



Tony Schwartz  
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25 October 2016

Dear Mr Schwartz,

**APPLICATION NO:** 1-4027289017  
**APPLICATION FOR:** New Packaged Liquor Licence  
**PROPOSED TRADING HOURS:** Monday to Saturday 9:00AM – 7:00PM  
Sunday 10:00AM – 6:00PM

**APPLICANT:** Anthony Charles Leybourne Smith  
**PROPOSED LICENSED PREMISES NAME:** Dan Murphy's Mosman

**PREMISES LOCATION:** 718-728 Military Road  
Mosman, NSW 2088 (Premises)

**ISSUE:** Whether to grant or refuse an application for a new packaged liquor licence

**LEGISLATION** Sections 3, 29, 30, 31, 40, 45, 48 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR  
NEW PACKAGED LIQUOR LICENCE – DAN MURPHY'S MOSMAN**

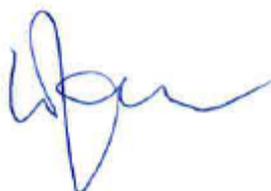
The Independent Liquor and Gaming Authority considered the Application at its meeting on 31 August 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application number 1-4027289017 subject to the following conditions:

1. Trading Hours  
Monday to Saturday 9:00AM – 7:00PM  
Sunday 10:00AM – 6:00PM
2. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 3:00 AM and 9:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

3. Retail Sales
  - Good Friday Not permitted
  - December 24<sup>th</sup> Normal trading Monday to Saturday, 8:00AM – 10:00PM Sunday
  - Christmas Day Not permitted
  - December 31<sup>st</sup> Normal trading
4. The licence cannot be exercised unless and until an application has been lodged to transfer to a suitably qualified person.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. The business authorised by this licence must not operate with a greater overall level of social impact on the well being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
7. The premises are to be operated at all times in accordance with the Liquor Store “House Policy” and “Woolworths’ Best Practice and Policies and Interventions” as submitted in support of the application.

If you have any enquiries about this letter please contact the case manager via email to [santina.causa@ilga.nsw.gov.au](mailto:santina.causa@ilga.nsw.gov.au)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford  
**Chairperson**  
For and on behalf of the **Independent Liquor & Gaming Authority**

## STATEMENT OF REASONS

### Material Before The Authority

1. The following is a summary only of the considerable amount of application material and submissions (approximately 1000 pages) before the Independent Liquor and Gaming Authority (Authority) in relation to this matter. The statement of reasons has been prepared for publication, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the application for a new packaged liquor licence filed on 29 January 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), crime data from the Bureau of Crime Statistics and Research (BOCSAR) and socio demographic data from the Australian Bureau of Statistics (ABS) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.

### Summary of Further Submissions

3. Submission from Ms G Winton of Clifford Street, Mosman dated 1 February 2016 made directly to LGNSW raising concerns about the site being on the ground floor of a residential building, questioning the adequacy of parking, the impact on traffic and noting liquor licence density within 1 km of the Premises.
4. Submission from Licensing Sergeant Brendan Smith of Harbourside Local Area Command (LAC) of NSW Police (Police) dated 2 February 2016. In this 14-page submission Police submit, by reference to Alcohol Related Crime Information Exchange (ARCIE) data and the Alcohol Linking Monthly Report maintained by the LAC between February 2015 to February 2016 that the Application should be refused. Police contend that alcohol availability will be increased in an area where alcohol related crime, drink driving offences, anti-social behaviour, licence density (referring to 96 licensed premises providing takeaway alcohol sales in the LAC area and 16 in Mosman) is already an issue. Police raise concerns as to underage drinking and public drinking; the amenity impacts upon a locality predominantly comprising retail shops/residential with trading hours until 5:30pm and amenity impacts through an increase in noise, traffic and anti-social behaviour; likely traffic and parking issues.
5. Police specify the close proximity of the Premises to residential premises, a Primary School, a High School, Child Care Facility and sporting facility (Allan Border Oval); and the lack of any restrictions on the amount of alcohol any one person can purchase at any one time, which Police contend encourages excessive public drinking by younger persons in the community. Police note concerns about the development consent and advise that the Land and Environment Court refused consent for a different packaged liquor licence located within 100 metres of the Premises.
6. Police contend that the Mosman Local Government Area (LGA) has **61** liquor licensed premises in total with 7 being packaged liquor licences. They discuss the relationship

between liquor availability and domestic violence by reference to various reports. Police submit that Last Place of Consumption data for the Mosman LGA between January 2015 to December 2015 indicates that alcohol is consumed in larger quantities at home/private residences than in public places and that of all the alcohol related assaults recorded in Mosman LGA, 46% involved consumption in private.

7. Police contend that they “continually” receive calls from the public and nearby businesses “in this area” relating to issues of street drinking and disturbance, estimating at least one call a day on weekends, but suggest that many more persons are affected but do not call the Police. Police have been informed by one local resident, Mr G Knox, that whilst walking his dog on Allan Border Oval and Military Road, he regularly has cause to pick up discarded empty alcohol bottles and cans.
8. Submissions from Mr T and Mrs H Bowra of Clifford Street, Mosman dated 5 February 2016 and Ms R Fitzgerald of Clifford Street, Mosman dated 5 February 2016. In these submissions of approximately two pages each, the writers contend that there is a localised oversupply of alcohol; that there is community opposition to a large retail operation in an already congested area and that the Premises is unsuitable for the proposed new business given the need for access for large delivery vehicles in an area of narrow lanes and a nearby Fire Station.
9. Submission from Mr R Muusze of Clifford Street, Mosman dated 6 February 2016 referring to his earlier submission dated 9 April 2014 during the CIS process. In a three-page submission Mr Muusze opposes the Application on the bases of its contribution to liquor “pre-loading”, the planning issues with the site, the impact on law and order and the proliferation of liquor outlets and the health data for the communities. Mr Muusze also raises concerns about local residents’ perceptions of safety through exposure to “louts”, amenity impacts from alcohol influenced customers using raised voices and seeking to enter the crowded car park and from alcohol affected people urinating, vomiting or otherwise making the street filthy. The writer contends that the proposal is out of tune with its village environment and the business model of Dan Murphy’s stores involves heavily discounted alcohol in bulk quantities.
10. Submission from Mr Jonathon Noyes, North Sydney Local Health District (NSLHD) dated 9 February 2016. In this two-page letter NSLHD oppose the Application making the following key contentions: that increased exposure and access to alcohol will increase the likelihood of alcohol-related harm in the local area, including domestic violence; that research indicates that as the number of alcohol outlets increase in a given area the rate of adolescent alcohol use increases, with the most vulnerable being aged 12-14 years; that there are already 11 packaged liquor outlets within 2 km of the Premises; that a higher concentration of liquor outlets can lead to aggressive price discounting, which is known to be practised by Dan Murphy’s outlets and this will negatively impact on the choice and quantity of beverages consumed by young people; that the Giraffe Child Care Centre is directly opposite the Premises and that increased exposure to alcohol-related activity during childhood negatively impacts alcohol-related attitudes and behaviours in adulthood.
11. Submission from Professor K Oates of Clifford Street, dated 9 February 2016, and Ms E Tremain of Military Road, Mosman dated 3 March 2016. In these submissions, the

writers raise similar concerns about the number of other licensed outlets within 500-1000 metres of the Premises; the size of the proposed liquor outlet; the danger to elderly pedestrians when crossing roads; the effect upon traffic congestion and the nearby Mosman Fire Station and the risk of sale of liquor to minors.

12. Submission from Ms Julie Walsh c/o Pikes and Verekers Lawyers on behalf of Mosman Council (Council) dated 19 February 2016. Council advises that it has commenced proceedings in the NSW Land and Environment Court seeking a declaration that the Complying Development Certificate (CDC) J140110 dated 10 March 2014 relied upon for the Premises is invalid. Council opposes the Application on the basis that the CDC may be declared invalid and on the basis of traffic impacts, social impact and other amenity grounds, given the proximity of the site to residential premises. [The Authority notes that the proceedings were dismissed by the NSW Land and Environment Court on 24 March 2016 in *Mosman Municipal Council v IPM Pty Ltd* [2016] NSWLEC 26].
13. Submission from Mrs J and Mr E Skeet of Clifford Street Mosman dated 20 February 2016. In this two-page submission the writers contend that access by local adolescents to cheap alcohol is already a problem in the communities; that social impacts from adolescents drinking at the Allan Border Oval include noise, disruption and garbage; that the location of a nearby preschool, church, youth centre and library militate against granting the Application; that the CDC is subject to litigation and that the new business will create issues for the operation of the Mosman Fire Station and contribute to traffic congestion and parking shortages. The writers refer to the incidence of alcohol-attributable hospitalisations and domestic assault in Mosman and licence density rates for the relevant communities.
14. Submission from Ms A Ziller of Glover Street, Mosman dated 21 February 2016. In this 14-page submission the writer contends, inter alia, that the Applicant's definition of the broader community as comprising only the Mosman LGA understates the population likely to be affected by this new business by almost 50%; that the CIS fails to identify the benefits that granting the Application will provide to social groups in the communities; that there is a relationship between increased availability of alcohol and alcohol-related harm; that the likely social risk to some groups in the primary trade area has been minimised; that the rates of liquor licences per 100,000 persons in the Mosman LGA and the expected primary trade area of the Premises during 2015 were markedly higher than the rate for NSW as a whole; that the rates of packaged liquor licences in 2015 per 100,000 persons in Mosman LGA and the primary trade area also exceed the New South Wales rate; that the CIS fails to acknowledge the public health issues, including cost burdens, of high rates of alcohol-attributable hospitalisation and that the new outlet is likely to increase risks of secondary supply to minors and public drinking in local areas known to be frequented by young people late at night. The writer provides data for 2014 sourced from the NSW Department of Health *Healthstats* website and contends that the Mosman LGA has the highest rate of alcohol related hospitalisation in the Sydney Metropolitan Area.
15. Submissions from Mosman residents Mrs M. Duffill dated 22 February 2016; Mr L. Cameron dated 20 February 2016; Ms P. Sabiel dated 25 February 2016; Mr and Mrs

S. McGrath dated 28 February 2016; Mr A Bustos-Ramirez dated 29 February 2016; Mr C Kenna dated 29 February 2016; and Mr P. Sheldon dated 5 March 2016. In these separate but similar submissions of approximately one page, the writers contend that the new business will adversely impact pedestrian safety, traffic congestion, parking, availability, the operation of the Fire Station and local residents' homes. The writers further contend that granting the Application will adversely impact packaged liquor density in the local and broader communities; the incidence of underage drinking; the risk of increased anti-social alcohol related behaviour; and the impact on families and children in Mosman.

