



Mr Warwick Caisley
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Dear Mr Craisley

**Application for the Grant of a New Packaged Liquor Licence
Ritchies Supa IGA Plus Liquor, Crows Nest**

I am writing to you about an application made by your client, Ritchies Stores Pty Limited, to the Independent Liquor and Gaming Authority on 8 April 2014, in respect of a proposed new packaged liquor licence for premises to be located at Shop 40, 103-111 Willoughby Road, Crows Nest to trade as "Ritchies Supa IGA Plus Liquor".

As described in the Authority's 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.

The Delegate considered the Application on 5 November 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 9 November 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 if you have any enquires about this letter.

Yours faithfully

Micheil Brodie
Chief Executive

29 JAN 2016

STATEMENT OF REASONS

INTRODUCTION

1. On 8 April 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) lodged by Lands Legal on behalf of Ritchies Stores Pty Limited (Applicant). 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 Shops 40, 103-111 Willoughby Road, Crows Nest trading as "Ritchies Supa IGA Plus Liquor" (**Premises**).
2. The Application discloses that the proposed licensed business will "be situated within the supermarket".
3. The Applicant submits that the licensed area of the Premises comprises a liquor trade area of approximately 105 square metres which includes the cool room.
4. The Application proposes that the new packaged liquor business be licensed to sell or supply liquor for consumption *off* the Premises during the trading hours of:

Monday to Saturday	8:00am to 10:00pm
Sunday	10:00am to 9:00pm.
5. [The Delegate notes that these trading hours were subsequently amended by the Applicant and reduced to conform with the grant of development consent].
6. The Application seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between 2:00am and 8:00am Monday through Saturday and between 4:00am and 10:00am on Sunday.
7. The Delegate notes that Authority Policy is for the 6-hour closure period to usually be fixed at between 4:00am and 10:00am unless an applicant provides a sufficient case that it is in the public interest for alternative period to be specified. The Delegate notes that the Premises is to be situated within a supermarket and is not a stand-alone liquor store.

MATERIAL BEFORE THE DELEGATE

8. **Application Form for a New Packaged Liquor Licence and Community Impact Statement (CIS) filed with the Authority on 8 April 2014:** The Applicant proposes the licensed trading hours noted above. The Applicant contends that these hours are "substantially the same" as the hours the IGA supermarket will trade and will enable "one-stop shopping" particularly for "early shoppers". The Applicant contends that "no harm can arise from the operation of the liquor section, and the availability of liquor in supermarkets should contribute to community life, not be detrimental to it".
9. The Applicant states in this document that the response received from the local council to the CIS "is being clarified". The Applicant contends that staff "will be" trained in the responsible service of Alcohol and the "house policy" of the business. The Applicant submits that it is "very experienced, having an interest in many NSW licences within supermarkets".
10. The various contentions and submissions made by the Applicant in the CIS document regarding the overall social impact of granting the Application are discussed in further detail below.

11. **List of other Ritchies IGA stores:** identifying the name, addresses and licence numbers of 16 Ritchies IGA stores that the Applicant company has associated with.
12. **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.
13. **Incident Report Book and House Rules:** This 3-page document outlines that the Applicant will record all incidents in their report book that may pertain to "theft, proof of age, intoxication or any other significant disputes". The Applicant states that it is company policy to ask for ID if "a person does not look 25 years of age". The Applicant will only accept the following identification document - passport; driver's licence; proof of age card; and photo card. The document states that alcohol will not be served unless the cashier is confident that the proof of identification "is not a fake or been interfered with" and that where cashier believes the identification as being false or interfered with, the document must be retained and the police contacted.
14. This document sets out the Applicant's policy regarding penalties for the inappropriate service of liquor, means by which staff may "detect an intoxicated person" and the "action required to deal with an intoxicated person". The Applicant states in this document that that "members of staff should not, at any time serve intoxicated customers".
15. **ASIC Current Organisation Extracts:** This document provides company details as at 25 March 2014 in respect of *Ritchies Stores Proprietary Limited*.
16. **Plan of the Premises:** This 1-page document provides a detailed plan of the Supermarket, and highlights in blue the liquor sales area. This detailed plan also identifies the internal layout of the proposed licensed Premises.
17. **Geographical Map:** depicting what the Applicant describes as the "service area" of the business.
18. **Addendum to the Applicant's CIS dated 13 July 2015:** In this 2-page document, the Applicant contends that the Applicant has "some 16 stores in NSW with packaged liquor licences and is experienced in the conduct of supermarkets"; that the Applicant and its staff "will join" and be "an active participant in the area's local liquor accord" and that "security cameras will be installed providing surveillance of the liquor sales area".
19. The Applicant contends that the new liquor business operating on the Premises will ensure that:
 - a) all staff involved in the sale and supply of liquor have completed an approved responsible service of alcohol course
 - b) no sale will be made to intoxicated persons
 - c) any person suspected of being "under the age of 25" will be asked for identification
 - d) staff will be trained to ensure that there is no secondary supply of liquor to minors
 - e) a plan of management and house policy has been prepared and will be brought to the attention of "all staff involved in the sale and supply of liquor"
 - f) no promotions will be conducted that "could lead to the misuse or abuse of liquor".
20. The Applicant contends that the "majority of customers who purchase liquor are likely to be customers of the supermarket who arrive and depart by car, utilising the 100 carpark facilities of the centre".

