" the congregation of young people outside the seafood shop; that the "approved manager will do what can reasonably be done to dissuade people from loitering" near the Premises; that CCTV cameras will cover the interior and exterior of the Premises and that this CCTV presence may "inhibit the behaviours of some of any alleged offenders".
127. The Applicant contends that the Premises will be operated under the same house policies as others in the Chambers Cellars chain which aim "to minimise adverse effect of any kind on the communities in which they are situated".
128. The Applicant contends that the 30-plus shops in the chain "have been successful in doing so" for close to 20 years, that Chambers cellars "has not found that its stores attract crime" and that "more customers use credit cards" (than cash).
129. The Applicant contends that the following positive impacts "will arise from the establishment of a liquor store" at the proposed Premises:
- a) **Competition:** The Applicant contends that "increased competition was, and is, generally regarded as being in the public interest"
  - b) **Choice:** The Applicant contends that "wider choices is intimately related to increased competition and is regarded as being in the public interest"
  - c) **Convenience:** The Applicant contends that packaged liquor is "comparable to groceries, newspapers, bread, meat" in that "many people purchase it frequently in small quantities" and that packaged liquor should therefore "be available close to where people live"

- d) **Reduction in the need to travel:** The Applicant contends that "at present most residents of Clovelly need to drive to obtain packaged liquor", that reducing the use of motor vehicles is "in the public interest" benefiting both the local and broader community and that "special trips can be reduced" by providing packaged liquor outlets "conveniently" throughout residential areas
  - e) **Appropriate location:** The Applicant contends that the Premises is located in a "B1 Neighbourhood Centre" zone which is "intended to accommodate convenience goods retailing and services" making it "an appropriate place for a convenience liquor store"
  - f) **Strengthening of the cluster:** The Applicant contends that "adding a liquor store to the cluster of businesses will directly strengthen it as it will add liquor to the range of existing goods available there" whilst also indirectly strengthening "other businesses by attracting more customers to the cluster"
  - g) **Compensation for loss of outlets:** The Applicant contends that "in recent years, nearby registered clubs" Clovelly RSL and Bronte RSL have closed and that they were "sources of packaged liquor for the local community".
130. The Applicant submits that "in a mature, stable and wealthy community such as that which lives near the proposed Premises, neither the positive nor the negative impacts appear likely to be prominent so that the overall impact appears likely to be neutral".
131. The Applicant concludes with the contention that granting this Application "would not result in there being any appreciable change in the local community or in any measureable adverse social impact on either the local or broader community".

## REASONS

132. The Delegate is satisfied, on the basis of the Application material before the Delegate 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.
133. The Delegate is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. This finding is made on the basis of 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.
134. The Delegate is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service practices will be in place with the commencement of licensed trading. This finding is made on the basis of the Premises *Plan of Management* dated 4 November 2015 and the Chambers Cellars *House Policy* provided by the Applicant.
135. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place, on the basis of the DA/323/2015 issued by Randwick City Council on 1 September 2015 which records the "fit-out and use of the existing premises as a liquor store".

## Overall Social Impact Test

136. The Delegate is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will *not* be detrimental to the wellbeing of the local or broader community.

137. 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.
138. The Act does not define what "local community" means. Consistent with the Authority's *Guideline 6* and its long established practice, the Delegate is satisfied that the local community comprises the state suburb in which the proposed licensed premises is to be located.
139. For the purposes of the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the local community comprises the state suburb of Clovelly while the relevant broader community comprises the Randwick LGA. This is in accordance with what the Applicant acknowledges as the local and broader community within the CIS.

### **Positive benefits**

140. The Delegate is satisfied the Applicant has demonstrated that granting the licence will provide a modest benefit of convenience and choice from a well-appointed new retailer for those members of the local and broader community who wish to purchase packaged liquor from this strip of shops in Clovelly. The Delegate accepts that some further measure of convenience is accepted to flow to local residents and other shoppers patronising this part of Clovelly, particularly those who do not drive.
141. The Delegate accepts that the Applicant distributed notices to the surrounding community and received no objections from Council, RMS or Police and received six objections to the Application from local residents. However, the Delegate notes that many of those objections focus on planning related concerns (traffic congestion, noise and parking), which the Delegate is satisfied, do not directly engage public interest concerns arising from the objects and considerations prescribed by the Act and/or have been addressed by Council when considering planning consent.
142. Furthermore, many of the objecting submissions are based upon the argument that the community does not need another retail liquor supplier by reason of the incumbent retailers in the local or broader community. "Need" is not a basis for objection to an application under the *Liquor Act 2007*, although the presence or otherwise of liquor outlets may be relevant to an assessment of the overall social impact of the new business.
143. While there has been some local objection, noted below, the Delegate is satisfied on the basis of the CIS and the nature of responses and limited local opposition received in response to that consultation that the Applicant has established that granting the Application will be consistent with the "expectations, needs and aspirations of the community" in respect of the local community of Clovelly, being an object of section 3(1)(a), particularly with regard to convenience of persons in the local community. The Delegate notes an absence of objection from local police or Council.
144. The Delegate is satisfied that the proposal will also contribute to the development of the liquor industry in the local and broader community for the purposes of section 3(1)(b) of the Act – albeit to a modest extent only, in light of the number and variety of incumbent licensees in the local and broader community.

