



Mr Loucas Louca
Euro Foods Supermarket Pty Limited
290-294 Keira Street
WOLLONGONG NSW 2500

discounteurofoods@msn.com

Dear Mr Louca

**Application for Packaged Liquor Licence
Euro Foods Supermarket Pty Limited**

I am writing to you regarding an Application made on behalf of Euro Foods Pty Limited, which was received by the Independent Liquor and Gaming Authority on 5 May 2015.

The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) in respect of premises located at 290-294 Keira Street, Wollongong, 2500.

As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to the Manager of Licensing (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 Delegate considered the Applications on 1 September 2015 and after careful consideration of the Application material and submissions made in relation to the Application, decided to grant the Application pursuant to section 45 of the Act.

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

Attached is the Delegate's statement of reasons. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

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

Yours faithfully

Micheil Brodie
Chief Executive

23 NOV 2015

STATEMENT OF REASONS

INTRODUCTION

1. On 5 May 2015 the Independent Liquor and Gaming Authority (Authority) received an application (Application) made on behalf of Euro Foods Supermarket Pty Limited by Mr Loucas Louca (Applicant).
2. The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007*. The Application is made in respect of premises located at 290-294 Keira Street, Wollongong, 2500.
3. The proposed licensed trading hours of the application will be 10:00am to 7:00pm Monday to Saturday.
4. The Application seeks that the 6 hour closure period required by section 11A of the Act be fixed between 4:00am and 10:00am.

MATERIAL BEFORE THE AUTHORITY

5. Application Form and Community Impact Statement (CIS) dated 12 December 2014. The Application seeks to exercise licensed trading hours between 10:00am to 10:00pm Monday to Sunday and requests that the 6 hour daily closure period, for the purposes of section 11A of the Act, be fixed between 11:00pm and 5:00am. (This has subsequently been amended to comply with the development application approved by Wollongong City Council).
6. The contentions and submissions made by the Applicant in the CIS document as to the overall social impact of granting the Application are discussed below.
7. Plan of the Premises. The Applicant has provided a diagram showing the Premises and the boundaries of the proposed licensed area.
8. Australian Securities and Investment Commission (ASIC) database extract regarding Euro Foods Supermarket Pty Limited. This document provides company registration details of Euro Foods Supermarket Pty Limited and records that its directors are Ms Helen Louca, Ms Krystal Louca and Mr Loucas Louca.
9. Notice of Appointment of Approved Manager dated 17 March 2015. This form notifies the Authority of the appointment of a manager for the Premises pending approval of the Application. The proposed approved manager in respect of the licensed premises is Ms Helen Louca (Manager).
10. National Police Certificate for Ms Helen Louca, issued 21 January 2015. This document provided by the Applicant records "no disclosable court outcomes or outstanding matters".
11. Submission from NSW Police Wollongong Local Area Command (LAC), dated 15 June 2015. This submission states that Police make "no objection" to the Application. It notes that the Applicant has been "proactive" in seeking advice from Police in order to "run her business the best way possible". Police request that a number of conditions attach to the liquor licence if the Application is approved, as follows:
 - a) "The licensee must conduct the licence in accordance with its management plan. A copy of the management plan shall be maintained in a register at the premises and