21. The Applicant further contends that "the Authority can be satisfied that responsible attitudes and practices toward the promotion, sale, supply, service and consumption of liquor will be in place to ensure that same contributes to and does not detract from the amenity of community life and that all reasonable steps are taken to prevent supply of liquor to intoxicated persons on the premises".
22. The Applicant discusses the objects of the Act and contends that an assessment of the expectations, needs and aspirations of the community were sought by having customers complete a form that indicates the main reason "why they would like to be able to purchase their liquor at the same time as their groceries".
23. The Applicant contends that "members of the community support the grant of this licence" and submits that the "very favourable population characteristics" along with the NSW Bureau of Crime Statistics and Research (BOCSAR) statistics "demonstrate that there is little misuse or abuse of packaged liquor within either community".
24. The Applicant submits that the Authority "can be satisfied that the supply of liquor from the proposed Premises will contribute to and not detract from the amenity of community life".
25. The Applicant submits that the licensed trading hours sought are from "9:00am to 9:00pm Monday to Saturday and 10:00am to 8:00pm on a Sunday, and while the supermarket is trading".
26. The Applicant contends that granting the licence will provide the following public interest benefits to the community:
 - a) convenience for the customers of Ritchies Supa IGA Crows Nest
 - b) strengthen the other businesses in the development
 - c) avoidance of special trips for liquor elsewhere
 - d) greater choice for the public in the local and broader community.
27. The Applicant submits that "support for the Application has been articulated" and that granting the Application will "facilitate the balanced development of the liquor industry in the public interest".
28. The Applicant submits that Council has raised "no objection" as Development Consent "has been granted" as a result of Council having "no issues with littering, property damage, graffiti or anti-social behaviour in the surrounding area".
29. The Applicant submits that "Police have no objection and sought only two conditions" and that "no other objections are raised". The Applicant submits that the Authority "can conclude the overall social impact" of this Application "will not be detrimental to the well-being of either the local or broader community".
30. **Plan of Management dated July 2015:** The Applicant submits that its Plan of Management will "help to make the Premises a safe, efficient and pleasant environment in which to work and visit". This document discusses the Applicant's policies on "identification", "responsible service of alcohol", "guidelines", "CCTV", "operational procedures", and the "registering of complaints".
31. In this Plan, the Applicant contends *inter alia* that staff and management will:
 - a) be vigilant in checking identification
 - b) comply with the intoxication policy outlined in this document

- c) take "reasonable steps to restrict activities" that encourage misuse or abuse of liquor
 - d) "take all reasonable steps" to ensure there is no secondary supply
 - e) continue to provide regular training for staff
 - f) prohibit removal of liquor in open containers from the venue
 - g) continue to "ban any promotion encouraging excessive consumption of alcohol".
32. The Applicant contends that "CCTV Cameras will be installed" on the Premises; that an "incident report will be required to be completed on all incidents"; that "any complaints received will be documented and followed up by the management"; that this Management Plan will be "reviewed by management after three months and then every half yearly" and that management will "pro-actively liaise with licensing Police and the Office of Liquor Gaming and Racing to further develop this Management Plan in conjunction with the local liquor accord".
33. **Annexure to the Applicant's CIS dated 13 July 2015:** In this document the Applicant discusses "population characteristics", "BOCSAR Statistics"; "Density of Licences" and "responses to preliminary notice".
34. The Applicant contends that *inter alia* that the proposed new business will be located in "Crows Nest Plaza"; that there is "parking to the rear of the Premises on two levels"; that the centre includes parking for 100 cars and that the proposed Premises will be situated within the supermarket which trades from 8:00am to 10:00pm Monday to Saturday and 10:00am to 9:00pm on Sunday and approval is sought to trade the liquor section of the premises for the same hours.
35. The Applicant contends that the "suburb is well serviced by buses", that there are no "sensitive" facilities located around the Premises and that "security cameras will be installed and the staff will be" trained in the responsible service of alcohol.
36. The Applicant submits that the business "will be conducted by Ritchies Stores Pty Limited which operates 29 supermarkets in NSW and some 70 in Australia" of which 16 stores in NSW and 52 stores in Australia have packaged liquor licences.
37. The Applicant contends that "none of these liquor stores have been the subject of breaches of the Liquor Act".
38. The Applicant further contends that the business will provide "employment opportunities for a manager and three staff", that a House Policy "will be implemented at the Premises" and that the nearest off-premises licenced premises is "Jims Cellars" located approximately "150 metres" from the Premises.
39. The Applicant submits that the "local and broader community and the suburbs comprising the local community have very favourable population characteristics"
40. The Applicant discusses the BOCSAR data for the communities and submits that "the figures for domestic and non-domestic assaults are well below state averages and the area in and about Crows Nest Plaza is likewise clear of hotspots apart from being on the fringe of a medium/low hotspot for domestic assaults".
41. The Applicant acknowledges that the North Sydney Local Government Area (LGA) would have "a density of licences higher than the state average" but contends that "a high proportion of them would be on-premises licences".

42. In response to submissions received from NSW Roads and Maritime Services (RMS) the Applicant "agrees to join the local liquor accord and display public education material".
43. The Applicant acknowledges the submission received from Council and makes the following submissions:
 - a) the proposed bottle shop is "ancillary to the main approved use" of the site as a supermarket
 - b) there are "no litter issues, or issues with property damage or graffiti near the Premises"
 - c) there are "no issues with anti-social behaviour problems associated with the surrounding area"
 - d) there are no alcohol free zones located "near" the Premises.
44. The Applicant submits that Council's response to the Application "supports the BOCSAR statistics and reflects the population characteristics of both communities".
45. The Applicant contends that the "principal users" of the proposed Premises "are likely to be the customers of the supermarket"; that the Premises will allow customers to carry out "one stop" shopping"; that the Premises will be "conducted by a company with extensive experience"; that the "introduction of a further licence to the area is unlikely to increase the volume of alcohol consumed" and that the Premises will "strengthen the viability of the other nearby businesses".
46. The Applicant concludes with a submission that the overall social impact of granting the Application will not be detrimental to the well-being of the local and broader community.
47. **Geographical maps:** depicting an aerial view of the location of the Premises.
48. **Photographs:** These nine photographs depict the street front of the Premises, the street view of the car park, the entrance to the supermarket, the winding ramp access to the supermarket and the checkout at the entrance of the supermarket.
49. **Population Characteristics:** this includes information from the Office of Liquor Gaming and Racing "social profile report for the North Sydney" LGA [which the Delegate notes is now well out of date]. The Applicant also refers to the "2011 census reports" for North Sydney LGA, Willoughby LGA and the state suburbs of Crows Nest, Wollstonecraft, Waverton, Cammeray, St Leonards, Naremburn, Northbridge, Willoughby and Castlecrag.
50. **A Table representing the Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS):** This document prepared by the Applicant outlines the data for NSW as a whole, North Sydney LGA, Willoughby LGA and the state suburbs of Wollstonecraft, Waverton, Cammeray, Crows Nest, St Leonards, Narrabeen, Willoughby, Castlecrag.
51. **BOCSAR Crime Maps from October 2012 to September 2013 detailing hotspots of offences for the location of the Premises:** The Applicant relies on this bundle of data in their Annexure to the CIS dated 13 July 2015 which records the rate per 100,000 people and the location of hotspots for the concentration of incidents of *non-domestic assault* and *domestic assault*.
52. **Submission Forms in support of the Application:** The Applicant, in the Addendum to the Applicant's CIS dated 13 July 2015, contends that an assessment of the expectations, needs and aspirations of the community were sought by having customers

