

Mr Warwick Caisley
Lands Legal
Level 8, 131 York Street
SYDNEY NSW 2000
wcaisley@landslegal.com.au

5 October 2017

Dear Mr Caisley

Application No.	1-5041778635
Application for	New Packaged Liquor Licence
Trading hours	Consumption off premises: Monday to Wednesday 10:00AM – 8:00PM Thursday to Saturday 10:00AM – 9:00PM Sunday 10:00AM – 7:00PM
Licence name	Harris Farm Markets
Applicant	Harris Farm Markets Bondi Westfield Pty Ltd
Premises	Shops 1027-1028, 500 Oxford Street BONDI JUNCTION NSW 2022
Issue	Whether to grant or refuse an application for a new packaged liquor licence
Legislation	Sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor and Gaming Authority - Application for a new packaged liquor licence – Harris Farm Markets, Bondi Junction

The Independent Liquor and Gaming Authority has considered application number 1-5041778635 seeking a new packaged liquor licence (“Application”) and pursuant to section 45 of the *Liquor Act 2007* (“Act”) has decided to **grant** the licence, subject to the imposition of the following conditions:

1. 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 4:00 AM and 10:00 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.

2. **Restricted trading & NYE**

Retail sales

Good Friday	Not permitted
Christmas Day	Not permitted
December 31 st	Normal trading

Note: Trading is allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5.00 AM.

3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing 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.
4. The licensee or its representatives must join and be an active participant in the local liquor accord.
5. The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.
6. The licensee will not sell refrigerated liquor from the licensed premises.
7. **Closed-circuit television system**
 - (1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - a. The system must record continuously from opening time until the entire Harris Farm grocery store closes,
 - b. Recordings must be in digital format and at a minimum of six (6) frames per second.
 - c. Any recorded image must specify the time and date of the recorded image,
 - d. The system's cameras must cover the following areas:
 - i. All entry and exit points on the premises, and
 - ii. All publicly accessible areas (other than toilets) within the licensed area.
 - (2) The licensee must also:
 - a. Keep all recordings made by the CCTV system for at least 30 days,
 - b. Ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - c. Provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
8. The premises is to be operated at all times in accordance with the Plan of Management dated 24 October 2016 as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
9. **Boutique and craft liquor products**
 - (1) The licensee must ensure that only craft beer, craft cider, craft spirits and boutique wines are sold and supplied on the premises.

- (2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted.
- (3) The licensee must ensure that a list of the product lines and products stocked on the licensed premises at any one time is to be kept at the premises and made available to a police officer or Liquor and Gaming NSW inspector upon request.
- (4) For every craft beer, craft cider, craft spirit or boutique wine product that is available for sale on the premises, the licensee must maintain and make available for inspection on the premises written documentation from the supplier confirming that the product meets the relevant definition specified in this condition.

Definitions

For the purposes of this condition

- (1) Craft beer is defined as beer that is:
 - a. produced by a craft brewer in Australia that produces less than 40 million litres of beer per annum or by a craft brewer located overseas that produces less than 6 million barrels of beer per annum; and
 - b. not more than 25 percent of the craft brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer;
 - c. the craft brewery will certify that the majority of its total beverage alcohol volume in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers); and
 - d. is not generally considered to be mainstream beer.
- (2) Craft cider is defined as cider that is:
 - a. produced by a craft producer in Australia that produces less than 40 million litres of cider per annum or by a craft producer located overseas that produces less than 6 million barrels of cider per annum; and
 - b. where less than 25 percent of the craft cider producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer;
 - c. the craft cider producer will certify that the cider is made from liquid consisting only of juice (no concentrates); and
 - d. is not generally considered to be mainstream cider.
- (3) Craft spirits are defined as spirits that are:
 - a. the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in respect of blended spirits, the products of an independently owned and operated facility that uses any combination of traditional and/or innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile;
 - b. distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller; and
 - c. is not generally considered to be a mainstream spirit

- (4) Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is owned independently (i.e., not owned by a larger wine company).
 - (5) Boutique sparkling wine and champagne is defined as a champagne or sparkling wine that is generally not considered to be a mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.
10. The licensee will ensure that all liquor products will only be sold at a register within the defined licensed area.