16. Submission from Mr R Muusze of Clifford Street Mosman dated 23 February 2016. In this three-page document, Mr Muusze makes similar contentions to those made in his previous submission in response to the CIS dated 9 April 2014.
17. Submission from Mr G Earl-Peacock of Military Road Mosman dated 23 February 2016. In this two-page submission the writer makes similar contentions to a previous undated submission (likely made in response to the CIS) in which the writer raises concerns about parking, access, traffic movements, deliveries and safety.
18. Submission from Mr A Brooke of Redan Street Mosman dated 25 February 2016. In this one-page submission the writer supports the Application contending that the new business will provide convenience, reduce driving time for local shoppers, offer cheaper prices and greater range of liquor products.
19. Submission from Ms S Jenkins of Military Road Mosman dated 25 February 2016. In this two-page submission the writer, who owns the *Accoutrement* business on Military Road contends that the new liquor outlet will provide the local community with convenience, stock all of the items she requires, provide products that are easily located with knowledgeable staff, reduce travelling time, increase competition and increase choice. The writer contends that she is unaware of any obvious examples of members of the community drinking irresponsibly and that there is no vandalism or empty bottles evident in the nearby streets. The writer contends that the local newspaper is not full of stories on alcohol related violence or other social problems in the area.
20. Submissions from Mosman residents Ms J. Neale dated 25 February 2016, Mr D. Milton-Hine dated 26 February 2016, Ms K. Hyde dated 4 March 2016, Ms A. Colahan dated 5 March 2016 and Ms C. Kinghan (resident of Neutral Bay) dated 18 April 2016. In these separate submissions of approximately one page in length, the writers make similar contentions that the new business will provide increased choice, convenience, competitive pricing, quality service, and employment opportunities for local residents.
21. Submission from Mr D Grant of Cabramatta Road Mosman dated 28 February 2016. The writer notes the location of other nearby takeaway liquor outlets and raises concerns about the negative impact of the new business upon the amenity of Military Road, unwanted liquor promotion and signage and the large size of the proposal.
22. Submission from Mr M Pieterse of Clifford Street Mosman dated 29 February 2016. In this five-page submission the writer contends that the Application is defective in that the local community did not have the benefit of a proper submission period; that the

area is unsuitable for a “chain” discount store; that there are limited parking facilities; that there will be an adverse impact on pedestrian traffic, road congestion and the “vitality” of other businesses; that there will be a loss of amenity in the local community and adverse impact upon the nearby Fire Station. The writer contends that there is “uncertainty” around the licensed trading hours sought by the Applicant and opposition from Council and that the new business will adversely impact existing alcohol problems within the Mosman Municipality.

23. The writer contends that there are more packaged liquor outlets per 100,000 persons in the expected “trade area” (defined as including customers from Neutral Bay and Cremorne as well as Mosman LGA) than across New South Wales as a whole; that this trade area already has about 170 licensed premises (of all kinds) for a population of 57,000 which is a higher rate than the State wide rate whole; that the suburb of Mosman has the highest rate of alcohol-attributable hospitalisations in the Sydney metropolitan area; that BOCSAR data for the year ending September 2015 indicates an association between packaged liquor outlets and domestic violence and that 41% of domestic violence assaults in Mosman were “alcohol related”. The writer contends that the new business will facilitate secondary supply of liquor to minors and increase late night drinking at the Allan Border Oval and Balmoral Beach.
24. Submission from a Mosman resident, Ms K Wiltshire of Clifford Street, Mosman dated 2 March 2016. In this seven-page submission the writer contends that Mosman Fire Brigade may be impeded by traffic and there will be adverse impacts upon pedestrian safety with a lack of dedicated parking. The writer provides extracts from *IPM Pty Ltd v Mosman Municipal Council* [2014] NSWLEC 1141 and *Mosman Development Assessment Panel minutes for 19 June 2013* contending that *Dan Murphy’s* stores usually have purpose-designed buildings situated on 6 lane highways. The writer raises concerns about the contribution of the new business to traffic noise, car pollution, prevailing issues in Mosman arising from accessibility to cheap liquor, adolescent “pre-loading” and makes submissions on the age groups affected by alcohol consumption. Attached are 11 photographs of trucks in the nearby lane ways and the *Stop the Supply* campaign website.
25. Submission from a Mosman business owner, Ms T Milton-Hine, of Tiffany’s Fresh Flowers, Simpson Street, Mosman dated 3 March 2016. In this two-page submission the writer supports the Application noting the availability of basement parking on the site and contending that the proposed business will increase convenience, provide competitive pricing, make available a wider range of products; reduce travel time, redress the local “oversupply” of businesses like coffee shops, hairdressers and nail salons and create new employment benefits for the communities.
26. Submission from Mr C and Mrs P Peters of Clifford Street, Mosman dated 6 March 2016. In this four-page submission the writers raise similar key concerns to those raised by Mr M Pieterse on 29 February 2016 (discussed above).
27. Submission from Mr A Muraro of Clifford Street Mosman dated 7 March 2016. In this two-page submission the writer contends that the new business will adversely impact congestion through cars, trucks and pedestrians. The writer notes the Council’s opposition, contends that the new business will generate noise and should “extended”

trading hours be allowed, the residents would encounter noise at night time. The writer refers to the number of packaged liquor stores in Mosman, Neutral Bay and Cremorne and the proximity of the Premises to a childcare centre, library, youth centre and church and contends that response times from the Fire Brigade may be hampered.

28. Submission from Mr S Karelia of Clifford Street, Mosman dated 7 March 2016. The writer submits that the proposal is the same as a previous development application rejected by the Land and Environment Court on the basis of its location, trading hours, store footprint, restricted parking, narrow side streets busy vehicular and foot traffic and proximity of the Mosman Fire Station. The writer submits that Council's reasons for that previous rejection remain valid and outweigh the contended benefits.
29. Submission from Mr Craig Covich, Director Environment and Planning for Council dated 7 March 2016 and 11 March 2016 advising that Council has challenged the validity of the CDC in the Land and Environment Court. Council objects to the Application on the basis that the site is not appropriate for a Dan Murphy's store by reason that the adverse impacts upon neighbourhood amenity would be unreasonable.
30. Submission from Mr T Clifford of Mandalong Road, Mosman dated 8 March 2016. The writer endorses a copy of the submission from Mr M Pieterse dated 29 February 2016.
31. Submission from Ms P Parker of Military Road dated 9 March 2016, raising similar concerns to those in her submission dated 12 April 2014 (under the name of T Parker).
32. Submission from Mr J Alexander of Clifford Street, Mosman dated 9 March 2016. In this two-page submission the writer makes similar contentions to those in his submission dated 15 April 2014 on the CIS while also questioning the information provided by the Applicant, which he submits "continually contradicts itself". The writer comments that an "inordinate" amount of time is spent by the Applicant attempting to establish, that price and access to alcohol *doesn't* have a direct correlation to alcohol violence while dismissing local concerns about noise and traffic without evidence.
33. Submission from Licensing Sergeant Brendan Smith of the Harbourside LAC of Police dated 9 March 2016. Police submit that the Authority should await the outcome of Council's planning litigation.
34. Submission from Mr A Bowra of Clifford Street Mosman dated 9 March 2016. The writer contends that the new business will adversely impact the nearby Giraffe Child Care Centre, affect parking availability, affect pedestrian safety, contribute to traffic congestion, impact school children accessing public transport and contribute to an "oversupply" of liquor outlets in the vicinity.
35. Submission from two Mosman residents, Mr S and Mrs C Lye of Military Road, dated 9 March 2016. In this one-page submission the writers contend that granting the Application will create dangerous conditions for the Fire Station, that liquor signage will detract from the ambience of the Mosman Village, that there is inadequate parking, that the new business will adversely impact children using Field Way and Horsnell Lane going to and from school and contribute to abandoned shopping trolleys.
36. Submissions from local Mosman residents, Ms S Hewitt of Military Road, Mosman dated 6 March 2016; and Mr A Graham of Military Road, Mosman dated 10 March

2016. In these separate submissions the writers make similar contentions that the new business will give rise to increased noise and air pollution, that patrons will leave the Premises late in the evening, that traffic will inhibit residents and the Fire Station and there will be increased security risks for residents and increased licence density.
37. Submission from Mr S Davey, Director of Mosman Physiotherapy and Sports Injury Centre, Military Road Mosman dated 10 March 2016. In this one-page submission the writer contends that the business will contribute to increased traffic congestion and access from the Fire Station, while the sale of liquor will have an adverse community impact and increase liquor accessibility to minors.
  38. Submission from Mr D Pratt of Field Way, Mosman dated 10 March 2016. In this one-page submission, the writer raises concerns about danger to pedestrians, traffic and the impact of the Council decision and subsequent Land and Environment Court proceedings while contending (without specification) that there are “errors” in the Application material.
  39. Mr Pratt encloses a submission from Mr George Smith, a planning consultant from Design Collaborative Pty Ltd dated 10 March 2016. In this seven-page submission, Mr Smith questions the Authority’s ability to grant the licence while a decision from the Land and Environment Court on the validity of the CDC is pending; that the site was previously found unsuitable for the proposed use when the Court refused another application to reconfigure the ground floor in the context of a supermarket that was around double the size of the current proposal. That decision flowed from the size and character of the previous proposal, the parking and traffic issues, the “distorted” claims made by the Applicant in support of that statement of impact and the impact that granting a licence would have upon existing liquor outlets. Attached is a copy of the NSW Joint Regional Planning Panel’s determination of Development Application (DA) No. 8.2011.232.1, which granted consent for the building that will house the now proposed Premises and the Judgement in *IPM Pty Ltd v Mosman Municipal Council* [2014] NSWLEC 1141 dated 16 July 2014.
  40. Submission from Mr Michael Najem, Principal Solicitor, NSW Fire and Rescue (Fire and Rescue) dated 11 March 2016 advising that Fire and Rescue previously gave evidence to the Land and Environment Court in relation to the traffic impacts that they contend will affect the operation of Mosman Fire Station. Fire and Rescue maintain those concerns regarding traffic and egress affecting the Fire Station.
  41. Submission from ten (10) residents, of Spit Road and Awaba Street Mosman dated 13 March 2016. In this two-page submission, the writers contend that the new business will give rise to annoyance, disturbance, inconvenience, have an adverse effect upon the health and safety of members of the public and adversely affect the amenity of the local community by way of alcohol abuse and associated violence. The residents also raise concerns regarding nearby sensitive facilities, the impact of the business upon “impressionable minds” and raised concerns about local schools and medical clinics.
  42. The writers contend that there is a need for alcohol free zones in certain public places in Mosman and that the Application lacks detail regarding sensitive facilities located within 200 metres of the proposal. They submit that the Applicant has overlooked the

impact the new licence would have upon the “local culture”, recreational activities and tourism and the impact of the new business upon the local fire brigade during an emergency. They contend that the new business will bring about an increase in violence and crime and it will adversely impact local businesses and residents. They contend that the operating hours will be outside the hours of other local businesses making it more likely to negatively impact local retailers and residents.

