



Mr Tony Schwartz  
Back Schwartz Vaughan Lawyers  
The Grosvenor  
156 Edgecliff Road  
WOOLLAHRA NSW 2025

[tschwartz@sdv.com.au](mailto:tschwartz@sdv.com.au)

Dear Mr Schwartz

**Application for Packaged Liquor Licence  
BWS Minto**

I am writing to you regarding the application made by your client, Mr Anthony Charles Leybourne Smith, on behalf of Woolworths Limited, which was received by the Independent Liquor and Gaming Authority on 10 July 2014.

The Authority considered this Application at its meeting on 29 July 2015 and decided to refuse the Application pursuant to section 45 of the *Liquor Act*. The Authority informed you of this outcome by email on 26 June 2015.

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 decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.

This letter attaches the Authority's statement of reasons. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

If you have any enquiries about this decision, please contact the case manager, Ms Trudy Tafea, via email at [trudy.tafea@ilga.nsw.gov.au](mailto:trudy.tafea@ilga.nsw.gov.au).

Yours sincerely

Micheil Brodie  
Chief Executive

11 SEP 2015

## STATEMENT OF REASONS

### INTRODUCTION

1. On 10 July 2014 the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Mr Anthony Charles Leybourne Smith on behalf of Woolworths Limited (Applicant).
2. The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) in respect of premises located within Minto Marketplace, 10 Brookfield Road, Minto, NSW, 2566 to be known as "BWS - Beer Wine Spirits Minto" (Premises).
3. The proposed trading hours of the business to be conducted on the Premises are from 9:00am to 8:00pm Monday through Saturday and from 10:00am to 7:00pm on Sunday.
4. While the Application has initially sought a closing time of 8:00pm on Sunday, it has been subsequently amended to 7:00pm in response to submissions from NSW Police.
5. The Application seeks that the 6-hour closure period required by section 11A of the Act be fixed between 3:00am and 9:00am.
6. The proposed new licensed business will be located within Premises that form part of an existing redeveloped shopping centre known as Minto Marketplace (Shopping Centre) and located next to an existing Woolworths Supermarket.
7. By way of background, this is the second time the Applicant has lodged an application in relation to the Premises. The original application was lodged with the Authority on 23 July 2013 and was refused by the Authority at its meeting on 31 October 2013.
8. The Authority gave preliminary consideration to the present Application at its meeting on 25 March 2015 and decided to defer the matter to enable the Applicant to address the matters raised in the NSW Bureau of Crime and Statistics (BOCSAR) report "*The effect of liquor licence concentrations in local areas on rates of assault in NSW*" published during December 2014 (BOCSAR Report).
9. Following receipt of further submissions from the Applicant on 2 June 2015, the Authority again considered the Application at its meeting on 29 July 2015 and after careful consideration of the Application material and submissions made in relation to the Application, decided to refuse the Application pursuant to section 45 of the Act.

### MATERIAL BEFORE THE AUTHORITY

10. Liquor Licence Application Form dated 27 June 2014 received by the Authority on 09 July 2014 – The initial Application notes that the proposed operating hours of the Premises will be between 9:00am and 8:00pm Monday to Saturday, and 10:00am to 8:00pm Sunday. It states that the 6 hour closure period will be between 3:00am and 9:00am.
11. Category B Community Impact Statement (CIS) Form and supporting material dated 27 June 2014 – The various contentions and submissions made by the Applicant in the CIS document regarding the overall social impact of granting the Application are discussed in further detail below. However, the following documents were attached to the CIS:

- a. Statement of Impact (SOI) dated 3 July 2014 prepared and lodged by Tony Schwartz (Back Schwartz Vaughn Lawyers) on behalf of the Applicant. This 56-page document plus attachments addresses the social impact of the grant of the licence at the Premises. The SOI provides that it "...aims to consider the potential positive or negative impacts of the proposal, and if there are any potential negative impacts how they may be addressed"
- b. Woolworths' operating experience to date with BWS-Beer Wine Spirits *packaged liquor licences*: This 15-page document provides a summary of what the Applicant describes as Woolworths' "...many years of experience operating 316 BWS-Beer Wine Spirits stores in NSW together with 57 Dan Murphy's Stores". This document addresses, *inter alia*, at-risk indicators, potential for adverse change, noise, litter and pollution related concerns, alcohol consumption by the population of the community, public interest benefits and the "...potential for increased levels of alcohol related anti-social behaviour"
- c. Operational matters, security and specific harm minimisation and responsible service of alcohol practices adopted at BWS - Beer Wine Spirits stores in NSW: this 6-page document contends that each BWS store conducts the same harm minimisation and responsible service of alcohol strategies, policies and procedures which ensures each store operates to the high standards expected by Woolworths and its customers. The document includes sections detailing *inter alia* Woolworths' responsibility, stocking of products, design features, policies and procedures, neighbourhood safety and liquor accords. The liquor store *House Policy* and Woolworths' *Best Practice Policies and Interventions* are also outlined within this document which include *inter alia* ensuring that people appearing to be under the age of 25 get checked for identification; that liquor is not consumed on the Premises; that all staff are "...properly trained in the responsible service of alcohol; and that liquor is not sold or supplied" to intoxicated persons
- d. Health statistics from the NSW Department of Health outlining data for alcohol attributable deaths by Local Government Area (LGA), NSW 2006 to 2007 and alcohol attributable hospitalisations by LGA NSW 2001-2013
- e. Google maps: showing the location of the Premises
- f. Descriptive Planning Report – Minto (Planning Report) produced by Mott MacDonald, dated June 2014. This report, prepared by a planning consultant engaged by the Applicant and provided with the CIS, details the impact of the Minto Renewal Project (MRP) on the demographics of the state suburb of Minto. The Planning Report provides context on the pre-development and post-development site. It contends that prior to development the Minto Renewal Area (MRA) was dominated by a Public Housing Estate, which, due to poor design, contributed to anti-social behaviour. The post-developed site includes a revised street layout, improved parks, public areas, and upgrades to existing utilities

The document states that at the time when the Planning Report was prepared "...construction works to approximately 75 per cent of the development [had] been completed to date, with the remaining stages due for completion in". The Planning Report contends that upon completion of the MRP (estimated to occur in 2016), 30 per cent of the final yield will be public housing, compared with the pre-development proportion of 80 per cent.