If you have any questions about this letter, please contact the case manager Mr Charles Rivers via charles.rivers@liquorandgaming.nsw.gov.au

Yours faithfully

A handwritten signature in black ink, appearing to be 'DA', with a long horizontal stroke extending to the right.

David Armati
Deputy Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Statement of reasons

Decision

1. On 18 October 2016 the Independent Liquor and Gaming Authority (“Authority”) received from Harris Farm Markets Bondi Westfield Pty Ltd (“Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application for a new packaged liquor licence (“Application”) to be located at Shops 1027-1028, 500 Oxford Street Bondi Junction NSW 2022 (“Premises”) and to trade as Harris Farm Markets.
2. Pursuant to section 45 of the *Liquor Act 2007* (“Act”), the Authority has decided to grant the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“Regulation”).

Material considered by the Authority

4. The Authority has considered the Application and the accompanying Community Impact Statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. As foreshadowed in the Authority’s *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by LGNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule, briefly described where appropriate.

Legislative framework

8. The Authority has considered the Application in accordance with the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3(1), are 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, to facilitate the balanced development, in the public interest, of the liquor industry, and contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
10. In pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and

consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6-hours during each consecutive period of 24 hours.

Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence to be validly made to the Authority.

Fit and proper person, responsible service of alcohol and development consent

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
 - (b) the practices will be in place to ensure the responsible service of alcohol, and
 - (c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a new packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
15. Section 48(5) provides that the Authority may only grant the licence, authorisation or approval if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter the Authority becomes aware of during the application process.

Provisions specific to a packaged liquor licence

16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
17. Section 29 prescribes the period and manner in which liquor is to be sold or supplied.
18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if the primary purpose of the business is not to sell liquor for consumption away from the premises.
19. Section 31 sets out restrictions for granting the licence to general stores, service stations and take-away food shops.

Key findings

20. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading requirements

21. The Authority finds that:
- (a) The Application has been validly made and meets the minimum procedural requirements under section 40 of the Act. This finding is made on the basis of the Application and CIS material before the Authority and the Certificate of Advertising signed by Mr Joshua Banks (the contact person for the Applicant company) and the Applicant's legal representative Mr Caisley dated 26 October 2016.
 - (b) The proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods. This finding is made on the basis of the Application and CIS material provided by the Applicant.
 - (c) Liquor will be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence as required by sections 29 and 30 of the Act. This finding is made on the basis of the Application, CIS material and the plan/diagram of the Premises provided by the Applicant.
 - (d) Section 31 of the Act does not apply to the Application, as the Premises is not intended to be used for any of the purposes specified in the section.

Fit and proper person, responsible service of alcohol and development consent

22. Pursuant to section 45 of the Act, the Authority is satisfied that:
- (a) for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant company following consultation with relevant law enforcement agencies including NSW Police ("Police") and LGNSW,
 - (b) for the purposes of section 45(3)(b), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and that all reasonable steps are taken to prevent intoxication on the premises, having regard to the Applicant's Plan of Management dated 24 October 2016, and
 - (c) for the purposes of section 45(3)(c) the requisite development consent for use of the Premises as a packaged liquor outlet is in force, pursuant to Complying Development Certificate ("CDC") number 1311 issued by Newland Wood Certification on 5 May 2016.

Community Impact Statement

23. The Authority has taken into account the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.

24. For the purposes of this decision and consistent with its position in *Guideline 6* and longstanding practice, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Bondi Junction, and the “broader community” comprises the relevant local government area, which at the time of this decision is Waverley Council (“Waverley LGA”).
25. While the Waverley LGA was subject to a proposal to amalgamate Randwick City, Waverley and Woollahra Municipal councils, that proposal was subject to litigation and was not effected at the time of this decision. At the time of publishing this decision the Government has indicated that the proposed amalgamation will not proceed.

