



Mr Tony Schwartz
Back Schwartz Vaughan Lawyers
Level 1, Edgecliff Road
WOOLLAHRA NSW 2025

tschwartz@bsv.com.au



Dear Mr Schwartz

**Application for Packaged Liquor Licence
BWS Bulli**

I refer to the application received on 16 December 2014 by the Independent Liquor and Gaming Authority (Authority) regarding premises located at 275-277 Princes Highway, Bulli that are proposed to trade as "BWS – Beer Wine Spirits".

The application is made by Mr Anthony Charles Leybourne Smith on behalf of Woolworths Limited and seeks the grant of a packaged liquor licence for premises that are yet to be constructed but are proposed to be located within a new small scale retail development that will include a Woolworths supermarket.

Under section 13 of the *Gaming and Liquor Administration Act 2007*, the Authority delegates the specific functions of the Authority to each position holder specified against that function, subject to two general conditions and to such additional conditions specified in respect of a particular function as is contained in the Regulatory Delegations Manual.

The application was considered by the Assistant Co-ordinator of Licensing on 27 May 2015. The Delegate decided, pursuant to section 45(1) of the Act, to grant the Application. Authority staff informally notified the Delegate's decision by email dated 29 May 2015. This letter serves to provide a formal record of the decision.

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

This letter provides a statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable. The conditions of the licence are detailed in a copy of the OneGov licence record that has been provided to you separately.

Yours faithfully

Micheil Brodie
Chief Executive

23 JUL 2015

STATEMENT OF REASONS

BACKGROUND

1. On 16 December 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) regarding premises located at 275-277 Princes Hwy, Bulli that are proposed to trade as "BWS – Beer Wine Spirits" (Premises).
2. The Application is made by Mr Tony Schwartz on behalf of the Applicant, Mr Anthony Charles Leybourne Smith and seeks the grant of a packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) for the Premises.
3. Should the Application be granted, the Applicant will be the licensee of the packaged liquor licence, while the proposed business owner is a corporation, Woolworths Limited.
4. The Premises are yet to be constructed. The Premises will be located within a new small scale retail development that will include a Woolworths supermarket (Supermarket) as the anchor tenant, other retail stores and a medical centre and/or commercial component.
5. The Application proposes that the packaged liquor business be licensed to sell or supply liquor for consumption off the premises during the hours of 08:00am to 10:00pm Monday to Saturday and from 10:00am to 10:00pm on Sundays.

Delegation

6. Under section 13 of the *Gaming and Liquor Administration Act 2007*, the Authority delegates the specific functions of the Authority to each position holder specified against that function, subject to two general conditions and to such additional conditions specified in respect of a particular function as is contained in the Regulatory Delegations Manual.
7. The Application was considered by the Assistant Co-ordinator of Licensing (Delegate) on 27 May 2015. The Delegate decided, pursuant to section 45(1) of the Act, to grant the Application.
8. Authority staff informally notified the Delegate's decision by email dated 29 May 2015. This letter serves to provide a formal record of the decision.
9. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to produce and publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.
10. This letter provides a statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable. The actual conditions to which the licence is granted are set out in the OneGov record of the liquor licence, which was provided to the Applicant on 29 May 2015.

MATERIAL BEFORE THE DELEGATE

11. Licence Application Form dated 4 December 2014 and received by the Authority on 16 October 2014.
12. Category B CIS document and supporting material dated 4 December 2014.