In respect of the Shopping Centre, the Planning Report submits that while "...in 2011 [it] had a total of four business occupants and was desolate, unsafe and without character", it now "...has been completely rejuvenated with a new fit-out and anchor tenant" and is a "...thriving sub-regional centre with delightful pedestrian connectivity".

The Planning Report contends that Minto's demographics have changed due to the significant reduction in the proportion of public housing and the redistribution of the public housing amidst private allotments and that improvements in the layout of the MRA will reduce anti-social behaviour.

The Planning Report concludes that "...Minto is no longer a disadvantaged community/centre of public housing" and that "...Minto is now a modern Sydney suburb with a recognised urban design that is conducive to community appreciation with the residents feeling a real sense of place".

- g. Report prepared by Quantum Group Pty Limited, entitled *Liquor licencing information for Minto Supermarket*, dated June 2014 – This report, provided by the Applicant with the CIS, outlines data about the customers of the Shopping Centre, collected from 19 December 2013 to 1 June 2013. It tracks the liquor sales in Minto and surrounding suburbs at other Woolworths liquor stores and concludes that 81.3 per cent of customers of the Shopping Centre are also shopping at the existing BWS stores.
  - h. Research produced by Ekas Marketing Research Services dated June 2014 – This research, commissioned by the Applicant and provided with the CIS, is based upon 403 interviews conducted with shoppers in the Shopping Centre between 28 May 2014 and 1 June 2014. According to this report, 83 per cent of respondents interviewed were at least weekly visitors to the Shopping Centre. The report contends that "...81 per cent of respondents (or 327 persons interviewed) thought the Application was a good idea on grounds of convenience and expectation that a shopping centre of this size would have at least one take-away liquor store". The research also contends that those who thought the Application was a "bad idea" (18 per cent of respondents) primarily cited "social problems/encourages drinking" (73 per cent of respondents), and "enough liquor stores in the area already" (32 per cent of respondents). The primary reasons cited by respondents for the Application being considered a good idea were "convenient location" (73 respondents), and "1 stop shop" (73 respondents). A copy of the questionnaire provided to respondents is annexed to this report
  - i. Letter from the Director of Minto Market Place Pty Limited accompanied by a signed Statutory Declaration, both are dated 12 February 2015 – The letter is written by the freehold owner of the Shopping Centre, Mr Tony Murdocca who states that "...should the application for a Packaged Liquor Licence for BWS - Beer Wine Spirits be approved, no other Liquor Retailer will be considered for the Minto Marketplace shopping Centre".
12. Information relating to the Applicant, including a National Police Certificate (NPC), issued 11 July 2008 – This document indicates that the Applicant has "*no disclosable court outcomes or outstanding matter*". Also provided is a copy of the Applicant's RSA competency card (expiry, 17 November 2016); Drivers Licence (expiry, 28 August 2010); Medicare Card (valid to, January 2009); and Credit Union Visa card (valid to, May 2010).
  13. Plan of the Premises – A diagram showing the Premises and the boundary of the proposed licensed area.
  14. Previous Application by the Applicant for a packaged liquor licence at the Premises (Previous Application), dated 23 July 2013 – The Previous Application includes a CIS, amongst other documents in support of the Previous Application.
  15. Statement of Reasons for the Previous Application provided by the Authority to the Applicant and dated 17 December 2013 – The Applicant was informed that the Previous Application had been refused by the Authority at its meeting on 31 October 2013. The document states that the Authority "...is not satisfied that the overall social impact of granting this packaged liquor licence would not be detrimental to the well-being of this local and broader community". The Previous Application was refused on the basis of, *inter alia*, a below average level of socio economic advantage across the broader community; relatively high rate of unemployment; considerable number of public housing

premises in the local community; poor alcohol related crime statistics; and the proximity of the Premises to the nearby alcohol free zone (AFZ).

16. Minto Renewal Project Social Impact Assessment (SIA) dated September 2005, prepared by BBC Consulting Planners for NSW Department of Housing on behalf of the Applicant – This 48-page document outlines the MRP and the possible social impact of the redevelopment of the Public Housing Estate of Minto.
17. The SIA notes that a "...recent comparative needs study of public housing estates showed Minto to be one of the four metropolitan estates with the highest level of disadvantage, relatively high unemployment and many high needs tenants".
18. However, within the SIA, the Department of Housing submits that the MRP is "...an opportunity to create a new sustainable, living community for the future and address the longstanding problems associated with the area".
19. The SIA notes the possibility of negative impacts from the demolition and construction in the community and relocating large numbers of people but also the positive impact of improved facilities including *inter alia* community safety.
20. Notice of Determination - Development Application No. 2442/2012/DA-C by Campbelltown City Council (Council) dated 8 January 2013 – This document, addressed to Pro Management Group Pty Limited, records the grant of consent for, "*refurbishment of and alterations to existing shopping centre*". It deals with, *inter alia*, the regulation of construction; fire safety; maintenance; and amenities. The document notes the requirement for a separate development consent for the use and fit-out of the tenancies prior to the occupation of the building.
21. A DVD containing video footage of the redeveloped Shopping Centre – This audio visual media provided by the Applicant depicts the inside and outside of the Shopping Centre; the proposed licenced area for the BWS Premises; and the redeveloped residential areas surrounding the Shopping Centre. The DVD is accompanied by a map depicting the residential areas that are illustrated in the video.
22. A map of the area surrounding the Shopping Centre provided by the Applicant that shows the location of the AFZ near the Premises. The map also includes the locations of 'Alcohol Free Zone' signs; a place of alcohol sale within the AFZ; the Minto Marketplace; Coronation Park; and Minto Public School.
23. Submission from Family & Community Services (FACS) dated 29 April 2014 – FACS does not object to the Application but details the problems that it raised in response to the Previous Application.
24. FACS note the Previous Application lodged by the Applicant and state that FACS had provided submissions on 30 May 2013 "...inviting the Applicant to reconsider their application" based on the SEIFA data and other social issues determined by FACS.
25. In respect of the current Application, FACS observe that the Minto locality has access to two other existing liquor shops - Little Bottler and Aldi Store Minto; the Premises would be located within one kilometre of a number of Preschools, a Primary School and a High School; and that the Premises would be located within 700 meters of the Australian Government funded Aboriginal Child and Family Centre – Waranwarin.
26. FACS acknowledges that the community of Minto has "changed somewhat" since the 2011 Census as a result of a renewal project, which, when completed, will provide

approximately 850 private homes and approximately 360 public housing dwellings that will comprise approximately 30 per cent of all dwellings within Minto.