Positive social impacts

26. The Authority is satisfied, on the basis of the Application, CIS and additional material supplied by the Applicant, that granting the licence will provide some benefit by way of increased convenience. This convenience will extend to members of the local and broader community who wish to engage in “one-stop” shopping by purchasing boutique packaged liquor products whilst grocery shopping at this Harris Farm Markets supermarket in Bondi Junction.
27. The Authority accepts, on the basis of the CIS provided by the Applicant, that the Applicant has distributed a notice of the Application to stakeholders and neighbouring premises. While Police have raised some social impact concerns, which were apparently addressed to their satisfaction, only one objection was received from a member of the community (which is discussed in greater detail below). On this basis, the Authority is satisfied that granting the licence will be consistent with the “expectations, needs and aspirations of the community” in respect of the local and broader community, being an object of section 3(1)(a) of the Act.
28. The Authority is satisfied, on the information provided in the CIS, that Harris Farm Markets liquor product range includes “boutique” wine, beer and cider. The Applicant has provided information in support of the Application that specifies the difference between the liquor products to be offered at Harris Farm Markets compared to the liquor products sold at the nearby packaged liquor licensed premises. This information covers five-pages in the annexure to the CIS and notes the percentage of products carried by nearby packaged liquor licences compared to the current range at Harris Farm Drummoyne. The Authority notes the Applicant’s submission that it intends to have the same range of liquor at the business which is carried at the Harris Farm Drummoyne store. This information identifies a point of produce differentiation between the proposed offer for this business and the other Bondi Junction packaged liquor licensed retailers.
29. A combination of the detailed liquor offerings provided by the Applicant in the annexure to the CIS, the product list provided by the Applicant and the two supporting emails from Altitude 701 and Shenanigans Brewing Company (detailing the types of “boutique” and “craft” liquor products they produce and their support for Harris Farm Markets providing a space to showcase their products) has satisfied the Authority that this proposed business will differ from a traditional major retail chain packaged liquor store in that its product range will be more limited and have this specialist focus.

30. The incumbent packaged liquor licensees in the local community are discussed below. They include several licences operating within this Westfield Shopping Centre, in some instances only a short walk away. These licensees reduce the extent of increased convenience offered by the addition of this new licence to the Premises in question. Nevertheless, the Applicant has presented a reasonable case that this business will specialise in products that are not readily available from other local licensees, thus increasing choice and convenience for Harris Farm Markets shoppers in the local and broader community.
31. On the information available about the style, purpose and product range of the proposed licensed business, and having regard to LGNSW information identifying the prevailing licensed liquor outlets in the communities, the Authority is satisfied that granting this Application for a packaged liquor licence within a Harris Farm Markets grocery shop, would diversify the range of options available to the local and broader community seeking to purchase packaged liquor within Bondi Junction and the Waverley LGA. In this sense, the Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor industry in respect of the local community and the broader community in furtherance of the statutory object in section 3(1)(b) of the Act.
32. The Authority has also had regard to the other public benefits that the Applicant has contended will occur should the licence be granted, including the avoidance of special trips and the creation of jobs. However, noting the proximity of the existing nearby licensed premises identified by the Applicant and LGNSW licensed premises information, and the lack of supporting evidence or analysis as to Harris Farm Markets' hiring policies, the Authority has given little weight to these purported benefits.