13. Submission from NSW Police, Wollongong Local Area Command (LAC) (Police) dated 5 January 2015.
14. Development Approval 2009/757/A (DA) issued by the Wollongong City Council (Council) on 22 June 2012. The DA describes the development as a "...demolition of existing structures and construction of retail development, modification to alter façade, relocate condenser decks, remove ground floor toilet facilities, reconfigure southern portion of car park, alter internal layout and develop condition 2 of consent".
15. Submission from Council dated 21 January 2015.
16. Submission from a delegate of the Secretary of NSW Trade and Investment (Secretary) dated 17 March 2015. The report is prepared by an officer within the Office of Liquor Gaming and Racing (OLGR). OLGR do not object to granting the Application and submit that its grant is "...unlikely to result in a significant increase in alcohol-related harm in the neighbourhood".
17. OLGR note that the Premises will adjoin a soon to be established Woolworths supermarket and because the consumption of liquor cannot occur on the licensed premises, OLGR assess the business model as of low risk.
18. OLGR submit that NSW Bureau of Crime Statistics and Research (BOCSAR) data shows that from October 2013 to September 2014, the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Bulli was 356 (per 100,000 population) compared to 321 (per 100,000 population) for the whole of NSW. OLGR note that the rate of *alcohol related disorderly offences* that occurred in the suburb was 86 (per 100,000 population) compared to 105 (per 100,000 population) for the whole of NSW. OLGR submit that these figures indicate that Bulli "...does not appear to have a significant concentration of alcohol-related anti-social behaviour".
19. OLGR refer to the proposed trading hours of the Premises and submits that it "...does not find any compelling evidence to support the sale of liquor prior to 10:00am and believes that the sale of liquor prior to this time may have an adverse impact upon the local and broader community". OLGR note that section 11A of the Act applies to this licence which stipulates that liquor must not be sold by retail on the Premises for a continuous period of six hours. OLGR note that this period will be between 04:00am and 10:00am during each consecutive 24-hour period, but the Applicant has sought to amend the 6-hour closure period to 02:00am to 08:00am Monday to Sunday.
20. OLGR note the Police submission that they have conducted a probity check on the Applicant and have no objection to this licence being granted.
21. OLGR note that there does not appear to be a submission from Council and therefore its position is not known but that the Applicant has provided evidence of the approved modification to the development consent for the Premises.
22. OLGR advise that a review of OLGR Compliance & Enforcement Division records did not disclose any adverse information in respect of the Applicant.
23. Submission from Roads & Maritimes Services (RMS) received by the Authority on 8 April 2015. RMS submits that whilst it "...does not object to the application in principle, it is recommended that the applicant join the Wollongong Liquor Accord".
24. Submission from Kimberley Ryman, a local resident of Bulli in support of the Application - received by the Authority on 8 April 2015.

25. Liquor licensing data sourced from Authority licensing records noting the licence type and address for all registered club, hotel and packaged liquor licenced premises for the suburbs of Bulli, Bulli Tops, Audley and Woonona.
26. BOCSAR crime data for the Wollongong LGA regarding incidents of liquor offences, malicious damage to property, assault (domestic assault) and assault (non-domestic assault) offences for the calendar year 2013.

LEGISLATION

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

3 *Objects of Act*

(1) *The objects of this Act are as follows:*

- (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community.*
- (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
- (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*

(2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*

- (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
- (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
- (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*

28. Section 45 of the Act provides the power pursuant to which the Authority may grant or refuse to grant, an application for a new liquor licence. Relevantly this section states:

45 *Decision of Authority in relation to licence applications*

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

(2) *The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.*

(3) *The Authority must not grant a licence unless the Authority is satisfied that:*

- (a) *the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and*
- (b) *practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and*
- (c) *if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates-that development consent or approval is in force.*

NOTE: Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

29. Division 5 of the Act makes provision for packaged liquor licences. Sections 29-31 state:

29 *Authorisation conferred by packaged liquor licence*

- (1) **Retail sales** A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:
 - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
 - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.
 - (2) **No retail trading on restricted trading days** Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
 - (3) **Selling liquor by wholesale or to employees** A packaged liquor licence also authorises the licensee:
 - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
 - (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
 - (3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.
 - (4) **Tastings** A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.
- 30 **Liquor sales area required if bottle shop is part of another business activity**
- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises ("the liquor sales area") that is adequately separated from those parts of the premises in which other activities are carried out.
 - (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.
- 31 **Restrictions on granting packaged liquor licences**
- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
 - (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
 - (3) In this section:
 - "**general store**" means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.
 - "**service station**" means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.
 - "**take-away food shop**" means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