of the supermarket complete a form that indicates the main reason "why they would like to be able to purchase their liquor at the same time as their groceries".

53. The document states "I regularly complete my grocery shopping at these premises" and provides the respondent with the following four options to choose from:

I would greatly appreciate being able to purchase my liquor requirements at the same time as I purchase my groceries as:

- *It will allow one stop shopping*
- *It will avoid the necessity of trips to other premises*
- *It would be convenient to park in the parking area adjacent to the Premises*
- *It would create greater competition in liquor sales.*

54. The Applicant submits that a total of 48 supporting submissions were received in response to this survey with:

- a) thirty seven submissions selecting the reason that "it will allow one stop shopping"
- b) twenty eight submissions selecting the reason that "it will avoid the necessity of trips to other premises"
- c) seventeen submissions selecting the reason that "it would be convenient to park in the parking adjacent to the Premises"
- d) twenty six submissions selecting the reason that "it would create greater competition in liquor sales".

55. The Delegate states that many of the respondents selected more than one reason and that the submissions were received from customers who were residing in Wollstonecraft, Crows Nest, Willoughby, Naremburn, Neutral Bay, North Sydney, Artarmon, Cammeray and Greenwich.

56. **Report to the Authority dated 16 July 2014 from a delegate of the (then) Secretary of the 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 report OLGR "objects to the granting" of the Application and submits that "although the proposed business model is rated low, the location risk is assessed as moderate. OLGR submit that the "the assessment identified several significant concerns" including that:

- a) the "area is already over saturated with packaged liquor providers and licensed premises"
- b) the "proposed venue would not be offering anything that wouldn't already be available" at any of the existing packaged liquor providers or licensed premises
- c) the BOCSAR data "shows that alcohol related assault and disorderly conduct offences in Crows Nest are well above the State average" demonstrating that the area "does have a significant concentration of alcohol related anti-social behaviour"
- d) granting the Application "may further contribute to alcohol related harm and issues in an area that is already exhibiting a high prevalence of such issues" and result in an "adverse cumulative impact on the local and broader community".

57. OLGR notes that the "primary purpose" of the proposed business is the sale of packaged liquor, meaning that "as the consumption of liquor cannot occur in the licensed premises", tastings is the only consumption permitted. OLGR also acknowledge that the Premises will "adjoin an IGA supermarket located in Crows Nest".

58. OLGR notes that the "radial density of Crows Nest is well above the State average"; that that the BOCSAR data shows that from "January 2013 to December 2013, the rate of alcohol related assaults (both domestic and non-domestic) that occurred in Crows Nest was **644** (per 100,000 population)" compared to the whole of NSW which had a rate of

344 per 100,000 population; and that the "rate of alcohol related disorderly conduct offences in Crows Nest for the same period was **616** (per 100,000 population) compared to **117** (per 100,000 population) for the whole of NSW".

59. OLGR contends that these statistics indicate that "Crows Nest does appear to have a significant concentration of alcohol-related anti-social behaviour".
60. OLGR note the proposed trading hours as between 8:00am to 10:00pm Monday to Saturday and between 10:00am to 9:00pm Sundays. OLGR submit that there is no "compelling evidence to support the sale of liquor prior to 10:00am" and that "the sale of liquor prior to this time may have an adverse impact upon the local and broader community". OLGR also notes the legislative provision in section 11A of the Act, that require the 6-hour closure period of the Premises to be between 4:00am and 10:00am. [The Delegate notes that section 11A also provides the Authority with a discretion to vary that default 4:00am to 10:00am closure period].
61. OLGR observe that the "stance" taken by NSW Police in respect of the Application is "unknown" and that "North Sydney Council have advised that the Applicant will need to meet several requirements before the council are prepared to support the Application".
62. OLGR observe that it is "unclear" how the Applicant could have concluded in the CIS that "no issues were raised by the Police" considering that Police advised that "they were not prepared to make an assessment until they received all outstanding documents that were requested".
63. OLGR report that a review of Compliance and Enforcement Division records "did not disclose any adverse information" regarding the Applicant, Ritchies Stores Proprietary Limited, or the contact person, Mr Adrian Dominic Ricci. OLGR note that Ritchies Stores Proprietary Limited has "involvement (either as a business owner or licensee) with several packaged liquor outlets operating under the Ritchies Supa IGA brand".
64. **Letter from Mr Martin Ellis, Director of Community and Library Services, North Sydney Council (Council) dated 5 March 2014:** Council advise that "the site is approved for use as a supermarket", that there is "no apparent planning objection to the inclusion of a bottle shop which is ancillary to the main approved use" and that the Applicant should provide the following before Council will support the Application:
 - a) detailed floor plans demonstrating that the primary use of the site is as a supermarket which also show "the layout of the bottle shop and service/storage areas of the bottle shop"
 - b) details of the development approval (DA) and demonstrate that the conditions of consent, on the DA, "are consistent with the operation of the bottle shop"
 - c) information on the approval process of either a Complying Development Certificate or DA.
65. **Licensed Premises CIS Feedback provided by Council and dated 5 March 2014:** Council in this document contend *inter alia* that there are "no litter issues" or issues with "property damage or graffiti" in this area; that "ranger services have no issues with this Application"; that there are "several options available" for transport to and from the Premises and that "there will not be any significant road safety issues" as a result of the Premises being a packaged liquor licence that does not permit consumption of liquor on the Premises.
66. **Map of Alcohol Free and Prohibited Zones:** in St Leonards for the period of November 2011 to November 2015.