## Negative impacts

145. The Delegate accepts that over time there will likely be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or impact on amenity from a minority of customers who abuse packaged liquor purchased from the business operating on the Premises.
146. The scale of the business is not particularly large, but comparable to many stand-alone package liquor retailers across the State.
147. The extensive trading hours sought by the Premises is an objective factor that expands the scope for potential adverse impact from the liquor sales made by this business. The trading hours are extensive, between 10:00am and 10:00pm Monday through Sunday. The business will be licensed to the maximum evening trading time permitted in New South Wales for packaged liquor sales and this will extend to traditionally higher risk times of the day or week, such as later on weekend evenings.
148. There is insufficient data before the Delegate to discern whether the addition of this new licence to the local or broader community will mean an overall increase, decrease or no change to the overall consumption of liquor or the incidents of alcohol related crime across the relevant local or broader community.
149. Accepting that the business may contribute along with existing licensees to the state of alcohol related crime in the local and broader community, the Delegate finds some comfort from the BOCSAR crime data from July 2014 to June 2015 in that the Premises is *not* located within any hotspots for incidents of *non-domestic assault* but is located within a high density hotspot for incidents of *domestic assault* and a low density hotspot for incidents of *malicious damage to property*.
150. The Delegate is satisfied from the research (including that listed in Authority Guideline 6 Livingston, M: "A longitudinal analysis of alcohol outlet density and domestic violence" *Addiction* (2011) Society for the Study of Addiction) that there is an association between liquor outlet density and domestic violence. Liquor sold from packaged liquor stores will tend to be of concern to the Authority as a driver of alcohol related domestic violence incidents as the liquor is by definition consumed in the home, where most domestic violence occurs.
151. However, the Delegate is reassured by the BOCSAR data on crime by LGA and Alcohol Related Status for calendar year 2013 which indicates that the rate of *domestic violence related assault* incidents that were recorded by reporting Police as *alcohol related* and occurring across the Randwick LGA, was **95** per 100,000 persons, significantly lower than the New South Wales rate of **145** per 100,000 persons.
152. The Delegate is further reassured by the Authority liquor licence density data which shows that Randwick LGA has lower recorded rates of *packaged liquor licences, club licences, full hotel licences, limited licences, on-premises licences* and *producer wholesaler licences*.
153. The Delegate acknowledges that the Authority liquor license density data indicates that the Randwick LGA as a whole recorded a rate of **10.08** *packaged liquor licences* per 100,000 persons, which is lower than the NSW state wide rate of **32.85**. Authority licensing data indicates that the Randwick LGA as a whole recorded a rate of **3.88** *club licences* per 100,000 persons, which is below the NSW state wide rate of **20.48**.

154. The Delegate notes that the Authority licensing data indicates that the Randwick LGA as a whole recorded a rate of **7.75 full hotel licences** per 100,000 persons, which is lower than the NSW state wide rate of **30.36**.
155. The Delegate further notes that the Licencing records indicate that the suburb of Clovelly does not have high numbers or rates of licensed premises authorised to sell packaged liquor. There are:
  - a) one club licences
  - b) one full hotel licences
  - c) one packaged liquor licences.
156. When considering the relative risk of adverse social impact the Delegate is further assured by the SEIFA data from ABS indicating that Randwick LGA 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).
157. The Delegate also acknowledges that this data indicates that the state suburb of Clovelly ranked in the tenth decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage. Demonstrating that both the local and broader community are not exposed to the potentially compounding effects of socio economic disadvantage.
158. The Delegate acknowledges that local residents raised concerns about the congregation of people around the fish shop across the road from the proposed Premises. The Delegate accepts as generally credible that a takeaway food store may well frequently attract groups of youths and young adults and this may have an adverse impact upon amenity through noise and boisterous behaviour, etc. The Delegate accepts that the extensive licensed trading hours sought by the Applicant exacerbate that risk.
159. However, that is not evidence or information establishing alcohol related anti-social conduct impacting local amenity. The Delegate gives weight to the Police submission which satisfies the Delegate that the location is not a hotspot for alcohol related crime, nor have Police identified prevailing vulnerability to localised amenity impacts (whether alcohol related or otherwise) at this location.
160. The Delegate notes that should patrons of the nearby fast food business also use this site to consume packaged liquor purchased from the Premises, through misconduct, noise, public drinking or alcohol related litter, then local residents will have the opportunity to complain to OLGR and seek the imposition of remedial action upon the licensee. This may include a reduction in trading hours or other conditions to manage impact on amenity.
161. The Delegate is satisfied that the following aspects of the proposal will objectively operate to constrain the extent of adverse social impact arising from the abuse of packaged liquor in the circumstances of the Application.
162. The Delegate acknowledges that the Premises will have an extensive CCTV system with cameras that cover both the interior and exterior of the Premises. The Delegate is satisfied that this added measure will help mitigate any anti-social behaviour occurring on the street outside the Premises as a result of people congregating.
163. The Delegate acknowledges that the Applicant has also consented to the following conditions that the Premises "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"; 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".

164. The Delegate notes the absence of any adverse submissions from Police, OLGR or Council. That is, no submissions have been made identifying localised concerns with the abuse of packaged liquor in or in the area of the location of the Premises.
165. The Delegate is satisfied that the Applicant has implemented comprehensive harm minimisation measures through its *Plan of Management* dated 4 November 2015 and its *House Policy*. These documents satisfy the Delegate that the Applicant and all staff members will be adequately trained and will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the Premises is constrained.

## CONCLUSION

166. 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 Delegate is satisfied that the overall social impact of granting this Application for a packaged liquor licence will not be detrimental to the well-being of the local or broader community.
167. In making this decision the Delegate has considered all of the statutory objects provided by section 3(1) of the Act and has had regard to all of the considerations prescribed by section 3(2) of the Act.



Micheil Brodie  
Chief Executive

DATED 19 JAN 2016