Negative social impacts

33. Having reviewed all of the material before it, the Authority considers that over time there is a risk that liquor sold from this licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.
34. When considering the cumulative impact of adding another licence to the local and broader community, the Authority has considered the licence density data calculated by licensing staff from the LGNSW licensed premises list as at 2 May 2017 and the ABS quickstats population data.
35. This data establishes that both the local community of Bondi Junction (which has a rate of 80 packaged liquor licences per 100,000 persons of population) and the broader community of Waverley LGA (which has a rate of 44.1 packaged liquor licences per 100,000 persons) have higher rates of those licences compared to New South Wales as a whole (with 36 packaged liquor licences per 100,000 persons).
36. The Authority notes on the basis of the LGNSW records listing all packaged liquor licensed premises in the suburb of Bondi Junction and the Waverley LGA as sourced by licensing staff on 2 May 2017 that the local community has 7 packaged liquor licences. Two of those (the Spiritual Guide and Vinium Pty Ltd) are restricted by a

licence condition that prevents “walk up” sales. The broader community of Waverley LGA has 28 packaged liquor licensed premises.

37. The Authority considers licence density to be a factor of some concern when assessing the prevailing relative exposure of the communities to packaged liquor availability.
38. The Applicant’s annexure to the CIS indicates that a Vintage Cellars liquor store is located directly opposite the Premises, within the Shopping Centre inside the Coles supermarket (a direct walk of 30 metres away). The David Jones department store is on the same level as the Premises within the Shopping Centre and approximately 150 metres walk to the other end of the centre. A BWS liquor outlet is located on level 3 of the Shopping Centre, 2 levels above Harris Farm Markets, approximately 250 metres away at the other end of the centre. A Liquorland outlet is approximately 350 metres away within the separate Eastgate Shopping Centre and a licensed ALDI supermarket is approximately 350 metres away, also within the Eastgate Shopping Centre.
39. An additional adverse factor of some concern arises from the BOCSAR crime data for the year to December 2016, indicating that the local community of Bondi Junction recorded higher rates per 100,000 persons of population than the state of New South Wales for incidents of *alcohol related domestic assault* (183.8 compared to the New South Wales rate of 116.9), *alcohol related non-domestic assault* (561.6 compared to the New South Wales rate of 136.5) and *malicious damage to property* (1092.5 compared to the New South Wales rate of 834.0).
40. The crime data for the broader community of Waverley LGA presents a mixed picture. BOCSAR data indicates that during the 2016 calendar year the broader community had a higher than State average rate per 100,000 persons of *alcohol related non-domestic assault* (248.0 compared to the New South Wales rate of 136.5) but a lower rate of *alcohol related domestic assault* (97.5 compared to the New South Wales rate of 116.9) and a lower rate of *malicious damage to property* (684.1 compared to the New South Wales rate of 834.0).
41. The lower rate of *alcohol related domestic assault* for the Waverley LGA is an important factor when assessing a packaged liquor licence application given that the BOCSAR Recorded Crime Statistics for New South Wales as a whole disclose that the overwhelming majority of domestic violence assault events occur in private residences, where most packaged liquor is expected to be consumed.
42. Of further concern is the BOCSAR Crime Maps from January 2016 to December 2016 which indicate that the Premises is located within high-density hotspots for incidents of *alcohol related assault, domestic assault, non-domestic assault* and *malicious damage to property*.
43. The ABS Socio-Economic Indexes For Areas (“SEIFA”) data establishes that both the broader community of Waverley LGA and local community of Bondi Junction are relatively very advantaged. Waverley LGA ranked in the 10th decile on the Index of Relative Socio-economic Advantage and Disadvantage (with the 10th decile being the most advantaged) compared to other local government areas in NSW. The suburb of Bondi Junction is ranked in the 9th decile on the Index of Relative Socio-economic Advantage and Disadvantage compared to other suburbs in New South Wales. The

SEIFA data does not indicate that socio-economic disadvantage is a compounding factor of concern at the level of either community as a whole.