27. FACS further acknowledges the additional information that the Applicant has provided since their Previous Application, including information about harm minimisation strategies and a proposal that the Premises would be the only retail liquor store permitted to operate within the Minto Market shopping centre.
28. FACS submits that it welcomes these proposed measures and that it is "...also encouraged by the commitment of the Centre in approving the New Store as the only permitted retail liquor store within the Centre".
29. Submission from Roads & Maritime Services (RMS), dated 23 April 2014 – RMS has commented on the potential road safety impacts of granting the Application and notes that its concern is to reduce the incidence of road crashes involving drivers, riders and pedestrians who are impaired by alcohol. RMS note between 2008-2012 alcohol impairment has been a factor in 3 per cent of all crashes in Sydney, with 51 per cent of alcohol related crashes resulting in a casualty. RMS adds that within the Campbelltown LGA in 2012 there were 27 alcohol-related crashes resulting in 15 casualties.
30. RMS recommends that countermeasures to prevent and decrease the likelihood of alcohol involvement in road crashes in the Minto area should be discussed in the approval process. RMS recommend that should the Application be approved, the licensee attend the LGA's liquor accord and that public education material focused on drink drive and pedestrian alcohol issues should be displayed at the Premises.
31. Submission from the NSW Aboriginal Land Council (ALC) dated 15 April 2014 – ALC acknowledges the Application but does not support or object to it. ALC notes its role as the peak body representing Aboriginal people in NSW and welcomes the Applicant to contact ALC if any further assistance is required to identify the relevant Aboriginal land council.
32. Submission from Campbelltown City Council (Council) dated 7 August 2014 – In this short email, Council advises that it "...raises no objection to the proposed application, provided the operation of the premises conforms to the recent legislative changes applying to take-away liquor sales throughout NSW".
33. Submission from Macquarie Fields Local Area Command (LAC) of NSW Police (Police) dated 11 November 2014 – Police state that "...while it is the NSW Police Force's overall submission that the application be supported, there are some caveats to be considered". In particular, Police note the possibility that a dormant packaged liquor licence owned by Liquorland may be reactivated in the Minto Marketplace, in the event of which "...this application should not be approved".
34. Police request that the Authority consider a number of factors prior to determining the Application. First, Police note the size and capacity of the Premises and submit that "...in terms of crime prevention, police are satisfied that the one entry and exit point...will allow for better security monitoring".
35. Second, Police note that the rear stock room leads to the dock area and is only accessible from the cool room. On this basis, Police submit that they "...expect that the stock room door within the cool room whilst accessible to the public, will be locked at all times during trade periods" and that this "...will reduce the risk of harm to staff in respect of crime such as robberies".

36. Third, Police note the whilst there is a discrepancy between Police estimates of the floor space of the Premises (being 160m<sup>2</sup>) and the floor plan estimates provided by the Applicant (being 227m<sup>2</sup>), Police are not concerned of the discrepancy as the capacity still appears to be adequate for the purpose of the business.
37. Fourth, Police note that the Premises are located within the newly refurbished shopping centre which is itself located within the MRA. Police add that while the area is "...currently still undergoing changes as part of the MRA...the development in this area has been successful". Police provide a table titled *Dwellings Over Time* which illustrates the changes in the types of housing in the Minto area between 2002 and 2016. Of note, the table indicates that in 2002 there were 1007 "*progressive public housing on site*" and that this figure has dropped to "324" in 2015-2016. Additionally, the table indicates that in 2002 there were 1007 "*progressive total dwellings on site*" and that this figure increased to "1092" in 2015-2016.
38. Fifth, Police submit that "...there has been a decrease in crime such as domestic violence, street crime, robberies, stealing and other associated violent crimes". Police add that this decrease "...has eased police demands for urgent responses, however in no way, have police relaxed their patrols or attention of the area due to ongoing reports of break and enter into dwellings, stealing, malicious damage, street offences and alcohol related anti-social behaviour".
39. Police observe that because of the continuing redevelopment of the MRA, "...Police are yet to experience a true scope as to how the MRA will impact on policing".
40. Sixth, Police concur with the comment made by the Applicant within the Application regarding the likelihood that the majority of customers at the Premises will be existing supermarket customers who will primarily consume alcohol within their homes.
41. Police add that in the past 12 months, 63 per cent of people involved in *alcohol related offences* were linked to home/private residences as their place of last consumption. Police submit that "any alcohol related incident that occurs at home, undoubtedly impacts every person within that household with short term and long term psychological and at times, physical trauma".
42. Seventh, Police note the submission made by the Applicant within the Application where it is stated that "...40 per cent of all customers to Woolworths/retail liquor stores (associated with a Woolworths Supermarket) between 8.00am and 10.00am Monday to Saturday are aged 60 plus" and that "...this age group is not a group generally considered at higher risk of alcohol related harm".
43. Police dispute this comment on the basis that recent evidence suggests that older adults *should* also be considered as a group of higher risk of alcohol related harm. Police add that "...their bodies change and with all the added factors such as increased medication, social issues (loneliness, depression etc.) can make alcohol use a problem for older adults". In support of these submissions Police cited a study entitled *Our Invisible Addicts* conducted by the Royal College of Psychiatrists in England in 2012 which found that older people were abusing alcohol more than the young.
44. Eighth, Police submit that whilst the Minto area is "...not congested with licensed premises", it has nine licensed premises, three of which are packaged liquor licensed premises that are "...similar to the licence sought by the applicant".