- shall be available for inspection at any time by police or persons authorised by legislation"
- b) "The licensee or its representative must join and be an active participant in the local liquor accord"
 - c) "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"
 - d) "The licensee will not sell refrigerated liquor products from the licensed premises".
12. Report from the Office of Liquor, Gaming and Racing (OLGR), dated 2 July 2015. This report states that OLGR do not object to the Application provided that "all of the conditions proposed by the police form part of the venue's liquor licence". The report advises that OLGR is "of the view the granting of this application is unlikely to result in a significant increase in alcohol-related harm in the neighbourhood".
 13. The OLGR report notes that the radial density of licensed premises in Wollongong is well above the state average and that NSW Bureau of Crime Statistics and Research (BOCSAR) data from April 2014 to March 2015 indicates that the rate of *alcohol-related assault (domestic and non-domestic)* that occurred in Wollongong was 1,090 (per 100,000 persons) compared to 301 (per 100,000 persons) for the whole of NSW and the rate of alcohol-related disorderly conduct offences in Wollongong for the same period was 656 (per 100,000 persons) compared to 95 (per 100,000 persons) for the whole of NSW.
 14. Letter from Wollongong City Council (Council) to the Applicant, dated 19 May 2015. This letter is provided in response to the Applicant's notice to Council of the Application. It notes that the development consent (DA) has been approved by Council (DA-2012/436) in respect of the Premises, limiting the trading hours (for planning purposes) to between 7:00am and 7:00pm Monday to Friday and from 8:00am to 5:00pm Saturday, which the Delegate notes are more limited than hours of trade requested in the initial Application. Furthermore the letter notes that the Premises is located within an alcohol-free zone. [The Delegate notes that notwithstanding the advice in the cover letter the DA actually records the approved hours of trade as between 7:00am to 7:00pm daily].
 15. Wollongong City Council Development Application DA-2012/436 (DA), dated 7 August 2012. The DA itself approves the Premises for "use of and fitout" of a retail supermarket. The DA notes that the hours of operation of the Premises are restricted to 7:00am to 7:00pm daily. The DA also deals with, *inter alia*, the regulation of construction, fire safety, maintenance, and amenities.
 16. Email from the Applicant to the Authority, sent 26 August 2015. This email addresses the submissions made by Wollongong LAC and Council. The email accepts the conditions requested by Wollongong LAC and the limitations on trading hours requested by the Council.
 17. Euro Foods Supermarket Venue Management Plan (Management Plan) prepared by Wollongong Licencing Police in October 2013. This Management Plan has been prepared by the Applicant in respect of the Premises. It deals with the following topics in relation to management of the Premises:
 - a) Distribution. The Management Plan notes that a copy of the Management Plan should be distributed to the Wollongong LAC, Wollongong City Council, the Manager of the Premises and staff of the Premises associated with the sale or supply of alcohol
 - b) Day to Day Management. The Management Plan notes that the Licensee is responsible for operation of liquor sales, compliance with the terms of the liquor licence and safety

- c) Accredited Staff. The Management Plan notes that the Manager is responsible for ensuring that staff involved with the sale or supply of liquor are RSA certified and for maintaining records about this certification
 - d) Manager in Attendance. The Management Plan notes that a Manager or Duty Manager will be in attendance whenever liquor is sold or supplied at the Premises
 - e) Access to Licensed Liquor Area. The Management Plan notes that customers will be accompanied by an RSA certified staff member at all times while in the licenced area and that the area will be locked and the key stored in a secure location
 - f) Dealing with Minors. The Management Plan notes that appropriate signage will be put in place and Proof of Age will be checked.
18. Authority licensing records. These records, which are updated regularly and available for purchase from the Office of Liquor Gaming and Racing indicate that as of August 2015 there were 10 full hotel licences, six club licences and five packaged liquor licences within the suburb of Wolongong.
19. Authority licenced density data, recording the liquor licence density in respect of the population within the Postcode 2500, the Wollongong LGA and the State of New South Wales as a whole.
20. This data indicates that the density of full hotel licences in the post code 2500 (21.6 per 100,000 persons) and Wollongong LGA (5.20 per 100,000 persons) is lower than NSW as a whole (30.36 per 100,000 persons). The density of club licences in the post code 2500 (8.1 per 100,000k persons) and in the Wollongong LGA (2.6 per 100,000 persons) is lower than NSW as a whole (20.48 per 100,000 persons). The density of packaged liquor licences in the postcode 2500 (10.8 per 100,000 persons) and Wollongong LGA (6.76 per 100,000 persons) is lower than NSW as a whole (32.85 per 100,000 persons).
21. Publicly available BOCSAR crime mapping data before the Authority for April 2014 to March 2015. These crime maps indicate that the Premises is located near a high density hotspot for the concentration of *non-domestic assault*, as well as within high density hotspots for *domestic assault* and *malicious damage to property* in relation to the offences recorded across the Wollongong LGA.
22. Crime data sourced from BOCSAR or calendar year 2013 detailing rates of offences for the Wollongong LGA compared to NSW as a whole. This data details rates of both *alcohol-related incidents* and *non-alcohol related incidents*. It indicates that for calendar year 2013, the rate of *domestic-violence assault* incidents occurring across the Wollongong LGA was 382 per 100,000 persons, below the rate for New South Wales as a whole at 410 per 100,000 persons. The rate of *non-domestic assault* incidents in this LGA was 540 per 100,000 persons, above the rate of 489 for the State as a whole. The rate of assault police incidents in this LGA was 25 per 100,000 persons, below the rate for NSW as a whole of 38 per 100,000 persons. The rate of malicious damage to property incidents across this LGA was 1145 per 100,000 persons, which is above the NSW rate of 1102 per 100,000 persons.
23. With regard to alcohol related offences, the rate of *alcohol-related domestic assault* incidents across the Wollongong LGA as a whole was 138 per 100,000 persons, below the rate for NSW as a whole which was 145 per 100,000 persons. The rate of *alcohol-related non-domestic assault* incidents in this LGA was 249 per 100,000 persons, above the rate of 191 for the State as a whole. The rate of *alcohol-related assault police* incidents in this LGA was 17 per 100,000 persons, below the rate for NSW as a whole of 24 per 100,000 persons. The rate of alcohol-related malicious damage to property incidents across this LGA was 134 per 100,000 persons, which is above the NSW rate of 122 per 100,000 persons.

24. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) in 2011, indicating that the state suburb of Wollongong is ranked in the Fifth decile on the Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) for all suburbs in NSW. Postcode 2500 is ranked in the Sixth decile on the IRSAD for all postcodes in NSW, and the Wollongong LGA is also ranked in the Seventh decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most advantaged).

LEGISLATION

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

45 *Decision of Authority in relation to licence applications*

- (1) *The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.*
- (2) *...*
- (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.*

26. 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.

27. 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.*

28. An application for a packaged liquor licence is a type of licence prescribed by section 48(2) requiring a CIS and satisfaction of the overall social impact test.
29. In determining the Application, the Delegate also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

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

30. In the Applicant's CIS document dated 12 December 2014 the Applicant notes that in the course of advertising the Application to stakeholders, submissions were received from both the Wollongong Council and Wollongong LAC.
31. With regard to the Council submission, the Applicant contends that Council requested details regarding the proposed premises area, the security system, point of sale, responsible service of alcohol procedures, and identification of any know liquor outlets or sensitive land uses within close proximity.
32. With regard to the submission from Wollongong LAC the Applicant contends that Police requested that the Premises have a Management Plan and CCTV security cameras.
33. The Applicant contends that the Management Plan for the Premises will be reviewed by the Police yearly and that security cameras have been installed around the Premises, including at the point of sale and in licenced areas.
34. Furthermore, the Applicant lists the liquor stores surrounding the Premises and contends that none of the stores identified sell the imported "hard to get" European alcohol that the Applicant proposes to sell at the Premises (however, the Applicant does not elaborate on this point).
35. The Applicant contends that the positive benefit licensing the Premises will be "providing a service to the community, mostly the European community" by supplying "'hard to get' liquor to members of the community". The Applicant contends that liquor would not be the focus of the Premises; rather it would be a "small part" of the business.
36. The Applicant contends that the negative effects of the Application would be "the health effects alcohol has on families". The Applicant contends that they will "attempt to minimise the sales to people we believe at risk".

REASONS

37. The Delegate is satisfied, for the purposes of section 40 of the Act, that the Application and CIS material establishes that the Application has been validly made and relevant consultation and advertising requirements of the legislation were observed.
38. The Delegate is satisfied, for the purposes of section 45(3)(a), that the Applicant company is a fit and proper corporate person from a probity perspective and that no

probity concerns have been raised in submissions from the other stakeholders, particularly NSW Police or OLGR, in this regard.

39. The Delegate is satisfied that that the Applicant has provided a Management Plan that will be in place at the Premises that will also govern the sale of liquor from the Premises. There is no adverse information before the Delegate as to the Applicant Company's fitness in response to consultation on this Application with relevant law enforcement agencies including Police and OLGR.
40. The Delegate is satisfied, for the purposes of section 45(3)(b), that responsible service practices will be in place with the commencement of licensed trading, on the basis of the Management Plan provided by the Applicant and noting an absence of adverse submission from OLGR or from Police with regard to the Applicant in this regard.
41. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for conduct of a retail packaged liquor business forming part of a supermarket on the Premises, on the basis of the Wollongong Council DA provided by the Applicant and the Applicants acceptance of the restricted trading hours requested by the Council.