67. **Council's response to the Liquor Licence Application- Notice to Local Consent Authority dated 26 March 2014:** Executive planner, Gavin McDonnell, responded to the Notice to Local Consent Authority by providing that the development consent is required for the proposed use of the Premises but "not in place".
68. **Submission from NSW RMS dated 6 February 2014:** This letter presents statistics for the North Sydney LGA indicating that during 2012 there were "eight alcohol-related crashes, resulting in three casualties". RMS suggest that during the approval process, measures preventing the "likelihood of alcohol involvement in road crashes in the Crows Nest 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".
69. 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".
70. **Email from Senior Constable, Bradley Duke, at Harbourside Local Area Command (LAC) of the NSW Police, dated 12 April 2014:** In this email, Police submit that in order for them to assess the Application, Police require additional documents from the Applicant and request that the Authority "await a Police submission" before determining the Application.
71. **Letter from Senior Constable, Bradley Duke, at LAC of the NSW Police, dated 9 April 2014:** In this email, Police contend that "inquiries have been conducted" and that there is "nothing to record which would raise doubt or the integrity" of the Applicant, lessors or financially interested persons". Police advise that there is "no local objection" to the Application.
72. However, Police request that the following two conditions be imposed upon the licence in order to "reduce the impact the venue has on the community". (That):
- i. the licensee or his representative must attend specified meetings of the local liquor accord. The licensee, or person nominated by the licensee, must attend all general meetings of the Harbourside Liquor Accord, and remain present for the entire duration of the said meetings, provided however that the accord coordinator has properly advised the licensee in advance and the meeting is properly scheduled and has a set agenda
 - ii. the licensee to contribute a fee and maintain membership as set by the Harbourside Liquor Accord to promote or assist an accord initiative Licensee is to contribute a fee to promote or assist an accord initiative.
73. **Email from Authority Staff dated 11 July 2014:** Authority staff invite the Applicant to comment on the submissions from Council and Police. Authority staff require the following further material for the Application to proceed:
- a) A signed copy of the Certificate of Advertising
 - b) A full copy of the existing Development Consent from Council for the supermarket
 - c) Advise if a Complying Development Certificate has been sought

- d) A Plan of Management for the proposed premises.
74. Authority staff inform the Applicant that the licence "must not be exercised until a person is appointed as the manager" and approved by the Authority. Authority staff inform the Applicant that the relevant application form, appointing a manager, must be lodged.
75. 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 2:00am to 8:00am; 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 licensee will "ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier"; that the "licence cannot be exercised unless and until" the Authority has been provided "notified of the appointment of a manager to the licence" and that the "licence cannot be exercised unless and until" the Authority has been provided with "evidence that the Premises are complete and ready to trade".
76. **Email from Authority Staff dated 21 July 2014:** Authority staff invite the Applicant to make comment on the submission received from OLGR.
77. **Letter from Lands Legal on behalf of the Applicant dated 2 October 2014:** In this letter, the Applicant's representative submits that:
- a) development consent is being sought
 - b) there is "no police objection to the granting of the Application and our client consents to the two conditions the Police seek"
 - c) the Applicant "accepts the proposed conditions".
78. In response to the submission received from OLGR, the Applicant submits that access to the Premises "can only be gained from the parking area on the second level or alternatively from Willoughby Road street level by using a circular walkway upwards" and that the "population characteristics" of the local and broader community are "very favourable".
79. On the issue of licence density, the Applicant lists the following current licensed premises in Crows Nest as of June 2014:
- a) two hotels: Crows Nest Hotel and Small Bar Crows Nest
 - b) 83 on-premises licences (restaurant), 22 of which, at least have primary service authorisation
 - c) one on-premises licence for the Crows Nest College of TAFE
 - d) six producer/wholesaler licences
 - e) 10 packaged liquor licences, one of which is endorsed to be held in a dormant capacity, and 4 of which are limited to sales by electronic means.
80. The Applicant submits that of the 102 licences, five are package liquor licences "without trading limitations" (that is, unrestricted packaged liquor premises as distinct from online, mail or phone order only businesses).
81. On the BOCSAR statistics on alcohol related incidents of *assaults, disorderly conduct, domestic assault* and *domestic violence related assaults* the Applicant submits that in the suburb of Crows Nest there is a "low proportion of *domestic violence* assaults, alcohol related or not, which suggests the cause of any problem reflected is not caused by the locals of Crows Nest suburb". (Delegate emphasis).

82. The Applicant contends that it may reasonably be inferred that the "less flattering figures" for Crown Nest are "related to the patrons of the eighty three on-premises licences (restaurant) and not the locals".
83. The Applicant submits that the Premises is located "well north" of the "hub of the commercial part of the suburb"; that the Premises are "clear of other than the fringe of a low (density) hot spot"; that Police "raise no objection" to the Application and that Council have noted that there were "no litter issues or issues with property damage or graffiti or anti-social behaviour problems with the surrounding area".
84. The Applicant submits that "it is difficult to understand how the grant of this Application could further contribute to alcohol related issues, if indeed they exist" and with regard to the licensed trading hours sought that it is "not unusual that liquor sections trading within a supermarket, seek to commence trade at 8.00am to cater for the needs of their patrons shopping early".
85. **Certification of Advertising:** signed and dated by Adriano Ricci (the Applicant's contact person) on 15 May 2014.
86. **Ritchies Super IGA Plus, Crows Nest House Policy dated October 2014:** This 2-page House Policy briefly discusses the premises "identification policy" and "responsible service of alcohol".
87. This document states *inter alia* that "Security Personnel and Management will be vigilant in checking identification and ensuring it is checked again when a drink is ordered if there is any doubt about the age of the patron" and that "prior to the serving of alcohol, the Licensee and other staff involved in the sale and supply of liquor will be required to complete a Responsible Service of Alcohol Course approved by the Authority".
88. The Applicant contends in this document that the licensee and staff will:
 - a) "take responsible steps to restrict activities" that could "encourage misuse or abuse of liquor"
 - b) display all legally required signage
 - c) encourage patrons to drink responsibly and let them know they will be asked to leave if they become intoxicated, violent or quarrelsome
 - d) provide "low alcohol beer and non-alcoholic beverages at all times"
 - e) provide food "wherever liquor is consumed at the licensed Premises"
 - f) ensure that "liquor is not sold and supplied to persons under the age of 18 years and that minors do not gain access to liquor by way of secondary sale or by being supplied with it by a person 18 years or over".
89. **BOCSAR Crime Maps from April 2013 to March 2014 detailing hotspots of offences for the suburb of Crows Nest:** The Applicant's representative relies on this bundle of data in their letter dated 2 October 2014, which records the rate per 100,000 people and the recorded hotspots for the concentration of incidents of alcohol related *assault, disorderly conduct, domestic assault, domestic violence and alcohol related assault*.
90. **Email from Lands Legal on behalf of the Applicant dated 7 May 2015:** In this email, the Applicant's representative informs the Authority that "...Council approval was received today and request a short time to consider whether further evidence should be provided".