SOCIAL IMPACT TEST

30. Pursuant to section 48(5) of the Act, the Authority *must not* grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted *will not be detrimental* to the local or broader community.
31. Section 48(5) states:

48 *Community impact*

- ...
- (5) *The Authority must not grant a licence, authorization or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:*
- (a) *the community impact statement provided with the application, and*
 - (b) *any other matter the Authority is made aware of during the application process (such as by way of reports or submissions), that the overall social impact of the licence, authorization or approval being granted will not be detrimental to the well-being of the local or broader community.*

32. An Application for a packaged liquor licence is a type of relevant application that is prescribed by section 48(2).
33. The CIS usually provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and churches.

LOCAL AND BROADER COMMUNITIES

34. As noted in Authority *Guideline 6: Consideration of Social Impact*, the Authority will identify the relevant "local" community by reference to the locality in which the licensed premises is situated, while the "broader" community will usually be the local government area in which the licensed premises is situated.
35. For the purposes of this Application, the Delegate is satisfied that the relevant local community comprises the community located within the suburb of Bulli while the broader community comprises the Wollongong LGA.

SUBMISSIONS ON SOCIAL IMPACT

Applicant Submissions

36. In the CIS, the Applicant made the following submissions regarding the social impact that granting the Application would have on the local and broader community:

There is an under-provision of licensed premises in Bulli and in the LC [local community] and BC [broader community] of the New Store.

Further, the existing licensed premises in Bulli (see Attachment 5) cannot reasonably cater to the requirements of shoppers to this Centre. Shoppers of this Supermarket are reasonably entitled to a modern, well-stocked bottle shop facility as part of their daily, weekly or monthly shop.

The BOCSAR crime statistics for Bulli show –

- *The count of alcohol related domestic violence assaults is very low (ie 5 incidents for the 12 month period ending June 2014). The rate per 100,000 population comparison is also low at 83.4 compared to NSW at 136.1. The BOCSAR hotspot map confirms there are no significant hotspot locations where domestic violence assault incidents occur in Bulli*
- *The count of alcohol related non-domestic violence assaults is also very low (ie 7 incidents for the 12 month period ending June 2014). The rate per 100,000 population comparison is also low at 116.7 compared to NSW at 171.1. The BOCSAR hotspot map confirms there are no hotspot locations where non-domestic violence assault incidents occur in Bulli*
- *The count of other alcohol related incidents is also very low. For example, there was only 1 incident relating to an alcohol related assault on Police in Bulli in the 12 month period ending June 2014; no liquor offences; and no alcohol related disorderly conduct offences. There are no hotspot maps available for these offences.*

In the Authority's own decisions where it has refused liquor applications, the concern relates to the new venue contributing to a prevalent, existing and obvious level of very high alcohol related crime in

an area. Here the opposite is the case where despite packaged liquor service the community have demonstrated an ability to consume alcohol responsibly.

The data (NSW Recorded Statistics (record by NSW Police by LGA and alcohol related status) relevant to the BC shows –

- The rate per 100,000 population comparison for alcohol related domestic violence assaults is low in the BC when compared to the NSW average (i.e. 131.6 compared with NSW at 137.3)
- The rate per 100,000 population comparison for alcohol related non-domestic violence assaults is high in the BC when compared to the NSW average (i.e. 237.1 compared with NSW at 181)
- The rate per 100,000 population comparison for alcohol related offensive behaviour incidents is low in the BC when compared to the NSW average (i.e. 93.5 compared with NSW at 116)
- The rate per 100,000 population comparison for alcohol related assault police is low in the BC when compared to the NSW average (i.e. 15.8 compared with NSW at 22.6).

It is clear this Application cannot adversely impact on the above rates – see paragraphs 5(c) and 5(j) and 52 above.