44. NSW Department of Health, Health Stats data obtained by licensing staff on *alcohol attributable deaths and hospitalisations* for 2013 indicates that the Waverley LGA has a smoothed standardised mortality ratio of **79.00** and a smoothed standardised separation ratio of **121.50** with the NSW average fixed at **100**. The rate of alcohol related hospitalisation is another factor of concern when assessing this Application.
45. The licensed trading hours sought by the Application are reasonably extensive across the course of the week, with trading commencing from 10:00am Monday through Sunday. However, the Applicant proposes a licensed closing time of 8:00PM on Monday through Wednesday, 9:00PM on Thursday through Saturday and 7:00PM on Sunday. As noted in the Police submission (discussed below) the licence will not trade during traditionally higher risk times of the week, such as later in the evening on weekends.
46. Notwithstanding several environmental concerns pertaining to the local community, the annexure to the CIS satisfies the Authority that the scale of the proposed licensed business is very small, at only 16 square metres. This is considerably less than the scale of most packaged liquor licensed premises including liquor licences operating in association with major supermarket chains. It underscores the boutique or specialist nature of the offering while greatly reducing the scope for *this* business to contribute, over time, to the prevailing social problems associated with the abuse of packaged liquor in the relevant communities.
47. The Authority notes that on 3 April 2016 a “concerned member of the community” (whose suburb is not apparent from the email) Mr P Walsh, made a one-page submission raising concerns about the reputation of Harris Farm Markets and contending that this company has attempted to drive out competition. The writer also poses general questions about the ethics of (unnamed) investors in the business.
48. Mr Walsh is more specific in his identification of incumbent liquor outlets within the Westfield Shopping Centre and on Bronte Road and Ebley Street, Bondi Junction. Mr Walsh questions the “proliferation” of alcohol in the light of the health problems associated with “ready alcohol”.
49. The Authority has considered this objection and accepts that the number and proximity of incumbent licensed premises reduce the benefits that will flow to the relevant communities from adding another liquor licence in this location. The Authority accepts that there is some cause for concern from prevailing licence density rates in the communities. However, the Authority is unable to give the contentions made in this submission any great weight as these concerns are expressed in brief and very generalised terms and not supported by any evidence or other probative material.
50. The Authority acknowledges that the crime data before it for the local community indicates that Bondi Junction poses a challenging environment in terms of exposure to alcohol related crime. The Authority notes that Police recently objected to an application for a new Chambers Cellars at Shop 26, 310-330 Oxford Street Bondi Junction that was refused by the Authority in a published decision dated 6 December

2015. In that previous application, Police strongly objected to an additional packaged liquor licence being granted in Bondi Junction. Police had also objected to a Cellarbrations packaged liquor licence application for premises to be located at Shop 1, 28 Spring Street, Bondi Junction that was refused in a decision dated 8 June 2012. The Authority receives some reassurance from the position taken by Police in their submission dated 6 December 2016. Police advise that their approach to seeking the imposition of conditions is informed by discussions with the Applicant's legal representative and approved manager, an inspection of the site and the proposed licensed area within the grocery store.

51. Police discuss the relationship between alcohol related harms and the existing packaged liquor outlets (Police claim there are 9 packaged liquor outlets in Bondi Junction but the Authority notes that LGNSW records currently indicate 7). Police contend that some of the existing outlets in Bondi have been "directly subject" to criminal behaviour and alcohol related crime. Police discuss the commercial nature of the Bondi Junction precinct and the substantial previous submission made by Police during January 2012 in opposition to a proposed street facing Cellarbrations liquor store in Bondi Junction.
52. Police advise that the Applicant has taken Police concerns into account with regard to management of risks pertaining to this site, which include stealing offences involving liquor products, minors purchasing liquor and secondary supply to minors.
53. Noting the small scale and layout of the liquor business within the Harris Farm supermarket and the security measures (including CCTV and Shopping Centre security staff) Police conclude that the "vast majority of foreseeable harms are adequately treated".
54. Police also note that the licensed area is to be "enclosed" with one entry/exit point "allowing no opportunity for persons to loiter in any concealed areas within". Police further note that the liquor to be sold on the Premises is "predominantly lesser known/common brands", that liquor will not be refrigerated, CCTV will be installed, that the proposed trading hours "ensure the supply of liquor is not available at high risk times" and that a liquor related Plan of Management will be implemented and maintained at all times.
55. The Authority notes an email from the Applicant's legal representative dated 23 May 2017 whereby the Applicant accepts the licence conditions proposed by Police.
56. The Authority gives weight to the Police assessment of the layout of the Premises and the relative risks posed by this licence in respect of alcohol related theft, underage drinking and secondary supply. The Authority notes that the Premises will not have direct street access but will form a small part of a Harris Farm Markets supermarket within a busy major shopping centre.
57. The Authority is satisfied that the Applicant's risk management plans with respect to alcohol related crime and misconduct will benefit from the substantial passive and active surveillance, shopping centre security, CCTV and the layout of the liquor area within the Harris Farm supermarket.