45. Police note that one of these packaged liquor licences is dormant (Foodworks Minto) and provide a Google maps image indicating the location of all licensed premises within Minto.
46. Ninth, Police note that on 11 September 2014, Police received an email from Ms Jennifer Hamilton, compliance officer for Liquorland, confirming that Liquorland are currently in negotiations to begin using the Foodworks Minto licence which will be known as Liquorland.
47. Police further note that on 9 October 2014, Police received a further email from Ms Hamilton confirming that Liquorland is in negotiations with the new owners of the shopping centre regarding re-establishing a liquor store and that "...if unsuccessful there are other sites we are looking at within the same area with the intention to use the same licence".
48. Police submit that should the Application be approved, Police:

*...hold concerns that the environmental factors for the Minto area, specifically for the residents surrounding Minto Marketplace, would be subjected to an increase in alcohol related crime, due to the accessibility and the expected competitive price war.*
49. Police submit that as Minto Marketplace is not a large shopping centre, compared to other local centres such as Macarthur Square or Campbelltown Mall, it "...does not require two packaged liquor licences, especially with ALDI and Minto Mirage being in such close proximity". Police further submit that "...unless Liquorland apply to remove their licence from Minto Marketplace, then this application should not be approved".
50. Tenth, Police note that the Minto Marketplace is conveniently located in the Minto District Retail Centre and is accessible by foot by all residents of the MRA and that there are adequate pathways to the centre. Police add that the proposed trading hours of the Premises are within the bus operating times and that the Minto Railway station is approximately an 8 minute walk to the shopping centre and there is a taxi rank both at the station and at the centre. Police further add that there is adequate parking at the Shopping Centre.
51. Lastly, Police note that on 15 September 2014, an on-site assessment was conducted to assess the existing and proposed security measures from a crime prevention point of view. Following this assessment Police made a number of recommendations regarding the positioning of CCTV cameras at the Premises.
52. Police conclude that overall, based on the information provided, Police support this application being granted "...on the proviso that the existing licence number LIQP700382961, within Minto Marketplace, owned by Liquorland (Australia) Pty Limited, apply for the licence to be removed from that location".
53. Police further requested that the proposed trading hours sought by the Applicant be amended to cease licensed trade at 7:00pm on Sundays to coincide with the current trading hours of ALDI Minto.
54. Police request that a number of conditions be imposed on the licence in the event that the Application is granted. These conditions include above mentioned reduction of trading hours on Sunday and certain other commonly imposed conditions relating to packaged liquor licenced premises.



55. Submission by the Office of Liquor, Gaming and Racing (OLGR), dated 26 September 2014, objecting to the Application – The submission notes that although the proposed business model (packaged liquor business) and location (within a Shopping Centre) are assessed as low risk, the suburb of Minto has a high level of socio-economic disadvantage and is presently well serviced by two existing packaged liquor providers in addition to a variety of delivery services. OLGR submit that the addition of another packaged liquor provider to an area "...that is already socio-economically disadvantaged would not benefit the local and broader community".
56. On the issue of socio economic disadvantage OLGR submit, on the basis of 2011 ABS statistics that the unemployment rate in Minto was 8.2 per cent compared to 5.9 per cent for NSW as a whole; and that the average median incomes for individuals, families and households were all below the State and National averages. OLGR submit that on the basis of these figures, "...Minto is an area that has long been characterised by a high level of socio-economic disadvantage with a high proportion of the area consisting of public housing". OLGR note the recent redevelopment of the area and since its expected completion date is 2016, "...it is not known what impact it will have on the area".
57. OLGR refer to an article that appeared in the Sydney Morning Herald on 11 January 2014, entitled *Bottle shops leave one hell of a hangover* and comments on the proliferation of bottle shops and the competitive discounting that occurs with liquor often being cheaper than standard grocery items.
58. OLGR note that the article "...specifically mentioned the availability of liquor in the Minto area and the risk factors associated with the area along with comments from a local Minto resident who stated that the area did not need any more bottle shops".
59. OLGR submit that BOCSAR data indicates that from July 2013 to June 2014, the rate of *alcohol related assaults* (domestic and non-domestic) within the State suburb of Minto was 232 (per 100,000 population) compared to 330 (per 100,000 population) for the whole of NSW. OLGR submit that the rate of *alcohol related disorderly offences* that occurred in the suburb of Minto was 19 (per 100,000 population) compared to 110 (per 100,000 population) for the whole of NSW. OLGR submit that these figures indicate that the suburb of Minto "does not appear to have a significant concentration of alcohol-related anti-social behaviour".
60. OLGR note that a review of Compliance and Enforcement Division records did not disclose any adverse information in respect of the Applicant, Mr Anthony Charles Smith, and note that he is the licensee of a number of premises owned by Woolworths Limited throughout NSW. OLGR further note that the Applicant's National Police Certificate is invalid by reason that it was issued in 2008 and not within three months.
61. Email from staff assisting the Authority to the Applicant's legal representative, Mr Tony Schwartz, dated 3 February 2015 – Mr Schwartz was requested to provide a completed Certificate of Advertising and was provided with the submissions received from Police, OLGR and Council. Mr Schwartz 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 that the licence not operate with a greater overall social impact on the wellbeing of the community; active local liquor accord participation; a requirement that the licence cannot be operated until the Authority has been provided with evidence that the premises are complete and ready to trade and the determination of the 6 hour closure period under section 11A(3) of the Act as from 3:00am to 9:00am each day.