43. Submission from Councillor T Sherlock, Mosman Council dated 13 March 2016. In this three-page submission, Councillor Sherlock raises similar issues to those in his earlier submission dated 23 April 2014 while noting that judgment in Council’s litigation in the Land and Environment Court is now reserved. In his submission of 23 April 2014, Councillor Sherlock contended that Mosman is a residential suburb, that alcohol is already a problem and that the Dan Murphy’s outlet will result in a significant increase in alcohol availability and consumption and not be in the public interest.
44. Attached to Councillor Sherlock’s submission are NSW *Heathstats* data on alcohol attributable hospitalisations in Sydney metropolitan local government areas between 1998 to 2012, BOCSAR data depicting the incidence of alcohol related domestic assault in the Mosman LGA between October 2012 to September 2013, BOCSAR crime maps depicting alcohol related assault and alcohol related sex offences in neighbouring LGAs, and data indicating that the Mosman and neighbouring LGAs are in the “top 6” local government areas for the occurrence of liquor legislation offences between October 2012 and September 2013. The Councillor provides four photographs depicting the inside of another Dan Murphy’s store with its “price matching” slogan, its “lowest price” advertising and what he submits are incentives to buy in bulk. Also attached is a licence density map indicating the licensed premises in Mosman (as at December 2008 sourced from the Office of Liquor, Gaming and Racing *Social Profile Report* on Mosman LGA February 2009).
45. Submission from Mr K Jacobs of Military Road, Mosman dated 14 April 2016. In this brief submission, the writer contends that the new business will bring more customers to the location and submits that it is difficult to establish that this business will increase traffic. The writer contends that the site is “too out of the way” to attract people from outside of the Mosman area. The writer submits that the only other “bulk” liquor store in Mosman is located at the far end of Military Road with limited parking.
46. Submission from Mosman Deputy Mayor Carolyn Corrigan dated 15 April 2016. In this three-page submission, the Deputy Mayor opposes the Application citing concerns about the impact of the new business upon response times from the Mosman Fire Brigade, vehicle movements at the site, unsuitability of the proposed building, a lack of dedicated car parking and problematic prevailing alcohol consumption in Mosman.
47. Submission from Councillor Peter Abelson, Mosman Council, dated 18 April 2016. In this one-page submission Councillor Abelson submits that Council has been unanimously opposed to this Application from the outset and that the planning issues were more than sufficient grounds for refusal. The Councillor notes heath data for the Mosman LGA and contends that there are already 11 bottle shops in the LGA, while the new business will create adverse health effects and anti-social behaviour.

48. Submission dated 27 April 2016 from Mr Michael Pieterse, Litigation Special Counsel, O'Halloran Corporate Lawyers, on behalf of the Executive Committee of the Proprietors of Strata Plans at 7 and 11 Clifford Street, Mosman (the Committee). The Committee represents over 50 occupants of neighbouring premises. Mr Pieterse notes that Council oppose the Application and on 8 March 2016 voted unanimously to oppose the new licence. He notes that the Land and Environment Court's decision in *Mosman Municipal Council v IPM Pty Ltd* was delivered only 11 days after submissions closed.
49. Report to the Authority dated 28 April 2016 from the Compliance Branch of LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). LGNSW acknowledge there has been a significant amount of concern and objection raised by local residents, and observes that those concerns are reasonable in nature. LGNSW observe that it would not be prudent to disregard the issues raised in these submissions, particularly by Council.
50. Further submission from, Mr Michael Pieterse dated 2 May 2016, on behalf of the Committee. In this two-page submission, Mr Pieterse argues that in light of the Land and Environment Court decision the Applicant should now remake the Application to give the interested parties an opportunity to present all relevant submissions, particularly those concerning social and community impact. Attached to this document are the following submissions:
  - (a) Submission signed by Mr P Sheldon, C Peters, Ms J Skeet, Mr A Bustos-Ramirez and Mr A Bowra, dated 15 April 2015. In this three-page document, the Committee contends that Council has opposed the Application on planning grounds but has failed to take into account and make submission on the likely social impacts, particularly public health impacts. In summary, the Committee raises concerns about the density of packaged liquor outlets in the Mosman LGA; the size and preferred business model (bulk sales with discounted prices); and the increase in alcohol related harm when licence density increases. The Committee contends that that Mosman has the highest rate of alcohol-related hospitalisations in the Greater Sydney Area; that there is evidence in Mosman of under-age drinking, secondary supply to minors and pre-fuelling by younger adults; that about 40% of domestic violence incidents reported to Police in Mosman involve alcohol; that egress from the fire station is directly onto Military Road which is already frequently congested; and the rear laneway is unsuitable for large delivery vehicles. They further argue that the Application raises a number of public health risks while the Applicant has failed to establish the social benefits from the proposed new liquor store.
  - (b) Submission from local resident and Chairman of the Committee Mr A Bustos-Ramirez dated 15 April 2016 making similar contentions to the above.
51. Submission from Applicant to the Authority dated 16 August 2016. In a 4-page document the Applicant sets out the conditions to which the licensee consents, should the Application be granted. This is accompanied by a 32-page legal submission dated 16 August 2016.

52. Briefly, the Applicant agrees to all conditions proposed by licensing staff, apart from a condition requiring that the Premises operate in accordance with a Plan of Management and a condition requiring that the licence not be exercised until an application has been lodged to transfer the licence to a suitably qualified person. The Applicant submits that there is no need for a condition mandating compliance with a Plan of Management and that each store has “stringent policies, procedures and practices in place that extend beyond Legislative requirements and Department guidelines”. The Applicant discusses past findings of the Authority Board and Authority delegates in respect of Applications for new Dan Murphy’s stores.
53. In response to community submissions, the Applicant contends that when all the local submitters are assessed (with duplications removed) there were **46** opposing local resident submitters, **1** neutral local resident and **13** supporting local resident submitters. In summary, the Applicant responds to Police as follows:
- (a) Police rely upon crime data pertaining to a much larger geographical area (the Police Local Area Command) than the relevant local and broader community. Consequently, that data that is not applicable to these communities;
  - (b) BOCSAR data demonstrates that the incidence of assault (whether alcohol related or otherwise) is infrequent within the broader and local communities and considerably below the NSW state average in each crime category;
  - (c) A “significant portion” of the Police submission was duplicated from a recent Police submission to the Authority in response to an application made by *Camperdown Cellars* for a packaged liquor licence in Mosman, which contained incorrect statements. The Applicant contends that Police may not have adequately considered the CIS supplied by the Applicant for this matter. The Applicant submits that the licence for Camperdown Cellars was approved by the Authority in the face of significant local community opposition and a “near identical” Police response;
  - (d) Amenity type considerations including parking, noise and traffic have been carefully considered and found to be satisfactory through the issue of development consent for the proposed use of the Premises. This Application relies upon a CDC issued for the Premises that was confirmed as valid by the Land and Environment Court on 24 March 2016;
  - (e) There is “no evidence” before the Authority of any public drinking or alcohol related anti-social behaviour in Mosman and the available ABS and BOCSAR data reveal that alcohol consumption and the incidence of crime was reducing at the time Police provided its submissions;
  - (f) The Giraffe Child Care Centre, which backs onto Military Road with its main entrance facing The Crescent, has not made any comment on the Application and it is reasonable to conclude that the operators of that centre do not believe that this proposal will adversely impact their service. The Premises is not near any schools;

- (g) There is “insufficient” evidence to elevate the two over-represented “at-risk” socio demographic groups in the local and broader community (“renters” and “older Australians”) to a level that would produce a negative finding, particularly as the demographic indicators specified by Police indicate no social disadvantage and there are low levels of alcohol-related harm in these communities;
  - (h) Outlet density data indicates an under-provision of packaged liquor licences in the Mosman LGA when compared with NSW. The Applicant contends that “at least three” of the packaged liquor licensed premises in this LGA are dormant (Liquorland Mosman, Vintage Cellars Spit Junction and Camperdown Cellars Mosman);
  - (i) There are only two traditional hotels in the local and broader community (Buena Vista Hotel and Hotel Mosman), which have a strong food focus and do not currently operate separate bottle shops;
  - (j) Woolworths has stringent policies and procedures in place to ensure that no liquor is sold or supplied to minors.
54. In summary, the Applicant responds to LGNSW, NSW Aboriginal Affairs, Council, Roads and Maritime Services (RMS), NSLHD and Fire and Rescue as follows:
- (a) With regard to LGNSW, the Applicant contends that no (detailed) report was provided by LGNSW because that agency could not identify any adverse findings with this proposal;
  - (b) There are no matters outstanding with Aboriginal Affairs and that agency is not opposed to the Application;
  - (c) The very low count of alcohol-related crashes indicated in the data provided by RMS confirms that Mosman does not exhibit a problem in relation to alcohol driving offences;
  - (d) The Land and Environment Court refused to modify the development consent for the Premises, resulting in the original development consent remaining unmodified so the new store is required to operate pursuant to the terms of this original development consent;
  - (e) The Land and Environment Court found that the proposal before the Authority complies with the unmodified development consent and did not find that this proposal would cause any adverse impact on parking, traffic and noise as alleged by Council;
  - (f) The Applicant, in response to the submission from NSLHD, contends that there is no correlation between older adolescents, increases in liquor outlet density and higher alcohol consumption;
  - (g) The inclusion of a Dan Murphy’s store in this location does not mean that cheaper liquor will be available. Cheap liquor is already available in the communities. The Applicant provides local pricing information including that Vintage Cellars sells 750mls bottles of wine for \$3.60, providing screen shorts of liquor advertised by Vintage Cellars and Chambers Cellars;