Other offences, such as malicious damage to property are **not** relevant to this Application due to the high percentage which are confirmed **not** to be alcohol related (ie 88.3% of all malicious damage to property offences in the BC are **unrelated** to alcohol use).

The New Store is unlikely to adversely impact upon any individual or group of individuals due to their particular demographic circumstances.

The evidence within the SOI (Section 3) confirms there are no potentially sensitive facilities located near the New Store which could result in the at-risk groups identified being adversely impacted by the operation of this Licence in this location.

Significantly, there was no opposition in this matter by anyone (i.e. either the Department of Health or Family and Community Services or the NSW Police). There was only one (1) submission (ie from a neighbouring premises) however that individual was in full support for the proposal.

The SEIFA [Socio-Economic Indexes for Areas] scores for Bulli reflect a position of advantage thereby supporting the approval of this application.

Police Submissions on Social Impact

37. In a submission dated 7 November 2014, Police submit that "due to the risk of stealing from such stores, Licensing staff at Wollongong Police would request that good quality surveillance cameras be installed". Police add that these cameras "should have the capacity to store images for at least 30 days" and that "lighting of the area is also a requirement". Police conclude that there are "nil objections to this application, however, for this application to be approved, these small requests will need to be adhered to".
38. Police provided a further submission dated 5 January 2015 and note that a probity check on the Applicant has been conducted and Police have "no objection to this new licence".

Community Submission on Social Impact

39. In a submission dated 23 October 2014, Ms Kimberley Ryman, a local resident who lives across the road from the Premises provided an online CIS survey form in support of the Application. Ms Ryman responded that she does not at all believe that the Premises could adversely affect her and that "...this whole project is a huge benefit to the Bulli community [and a] step closer to opening the town up more".
40. In a submission dated 27 January 2015, Council made the following submissions:

There are already a number of packaged outlets in close proximity to this address. This may hinder support for an additional outlet as the impact of liquor outlet density is starting to be considered with more prominence.

The proposed hours are quite late in comparison to the existing packaged outlets close-by. Potentially existing business may request to extend their hours due to loss of trade – this raises questions about over saturation.

This area is in close proximity to a train station and a hotel where on occasion there are young people drinking close to the station. The layout of the car park and proximity to the station may also present new risks late at night.

The applicant should liaise with police regarding hours of operation.

There should be strict adherence to secondary supply and underage drinking restrictions.

All RSA principles should be applied to this application.

CCTV should be provided within and outside the premises.

Security and safety of staff should be paramount, ensuring more than one staff member is working at a given time, etc.

The proposal should comply with conditions of Development Consent DA-2009/757 and its modifications.

APPLICANT'S RESPONSE TO POLICE AND COMMUNITY SUBMISSIONS

41. On 25 November 2014, the Applicant's legal representative, Mr Tony Schwartz, responded to the submission from Police dated 7 November 2014. He states that the Applicant has agreed to the installation of an appropriate and sophisticated CCTV system comprising of four cameras in the Premises and 16 cameras in the Supermarket.
42. On 9 April 2015, staff assisting the Authority emailed the Applicant's legal representative and provided the submission received from Police dated 5 January 2015 and the submissions from the Secretary and Council. The Applicant was also informed that should the Authority be minded to grant the Application, certain standard conditions imposed in relation to packaged liquor licences may be imposed upon the licence, including a requirement fixing the 6-hour closure period for the purposes of section 11A of the Act as between 02:00am and 08:00am; a requirement that the licence not operate with a greater overall social impact on the wellbeing of the community; active local liquor accord participation; and the provision of evidence that the Premises are complete and ready to trade.
43. On 28 April 2015, the Applicant's legal representative responded to the above email from the Authority. In response to the submission from Police dated 5 January 2015, the Applicant notes that "...Police do not have any objection to the Application and accordingly a response to their correspondence is not required".
44. In response to the submission from the Secretary, the Applicant submits that the Secretary "...does not have any objection to the Application" and that "...in principle the assessment does not require a response". The Applicant notes the error in the Secretary's report in that it refers to the *Bermagui Application* (rather than the Bulli Application) and the Applicant therefore questions whether the BOCSAR data outlined by the Secretary actually refers to Bulli.
45. The Applicant provided BOCSAR data of recorded incidents of *alcohol related assaults* for the period between January 2013 and December 2014. During this period there were **14** incidents of *alcohol related assaults* for the Bulli suburb (compared to **22,695** in NSW) which equals a rate of **233.4** per 100,000 person population (compared to a rate of **310.8** per 100,000 person population in NSW).