58. The Authority has had regard to the Applicant's product list which reinforces the boutique nature of the offering. This factor both increases the positive benefits and reduces the scope of its attraction to a broad audience compared to mainstream liquor stores that stock a larger range of products which potentially appeal to minors.
59. The Authority has also taken into account the comprehensive harm minimisation measures outlined in the *Plan of Management* dated 24 October 2016 provided by the Applicant, including the use of CCTV surveillance (noting an apparent error in clause 1.1 which refers to "George" rather than "Oxford" Street which the Authority requests the Applicant to correct). The Applicant has consented to the imposition of a number of conditions being imposed upon the licence (including requirements to not sell refrigerated alcohol, maintain a CCTV system and comply with the *Plan of Management*). While the licensee will not be able to monitor the conduct of persons consuming liquor away from the Premises, the Authority is satisfied that this business is well placed to constrain anti-social conduct in the form of underage drinking and public drinking given its location within a major Shopping Centre.

Overall social impact

60. Having considered the positive and negative impacts that 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 the packaged liquor licence would not be detrimental to the well-being of the local and broader communities.
61. The Application is granted pursuant to section 45 of the Act.

David Armati
Deputy Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published in the liquor and gaming website <http://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>

Schedule

Material before the Authority

1. ABS SEIFA data sourced from the 2011 Census for the suburb of Bondi Junction and the Waverley LGA.
2. Letter from the Authority to Mr Grant Cusack of Hatzis Cusack Lawyers dated 8 June 2012 notifying the Authority's decision on 29 May 2012 to refuse application 1-1334437131 for a new packaged liquor licence for a *Cellarbrations* store to be located at Shop 1 28 Spring Street, Bondi Junction.
3. NSW Department of Health, *Health Stats* data obtained by licensing staff on *alcohol attributable deaths and hospitalisations* for the Waverley LGA for 2013.
4. NSW BOCSAR Crime Statistics for January 2015 to December 2016 for the State suburb of Bondi Junction, Waverley LGA and the State of New South Wales as a whole.
5. BOCSAR Crime Maps based upon data from January 2016 to December 2016 detailing hotspots for the concentration of offences in Bondi Junction.
6. Australian securities and Investments Commission ("ASIC") Current Company Extract for the Applicant company HARRIS FARM MARKETS BONDI WESTFIELD PTY LTD as at 20 July 2016.
7. Application form lodged on 18 October 2016 accompanied by the site notice displayed on the Premises notifying the Application, Police notice and local consent authority notice signed by the Directors of the Applicant company (Angus and David Harris) dated 6 September 2016.
8. CIS form lodged with the Application on 18 October 2016 accompanied by an aerial view street map depicting the alcohol free zones in the suburb of Bondi Junction; a Google geographical map depicting the radius in which notification of the Application was distributed; letter from NSW Roads and Maritime Services ("RMS") dated 19 April 2016 discussing alcohol related road crash statistics and recommendations for the operation of the proposed business; letter from Family and Community Services ("FACS") dated 13 April 2016 advising that FACS do not have a response to the Application and will not be providing input; and a list of stakeholders notified of the Application.
9. The Applicant has provided alongside the CIS a document titled Annexure to Category B CIS for the Application, a 13-page document providing details for "PART 7 Your view" of the CIS form. This document is accompanied by CDC number 1311 issued by Newland Wood Certification on 5 May 2016 including various diagram/plans of the Premises and details for the principal certifying authority; Google satellite map depicting the notification zone of the Application; two photographs depicting the way the stock will be displayed on shelves and wine racks (taken at the other liquor licensed Harris Farm Markets located at Drummoyne); email from Mr M Archer dated 7 July 2016 supporting the Application, advising that his company (Altitude 701) and wine label (Dawning Day) currently sell to Harris Farm Markets and outlining details of