- (h) The views of the NSLHD author are “unsupported by the actual evidence” and rely upon 30-year-old data (with regards to the contention that increased exposure to alcohol-related activity in childhood negatively impacts on alcohol-related attitudes and behaviours in adulthood) such that little weight should be given to the NSLHD views;
  - (i) The Livingston research has no application to this Application, but especially so in circumstances where the rates of assault domestic violence in the relevant communities are low and there is no evidence that the new store will have any affect upon the victims of domestic violence;
  - (j) The Land and Environment Court did not make any adverse finding in respect of the operation of the fire station and there is no evidence that customers of this new store will impede the exit/access points to the fire station.
55. The Applicant attaches the following documents to this 32-page submission:
- (a) A list of names of the local resident submitters.
  - (b) Report prepared by Mr Patrick Paroz, the Applicant’s Liquor Compliance Consultant, dated 25 July 2016. In this 19-page report, Mr Paroz, a former commander of the NSW Police Drug and Alcohol Coordination Command, discusses his observations on the local community of Mosman, based upon his attendance at the area surrounding the Premises on Sunday 12 June 2016 (which the Authority notes was a Sunday in a long weekend) and Thursday 16 June 2016. With regard to the vicinity of the proposed store to other sensitive locations, Mr Paroz observes that the closing time of 7pm combined with the minimal amount of crime and other antisocial behaviour indicators at Mosman would mean that granting the Application would result in a very low risk of negative impact upon the Mosman local and broader community. With regard to complaints by residents in relation to street drinking and disturbances Mr Paroz finds that there was little or no evidence of public underage drinking in Mosman and little evidence of offensive or excessive noise within the vicinity of the proposed Premises. With regard to the nearby Giraffe Child Care Centre Mr Paroz considers that parents and children attending this centre would not be affected or influenced in any way by the presence of the proposed store. With regard to local under-age alcohol consumption and sources of alcohol for minors, Mr Paroz finds that underage drinking in Mosman is not at a level that is of obvious concern and as the Premises will close at 7pm and the risk associated with underage drinkers is very low. With regard to the commission of liquor offences and alcohol-related crime data for Mosman, Mr Paroz finds that the crime data for the suburb indicates that this community is consuming alcohol responsibly. With regard to prescribed concentration of alcohol (PCA) offences Mr Paroz finds that the level of offending in Mosman is on par with the State average. On the option of alternative Dan Murphy outlets in Willoughby and Manly Vale, Mr Paroz finds that there were significant traffic delays experienced travelling to those Dan Murphy stores from Mosman. With regard to parking availability, Mr Paroz considers that the parking in and near the Premises is unlikely to cause concern to its future customers or neighbouring businesses and residents. With regard to Responsible Service of

Alcohol (RSA) practices, Mr Paroz observes that the Applicant's RSA practices indicate a commitment to compliance in order to minimise as far as possible the risk associated with alcohol misuse. Attached to this report is a copy of Mr Paroz's resume and a map depicting the location of the proposed store, the Allan Border Oval and the various neighbouring premises. [The Authority notes that the Applicant has also supplied copies of the 32 relevant documents referred to in the report of Mr Patrick Paroz dated 25 July 2016].

- (c) Report prepared by Ms Rose Saltman, the Applicant's Planning Consultant, dated 16 August 2016. This 14-page report was prepared in response to the submission from Dr Alison Ziller of Glover Street, Mosman. Ms Saltman discusses the issues raised in Dr Ziller's submission which include the specification of a trade area and the relevant communities under consideration, liquor licence proliferation and licence density data, the social risk matrix used by the Applicant, the contended social benefits and social costs (including the minimisation of at risk groups, the "cannibalisation" theory whereby the new liquor business would compete for existing demand rather than generate new demand, the relative under-provision of licensed premises in the communities, domestic violence, alcohol-attributable hospitalisations and secondary supply). On the issue of alcohol-related hospitalisations, Ms Saltman observes that the trend in alcohol-attributable hospitalisations in Mosman is in decline in the last two reporting periods and particularly in the most recent period. Attached to this report are BOCSAR crime maps (for the periods between April 2011 to March 2012, April 2012 to March 2013, April 2013 to March 2014, April 2014 to March 2015 and April 2015 to March 2016) for incidents of Assault (Domestic Assault); NSW *Healthstats* data on alcohol-related hospital admissions from 2013-14 to 2014-15 for the LGA's of NSW; and the resume of Ms Saltman.
- (d) Applicant review of the "concerns of new opposing submitters". In this 10-page document the Applicant addresses 14 opposing submissions. Briefly, on the issue of increased traffic and noise the Applicant contends that these are matters addressed through the planning approval process. On the impact of delivery vehicles and parking the Applicant refers to the analysis in the Updated Traffic Report prepared by Colston Budd Rogers & Kafes Pty Limited dated 3 December 2015. On the contended alteration of the character of the Mosman Village the Applicant contends that these concerns are not supported by evidence and the overall development provides a building façade that compliments the scale, patterns and rhythm of the streetscape, and reinforces the character and form of Military Road. On the location of nearby potentially sensitive facilities the Applicant contends that Mosman presents as a responsible, advantaged and safe community. On the prevailing density of packaged liquor licences the Applicant contends there is an "under provision" of packaged liquor licences in the Mosman LGA. On the proposed licensed hours the Applicant submits that the hours sought are less extensive than any other Dan Murphy's store in New South Wales. On the display of signage the Applicant submits that the signage is considered compatible with the existing and future character of Mosman. On the alleged defectiveness of the Application the Applicant submits that there is no element of non-compliance

and the Application is not defective in any way. On the claimed lack of need for this new business, the Applicant submits that the consideration of need is not part of the Act or *Liquor Regulation 2008*. On the alleged failure to obtain development consent the Applicant submits the Land and Environment Court confirmed the CDC on 24 March 2016. On the contribution of the new business to domestic violence, underage consumption and alcohol related harm, the Applicant refers to the analysis in the report prepared by Mr Paroz and the Statement of Impact provided with the CIS. The Applicant contends that a resident action group in Mosman has organised and encouraged objection to this proposal by arranging for the distribution of flyers (which the Applicant submits contained inaccuracies) in the wider community, resulting in community submissions being “exaggerated, misinformed or incorrect”, “unsupported by evidence” and not originating from any neighbouring premises. Attached is the information sheet distributed by Mr Michael Pieterse, which the Applicant notes was accompanied by a blank submission form and an Express Post envelope for residents to lodge with the Authority.

- (e) A review of the services and facilities of the existing hotel and club licences in the trade area of the new store (with some of the Club licences detailed in this summary being outside of the Mosman LGA). This document provides a review of the packaged liquor facilities provided by these premises.
  - (f) Aerial photograph illustrating points of interest including the location of the Premises, Giraffe Child Care Centre and the Fire Station.
  - (g) Photograph of the entrance to the Giraffe Child Care Centre.
  - (h) Photographs of the Mosman and Crows Nest Fire Station.
  - (i) Judgement in *Mosman Municipal Council v IPM Pty Ltd* [2016] NSWLEC 26 (24 March 2016) confirming the validity of the Applicant’s CDC.
  - (j) A three-page letter from Mr Tim Unsworth, director of Unsworth Legal dated 8 June 2016 and a screen shot of an email from LGNSW confirming that the packaged liquor licence granted by the Authority for a new packaged liquor licence for Camperdown Cellars, Mosman, located at 774-776 Military Road, Mosman (Application No: 1-3329691231) has now been withdrawn.
  - (k) Analysis of liquor pricing at Vintage Cellars Mosman and Chambers Cellars Mosman for certain 750ml bottles of wine priced between \$3.60 and \$4.00.
  - (l) A review of the relevant literature relied upon by Licensing Sergeant Smith of the Harbourside LAC in his objection. In this 33-page document the Applicant discusses the literature relied upon by Police in some 28 different references.
56. Email from the Applicant dated 22 August 2016 advising that if additional licence conditions requiring that the Premises operate in accordance with Woolworths’ policy documents and that the licence not be exercised until it has been transferred to a suitably qualified person or authorised manager are required the Applicant will agree to those additional measures to secure the grant of the Application.

57. Email from the Applicant dated 22 August 2016 attaching a copy of an email from (then) NSW Office of Liquor, Gaming and Racing (now) LGNSW dated 11 August 2008 advising that the National Police Certificate, identity document and RSA certificate will be acceptable for all applications lodged by or on behalf of Anthony Charles Leybourne Smith in his authorised capacity as an employee of Woolworths Limited.

## Legislative Framework

58. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
59. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
- (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.*
60. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being granted will not be detrimental to the local or broader community.
61. An application for a new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
62. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied 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”.
63. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is

the community within the State suburb of Mosman while the “broader community” comprises the responsible local government area, the Mosman LGA.

## **Analysis of Relevant Facts**

64. The Authority is satisfied, on the basis of the Application, CIS material and submissions from the Applicant 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. The Authority is satisfied, on the basis of the Applicant’s submissions and the usual practice of licensing staff that local stakeholders required to be consulted by the legislation have had an adequate opportunity to make submissions on the Application. The Authority does not accept the submissions from local submitters, including Mr Pieterse that the Application is defective or that local submitters were denied an appropriate opportunity to make submissions on the Application.
65. On the basis of the information before it, the Authority is satisfied that the local and broader community have been given an ample opportunity to make submissions, during the CIS phase and after the Application was filed with the Authority. The Authority is satisfied that local residents in the consultation zone prescribed by the Act and Regulation were consulted and that other notification provisions were observed. The usual administrative practice is for a new application to be notified on the electronic LGNSW notice board for 30 days in accordance and there is no indication that the usual practice was not observed. Some considerable time has elapsed between filing and notification of the Application and the matter being brought to the Authority Board for determination. There are extensive submissions made by members of the local and broader community and public agencies before the Authority.
66. While some opponents of the Application claimed that the Application and CIS did not satisfy minimum requirements of the legislation, those submitters have not provided persuasive submissions identifying which legislative provisions were contravened and how. While it is open to submitters to question the merits of the Application or the Applicant’s claims with regard to the merits of this proposal, the Authority is satisfied, on the material before it that the Application and CIS at least met minimum procedural and content requirements for the making of a valid application. The Authority has not accepted the Applicant’s claims uncritically and its findings on positive and negative social impacts are outlined below.
67. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licensed venue of the kind proposed in the Application material. The Authority notes that no probity issues were raised with regard to the Applicant company following consultation with law enforcement agencies including Police and LGNSW.
68. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Woolworths Liquor Store House Policy, Best Practice Policies and Interventions, Responsibilities* and submissions provided by the Applicant.

69. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent to use the Premises for the business or activity that is the subject of this Application is in force, on the basis of CDC No. J140110 issued by Vic Lilli and Partners on 10 March 2014, which refers to the existing commercial and retail premises approval DA8.2011.232.1 and the proposed reconfiguration and first-use of the Premises as retail liquor store.
70. The Authority notes the concerns raised by objectors regarding the validity of the CDC and whether the Applicant's proposal falls within the scope of any planning consent for use of the Premises. The Authority is satisfied on the basis of the judgement in *Mosman Municipal Council v IPM Pty Ltd* [2016] NSWLEC 26 (24 March 2016) that the CDC relied upon in this Application is valid. That is, the type of business now proposed falls within the scope of existing planning consent for the Premises and no further development consent is required. The Authority notes that Police and Mr Pieterse submit that the Applicant should reapply for the licence once development consent is granted, as a matter of procedural fairness. However, as noted above, the Authority is satisfied that those stakeholders who were required to be consulted by the legislation have had a sufficient opportunity to make submissions on the Application.

#### **Social Impact – Positive Benefits**

71. The Authority is satisfied, on the basis of the information provided by the Application and CIS that granting the new licence will provide some modest additional benefit by way of additional convenience to members of the local community who wish to purchase packaged liquor from a large packaged liquor outlet in this part of Mosman.
72. In this respect, the additional convenience may be said to serve the "expectations, needs and aspirations of the community" in respect of the local community of Mosman, being an object of section 3(1)(a). However, those convenience benefits are somewhat diminished by the prevailing access to licensed premises capable of selling packaged liquor by retail elsewhere in the local and broader communities.
73. The Applicant's contended benefits relating to product choice have been substantiated in the Application, CIS and supporting material provided by the Applicant as to the nature of the proposed new business. The considerable product range is underscored by the large scale of the new enterprise. In this respect granting the Application may also be said to serve both the "expectations, needs and aspirations of the community" with regard to the sale and supply of liquor.
74. However, the advancement of this statutory object in section 3(1)(a) is not unequivocal, given the evidence of some localised resident opposition to the Application, including residents in reasonably close proximity to the Premises. Notably, the jurisdictional body formerly representing the broader community, Mosman Council, has consistently opposed the Application. Local Police responsible for this broader community also oppose the Application.
75. The Authority accepts that some local residents have raised genuine concerns about the prevalence of alcohol abuse in Mosman and that local Police also oppose the Application on the basis of crime data collected at the level of the Local Area Command. There are not large numbers of opposing local resident or business

submitters nor is there evidence that resident opposition to the Application is widespread across the suburb of Mosman or the Mosman LGA.

76. The Authority is satisfied, that this large scale style of liquor outlet with a substantial range of products will responsibly develop the liquor industry in the local community, being an object of section 3(1)(b).
77. The Authority has assessed the Applicant's further contended community benefits as follows:
  - (a) improved amenity – the Authority is satisfied that the Premises will be presented as a “destination style” retail outlet which will aim to “complement the goods and services in the neighbourhood”, being the upmarket shopping area of Mosman, which will have some positive impact on the amenity of the local retail precinct. This purported benefit is contentious, as many community submitters object to a big box liquor store as inconsistent with local amenity. As noted above, the Authority accepts that the business will provide some increased choice and convenience as to access by retail to liquor products, but is not satisfied that a major liquor business will *improve* general local amenity.
  - (b) responsible retail assurance – the Authority is satisfied that Woolworths has adequate policies and procedures in place to ensure that Responsible Service of Alcohol is taken “very seriously” by staff at the Premises. This is a factor that reduces negative impact rather than presents a positive benefit.
  - (c) customer service – the Authority is satisfied that Woolworths “invests heavily” in training programs to educate its staff on customer service and provides a loyalty program, which, as noted above, is likely to contribute to the object in section 3(1)(b) of the Act. The Authority accepts that this major new business will contribute to the balanced development of the liquor industry in the communities in question.
  - (d) staff career opportunities – the Authority is satisfied that staff employed at the Premises will have opportunities to “progress throughout the wider Woolworths business”, but the Applicant has not made an unequivocal commitment to sourcing staff from within the relevant communities, so little weight can be given to this contended benefit.
  - (e) safe environment and crime prevention – the Authority is satisfied that use of CCTV surveillance, security and access control may help to ensure a safe shopping environment for patrons at this liquor outlet. The Authority considers that this factor is more relevant to reducing negative impacts than establishing net positive benefits;
  - (f) meeting every aspect of the objects of the Act – as noted above, the Authority has noted that granting the Application will advance some objects of the Act. However, the generality of this submission does not assist in identifying discrete benefits to the relevant communities to any further extent;
  - (g) strengthening the shopping precinct in the immediate vicinity of the Premises – the Authority finds it generally credible to assert that a major liquor outlet may attract

patrons from within the local and broader communities, it is difficult to quantify the positive impact on other businesses on the material before the Authority and little weight is given to this contended benefit;

- (h) less traffic – the Authority accepts that some local residents will be able to walk to the Premises rather than drive, however overall the Authority is not satisfied that granting the Application will *decrease* traffic congestion in the vicinity of the Premises by comparison to the licence not being granted. This is a considerable point of contention in the submissions and the Authority is not satisfied that this purported benefit is established.
- (i) contribution to local groups and organisations – the Applicant refers to the commitment of Woolworths to contribute “the equivalent of at least 1% of pre-tax profits to the communities in which it operates” through donations and fundraising assistance to local organisations. While the Authority accepts that this is in fact Woolworths’ position, as submitted in the Applicant’s CIS, the timing and nature of any assistance to the relevant communities has not been specified, and the Authority gives this purported benefit little weight on the material before it.

### **Social Impact – Negative Impacts**

- 78. Having reviewed all of the material before it, the Authority considers that there is a risk that the liquor sold from this new licensed business will, over time, contribute to the prevailing levels of alcohol related crime, disturbance or impacts upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.
- 79. Many of the opposing submissions provided by local residents and local Councillors have focussed upon environmental planning issues rather than alcohol related social impacts.
- 80. While the Authority must be satisfied that any required planning consent is in force for the business or activity that is the subject of a liquor application (and it has made that finding), the Authority’s function differs from Council’s role in that it is primarily concerned to ensure that the overall social impact test prescribed by section 48(5) of the Act is satisfied and that the grant of the licence is in the public interest, informed by the objects and considerations prescribed by section 3 of the Act.
- 81. The CDC provided by the Applicant in respect of the Premises satisfies the Authority that the Applicant’s proposed use of the Premises is a complying development. The Authority is unable to give significant weight to many of the community objections by reason that they have not established how their concerns fall within the scope and purpose of the Act. Issues such as industrial noise, light spill, traffic congestion, pedestrian congestion, the impact of traffic upon the fire station, the inadequacies of the loading dock, petrol fumes from cars and detracting from the village character of the neighbourhood are examples of more planning focussed concerns. Submitters have noted that Council has been consistently opposed to this Application. The Authority has taken into account Council’s opposition and has considered the submissions from Councillors on their merits (in respect of the liquor legislation).

82. The Authority notes, on the basis of the CIS and Applicant's submission that the proposed liquor business is a relatively large scale enterprise of approximately 985 square metres.
83. The scale of the enterprise objectively increases its capacity to contribute, along with the incumbent licensed premises, to alcohol related impacts in the local and broader community. However, as discussed below, those communities perform relatively well by comparison to New South Wales as a whole on the several key indicia.
84. Notwithstanding the scale of the licensed business, the licensed trading hours sought by the Applicant are moderate, extending until 7:00pm on Mondays through Saturdays and until 6:00pm on Sundays. This factor ameliorates to some extent the potential for this business to contribute over time to adverse social impacts from the sale of packaged liquor.
85. The business will close considerably earlier in the evening than the 10:00pm closing time permissible under the standard licensed trading hours prescribed by section 12 of the Act and earlier than a number of incumbent businesses authorised to sell takeaway liquor in the communities - including hotels, clubs and other packaged liquor licensed outlets.
86. The moderate trading hours sought by the Applicant have been given substantial weight when considering the scope of contribution to negative social impacts that are likely to flow to the communities from the operation of *this* new business.
87. The Authority has considered the objectors' concern as to prevailing licence density and the proximity of the Premises to other existing licensed premises. The Authority is satisfied, on the basis of publicly available licensed premise information maintained by LGNSW, that the suburb of Mosman has two "full" hotels, one further (general bar subcategory) hotel and nine packaged liquor licensed premises.
88. In its submissions on licence density the Applicant contends, based upon its analysis of licensing information and ABS data, that the local and broader communities cover an interchangeable geographical area. The relevant population of the Mosman LGA is **27,453**.
89. The Applicant further submits, by reference to LGNSW's index of licensed premises (as at July 2015) that the density of hotel licensed premises, not including general bars (which the Authority notes cannot sell takeaway liquor) was **7.28** per 100,000 persons. This compared to a New South Wales wide rate of **31.83** per 100,000 persons.
90. The Applicant also submits that the rate of packaged liquor licences (not including internet only businesses) was **29.14** per 100,000 persons compared to a State wide rate of **36.13** for packaged liquor licences.
91. Accepting the Applicant's analysis, the Authority is satisfied that the rate of liquor licence density and prevailing outlet availability across the communities has not translated into problematic levels of alcohol related crime or anti-social conduct.
92. BOCSAR Crime Maps for the period between April 2015 and March 2016 indicate that the Premises *is* located within a low density hotspot for incidents of *domestic assault* and a medium density hotspot for *malicious damage to property*. However, those

concentrations of crime are derived from data for the LGA as a whole. Considerable reassurance is provided from the BOCSAR *Report on Crime by LGA and Alcohol Related Status* for July 2014 to June 2015, which indicates that the Mosman LGA has lower rates of *alcohol related non-domestic violence, alcohol related domestic violence related assault* and *alcohol related offensive behaviour* per 100,000 persons compared to the rates for NSW as a whole.

93. The Authority has considered the concerns raised by Police regarding the relationship between liquor availability and domestic violence but the data provided by Police for February 2015 to February 2016 applies to the broader jurisdictional area of the *Harbourisde LAC*. The data is not specific to the State suburb of Mosman or the Mosman LGA, which reduces the weight that may be given to it. The BOCSAR report provides a better sense of alcohol related domestic violence rates for the purposes of this Application.
94. The Authority is satisfied, on the basis of the Socio-Economic Indexes for Area (SEIFA) data from ABS that the local and broader communities are very advantaged in socio-economic terms, with both the state suburb of Mosman and the Mosman LGA ranking in the highest (tenth) decile on the Index of relative Socio-Economic Advantage and Disadvantage.
95. The Authority accepts that some local submitters hold genuine and broadly credible concerns about the potential for this large new business, or its patrons, to generate adverse alcohol related impacts upon local amenity, but there is insufficient supporting evidence or analysis before the Authority to discern the nature and frequency of localised public drinking, under-age drinking or alcohol related litter to give those concerns sufficient weight to refuse the Application. These factors reduce the weight that might otherwise be accorded to local concerns that the new liquor business is situated too close to residential properties or sensitive sites such as the Giraffe Child Care Centre (which the Authority notes has not objected to the Application).
96. The Authority accepts the NSLHD's general concerns regarding the relationship between high liquor outlet density and adverse health impacts, but the NSLHD submission does not provide sufficient data or analysis establishing how this local or broader community is over-exposed to liquor outlets.
97. One aspect of the evidence before the Authority that does warrant close scrutiny is the *NSW Healthstats* data for the Mosman LGA regarding the incidence of alcohol related hospitalisation. This data was specified in the submission from Ms Ziller and several others and establishes that during 2012-2014 Mosman LGA recorded the highest rate of alcohol related hospitalisations, per 100,000 persons of population for any local government area in the Sydney Metropolitan Area.
98. The Applicant comments in the CIS that "little can be drawn" from this data, but plainly enough this data is adverse to the Application when assessing the *relative* vulnerability of *this* population to alcohol related harm. This large new outlet will have a substantial capacity to contribute, along with the incumbent licenses, to those prevailing negative health impacts.