46. The Applicant further submits that the Secretary does not appear to be opposed to the 6-hour closure period variation as sought by the Applicant under section 11A of the Act but rather appears to be merely pointing out the relevant provisions.
47. In response to the submission from Council, the Applicant submits that Council is not opposed to the Application. Nevertheless, the Applicant submits that the "...information in the correspondence is surprising" given the fact that the Woolworths supermarket and the proposed Premises were assessed by Council during the application for development consent.
48. The Applicant submits that during the development consent process, the Council "...carefully considered matters such as the suitability of, and the likely impacts arising from, the use of the land as a supermarket and retail liquor store" and that in issuing the development consent Council "...considered and approved the environmental, social and economic impacts of that proposal".
49. The Applicant contends that it is "...perhaps a situation where the author of the letter was unaware of the above process and the expert reports submitted to the Council as part of the Development Approval process". Notwithstanding these submissions, the Applicant provided detailed responses to the matters identified by Council.
50. The Applicant concluded that based on its lodged material, "...on balance the test pursuant to Section 48 of the Act is satisfied and therefore the Authority is in a position to approve this Application".

REASONS FOR GRANT

51. The Delegate has critically examined the Application and all the material before it pertaining to that Application. The Delegate has decided to grant the Application pursuant to section 45(1) of the Act.
52. The Delegate is satisfied, on the basis of the Application and CIS material and in the absence of any information to the contrary, that the Application has been validly made for the purposes of section 40 of the Act and that the minimum procedural requirements including advertising, CIS and consultation requirements have been satisfied.
53. The Delegate is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a licensed venue of the kind proposed in the Application material. This finding is based upon the National Police Certificate for the Applicant dated 11 July 2008 and in the absence of any contrary information provided by Police or OLGR. The Delegate notes that the proposed business owner, Woolworths Ltd, is a repeat applicant for packaged liquor licences and that there are numerous licensed BWS shops currently operating in NSW.
54. The Delegate is satisfied, for the purposes of section 45(3)(b) of the Act, that practices will be in place with the commencement of licensed trading, on the basis of the *House Policy and Management Policies and Strategies* and submissions provided by the Applicant and noting an absence of adverse submission from OLGR, or Police with regard to the Applicant in this regard.
55. The Delegate is satisfied that the proposed business owner is experienced in operating a packaged liquor business and the Applicant's *House Policy and Management Policies and Strategies* disclose that a comprehensive risk mitigation regime has been devised by the Applicant and will be in place at the Premises. There is no adverse information before the Delegate as to the business owner's fitness in response to consultation on this Application with relevant law enforcement agencies including Police and OLGR.

56. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for use of a packaged liquor licence at the proposed retail Premises, on the basis of the DA provided by the Applicant.

Overall Social Impact

57. The Delegate is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will not be detrimental to the wellbeing of the local or broader community.
58. Determining the overall social impact of granting the Application requires a degree of speculation about what is likely to occur in the event that the Application is granted – albeit speculation that is informed by the prevailing circumstances in the relevant local and broader communities.
59. With regard to the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the local community comprises the suburb of Bulli and the broader community comprises the Wollongong LGA.