Positive Benefits

42. The Delegate accepts the Applicant's contention that granting the Application will provide some additional measure of choice to the local and broader community by providing specialty European liquor products not available at other mainstream packaged liquor retailers in the area.
43. It would have assisted for the Applicant to have provided some specification as to the types of products that the Applicant will stock (and more weight would have been given to this positive benefit had that information been provided) but on the information provided by the Applicant about the business, confirmed by an examination of the social media presence of the business (in particular its Facebook page) the Delegate is satisfied that the Applicant seeks to licence what is a bona fide specialist European supermarket with strong focus on product lines from central Europe, eastern European and the Mediterranean. The Applicant contends that it will stock "hard to get" European liquor products and the Delegate is satisfied that a specialist store of this kind is also likely to maintain a strong focus on niche European liquor lines.
44. The Delegate is satisfied that given the presence of other packaged liquor stores nearby to the Premises (according to Authority licensing records), granting the Application will also provide a measure of further competition and increased consumer choice to the local and broader community in the packaged liquor market in the area.
45. The Delegate is satisfied that by granting the Application, the enhanced choice and convenience for customers of the Premises will be consistent with the expectations, needs and aspirations of the community which is an object of section 3(1)(a) of the Act and advance, albeit to a modest extent, the reasonable development of the liquor industry which is an object of section 3(1)(b) of the Act.

Negative Impacts

46. The Delegate accepts that over time there will likely 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 this Premises.

47. The Delegate notes that there is cause for concern arising from the prevailing rates of crime within in the local and broader community. BOCSAR crime mapping data indicates that the Premises are located near a high density hotspot for the concentration of *non-domestic assault*, as well as within high density hotspots for *domestic assault* and *malicious damage to property*.
48. Furthermore, BOCSAR crime data for Wollongong LGA recorded in the calendar year of 2013 indicate that the rate of *alcohol-related non-domestic assault* in the Wollongong LGA (249 per 100,000 persons) was higher than NSW as a whole (191 per 100,000 persons) and the rate of *alcohol-related malicious damage to property* in the Wollongong LGA (134 per 100,000 persons) was also higher than NSW as a whole (122 per 100,000 persons). Alcohol related domestic violence data poses a particular cause for concern when considering the potential for a new business to contribute to the abuse of packaged liquor application given that BOCSAR crime data (such as the New South Wales Report on Crime for 2014) typically demonstrates that the overwhelming majority of these offences occur within private residences.
49. However, the Delegate is satisfied that the following aspects of the proposal and the relevant communities concerned may be said to constrain the extent of contribution that this outlet is likely to make to the prevailing alcohol related social problems in the local and broader communities.
50. The small scale of the Premises provides an objective mitigating factor, in that the licensed area of the Premises, as apparent from the diagram provided by the Applicant, will constitute only a small portion of this supermarket at the rear of the Premises. This section will be accessed through a sliding door. It will not be refrigerated and will have a separate counter. The licenced area will be accessible only through the Premises, with one entry point and one exit point only. This area will be accessible to patrons only in the company of RSA trained staff and will otherwise remain locked.
51. The trading hours are restricted by the DA approved by Wollongong Council, and the licensed hours will be more restricted than the evening closing time permitted for many other, stand-alone packaged liquor businesses in New South Wales. The Premises will sell or supply liquor between the hours of 10:00am and 7:00pm and not trade on Sunday.
52. The Delegate notes the absence of adverse submissions from Police, Council and OLGR and other stakeholders and is satisfied on this basis, that there are no particular prevailing issues arising from the abuse of packaged liquor in the immediate area of the Premises.
53. Finally, the Delegate notes the enforceable licence conditions consented to by the Applicant – including that refrigerated alcohol will not be sold or supplied at the Premises. This measure will further reduce the likelihood that patrons of this specialist supermarket may engage in the impulse consumption of liquor in public places nearby the Premises after purchasing it.
54. The harm minimisation measures outlined in the Management Plan provided by the Applicant as part of the Application, including installation of CCTV surveillance and the locking down of the licenced area when unattended by staff further satisfy the Delegate that steps will be taken by the Applicant and its staff to ensure that the extent of adverse impact arising from the abuse of liquor sold from the Premises is constrained.

CONCLUSION

55. Considering together the demonstrated positive benefits found in this case and the factors which objectively constrain or reduce the extent of likely negative impacts arising from liquor sold from this proposed business, 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.
56. In making this decision the Delegate has had regard to all of the statutory objects of section 3(1) and has taken into account all of the considerations prescribed by section 3(2).
57. The Delegate has had regard to the need to minimise harm associated with the misuse and abuse of liquor within the meaning of section 3(2)(a) and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from the amenity of community life within the meaning of section 3(2)(c).
58. In making this decision, the Delegate has determined the 6-hour closure period under section 11A(3) of the Act as the period from 4:00am to 10:00am.



Micheil Brodie
Chief Executive

DATED 23 / 11 / 2015