99. While the health data presents a negative factor of some weight, it has not been decisive when considered in the context of the other evidence and material before the Authority. First, the Authority's long standing practice is to assess a community's relative exposure to adverse social impacts by reference to socio demographic data for *New South Wales* as a whole, not the Sydney Metropolitan Area. Second, the Authority infers that the contribution made by this outlet to health impacts is likely to become more diffuse across the broader community, as it will be participating in an established market supplied by numerous other outlets selling takeaway liquor during later hours across the local government area. Third, the Authority accepts the submission made by the Applicant's consultant, Ms Saltman, that there is a recent downwards trend in that alcohol hospitalisation data. Fourth, the SEIFA data indicates that the local and broader communities are among the most economically advantaged in the State. This is relevant in that the communities are likely to have the resources to deal with alcohol related impacts when they occur and those impacts are not compounded by social disadvantage. Finally, the extent of alcohol related abuse apparent from this data is not translating into other social problems, such as alcohol related crime or significant localised amenity impacts.
100. The Authority notes that a number of opposing submitters, including Police, have raised concerns about the risk of sale of liquor to minors. The Authority accepts that this is a prevailing risk given the number of takeaway liquor outlets in the local and broader community but is satisfied, on the basis of the moderate trading hours, the operational measures, security measures and responsible service of alcohol procedures to be adopted at Dan Murphy's that the Applicant has policies and a training regime in place to combat this problem.
101. The Authority infers that the licensee and its staff will only be in a meaningful position to monitor misconduct at the point of sale and in the immediate vicinity of the Premises but there is insufficient evidence or material before the Authority to establish that the location, the local community or the broader community are particularly vulnerable to underage drinking and secondary supply to minors.
102. Absent any solid body of evidence identifying a particular problem with secondary supply, underage drinking or alcohol related litter in *these* local and broader communities, the Authority is unable to give great weight to those submissions, even though it finds that those concerns to be broadly credible. The Authority accepts that there is some degree of liquor consumption and public/youth drinking at locations like Allan Border Oval and Balmoral Beach. The Authority is not aware from material before it of any disturbance complaint or submission to the Secretary regarding any incumbent takeaway liquor retailer with regard to those concerns. It would be open to Council, law enforcement or individuals to seek action by the Secretary under sections 54 or 79 of the Act should there be a sufficient evidentiary basis for doing so.
103. The Authority has considered Police submissions based on ARCIE data at the level of the Mosman LGA, that for the period from January 2015 to December 2015 53% (39 persons) detected for drink driving had last consumed their liquor at home / private residence.

104. The Authority accepts the Police contention that the abuse of packaged liquor is likely to play a substantial role in the occurrence of drink driving events detected within the communities, although the weight that may be given to this aspect of the Police submission is reduced by the absence of any comparative data for the rate of detected PCA offences occurring across New South Wales as a whole.
105. Notably, the RMS submission dated 26 March 2014 refers to the rates of alcohol related road crashes and pedestrian accidents for an (unspecified) "Sydney Region" - which the Authority assumes refers to the Sydney Metropolitan Area. RMS do not provide comparative data indicating that the rate of alcohol related road crashes or pedestrian incidents occurring within the Mosman LGA compares unfavourably to the rates for New South Wales as a whole
106. Police make the brief contention that they receive calls relating to street drinking and disturbance in this area and that Police officers regularly attend the "area" in an attempt to address the ongoing issues before they affect residents. Police advise that they have been informed about discarded empty alcohol bottles and cans at Allan Border Oval and Military Road. The Authority accepts that these reports are credible and notes the proximity of the new business to Allan Border Oval. The Authority accepts the proposition that alcohol related litter is a potential source of adverse impact upon local amenity, but there is insufficient supporting data, evidence or analysis before the Authority in this case to give decisive weight to this concern and refuse the Application.
107. The Authority further notes the concerns raised by submitters in relation to liquor promotion and signage but considers that these concerns are primarily an environmental planning matter. To the extent that they impact local amenity the Authority is satisfied on the basis of the submission from the Applicant entitled *Review and Response to the Local Resident Submissions* that there will be no price related signage on the exterior of the building and that the brand signage will be non-illuminated.
108. The Authority accepts that there are genuine concerns held by objecting submitters that a large liquor store may attract "hooligans", generate patron loitering and vagrancy with a potential contribution by the liquor sold to conduct such as pre-fuelling, public drinking, alcohol related crime and the perception of security by residents. However, as noted above, the communities perform relatively well with regard to alcohol related crime. Insufficient data has been provided to move the Authority to refuse the Application on the basis of these contended alcohol related amenity impacts. The Authority is satisfied, on the basis of the Applicant's analysis in the Paroz submission, that the Premises is not located in or near an ongoing Alcohol Free Zone. This further supports an inference that any public consumption of liquor is not sufficiently problematic in Mosman to have warranted this type of regulatory response from Council.
109. The Authority also accepts that some submitters have genuine concerns about the impact of a major new retailer upon local competitors, but it is not the Authority's role to play favourites between incumbent and new businesses. Any potential abuse of market power is a matter for the Australian Competition and Consumer Commission.

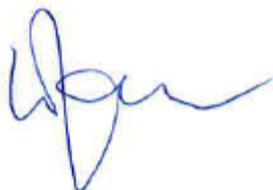
110. Police have raised concerns about the scale of the new business, and the fact that there are no restrictions placed upon the amount one person can purchase at any one time. However, there is insufficient evidence before the Authority to find whether the addition of another packaged liquor licence at this location for a business of this scale will increase, decrease, or make no difference to the overall level of liquor consumed across the local and broader communities over time.
111. New South Wales does not mandate the collection of wholesale liquor sales data that has enabled researchers in other jurisdictions to identify an association between volumes of liquor sold and assault rates in a local government area (Liang W and Chikritzhs T: Revealing the link between increased licensed outlets and violence: Counting venues versus measuring alcohol availability" (2011) Drug and Alcohol Review (September 2011) - as noted in Authority Guideline 6).
112. By reason that the Authority is unable to find whether there will be any change to overall liquor consumption levels in the communities, the Authority assumes (as contended by the Applicant) that this new business will likely compete for the prevailing demand. The Authority is satisfied, on the basis of LGNSW licensed premises information, that there is an established market for retail liquor in the local and broader communities with numerous hotel and packaged liquor licensed premises selling takeaway liquor. The contribution to adverse social impacts that will be made by this new licensee will occur in the context of communities where the socio demographic risk factors and other indicia of prevailing social impact are, for the most part, relatively benign.

## **Conclusion**

113. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, RMS, neighbouring occupiers, NSW Health and Family and Community Services (FACS) and all other parties required to be consulted under the legislation.
114. Having considered together the positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
115. The Application is granted pursuant to section 45 of the Act.
116. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (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, and (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.

Decision Date: 31 August 2016

A handwritten signature in blue ink, appearing to read 'P. Crawford', is positioned above the name and title.

Philip Crawford  
**Chairperson**

## SCHEDULE

### Material Before The Authority

1. Application Form lodged on 29 January 2016.
2. Copies of stakeholder notices notifying the Application to various stakeholders.
3. CIS document dated 12 January 2016 and supporting material lodged on 29 January 2016.
4. List of Stakeholders and special interest groups notified of the Application attached to the CIS lodged on 29 January 2016.
5. Statement of Impact attached to the CIS lodged on 29 January 2016. This 43-page document addresses the Applicant's submissions on the overall social impact of granting the licence. It discusses, by apparent reference to the factors identified in Authority Guideline 6, the proposal, at-risk groups, outlet density, SEIFA, potentially sensitive facilities near the Premises, neighbourhood amenity and alcohol related crime and alcohol related harm. The Applicant also describes the community consultation process by addressing the submissions from 34 local residents (many not from occupiers of neighbouring premises), 3 supportive local residents, the NSW Aboriginal Land Council, Council, RMS and the concerns raised by Police on 21 August 2014 in response to the CIS in a telephone conversation with the Applicant's solicitor.
6. The Applicant makes the following key contentions on overall social impact in the CIS:
  - (a) The BOCSAR statistics confirm that the risk that an alcohol related domestic or non-domestic violence assault, assault police, liquor offence, malicious damage to property incident or an alcohol related disorderly conduct incident will occur in Mosman is low when compared with the State average; and that the Premises is not located in any hotspot location where any type of assault or malicious damage to property incidents have occurred in the past.
  - (b) BOCSAR data on malicious damage to property is of relatively little concern to this proposal;
  - (c) The local and broader communities are "stable populations";
  - (d) Although the demographic information for the local and broader communities depicts higher representations of older Australians and renters, this is not an indicator of higher than usual potential for alcohol related harm to occur;
  - (e) Whilst the cost of living is higher in the local and broader communities than the State average, this has been off-set by the significantly higher income levels;
  - (f) There are no potentially sensitive facilities located near the Premises which could otherwise place the at-risk groups identified at an adverse social risk;
  - (g) SEIFA scores reflect a community benefiting from significant advantage;
  - (h) Density of licensed premises in the local and broader community supports the approval of this Application and the level of licence density in this local and

broader community has not produced poor social outcomes by reference to the available crime data;