Positive Benefits

60. The Applicant has provided substantial submissions and explanation in support of the positive benefits that it contends will flow to the local or broader community from permitting this new BWS store to sell packaged liquor by retail.
61. According to data sourced from the Authority's licensing records, located within the state suburb of Bulli are two club licences, two hotels (full licence), three on-premises licences and one packaged liquor licence.
62. The Delegate is satisfied that at the present there is no other packaged liquor outlet in Bulli which is located within a supermarket. The Delegate accepts the Applicant's contention that granting the Application will provide some additional measure of convenience to those members of the local and broader community who wish to purchase liquor for consumption off the Premises at the same time as buying their groceries from this Supermarket, as they will be able to do so during the licensed trading hours at this Woolworths supermarket (from 08:00am to 10:00pm Monday to Saturday and 10:00am to 10:00pm on Sundays).
63. The Delegate is satisfied that by granting the Application, the enhanced choice and convenience for customers of the Supermarket will be consistent with the expectations, needs and aspirations of the community within the meaning of section 3(1)(a) of the Act.
64. The Delegate notes that Council, a representative body for the broader community, does not object to the Application although it has raised some concerns about the location of the Premises.
65. The Delegate further notes that there have been no community objections and there has been a submission in support of the Application from a local resident. This provides some albeit modest evidence that granting the Application will promote the object of section 3(1)(a) of the Act in that it will meet the desires, expectations and needs of the local community.
66. On the basis of the Applicants information the Delegate is satisfied that licensing the Premises will serve to advance, to a modest extent, the balanced development of the liquor industry in the local and broader community (a statutory object of section 3(1)(b) of the Act), and contribute, to a modest extent to the responsible development of related

(tourism) industries in the local or broader community (a statutory object of section 3(1)(c) of the Act) in that the outlet will likely service visitors to this regional town as well as locals.

Negative Impacts


67. The Delegate accepts that over time there will more likely than not be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact on amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
68. A minority of patrons of the new business may also contribute to other adverse impacts upon local amenity, including drinking in public, "pre-fuelling" before attending licensed premises or alcohol related litter.
69. A submission from Council raises some concerns about local youth and the location of the Premises near the train station but that submission has not been particularly well developed nor substantiated to any great extent and this reduces the weight that may otherwise be accorded to a Council submission on social impact.
70. The Delegate notes the Applicant's argument that development consent has been provided to the Premises but Council is entitled, notwithstanding the grant of consent, to raise issues pertaining to the scope for alcohol related disturbance to arise from the grant of a licence.
71. The Delegate is satisfied that there is some cause for concern arising from the prevailing rates of crime within the broader community in the Wollongong LGA when compared to NSW State averages.
72. The BOCSAR *Report on Crime by LGA and Alcohol Related Status* for 2013 focuses upon the proportion of crime reports in certain offence categories that have also been flagged by individual reporting Police officers as "alcohol related".
73. This report discloses that for 2013 the rate of *alcohol related domestic violence related assault* occurring across the Wollongong LGA was **138** per 100,000 persons of population. This rate is slightly lower than the NSW rate of **145** per 100,000 persons of population.
74. This report also discloses that the rate of *alcohol related non-domestic violence related assault* occurring across the Wollongong LGA during 2013 was **249** per 100,000 persons of population. This rate is higher than the NSW rate of **191** per 100,000 persons of population.
75. This report further discloses that the rate of *alcohol related malicious damage to property* incidents occurring across the Wollongong LGA during 2013 was **134** per 100,000 persons of population. This rate is slightly higher than the NSW rate of **122** per 100,000 persons of the population.
76. The Delegate does not accept the Applicant's submission that malicious damage data is irrelevant to an assessment of social impact. BOCSAR caution the practical difficulties faced by reporting Police officers when assessing the role of alcohol in property crime incidents when no perpetrator has been identified. Nevertheless, the Delegate is satisfied that malicious damage offences provide one indicator of a community's exposure to prevailing crime and disturbance. The percentage of malicious damage events that are recorded to alcohol related in this broader community is not insignificant.