91. **DA No. 56/15 from North Sydney Council (Council) dated 29 April 2015:** recording that Council has granted "change of use and fit-out of part of existing supermarket to liquor outlet".
92. Council granted the DA subject to the following conditions *inter alia* that the "plant and equipment installed on the Premises must not" cause "offensive noise"; that "existing parking provisions in the vicinity of the site must be maintained at all times during works"; that "no deliveries, loading or unloading associated with the Premises are to take place between the hours of 10:00pm and 6:00am on any day" and that the Premises is "restricted" to the following trading hour (for planning purposes):
- | | |
|-------------------|--------------------|
| Monday – Saturday | 9:00am to 9:00pm |
| Sunday | 10:00am to 8:00pm. |
93. Council have also imposed the two conditions on the DA regarding involvement in the Local Liquor Accord that were specified by Police in their submission dated 9 April 2014.
94. **Email from Lands Legal on behalf of the Applicant dated 13 July 2015:** In this email, the Applicant's representative informs the Authority that the Applicant "accepts the hours under the DA".
95. **Email from Authority Staff dated 9 September 2015:** Authority staff request the Applicant consent to the following condition that "the Premises are to be operated at all times in accordance with the Plan of Management dated July 2015 as may be varied from time to time after endorsement by the Local Area Commander".
96. **Email from Lands Legal on behalf of the Applicant dated 10 September 2015:** In this email, the Applicant's representative informs the Authority that the Applicant "consents" to the condition imposed by Authority staff in their email dated 9 September 2015.
97. **Email from Authority Staff dated 23 September 2015:** Authority staff request the Applicant consent to the following CCTV related conditions should the licence be granted:

The Licensee shall maintain a CCTV system that meets the following minimum requirements:

1. *A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond a reasonable doubt when:*
 - a. *the person represents not less than 100% of screen height, and*
 - b. *there is an unobstructed view of the persons face.*
2. *In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:*
 - a. *all other public entrances and exits, whether or not in use at the time*
 - b. *staircases*
 - c. *all portions of the floor area accessible to the public where entertainment is provided*
 - d. *toilet external entrances*
 - e. *all public accessible areas within the premises excluding toilets and accommodation rooms*
 - f. *the footpath area directly adjacent to the premises, and*
 - g. *beer garden and smoking areas.*

3. *The CCTV recordings of these cameras must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before when:*
 - a. *the person represents not less than 50% of screen height, and*
 - b. *there is an unobstructed view of the person's face.*
4. *Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.*
5. *Camera recordings must meet the standards set in 1 and 3 at all times, either by way of camera technology and settings, and/or by maintenance of lighting, camera positioning, camera shades and other environmental factors.*
6. *Recordings must:*
 - a. *be in digital format*
 - b. *record at a minimum of six frames per second, and*
 - c. *commence 1 hour prior to opening, and operate continuously until at least one hour after closure.*
7. *The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.*
8. *Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.*
9. *When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.*
10. *Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, OLGR Inspectors or other regulatory officer upon request.*
11. *The CCTV system shall be able to reproduce a copy of the recordings on compact disk, DVD, or USB memory stick and must be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officer upon request.*
12. *Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within 2 hours. All reasonable steps must be undertaken to repair the system as soon as practicable.*

Evidence must be provided to the Authority that a CCTV system which meets the requirements of this condition has been installed within 28 days of the licence being granted.

98. **Email from Lands Legal on behalf of the Applicant dated 28 September 2015:** In this email, the Applicant's representative informs the Authority that the CCTV condition "is very much a hotel condition" and questions if this type of condition is "correct" for the use of a liquor section within a supermarket.
99. **Email from Authority Staff dated 28 September 2015:** Authority staff advise the Applicant that "standard CCTV condition should be imposed on the licence" and that the Applicant can "amend" the condition to reflect the Application is a packaged liquor licence within a supermarket by crossing out what is "not applicable".
100. **Email from Lands Legal on behalf of the Applicant dated 6 October 2015:** In this email, the Applicant's representative informs the Authority that condition 2 (b), (c), (d) and (g) of the proposed CCTV conditions have been removed and that the last paragraph has been amended to read "Evidence must be provided to the Authority that a

CCTV system which meets the requirements of this condition, has been installed prior to the licence being exercised". The Applicant contends that "if the licence was to be granted, it would certainly take more than 28 days for construction, fit-out".