- (i) This store is not the first *Dan Murphy's* in this region, with stores in Willoughby and Manly Vale. The product range and price of products sold to the wider community will remain unchanged as a "similar range and identical pricing structure" to that currently available at these stores, will be mirrored;
  - (j) Evidence that Woolworths has submitted shows that its stores do not increase alcohol related crime;
  - (k) The public are entitled to a modern, contemporary bottle shop facility as part of their shopping experience;
  - (l) The Applicant contends that granting the Application would result in positive community benefits (addressed in the statement of reasons above).
7. Three photographs provided with the CIS, depicting an aerial view of the Premises and immediate surrounds and the street view of the Premises.
  8. A document provided with the CIS describing Woolworths "operating experience to date" with Dan Murphy's packaged liquor licences in general.
  9. A document provided with the CIS addressing Woolworths Liquor Group operational matters, security, harm minimisation and responsible service of alcohol policies and procedures adopted by Woolworths including: House Policy, school uniform policy, refusal of service – intoxication policy, ID25 policy and secondary supply policy.
  10. Dan Murphy's Crime Prevention Through Environmental Design (CPTED) provided with the CIS outlining the CPTED principles employed to reduce opportunities for and likelihood of crime.
  11. Geographical Map provided with the CIS depicting what the Applicant describes as the "Trade Area" of the Premises and the location of existing licensed premises in that area.
  12. A document provided with the CIS identifying hotels and packaged liquor licences in the local and broader community and the Applicant's defined "Trade Area" of the Premises (excluding packaged liquor licences limited to sales via the internet and hotel general bar licences).
  13. Health statistics, provided with the CIS, issued by the NSW Department of Health for all NSW LGAs for the period between 2012-13 to 2013-14.
  14. Data, provided with the CIS, illustrating the trend in crime after a Dan Murphy's store commences operations in given communities, sourced from the BOCSAR Crime Trends Tool for the period between 2006 and 2015. This analysis, prepared by the Applicant, compares crime rates in NSW, Burwood LGA, Campbelltown LGA, Liverpool LGA, Ryde LGA, Warringah LGA and the City of Sydney for incidents of alcohol related domestic and non domestic assault, alcohol related assault police and malicious damage to property.

15. Exclusive product range list and benefits policy for Woolworth's retail liquor stores provided with the CIS.
16. Plan or diagram highlighting the proposed licensed area of the Premises provided with the CIS.
17. Letter from Back Schwartz Vaughan (BSV) to the Authority dated 29 January 2016, attaching 5 bundles of material relating to the Application.
18. Decision on development consent DA 8.2011.232.1 (attached to the BSV submission dated 29 January 2016) issued by Council on 23 February 2012 for consent to operate from 1 March 2012 granting consent for the "Demolition of above ground structures, retention of existing basement car parking and erection of mixed use shop/multiple dwelling development building with associated car parking and landscaping".
19. Letter from Vic Lilli and Partners (attached to the BSV submission dated 29 January 2016) dated 6 March 2014 regarding CDC No. J140110 advising that there are "multiple existing fire engineered solutions affecting the building" and that as an accredited certifier, it has been satisfied that the proposed works would be consistent with the "alternate solution" from Fire Engineering Professionals Pty Ltd.
20. CDC No. J140110 (attached to the BSV submission dated 29 January 2016) issued by Vic Lilli and Partners on 10 March 2014 certifying the "construction of tenancy wall, WC and first use of major tenancy as a liquor store and minor tenancy for general retailing approved pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008".
21. National Police Certificate No. NCHRC-2008-2275 (attached to the BSV submission dated 29 January 2016) issued on 11 July 2008 advising that there are no disclosable court outcomes or outstanding matters recorded against the Applicant.
22. Submission from NSW Aboriginal Land Council dated 17 March 2014 (attached to the BSV submission dated 29 January 2016) advising the Applicant to refer correspondence to the Metropolitan Local Aboriginal Land Council for response.
23. Submission from Council dated 11 April 2014 (attached to the BSV submission dated 29 January 2016) advising that the use of part of the ground floor of the Premises as a *Dan Murphy's* has been subject to a Class 1 proceedings in the Land and Environment Court and that no development consent has been issued for its use and the judgement is still pending. Council contend that the CDC relied upon by the Applicant has been "invalidly issued".
24. Submission from RMS dated 26 March 2014 (attached to the BSV submission dated 29 January 2016) advising, *inter alia*, that alcohol-affected pedestrians represent 25% of the pedestrian fatalities and 12% of all fatal crashes in the Sydney region. RMS recommend that physical barriers be installed to separate the patrons and the roadway; improved lighting and the reduction of potential trip points should be considered; the licensee attend the local liquor accords; and the Premises display public education material focused on drink drive and pedestrian-alcohol issues.

## **Resident Submissions During CIS Process (Applicant Submission 29 January 2016)**

25. Back Schwartz Vaughan survey response submissions from local residents opposing the Application during the CIS consultation process attached to the BSV submission dated 29 January 2016. Mr D. Warrick dated 15 March 2014; Ms C. Wade dated 14 March 2014; Allmonde Pty Ltd dated 14 March 2014; Prof. K. Oates dated 14 March 2014; Mr M. Pieterse dated 16 March 2014; Mr C. Kenna dated 17 March 2014; "Yolande" dated 19 March 2014; Ms J. Chapman dated 19 March 2014; Mr M. Chapman dated 21 March 2014; Ms N. Fowlie dated 24 March 2014; Mr P. Sheldon dated 12 April 2014; A. Bowra dated 10 April 2014; Mr E. and Mrs J. Skeet dated 6 April 2014; Ms B. Mercia dated 5 April 2014; Ms L. Czajka dated 1 April 2014; Ms D. Mancy dated 31 March 2014.
26. Email submission from local resident, Ms A Blunden, from the residential apartments directly above the Premises dated 16 March 2014 (attached to the BSV submission dated 29 January 2016). In this four-paragraph submission, the writer requests further information on the proposal and states that she is "open-minded" about the proposal and knew about it when she bought her apartment last year.
27. Submission from local resident of Mosman, Ms P Hsang dated 17 March 2014 (attached to the BSV submission dated 29 January 2016). In this handwritten letter, Ms Hsang opposes the Application and contends that it is time to reform the drinking culture and request that the issuing of licences be stopped, as it is not a good business.
28. Email submission from local resident, Mr P Sheldon of Clifford Street, Mosman dated 18 March 2014 (attached to the BSV submission dated 29 January 2016) questioning the Application while development consent is subject to litigation.
29. Submission from local resident, Ms E Aquilina of Military Road, Mosman dated 31 March 2014 (attached to the BSV submission dated 29 January 2016). In this one-page submission Ms Aquilina opposes the Application and raises concerns about the impact on the peace and quiet of the neighbourhood, increased noise and the potential for unruly inebriated people misbehaving. Ms Aquilina contends that the area is residential and not conducive to alcohol sales.
30. Email submission from local resident, Ms K Wiltshire of Clifford Street, Mosman dated 6 April 2014 (attached to the BSV submission dated 29 January 2016) attaching a two-page letter objecting to the Application, and two photographs depicting wine for sale and a street view of some parking.
31. Submission from local resident, Mr R Muusze of Clifford Street, Mosman dated 9 April 2014 (attached to the BSV submission dated 29 January 2016). This submission is discussed above.
32. Email submission from local residents, Mr J Edwards and Ms C Sian of Military Road, Mosman dated 10 April 2014 (attached to the BSV submission dated 29 January 2016). The writers contend that having lived in the building for three months it is obvious that the logistics involved with a major bottle store and its deliveries are "simply infeasible" and raise concerns about the "tiny" size of the lane used for

deliveries and access to the car park, the lack of pedestrian footpath, visibility when exiting the car park, increased traffic, disruption and noise.

33. Email submission from Ms R Campbell dated 10 April 2014 (attached to the BSV submission dated 29 January 2016). In this three-sentence submission Ms Campbell contends that the business will impact residents, the Fire Station, parking, traffic flow and safety of residents.
34. Email from Ms M Booker dated 10 April 2014 (attached to the BSV submission dated 29 January 2016). In this one-paragraph submission, Ms Booker expresses concern for the Application and raises issues relating to traffic congestion, parking, disruption to fire station access, tight lanes, steep car park ramp with poor visibility on existing and high volume of pedestrian activity.
35. Email submission from local resident, Ms S Hajos of Marque Apartments, Mosman dated 11 April 2014 (attached to the BSV submission dated 29 January 2016) raising concerns about the saturation of liquor outlets, parking, access and traffic, security of residents cars, deliveries, waste disposal, noise, shopping trolleys; the proposed trading hours; intrusive signage, destruction of Mosman's ambience and safety.
36. Email submission from local residents, Mr M and Mrs O Saltoon of Military Road, Mosman dated 11 April 2014 (attached to the BSV submission dated 29 January 2016). In this one-page submission, the writers raise concerns about residential parking taken by Dan Murphy's customers, delivery trucks and pedestrian safety.
37. Email submission from local resident, Ms T Parker of Military Road, Mosman dated 12 April 2014. In this one-page submission, the writer raises concerns about traffic, pedestrian safety, malicious damage to property, residential parking, security risks from alcohol related problems, noise, existing drinking problems (especially amongst youth) and the many liquor shops in the area.
38. Submission from local resident, Mr A Bustos-Ramirez of Clifford Street, Mosman dated 12 April 2014 (attached to the BSV submission dated 29 January 2016). In this three-page letter, the writer contends that there are errors in the description of the proposed new building and store, only 48 car parks available, residential impacts from noise, pollution, security concerns, shopping trolleys and the "inevitable hooligans that are attracted by this establishment". There is an ongoing problem with youth drinking.
39. Email submission from local residents, Mr A and Mrs J Graham of Military Road, Mosman dated 14 April 2014 (attached to the BSV submission dated 29 January 2016). In this one-page submission, the writers raise concerns about the impact on parking, traffic, deliveries and the surrounding lanes exiting the car park.
40. Email submission from local resident, Mr P Sheldon of Clifford Street, Mosman dated 14 April 2014 (attached to the BSV submission dated 29 January 2016) attaching a petition signed by 11 residents of Clifford Street, Mosman dated 11 April 2014 raising concerns about the impact of noise, pollution, lighting, signage, pedestrian safety, access to the fire station, vehicles in lanes and local alcohol consumption.
41. Email submission from local resident, Mr J Alexander of Clifford Street, Mosman dated 15 April 2014 (attached to the BSV submission dated 29 January 2016). In this two-

page submission, the writer contends that traffic congestion, parking conflict, waste, noise impacts at the loading bay and delivery requirements have not been adequately addressed during the DA process. The writer contends that the Applicant is a bulk discount liquor store that sells large quantities of alcohol and the Premises is located near a pre-school, high school library, church, and residential properties.