77. The Delegate notes that the BOCSAR crime data referred to by OLGR indicates that from October 2013 to September 2013, the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Bulli was **356** (per 100,000 population) which was slightly above the **321** (per 100,000 population) for the whole of NSW.
78. The Delegate further notes the observation made by OLGR that the rate of *alcohol related disorderly offences* that occurred in the suburb of Bulli was **86** (per 100,000 population) which is below the rate of **105** (per 100,000 population) for NSW as a whole.
79. There is some comfort provided by the crime data in that although the broader community as a whole is exposed to slightly higher rates of crime than the state averages for certain offence categories, BOCSAR crime mapping for the LGA for the period of October 2013 and September 2014 reveal that the Premises is not located within any prevailing *hotspot* for the concentration of *non-domestic assault* or *malicious damage to property* offences that are occurring elsewhere in this LGA.
80. However, the Premises is located on the border of a low to medium hotspot for the concentration of *domestic assault* which is of concern given that most domestic violence occurs in private residences and packaged liquor sales are a likely driver of alcohol related domestic violence incidents in a community.
81. At 169 square metres the licensed business is not of a small scale and the extensive trading hours (closing at 10:00pm seven days per week) objectively increase the scope for liquor sales generated by *this* business to contribute to prevailing alcohol related social problems, associated with the use of packaged liquor, in the local and broader community. The extensive trading hours sought in this Application is a factor that objectively extends the scope for this business to contribute to adverse alcohol related impacts in this local and broader community that are associated with the abuse of packaged liquor.
82. Nevertheless, the Delegate is satisfied that the location of the Premises within a new supermarket complex will facilitate good opportunities for surveillance. The Delegate is satisfied on the basis of the Application and material provided by the Applicant that there are well-developed business, CCTV and security practices and plans for the new business.
83. The Delegate is satisfied on the basis of the Authority licensing data that while there is a high density of packaged liquor outlets in the state suburb of Bulli (70.45 per 100,000 persons) this figure is based on a small population of 5,768 persons.
84. The Delegate is satisfied on the basis of the ABS SEIFA (Australian Bureau of Statistics Social Economic Index for Areas) data provided by licensing staff and the Applicant, that there is a lack of any particular concerns arising from the demographic and socio-economic status of the local or broader community.
85. The SEIFA data indicate that both the local community of Bulli and the broader community Wollongong are relatively advantaged communities. The local community within the state suburb of Bulli falls within the eighth decile within NSW for the Index of Relative Socio-economic Advantage and Disadvantage (compared to other suburbs in NSW) and Wollongong LGA falls within the seventh decile compared to other local government areas in NSW.
86. The Delegate is satisfied, on the basis of the material before the Delegate that there is an absence of any significant local opposition that has been expressed in relation to the Application nor any local regulatory concerns identified by Police or OLGR.

87. Council have raised some concerns with the location of the Premises, near a train station. While those concerns are generally credible they have not been particularly well developed nor substantiated by reference to (for example) Council or Police data or records explaining the extent or frequency of local crime or disturbance associated with the train station which would have warranted giving the submission more weight. Submissions from local government are always of interest to the Authority when assessing likely overall social impact but this adverse submission, while of concern, is not decisive in this case.
88. Having considered together the found positive benefits and the factors noted above that reduce or minimise the extent of negative impacts that may otherwise flow to the local or broader community from the grant of the Application, the Delegate is satisfied that the overall social impact of granting the Application will not be detrimental to the local and broader community for the purposes of section 48(5) of the Act.
89. In making this decision, the Delegate has determined the 6-hour closure period under section 11A(3) of the Act, as the period from 02:00am to 08:00am. This is consistent with the Authority's policy of usually granting an 8:00am opening time (to facilitate customer convenience in the case of a liquor store associated with an early opening supermarket) while the Authority usually determines a 9:00am opening time for stand-alone liquor stores.
90. In making this decision the Delegate has considered all of the statutory objects and considerations prescribed by section 3(2) of the Act. The Delegate has had regard to the need to minimise harm associated with the misuse and abuse of liquor within the meaning of section 3(2)(a) and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from the amenity of community life within the meaning of section 3(2)(c).

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

DATED:


23 July 2015.