62. Email from Tony Schwartz to staff assisting the Authority dated 18 February 2015 – Mr Schwartz provided a completed advertising certificate and confirmed the Applicant's consent to the proposed conditions. In addition, Mr Schwartz provided a number of responses to the submissions received from Council, OLGR and Police.
63. In response to the submission received from Council, Mr Schwartz submitted that "...the New Store must comply with all statutory considerations" and thus "...there are no unaddressed matters with the Council".
64. In response to the submission received from OLGR, Mr Schwartz submits that "...unfortunately the Assessment is of little assistance to the IL&GA in determining this Application because it is quite apparent its author has disregarded the Applicant's evidence in its entirety".
65. Mr Schwartz submits that OLGR "completely overlooked" the expert report provided by Mott MacDonald and that this report "...is critical, as it confirms the changing demographics and face of Minto". Mr Schwartz further submits that the 2011 Census data provided by OLGR is "...clearly irrelevant to the position that exists in Minto today".
66. Mr Schwartz submits that the MacDonald report finds that Minto is "...no longer a disadvantaged community" and that support for this finding can be found in the submission by FACS where it is stated that "...FACS does, however, acknowledge that the community of Minto has changed somewhat since the 2011 Census as a result of a renewal project managed by Land and Housing Corporation, Campbelltown City Council and Landcom".
67. Mr Schwartz adds that OLGR also "ignores their own EVAT assessment" in that while the location risk and premises risk of the Premises are rated low, "...these findings had no bearing on their Assessment". Mr Schwartz submits that OLGR has taken a generic approach to this Application, and despite the EVAT assessment, has referred to reasons to refuse the Application based on both incorrect information and unsubstantiated evidence.
68. In response to OLGR's concerns regarding the liquor licence density in Minto, Mr Schwartz provided a table illustrating density statistics in the local and broader community as well as NSW. On the basis of these figures, Mr Schwartz submits that "...there is strong support for increasing the density of licensed premises in this location". Mr Schwartz adds that "...it is completely irrelevant to this and any other similar application that the public can purchase their packaged liquor requirements on-line".
69. In response to OLGR's concerns regarding a higher unemployment rate and lower average median weekly incomes in Minto compared to the NSW rates, Mr Schwartz contends that the 2011 ABS Census data are no longer relevant.
70. Mr Schwartz adds that following the redevelopment of the area, it is "...both logical and reasonable to presume that with this transformation came a notable change in the demographic of Minto's residents (see paragraph 22 below) and that unemployment has decreased and weekly incomes have increased".
71. Mr Schwartz cites a 2013 report by the Australian Institute of Health and Welfare titled, *National Drug Strategy Household Survey detailed report 2013* to support his submission that "...there would be less alcohol related harm in a highly disadvantaged community when compared to a highly advantaged community".

72. Mr Schwartz adds that "...even in the scenario that this local and broader community were socio-economically disadvantaged, a correlation between two variables (which in this case is the presumption, although incorrect, that Minto is socio-economically disadvantaged on the one hand) does not automatically imply that one must cause the other (ie, the proposal *would not benefit the local and broader community*)".
73. Mr Schwartz refers to the above mentioned reports by Quantum Group Pty Limited and Ekas Market Research Services to support the submission that there is an "...important public interest component of this Application as it confirms overwhelming public support (ie, 81 per cent of all persons surveyed) for the approval of the Application".
74. In response to OLGR's reference to an article published in the *Sydney Morning Herald*, Mr Schwartz submits that "...notably it was publicity surrounding Woolworths' original refused Application (ie, it was not an article on alcohol related harm in Minto)". Mr Schwartz adds that the reference by OLGR to a "...local Minto resident who stated that the area did not need any more bottle shops" was made by an ALDI shopper and submits that this is hardly a balanced view and notes that ALDI has a more limited range of products that are also sold unrefrigerated.
75. Mr Schwartz notes that OLGR merely points out the 6-hour closure period variation and "does not appear" to be opposed to the variation of the 6-hour closure period that is proposed by this Application.
76. In response to OLGR's concerns regarding the invalidity of the Applicant's National Police Certificate, Mr Schwartz submits that the Authority is "...well aware that the Applicant lodges a significant number of liquor applications with the IL&GA annually" and that the Authority has not requested the Applicant update his Certificate "...presumably because it is well aware that Mr Smith does not operate any of Woolworths' retail liquor stores".
77. In response to the submission from Police, Mr Schwartz provided a number of responses. Mr Schwartz notes that Police have provided a very comprehensive submission and therefore it is "...significant that they are unopposed to the Application". Mr Schwartz adds that as Police are "...unopposed to the Application, the Applicant only intends to comment on those matters raised by the Police that require clarification". Mr Schwartz provided a table of these matters that required clarification.
78. Of note, in response to Police concern regarding the consumption of alcohol by older persons, Mr Schwartz notes that the article relied upon by Police relates to the UK rather than Australia and submits that for this reason no weight should be given to this study. Mr Schwartz references a number of studies and their findings to dispute the Police contention regarding the higher risk of alcohol related harm to persons aged 60 years plus.
79. In response to Police concerns regarding the future use of the dormant Liquorland licence, Mr Schwartz notes that Coles "...did not provide any written evidence of their so called *negotiations* with the Centre".
80. Mr Schwartz notes the above mentioned letter from the Shopping Centre's freehold owner to support the submission that "...there will only be one packaged liquor licence in this Centre, and their preferred option is Woolworths". Mr Schwartz contends that the freehold owner was again contacted who has "confirmed its original letter remains correct". Mr Schwartz adds that the freehold owner has confirmed "...that if this Application is approved, it will provide a written direction to Coles to remove its licence from this Centre forthwith, otherwise it will approach the IL&GA for it to be surrendered".

81. In response to Police concerns regarding the proposed trading hours on Sundays, Mr Schwartz advises that the Applicant has agreed to reduce the proposed trading hours on a Sunday by one hour to 7:00pm.
82. Mr Schwartz concludes that "...there does not need to be a zero risk for this Application to be approved" and that there are "many public interest benefits of this Application that must be considered and balanced".
83. Mr Schwartz submits that the benefits of granting the Application include:
  - Improved choice and convenience
  - Meeting the "1 stop" shopping requirements of local residents
  - Improved neighbourhood safety and security
  - Employment opportunities
  - An ability for the Premises to contribute to local organisations
  - The provision of a large range of products that are unavailable at other packaged liquor outlets
  - The fact that there is no existing bottle shop in the shopping centre.
84. Mr Schwartz submits that that there is no objection to the Application apart from the submissions from OLGR; there are no potentially sensitive facilities located near the Premises and that BOCSAR data confirms that "alcohol related crime is low in Minto".
85. NSW Bureau of Crime Statistics and Research paper entitled *The effect of liquor licence concentrations in local areas on rates of assault in New South Wales*, dated December 2014 (BOCSAR Report). The BOCSAR Report investigates the relationship between liquor licence concentrations and assault rates within local government areas (LGAs) in NSW.
86. The BOCSAR Report finds that the concentration of hotel licences in a local government area was strongly predictive of both domestic violence and non-domestic violence assault rates. BOCSAR also found an association between the concentration of packaged licences and reported domestic and non-domestic violence assault rates, although that association was slightly weaker than for hotels. Relationships between other types of liquor licences and crime rates are also reported. The BOCSAR Report concludes that "...authorities should be concerned about increases in liquor outlet density".
87. Email from staff assisting the Authority to Tony Schwartz dated 31 March 2015 – Mr Schwartz was informed that the Authority considered the Application at its meeting held on 25 March 2015 and decided to defer the Application in order to provide the Applicant with an opportunity to address the matters raised in the BOCSAR Report.
88. Email from Tony Schwartz to staff assisting the Authority dated 2 June 2015 – Mr Schwartz submits that the BOCSAR Report is "...technical in nature and therefore Woolworths made arrangements (at considerable cost) for the data the subject of the BOCSAR Report to be released by NSW BOCSAR and made available to an expert independent statistician for review". Mr Schwartz provided a comprehensive and detailed report of Dr Henstridge of Data Analysis Australia Pty Limited dated May 2015 (*Henstridge Report*).
89. The *Henstridge Report* contends that "...while the data itself is of reasonable quality, it is observational in nature" and that the BOCSAR Report "...uses data that is not ideal for verifying casual relationships and analyses that data inappropriately". The *Henstridge Report* adds that the BOCSAR Report "...does little to advance the knowledge of the effects of outlet density and is potentially misleading, particularly in its suggestion of a