the “great relationship” this producer has with Harris Farm Markets; email from Mr S Haldane, a brewer at and part owner of Shenanigans Brewing, dated 11 July 2016 supporting the Application and making key contentions around Harris Farm Markets providing an avenue for boutique and craft producers; a table compiled from the 2011 Census of the population characteristics of the Bondi Junction State suburb and Waverley LGA compared to New South Wales; BOCSAR statistics for the period April 2015 to March 2016 for New South Wales, Bondi Junction State suburb and Waverley LGA for sixteen different incident categories; BOCSAR Crime Maps for January 2015 to December 2015 for incidents of *malicious damage to property*, *incidents of assault (domestic assault)* and *alcohol related assault*; licence density figures compiled from the 2011 Census and licence density statistics as at March 2016 for New South Wales, Bondi Junction State suburb and Waverley LGA; further population characteristics for Bondi Junction and the state of New South Wales compiled from the 2011 Census; *Plan of Management*; two diagrams/plans of the Premises highlighting the proposed licensed area.

10. Email from Senior Constable Luke Carter of Eastern Suburbs Local Area Command (“LAC”) of Police dated 6 December 2016.
11. Email submission to LGNSW opposing the Application stated to be from a concerned “community” member Mr P Walsh dated 3 April 2016.
12. Email from Waverley Council (“Council”) dated 6 April 2017 advising no objection to the Application.
13. Licensed density data provided by licensing staff calculated on the basis of LGNSW licensed premises information as at 2 May 2017 and ABS *Quickstats* population data for Waverley LGA, the State suburb of Bondi Junction and the State of New South Wales.
14. LGNSW records listing all packaged liquor licensed premises in the Waverley LGA and the State suburb of Bondi Junction sourced by licensing staff on 2 May 2017.
15. Google geographical maps (aerial and satellite view) indicating the location of the Premises and the surrounding area extracted by licensing staff on 22 May 2017.
16. Five-page liquor products list identifying 207 different products.
17. Email from the Applicant’s legal representative dated 23 May 2017 responding to an email from licensing staff dated 15 February 2017. The Applicant confirms the licensed trading hours sought, responds to submissions received from Police and the public and addresses a number of conditions proposed to be placed upon the licence. The Applicant provides a Certificate of Advertising signed by Mr Joshua Banks (the contact person for the Applicant company) and the Applicant’s legal representative Mr Caisley dated 26 October 2016 and a copy of the email from Council on 6 April 2017.
18. OneGov key liquor licence details recorded as at 25 May 2017 for packaged liquor licence LIQP770016865 issued to Harris Farm Markets in Drummoyne, commencing 20 August 2015.

19. Email from the Applicant's legal representative to licensing staff dated 20 July 2017 on the proposed wording of a condition regarding boutique liquor products to be placed on the licence.
20. Email from the Applicant's representative dated 10 August 2017 responding to an email from licensing staff dated 9 August 2017 accepting the workability of the latest proposed draft of a boutique liquor condition.
21. Email from the Applicant's representative dated 20 September 2017 responding to an email from licensing staff dated 15 September 2017 regarding the proposed CCTV condition.