42. Submission from Mosman Councillor T Sherlock of Warringah Road, Mosman dated 23 April 2014 (attached to the BSV submission dated 29 January 2016). This submission is discussed above.
43. Submission from local resident, Mr M Flockhart of Amaroo Crescent, Mosman dated 15 December 2015 (attached to the BSV submission dated 29 January 2016). In this one-page submission, the writer supports the Application contending that certain wines and spirits are only available at Dan Murphy's; Mosman is limited for choice and competition and the business would provide convenience and employment.
44. Submission from local resident, Mr A Flockhart of Amaroo Crescent, Mosman dated 18 December 2015 (attached to the BSV submission dated 29 January 2016). In this one-page submission the writer supports the Application contending that Dan Murphy's stores are spacious and have a very large selection of well-priced products; that the existing Dan Murphy's stores are inconveniently located to the local community.
45. Submission from local resident, Mr G Earl-Peacock of Marque Apartments, Mosman undated (attached to the BSV submission dated 29 January 2016). This submission is discussed above.
46. The Applicant also submits (in the document listing the submissions attached to the BSV submission dated 29 January 2016) that there was a telephone call from Ms C Pidcock on 14 March 2014, a telephone call from Ms C Parker on 20 March 2014 and a BSV Survey from Mr J Cavill dated 11 April 2014.
47. A document reviewing and responding to the local resident submission provided by the Applicant (attached to the BSV submission dated 29 January 2016). In this 14-page document, the Applicant contends that of the 37 local resident submissions, 34 people opposed the Application and 3 people fully supported it. The Applicant contends that a resident action group has "stimulated" opposition and many opposing submissions are not from neighbouring premises. The Applicant submits that consent authority refusal to modify certain conditions of consent does not mean that the consent is itself invalid, but any new store must comply with the unmodified consent. The Applicant responds to the concerns of residents relating to traffic and noise; delivery vehicles and parking; the character of Mosman; location of potentially sensitive facilities; closure of other liquor stores/employment; no need; waste; light spill; dumping of shopping trolleys; trading hours; signage and alcohol related crime and harm. The Applicant attaches a copy of the flyer distributed by the resident action group; the signage plans prepared by Nettleton Tribe Architects; a traffic report prepared for the Applicant by Colston Budd Rogers and Kafes Pty Limited on 3 December 2015. Also provided are 11 tables indicating the traffic concentrations at Dan Murphy's Wentworthville outlet and the *estimated* traffic concentration in various lanes and roads surrounding the proposed new Premises.

## Crime Licensing and SEIFA data

48. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location of the Premises which is publically available on the BOCSAR website. This data indicates that the Premises:
  - (a) *Is located within a low density hotspot for incidents of domestic assault*
  - (b) *Is not located within any hotspot for incidents of non-domestic assault*
  - (c) *Is located within a medium density hotspot for incidents of malicious damage to property*
49. Liquor licensing records from LGNSW indicating that the suburb of Mosman already has 9 packaged liquor licences, 7 registered club licences, 2 full hotel licences and 1 hotel (general bar) licence.
50. Liquor licence density data from LGNSW indicating that the Mosman LGA as a whole recorded:
  - (a) A rate of **47.34 packaged liquor licences** per 100,000 persons, which is higher than the NSW state wide rate of **32.85**.
  - (b) A rate of **18.21 registered club licences** per 100,000 persons, which is below the NSW state wide rate of **20.48**.
  - (c) A rate of **36.41 full hotel licences** per 100,000 persons, which is higher than the NSW state wide rate of **30.36**.
  - (d) A rate of **0.00 hotel general licences** per 100,000 persons, which is below the NSW state wide rate of **1.35**.
51. Report on *Crime by LGA and Alcohol Related Status* for July 2010 to June 2015. This data indicates that:
  - (a) The rate of *alcohol related non-domestic violence related assault* recorded by Police across the Mosman LGA was **49.5** per 100,000 persons, substantially below the State wide rate of **144**.
  - (b) The rate of *alcohol related domestic violence related assault* recorded by reporting Police across the Mosman LGA was **76** per 100,000 persons, below the New South Wales rate of **122.6** per 100,000 persons.
  - (c) The rate of *alcohol related offensive behaviour* incidents reported by Police across the Mosman LGA was **46.2** per 100,000 persons, substantially below the State wide rate of **88.2**.
52. ABS SEIFA data prepared on the basis of the 2011 census indicating that both the Mosman LGA and Mosman suburb rank in the 10<sup>th</sup> decile, compared to other local government areas and suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with 10 being the most advantaged).
53. Submission from Ms G Winton of Clifford Street, Mosman dated 1 February 2016.
54. Submission from Licensing Sergeant Brendan Smith of Harbourside LAC of Police dated 2 February 2016.

55. Submission from local residents, Mr T and Mrs H Bowra of Clifford Street, Mosman dated 5 February 2016.
56. Submission from local resident, Ms R Fitzgerald of Clifford Street, Mosman dated 5 February 2016.
57. Submission from local resident, Mr R Muusze of Clifford Street, Mosman dated 6 February 2016.
58. Submission from Mr Jonathon Noyes, Health Promotion Lower North Shore of NSWLHD dated 9 February 2016.
59. Submission from local resident, Professor K Oates of Clifford Street, Mosman dated 9 February 2016.
60. Submission from Julie Walsh c/o Pikes and Verekers Lawyers on behalf of Council dated 19 February 2016.
61. The judgement from *IPM Pty Ltd v Mosman Municipal Council* [2014] NSWLEC 1141.
62. The judgement from *Mosman Municipal Council v IPM Pty Ltd* [2016] NSWLEC 26.
63. Submission from local residents, Mrs J and Mr E Skeet of Clifford Street, Mosman dated 20 February 2016.
64. Submission from local resident, Mr L Cameron of Field Way, Mosman dated 20 February 2016.
65. Submission from local resident, Ms A Ziller of Mosman dated 21 February 2016.
66. Submission from local resident, Mrs M Duffill of Clifford Street, Mosman dated 22 February 2016.
67. Submission from local resident, Mr R Muusze of Clifford Street, Mosman dated 23 February 2016.
68. Submission from local resident, Mr G Earl-Peacock of Military Road, Mosman dated 23 February 2016.
69. Submission from local resident, Mr A Brooke of Redan Street Mosman dated 25 February 2016.
70. Submission from local resident, Ms S Jenkins of Military Road dated 25 February 2016.
71. Submission from local resident, Ms J Neale of Wolseley Road, Mosman dated 25 February 2016.
72. Submission from local resident, Ms P Sabiel of Clifford Street, Mosman dated 25 February 2016.
73. Submission from local resident, Mr D Milton-Hine of Simpson Street, Mosman dated 26 February 2016.
74. Submission from local resident, Mr D Grant of Cabramatta Road, Mosman dated 28 February 2016.

75. Submission from local residents, Mr M and Mrs S McGrath of Clifford Street, Mosman dated 28 February 2016.
76. Submission from local resident, Mr M Pieterse of Clifford Street and special Counsel Litigation c/o O'Halloran Lawyers, dated 29 February 2016.
77. Submission from local resident, Mr A Bustos-Ramirez of Clifford Street, Mosman dated 29 February 2016.
78. Submission from local resident, Mr C Kenna of Mandolong Road, Mosman dated 29 February 2016.
79. Submission from local resident, Ms K Wiltshire of Clifford Street, Mosman dated 2 March 2016.
80. Submission from local resident, Ms E Tremain of Military Road, Mosman dated 3 March 2016.
81. Submission from local business owner, Ms T Milton-Hine, of Tiffany's Fresh Flowers, Mosman dated 3 March 2016.
82. Submission from Ms K Hyde dated 4 March 2016.
83. Submission from Ms A Colahan who works on Military Road, Mosman dated 5 March 2016.
84. Submission from local resident, Mr P Sheldon of Clifford Street, Mosman received 5 March 2016.
85. Submission from local resident, Ms S Hewitt of Military Road, Mosman dated 6 March 2016.
86. Submission from local resident, Mr C and Mrs P Peters of Clifford Street, Mosman dated 6 March 2016.
87. Submission from Craig Covich, Director Environment and Planning for Council dated 7 March 2016.
88. Submission from local resident, Mr S Karelia of Clifford Street, Mosman dated 7 March 2016.
89. Submission from local resident, Mr A Muraro of Clifford Street, Mosman dated 7 March 2016.
90. Submission from local resident, Mr T Clifford of Mandalong Road, Mosman dated 8 March 2016.
91. Submission from Licensing Sergeant Brendan Smith of the Harbourside LAC of Police dated 9 March 2016.
92. Submission from local resident, Mr J Alexander of Clifford Street, Mosman dated 9 March 2016.
93. Submission from local residents, Mr S and Mrs C Lye of Military Road, Mosman dated 9 March 2016.

94. Submission from local resident, Ms P Parker of Military Road, Mosman dated 9 March 2016.
95. Submission from local resident, Mr A Bowra of Clifford Street, Mosman dated 9 March 2016.
96. Submission from local resident, Mr D Pratt of Field Way, Mosman dated 10 March 2016.
97. Submission from Mr George Smith c/o Design Collaborative Pty Ltd on behalf of Mr D Pratt of Field Way, Mosman dated 10 March 2016.
98. Joint Regional Planning Panel's determination of DA No. 8.2011.232.1.
99. Submission of Mr S Davey Director of Mosman Physiotherapy and Sports Injury Centre on Military Road, Mosman dated 10 March 2016.
100. Submission from local resident, Mr A Graham of Clifford Street, Mosman dated 10 March 2016.
101. Submission from Craig Covich, Director Environment and Planning for Council dated 11 March 2016.
102. Submission from Mr Michael John Najem, Principal Solicitor of Fire and Rescue dated 11 March 2016.
103. Submission from ten local residents, of Spit Road and Awaba Street Mosman dated 13 March 2016.
104. Submission from Councillor T Sherlock dated 13 March 2016.
105. Submission from local resident, Mr K Jacobs of Military Road, Mosman dated 14 April 2016.
106. Submission from Deputy Mayor Carolyn Corrigan dated 15 April 2016.
107. Submission from local resident, Ms C Kinghan of Ben Boyd Road, Neutral Bay dated 18 April 2016.
108. Submission from Councillor Peter Abelson dated 18 April 2016.
109. Submission from, Mr Michael Pieterse, Special Counsel Litigation O'Halloran Corporate Lawyers, on behalf of the Committee dated 27 April 2016.
110. Report to the Authority dated 28 April 2016 from Compliance Branch of the Office of LGNSW, attached by email to the Authority dated 29 April 2016.
111. Submission from, Mr Michael Pieterse, on behalf of a residential committee representing 50 residents dated 2 May 2016.
112. Submission from the Applicant dated 16 August 2016, including the 11 attachments.
113. Email from the Applicant dated 22 August 2016.
114. Email from the Applicant dated 22 August 2016.