threshold effect". The *Henstridge Report* concludes by submitting that until reanalysis of the data used in the BOCSAR Report is conducted, it is of "...little or no value in informing debate on the effects of outlet density" and that "...even then there are likely to remain questions regarding alternative explanations for relationships that might be found".

90. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) in 2011, indicating that the state suburb of Minto is ranked in the second decile on the Index of Relative Socio-economic Advantage and Disadvantage for all suburbs in NSW. The Campbelltown LGA falls within the fourth decile for all LGA's in Australia (with a ranking of 10 being the most advantaged).
91. Liquor licensing information 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 Minto and Catherine Field.
92. BOCSAR crime data for the Campbelltown LGA regarding incidents of liquor offences, malicious damage to property, assault (domestic assault) and assault (non-domestic assault) offences for the calendar year 2014.
93. In determining the Application, the Authority 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.*

94. 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:

*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.

95. Division 5 of the Act makes provision for packaged liquor licences. Section 29 to 31 states:

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).

## COMMUNITY IMPACT TEST

96. Under section 48(5) of the Act, the Authority *must not* grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted *will not be detrimental* to the local or broader community.
97. Section 48(5) of the Act states:
- 48 *Community impact*  
(5) *The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:*  
*(a) the community impact statement provided with the application, and*  
*(b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),*  
*that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.*
98. 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 places of worship.

## APPLICANT CASE ON SOCIAL IMPACT

99. In the SOI dated 3 July 2014 and provided with the CIS, the Applicant provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the Premises will be located.
100. In this document the Applicant addresses some of the primary concerns of the Authority raised in the Previous Application. These concerns were related to crime and socio-economic disadvantage in Minto.
101. First, the Applicant notes that the proposed trading hours of the Premises represent 18 fewer trading hours per week when compared to the Previous Application.
102. Second, the Applicant submits that on the basis of BOCSAR data for the 2013 calendar year, there is a "...further decline in alcohol related crime at Minto (ie, when compared with the data relied upon within the Refused Application)". The Applicant adds that Minto has "...comparatively very low levels of alcohol related crime considering its permanent residential population is 10,307". The Applicant further adds that there is a downward trend in the count of alcohol related crime in the broader community.
103. Third, the Applicant contends that the previous concerns with respect to the demographic and socio-economic circumstances of Minto no longer apply due to the redevelopment of Minto and the relocation of persons to other housing areas outside of Minto.
104. Fourth, the Applicant contends that the previous concerns held by the Authority in regards to Minto being a disadvantaged community no longer apply on the basis of the independent planning evidence provided by the Applicant.
105. Lastly, the Applicant notes that while FACS objected to the Previous Application, this is not the case with the present Application. The Applicant submits that "...this is due to

their acknowledgement of the Minto Renewal Project and the consequential change in its socio-demographic characteristics”.

106. In addition, within the SOI, the Applicant provided the following submissions in support of the contention that the overall social impact of the current Application will not be detrimental to the well-being of the local or broader communities (noting that the Applicant refers to the local community as "LC" and the broader community as "BC"):

*The BOCSAR statistics on alcohol related domestic violence assault for Minto confirm that only 13 offences occurred at Minto in the year ending December 2013. The rate per 100,000 population comparison is very low, namely 113.2 compared with NSW at 138.4. The BOCSAR "hotspot" map is irrelevant for present purposes as it does not reflect the low counts of crime within Minto.*

*While Woolworths accepts that even 1 domestic violence assault is undesirable (ie, at any location at any time), it is likely that every town or suburb throughout Australia has some domestic violence element present. Therefore it is not necessary and appropriate to consider what might be an unacceptable level of domestic violence here. A starting off point is to view the State average. At Minto the position within the last 12 months (ie, to December 2013) is that 1 incident occurred approximately each month in a population of 10,307 persons. Bearing in mind that the statistics are highly unlikely to ever show a zero level of domestic violence at any location, it is not necessary to show that the population of Minto is perfect. The occurrence of domestic violence at Minto is not at a level that should especially concern the Authority, that is particularly so when one considers that the rate is decreasing (ie, from 47 in 2005, to 37 in 2008, to 19 in 2012, and to 13 in 2013) principally because of the Minto Renewal Project (and the community that has moved away from this area).*

*The data relevant to the BC (Rate per 100,000 population of alcohol related incidents January 2013 to December 2013.) shows a higher rate per 100,000 population of alcohol related domestic violence assault when compared with the NSW average (ie, 178.9 compared with NSW 137.3). However the BC is a large geographical area (see Figure 1 and comments within the Executive Summary at paragraph 6(o) – page 12). The evidence within this document confirms: (a) that despite the increase in licensed premises within this BC that the rates of alcohol related domestic violence assaults have decreased. This is [sic] no correlation between increasing density and rates of alcohol related domestic violence assault in this BC; and (b) it is very clear that persons within the BC at large do not need to visit this Centre or New Store for the packaged liquor requirements. This is because there are opportunities to make their purchases at existing locations that are closer to their homes. Therefore, there can be no potential for this Application to affect the rates of alcohol related domestic violence assault within the BC.*