101. **NSW 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 Authority from published BOCSAR sources, shows the immediate location surrounding the Premises Shop 40 103-111 Willoughby Road, Crows Nest is **not** within any hotspots for incidents of *domestic assault*. However, this data shows that the Premises is just outside a low density hotspot for incidents of *non-domestic assault* and on the border of a low and medium hotspot for incidents of *malicious damage to property*.
102. **Authority licensing records** indicating the addresses of other liquor licenced premises within the nearby suburbs of Wollstonecraft, Crows Nest, St Leonards, Greenwich, Naremburn and Cammeray. With regard to those licence types that may potentially sell liquor for consumption off the premises, Authority records disclose that the state suburb of Crows Nest has:
 - a) one full hotel licence
 - b) one general licence
 - c) 81 on-premises licences
 - d) nine packaged liquor licensed premises
 - e) seven producer wholesaler licences.
103. **Authority liquor license density data:** This data before the Delegate indicates that the North Sydney LGA as a whole records:
 - a) a rate of **20.87 packaged liquor licences** per 100,000 persons comfortably below the NSW state average of **32.85**
 - b) a rate of **8.03 club licences** per 100,000 persons, which is below the NSW state wide rate of **20.48**
 - c) a rate of **16.05 full hotel licences** per 100,000 persons, which is lower than the NSW state wide rate of **30.36**
 - d) a rate of **12.84 limited licences** per 100,000 persons, which is below the NSW state wide rate of **21.30**
 - e) a rate of **17.66 on-premises licences** per 100,000 persons, significantly less than the NSW state wide rate of **121.31**
 - f) a rate of **32.10 producer wholesaler licences** per 100,000 persons, which is slightly higher 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 recorded by reporting Police as *alcohol related* occurring across the North Sydney LGA, was **91** per 100,000 persons, comfortably below the New South Wales average of **145** per 100,000 persons
 - b) the rate of *non-domestic violence related assault* incidents recorded by reporting Police as *alcohol related* in the North Sydney LGA for 2013 was **135**, below the State wide rate of **191**
 - c) the rate of *offensive conduct* offences recorded by reporting Police as *alcohol related* in the North Sydney LGA was only **124** per 100,000 persons greater than the State wide rate of **83**
 - d) the rate of *assault police* incidents recording by reporting Police as *alcohol related* in the North Sydney LGA was **22**, which is close to the rate of New South Wales of **24**

- e) the rate of alcohol related *malicious damage to property* in the North Sydney LGA is **80** per 100,000 persons which is comfortably below the State wide rate of **122**.

105. **SEIFA data published by the ABS:** ABS data prepared on the basis of the 2011 census indicates that the both the suburb of Crows Nest and North Sydney LGA ranked in the tenth decile compared to other suburbs in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD) (with a decile ranking of 10 being the most advantaged).

LEGISLATION

106. 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 10 pm on any day of liquor for consumption away from the licensed premises.*
- (4) *Tastings* A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

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

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

31 Restrictions on granting packaged liquor licences

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

"service station" means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

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

107. 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.*

108. 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.

109. 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.*

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

111. 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 OVERALL SOCIAL IMPACT

112. The Applicant contends that the Applicant has "some 16 stores in NSW with packaged liquor licences and is experienced in the conduct of supermarkets"; that the Applicant and its staff "will join" and be "an active participant in the area's local liquor accord" and that "security cameras will be installed providing surveillance of the liquor sales area".
113. The Applicant contends that the Premises will ensure that:
 - a) all staff involved in the sale and supply of liquor "have completed an approved responsible service of alcohol course
 - b) no sale will be made to intoxicated persons
 - c) any person suspected of being "under the age of 25" will be asked for identification
 - d) staff will be trained to ensure that there is no secondary supply of liquor to minors"
 - e) a plan of management and house policy has been prepared and will be brought to the attention of "all staff involved in the sale and supply of liquor"
 - f) no promotions will be conducted that "could lead to the misuse or abuse of liquor".
114. The Applicant contends that the "majority of customers who purchase liquor are likely to be customers of the supermarket who arrive and depart by car, utilising the 100 car park facilities of the centre".
115. The Applicant further contends that "the Authority can be satisfied that responsible attitudes and practices toward the promotion, sale, supply, service and consumption of liquor will be in place to ensure that same contributes to and does not detract from the amenity of community life and that all reasonable steps are taken to prevent supply of liquor to intoxicated persons on the premises".
116. The Applicant discusses the objects of the Act and contends that an assessment of the expectations, needs and aspirations of the community were sought by having customers complete a form that indicates the main reason "why they would like to be able to purchase their liquor at the same time as their groceries".
117. The Applicant contends that "members of the community support the grant of this licence" and that the "very favourable population characteristics" along with the NSW Bureau of Crime Statistics and Research (BOCSAR) statistics "demonstrate that there is little misuse or abuse of packaged liquor within either community". The Applicant contends that the Authority "can be satisfied that the supply of liquor from the proposed Premises will contribute to and not detract from the amenity of community life".

118. The Applicant contends that the Premises will provide the following public interest benefits:
 - a) convenience for the customers of Ritchies Supa IGA Crows Nest
 - b) strengthen the other businesses in the development
 - c) avoidance of special trips for liquor elsewhere
 - d) greater choice for the public in the local and broader community.
119. The Applicant contends that "support for the Application has been articulated" and that granting the Application will "facilitate the balanced development of the liquor industry in the public interest".
120. The Applicant contends that Council raised "no objection" as Development Consent "has been granted" as a result of Council having "no issues with littering, property damage, graffiti or anti-social behaviour in the surrounding area".
121. The Applicant notes that "Police have no objection and sought only two conditions" and that "no other objections are raised". The Applicant contends that the Authority "can conclude the overall social impact" of this Application "will not be detrimental to the well-being of either the local or broader community".
122. The Applicant contends that *inter alia* that the proposed Premises will be located in "Crows Nest Plaza" and that there is "parking to the rear of the Premises on two levels"; that "the centre includes parking for 100 cars".
123. The Applicant contends that the "suburb is well serviced by buses", that there are no "sensitive" facilities around the Premises and that "security cameras will be installed and the staff will be RSA trained".
124. The Applicant contends that the business "will be conducted by Ritchies Stores Pty Limited which operates 29 supermarkets in NSW and some 70 in Australia" of which 16 stores in NSW and 52 stores in Australia have packaged liquor licences. The Applicant notes that "none of these liquor stores have been the subject of breaches of the Liquor Act".
125. The Applicant contends that the Premises will provide "employment opportunities for a manager and three staff", that a House Policy "will be implemented at the Premises" and that the nearest off-premises licence is "Jims Cellars" approximately "150 metres" from the Premises.
126. The Applicant contends that the "local and broader community and the suburbs comprising the local community have very favourable population characteristics"
127. The Applicant discusses the BOCSAR statistics before concluding that "the figures for domestic and non-domestic assaults are well below state averages and the area in and about Crows Nest Plaza is likewise clear of hotspots apart from being on the fringe of a medium/low hotspot for domestic assaults".
128. The Applicant acknowledges that the North Sydney LGA would have "a density of licences higher than the state average but, a high proportion of them would be on-premises licences".
129. In response to submissions received from NSW RMS the Applicant "agrees to join the local liquor accord and display public education material".