*The BOCSAR statistics further disclose that the rate or frequency in which alcohol related non-domestic violence assaults occur at Minto are low, with only 3 offences occurring within Minto in the year ending December 2013. The rate per 100,000 population comparison is also very low, namely 26.1 compared with NSW at 182.4. The BOCSAR "hotspot" map confirms there are no hot-spot locations for non-domestic violence assaults to occur within Minto.*

*The data relevant to the BC shows a similar outcome to Minto. The rate per 100,000 population comparison of alcohol non domestic violence assaults occurring within the BC, in the year ending December 2013, is low when compared with the NSW average (ie, 165.8 compared with NSW at 181). For the reasons outlined above, the New Store does have the potential to adversely impact upon the rates of alcohol related crime within the BC.*

*The BOCSAR statistics also confirm that there were 6 alcohol related assault Police offences within Minto in the 12 month period ending December 2013; 18 liquor offences; and 6 alcohol related disorderly conduct offences. There are no "hot spot maps" for these types of offences.*

*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, 89.2 per cent of all malicious damage to property offences in the BC are **unrelated** to alcohol use). Nevertheless the rate per 100,000 comparison of malicious damage to property offences occurring within Minto is at a rate similar to the NSW average.*

*There is no evidence this proposal has the potential to cause an adverse impact on the frequency of any type of alcohol related crime occurs within the BC. The evidence within this document confirms that despite the increase in licensed premises within this BC that the rates of alcohol related domestic violence assault and non-domestic violence related assault have decreased.*

*There is also no correlation between increasing density and these categories of crime within this BC. Persons within the BC at large do not have a need to visit this Centre or New Store for the packaged liquor requirements. This is because the public has ample opportunities to make their*



*purchases at existing locations that are closer to these homes (see paragraph 6(o) of Section 1 for further details). Therefore there is little, if any, potential for this Application to affect the rates of alcohol related crime within the BC.*

*The demographic and socio-economic profile for Minto and the LC relate to the 2011 census data and it is clear that the position has changed since this time. This has been confirmed by the report of Mott MacDonald and acknowledged by the FACS. Nevertheless, the reasoning provided at paragraph 33 confirms that the New Store is unlikely to adversely impact upon any individual or group of individuals due to their particular demographic circumstances.*

*Whilst residents of Minto received slightly lower income levels when compared with the State average, that data is again based upon the position at 2011. In any event the same data shows the slightly less income level was off-set by lower living expenses (such as the average amount paid for rental properties). No data was available for the LC to make a similar comparison.*

*The evidence within the SOI (Section 3) confirms that there are no potentially sensitive facilities located near the New Store which could otherwise place the at-risk groups identified at an adverse social risk.*

*Significantly there were no concerns raised about this proposal by anyone at a local level. The Department of Health are not concerned to provide any feedback to the Application, while the TR&MS, the Land Council and FACS are **not** opposed to this Application either.*

*The evidence is that the SEIFA scores for Minto (and with the relevant indices being the IRSD and the IRSAD index) reflect the position at Minto in 2011 and not today. It is very clear that since the 2011 Census data (which the SEIFA evidence is based upon) that there has been significant change at Minto, making that index irrelevant to what exists at Minto today. This has been confirmed by the professional opinion of Mott MacDonald (at Attachment 2) where their report states (at page i) that "Minto is no longer a disadvantaged community centre of public housing. Minto is now a modern Sydney suburb with a recognised urban design that is conducive to community appreciation with the residents feeling a real sense of place". However the evidence also confirms that a low score does not necessarily reflect a higher propensity for alcohol related harm.*

*There is undeniable support for increasing outlet density within the LC and Minto because there is a clear under-provision of licenses that permit packaged liquor outlet.*

## **REASONS**

107. The Authority is satisfied, for the purposes of section 40 of the Act, that the Application and CIS material establishes that the Application has been validly made and relevant consultation and advertising requirements of the legislation were observed.
108. The Authority is satisfied, for the purposes of section 45(3)(a), that the Applicant company has previously established that it is a fit and proper corporate person from a probity perspective. The Authority notes that the Applicant company is a repeat applicant for packaged liquor licences and that there are numerous licensed liquor stores operated by Woolworths currently operating in NSW. While usually the Authority would not accept an NPC that is not current, the Authority recognises that the Applicant does not operate liquor stores himself and that previously the Authority has not required him to update his NPC and that no concerns as to the Applicant Company or its directors probity has been raised by law enforcement agencies including Police and OLGR.
109. The Authority is satisfied, for the purposes of section 45(3)(b), that responsible service practices will be in place with the commencement of licensed trading, on the basis of the *House Policy and Management Policies and Strategies* and submissions provided by the Applicant and noting an absence of adverse submission from OLGR or from Police with regard to the Applicant in this regard.
110. The Authority 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 Notice of Determination issued by Council and provided by the Applicant.

## Overall Social Impact

111. With regard to the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the local community comprises the suburb of Minto and the broader community comprises the Campbelltown LGA.
112. Applying the overall social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local and broader community.

## Local and Broader Community

113. 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.
114. For the purposes of this Application, the Authority is satisfied that the relevant *local community* comprises the community located within the State suburb of Minto while the *broader community* comprises the Campbelltown LGA.
115. The Applicant has posited a local community extending beyond the suburb of Minto by reason that this accords with the expected trade catchment area of the Supermarket identified by the Applicant's consultant, Location IQ.
116. The Act does not define *local community* for the purposes of the overall social impact test and the Authority accepts that the Supermarket in which the Premises is located may well draw upon a trade catchment area that extends beyond the suburb in which it is situated. Nevertheless, as it has indicated in its Guideline, the Authority will usually regard the local community as the locality in which the actual premises is situated and, for the sake of consistency with its usual practice, the Authority finds that the suburb in which the Premises is located as the preferable proxy for the local community.
117. The Authority notes the Applicant's submission that in the Previous Application the Authority determined the local community to be the suburb of Minto and that while the Applicant "...disagrees with that position, it has nevertheless addressed this issue by including the demographic, socio-economic and crime data for Minto within this document [the Statement of Impact – SOI]".