130. The Applicant acknowledges the submission received from Council and submit that:
- a) the "bottle shop is ancillary to the main approved use" of the site as a supermarket
 - b) "there are no litter issues, or issues with property damage or graffiti near the Premises"
 - c) there are "no issues with anti-social behaviour problems associated with the surrounding area"
 - d) there are no alcohol free zones "near" the Premises.
131. The Applicant argues that the submission received from Council "supports the BOCSAR statistics and reflects the population characteristics of both communities".
132. The Applicant contends that the "principal users" of the proposed new liquor business "are likely to be the customers of the supermarket"; that the Premises will allow customers to carry out "one stop" shopping"; that the Premises will be "conducted by a company with extensive experience"; that the "introduction of a further licence to the area is unlikely to increase the volume of alcohol consumed" and that the Premises will "strengthen the viability of the other nearby businesses".
133. The Applicant concludes that the "overall social impact" of the Application "will not be detrimental to the well-being of the local and broader community".

REASONS

134. The Delegate is satisfied, on the basis of the Application material before the Authority and the absence of any submissions to the contrary 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.
135. 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. [The Delegate notes the Applicant's ASIC Current Extract and is satisfied on the basis that no issues of concern were raised with regard to the Applicant company or its directors' probity following consultation with relevant law enforcement agencies including Police and OLGR.]
136. 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, on the basis of the *House Policy* dated October 2014, the *Plan of Management* dated July 2015 which contains an adequate outline of the Applicants Responsible Service Practices that will be in place at the proposed Premises. The Delegate further notes that the Plan of Management will not simply be a voluntary or internal planning document but with respect to which compliance will be mandated, for the purposes of the Act, by way of an enforceable licence condition.
137. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for use of a packaged liquor licence on the Premises. This finding is made on the basis of the DA No 56/15 issued by Council dated 29 April 2015 which records the "change of use and fit-out of part of existing supermarket to liquor outlet".

Overall Social Impact Test

138. The Delegate is satisfied that, based on the material provided for the purposes of section 48(5) of the Act, the overall social impact of granting the Application will *not* be detrimental to the wellbeing of the local or broader community.
139. 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.
140. 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.
141. 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 Crows Nest while the relevant broader community comprises the North Sydney LGA.

Positive benefits

142. The Delegate is satisfied, on the basis of the Application, CIS and submissions from the Applicant, that granting the licence will add a modest additional measure of convenience to members of the local and broader community who wish to conveniently purchase packaged liquor whilst grocery shopping at Ritchies IGA.
143. The Applicant has contended that weight should be given to the following public interest benefits that the Premises would provide: "convenience for the customers of Ritchies Supa IGA Crows Nest"; "one stop" shopping; "strengthen the other businesses in the development"; "avoidance of special trips for liquor elsewhere" and "provide greater choice for the public in the local and broader community".
144. The Delegate is satisfied that there is some, albeit modest evidence from the supermarket's customers that granting the Application is consistent with the "needs, desires and expectations" of the local and broader community, being an object of section 3(1)(a) of the Act. That evidence is limited and does not survey other persons in the local or broader community.
145. The Delegate is satisfied that the Applicant notified the community without receiving any adverse comments or complaints and instead received 48 supporting submissions from local residents in the form an survey conducted by the Applicant.
146. The Delegate is satisfied that the Applicant has established that granting the Application will be broadly consistent with the "expectations, needs and aspirations of the community" being an object of section 3(1)(a).
147. The Applicant has contended that it will provide "greater choice" and "will facilitate the balanced development of the liquor industry in the public interest". However, the Applicant has not specified which product lines the Premises will stock compared to other packaged liquor stores. While it is generally credible for the Applicant to submit that it will provide greater choice, in the absence of specification as to how this will occur this purported positive benefit is given little weight.
148. In light of the fact that there are nine packaged liquor licensees within the local community the Authority is satisfied that the proposed new business will provide some

very modest development of the local liquor industry that serves the local and broader community, which is an object of section 3(1)(b) of the Act.

149. The Delegate notes the Applicant's submission that granting the Application will provide employment opportunities for locals. While the new store may well do this, in the absence of a clear commitment from the Applicant as to the hiring policy of the Premises and a clear commitment that persons will actually be hired from the local or broader community, it is difficult to give this submission much weight. Staff may well be recruited from any part of Sydney.

Negative impacts

150. The Delegate is satisfied that over time there will likely be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact upon amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
151. The Delegate is satisfied, on the basis of the SEIFA data from ABS, that the local community of Crows Nest is on the whole very advantaged in socio economic terms, ranking in the tenth decile by comparison to other state suburbs in NSW on the IRSAD.
152. The broader community in the North Sydney LGA is also relatively advantaged, ranking in the tenth decile by comparison to other local government areas in NSW on the IRSAD.
153. The Delegate acknowledges OLGR's concern that granting the licence "may further contribute to alcohol related harm and issues in an area that is already exhibiting a high prevalence of such issues".
154. The Delegate also notes that OLGR contends that granting the Application "may ultimately have an adverse cumulative impact on the local and broader community". The Delegate notes the higher than State average *overall alcohol* related assault rates for the suburb of Crows Nest identified in the OLGR Report.
155. This data is of concern, however it does not distinguish between domestic and non-domestic assault. The Delegate notes that there are substantial hotels and many other on premises businesses in Crows Nest that may likely contribute to non-domestic assault, noting that the BOCSAR data for the LGA indicates that non-domestic assault occurs on licensed premises and in a variety of other location types, whereas domestic assault is heavily concentrated in private residences.
156. The Delegate notes from the research (identified in Authority Guideline 6) that there is an association between higher liquor outlet density and domestic violence. Liquor sold from packaged liquor stores will tend to be of concern as a driver of alcohol related domestic violence as the liquor is by definition consumed in the home, where most domestic violence occurs.
157. In the context of a packaged liquor licence application, the Delegate is particularly concerned with domestic assault rates given that most packaged liquor will be consumed on private premises and that is also the locus of most domestic violence.
158. The Delegate acknowledges that the BOCSAR crime data indicates that the Premises is *not* located within any hotspots for incidents of *domestic assault*. However, this data shows that the Premises is just outside a low density hotspot for incidents of *non-domestic assault* and on the border of a low and medium hotspot for incidents of *malicious damage to property*.

159. The Delegate is reassured by the BOCSAR report on Crime by LGA and Alcohol Related Status obtained from published BOCSAR sources for calendar year 2013 which indicates that the Premises is has lower rates of reported *alcohol related incidents* than NSW as a whole in the categories of *domestic violence related assault, non-domestic violence related assault, assault police, assault police and malicious damage to property*.
160. The Delegate notes that the rate of recorded *domestic violence related assault* incidents that were recorded by reporting Police as *alcohol related* occurring across the North Sydney LGA, was **91** per 100,000 persons, which is below the NSW average of **145** per 100,000 persons. The rate of *assault police* incidents flagged by reporting Police as alcohol related in this LGA was **22**, which is lower than the NSW rate of **24**. The statistics also indicate that the rate of alcohol related *malicious damage to property* in the North Sydney LGA is **80**, which is well below the State wide rate of **122**. The Delegate is satisfied that the rate of *non-domestic violence related assault* incidents flagged by reporting Police as alcohol related in the North Sydney LGA for 2013 was **135**, lower than the rate for NSW of **191**.
161. The Delegate acknowledges that the rate of *offensive conduct* offences flagged by reporting Police as alcohol related in this LGA was **124** per 100,000 persons, which is higher than the NSW rate of **83**.
162. The Delegate also acknowledges that Authority liquor licence density data indicates that the North Sydney LGA as a whole recorded a rate of **20.87 packaged liquor licences** per 100,000 persons comfortably below the NSW state average of **32.85**.
163. The Delegate acknowledges that the Authority licensing data indicates that the North Sydney LGA has significantly lower rates of *full hotel licences, club licences, limited licences* and *on premises licences* per 100,000 people compared to rates for NSW as a whole. However, North Sydney LGA has a slightly higher rate of *producer and wholesaler licences* per 100,000 people compared to all of NSW. That is, licence density at the time of this decision is not of particular concern at the level of the broader community for licence types authorised to sell takeaway liquor.
164. At the level of the local community the Delegate is satisfied on the basis of Authority licencing records that the suburb of Crows Nest has:
 - a) one full hotel licence
 - b) one general licence
 - c) 81 on-premises licences
 - d) nine packaged liquor licensed premises
 - e) seven producer wholesaler licences.
165. However, the Delegate accepts that five of the packaged liquor licensed premises located in Crows Nest are restricted – that is, they do not pertain to bricks and mortar liquor stores but businesses authorised to sell liquor online or by phone order only.
166. The Delegate acknowledges that OLGR raised concerns regarding the local community already "exhibiting a high prevalence" of alcohol related issues. However, the Delegate has considered the very advantaged socio demographic, the low crime data for the broader community and the fact there is an absence of any evidence from Police or Council indicating a concentration of localised problems arising from the consumption of liquor in the local community or that area in which the Premises is located.

167. The extensive trading hours sought by the Premises and its medium scale of 105 square metres are factors that objectively increase the scope of this business to contribute, along with other licensed premises, to prevailing adverse social impacts over time.
168. The Delegate notes that the Applicant has agreed to the following trading hours so that the Application corresponds with the hours specified by Council, and those hours are still extensive:
- | | |
|--------------------|--------------------|
| Monday to Saturday | 9:00am to 9:00pm |
| Sunday | 10:00am to 8:00pm. |
169. The Delegate is satisfied on the basis of the Applicant's submissions 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.
170. The sale of liquor will occur within a Supermarket and this will provide some increased scope for passive surveillance of the conduct of purchasers. The Delegate notes that the Applicant has also consented to a number of conditions including that the licensed business "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"; that the licensee "join and be an active participant in the local liquor accord"; that the licensee will "ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier"; that the "licence cannot be exercised unless and until" the Authority has been provided "notified of the appointment of a manager to the licence" and that the "licence cannot be exercised unless and until" the Authority has been provided with "evidence that the Premises are complete and ready to trade".
171. The Delegate further notes that the Applicant has also agreed to make the licence subject to additional CCTV conditions and a condition that the Premises are further required "to be operated at all times in accordance with the Plan of Management dated July 2015 as may be varied from time to time after endorsement by the Local Area Commander". That is, the Plan of Management is not merely a business planning instrument but enforceable as a licence condition under the Act. This will hold the licensee to higher standards of risk management than may otherwise have been the case.
172. The Delegate is further satisfied, on the basis of the documents submitted by the Applicant entitled "House Policy" and the "Management Plan" that the Applicant has implemented comprehensive and well developed harm minimisation measures.
173. The responsible service of alcohol and responsible practices outlined in these documents satisfy the Delegate that staff members will be adequately trained, that the Premises will not knowingly serve alcohol to intoxicated or underage persons and that the Premises will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the proposed Premises is constrained.

CONCLUSION

174. 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.

175. 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.
176. The Delegate is satisfied that the Applicant has presented a suitable case for the usual daily closure period to be varied to synchronise with the opening hours of the office and it is in the public interest for the daily closure period to be fixed at between 9:00am and 9:00pm Monday through Saturday and between 10:00am and 8:00pm Sunday.



Micheil Brodie
Chief Executive

DATED **29 JAN 2016**