## Positive Benefits

118. The Authority 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 smaller scale Shopping Centre.
119. The Authority is satisfied that given the presence of other packaged liquor stores located nearby to the Premises (according to Authority licensing records), granting the Application will also provide a measure of further competition and increased consumer choice to the local and broader community in the packaged liquor market in the area.
120. The Applicant has provided some modest evidence, in the form of survey information provided by its consultant, Ekas Market Research Services, that of the total 403 interviewees, 81 per cent of those persons who participated in the questionnaire

supported a new BWS liquor store for inclusion in the Shopping Centre on the basis that it would provide one stop shopping and be convenient to them.

121. The same survey disclosed that there were concerns among a substantial minority of those who chose to participate that the business would make, in that 18 per cent of those respondents were either concerned that the business would also contribute to social problems or considered that there were sufficient liquor stores in the community.
122. The Authority is satisfied that the Applicant has provided some substantiation of its submission that granting the licence would be consistent with the "expectations, needs and aspirations" of shoppers at this Shopping Centre for the purposes of statutory object in section 3(1)(a) of the Act and that there is some support for the Applicant's contention that granting the Application will provide a benefit by way of convenience, in that shoppers at this small Shopping Centre need not acquire liquor products from elsewhere.
123. The Authority notes that the extent to which there is support for the Application at the level of the local or broader community as a whole is not demonstrated by this survey - which focuses on those responses from shoppers at this Shopping Centre who chose to participate.
124. While it may be generally credible to claim, as the Applicant has done, that the new liquor business will provide employment opportunities and strengthen the viability of the shopping area in the vicinity of the Premises (as customers will be encouraged to undertake other shopping in that area) the commitment to actually hiring staff from within the local or broader community has been qualified. There are no firm or unequivocal targets for hiring staff from within the suburb of Minto or the Campbelltown LGA and this diminishes the weight that can be given to this purported positive community benefit.
125. On the basis of licensing data and the information provided by the Applicant and Police, the Authority is satisfied that within the state suburb of Minto are the following incumbent licensed premises that are authorised to sell takeaway liquor:
  - ALDI Minto located at the corner of Pembroke and Monaghan Street
  - Who Beverages located at Unit 11, 1 Stonny Batter Road
  - Minto Cellars located at Unit 4, Lot 22, Swettenham Road.
126. There is also a hotel licensed premises, the Minto Mirage.
127. These incumbent licensed premises reduce to some extent the benefits that may otherwise be provided by way of convenience and competition in the local community.
128. The Authority further notes the information provided by Police and is satisfied that Liquorland is currently in negotiations to acquire an incumbent licensed premises in the suburb. That has not yet occurred at the time of this decision.
129. While the Applicant has also contended that it will provide a benefit by way of a larger range of products than available from other stores (which could conceivably advance the development of the liquor industry for the purposes of section 3(1)(b) of the Act), the Applicant has not identified how the goods or services provided by this business will differ from other mainstream retail liquor suppliers in the local and broader community or how the Applicant's pricing policies will provide consumer benefits at the level of the local or broader community as a whole, given what is available from other businesses licensed to supply packaged liquor to the local and broader communities.

130. As those claimed consumer benefits have not been particularly well specified, the Authority is unable to give much weight to these contended community benefits. That is not to say that those assertions are not credible, but they have not been well articulated or substantiated in the material before the Authority.
131. The Authority also notes the Applicant's contention that the granting of the Application will enable the new store to contribute to local groups and organisations. While Woolworths may well have a social program to this effect, this submission is neither substantiated nor articulated in any great depth or certainty and little weight is given to that claimed community benefit.

### Negative Impacts

132. The Authority accepts that over time there will more likely than not be some contribution from the liquor sold at this Premises to local alcohol related crime, disturbance or adverse impact on amenity from a minority of customers who abuse the packaged liquor that is purchased from the Premises.
133. Alternatively, whether or not patrons of this business engage in conduct rising to the level of criminality, the Authority considers it more likely than not that a minority of patrons will contribute over time to other adverse impacts upon local amenity, such as drinking in public, which is evident from the Alcohol Free Zone discussed below.
134. Police have provided local data based on the 'last placed liquor was consumed' in alcohol related incidents where Police had engaged the community. Police submit, and the Authority accepts, that a high proportion of those incidents involved liquor that had been consumed in private residences - that is, packaged liquor as distinct from liquor consumed on licensed premises. That data is current, localised and troubling when considering the contribution that liquor sold from this Premises will make, along with the incumbent licensees, to alcohol related crime, disturbance or anti-social conduct in the local community.
135. The 2014 BOCSAR *Report on Crime by Local Government Area and Alcohol Related Status* for 2014 (based on data from January to December 2013) satisfies the Authority that in the Campbelltown LGA, the rate per 100,000 population of *alcohol related assault police* incidents was **30.8** compared with a NSW total of **22.6**. The rate per 100,000 population for *alcohol related domestic violence assault offences* was **178.9** compared with a NSW total of **137.2**. The rate of *alcohol related non-domestic violence assault offences* was **165.8**, lower than the NSW rate of **181.0**.
136. The Authority notes the figures that were provided in the Authority's decision refusing the Previous Application (noted above) and is satisfied that these figures have not improved dramatically since then.
137. For example, the 2012 BOCSAR *Report on Crime by Local Government Area and Alcohol Related Status* indicated that in the Campbelltown LGA, the rate of *alcohol related assault police* incidents was **27.2** compared with a rate for NSW as a whole at **18.1**. The rate per 100,000 population for *alcohol related domestic violence offences* was **170.8** substantially above the rate for NSW of **139.2**. The rate of *alcohol related non-domestic violence related offences* was **169.5**, below the state wide rate of **190.4**.
138. In relation to the state suburb of Minto, BOCSAR crime mapping data for the period from October 2013 to September 2014 reveal that the Premises is situated in a location that is of some sensitivity in terms of the concentration of prevailing crime impacts.

139. The Premises is located within a low concentration hotspot and on the border of a medium concentration hotspot for the occurrence of *malicious damage offences*. The Authority does not accept the Applicant's submission that malicious damage crime data is not relevant to an overall social impact assessment. While the percentage of those reported malicious damage offences that are also recorded to be alcohol linked are typically low, BOCSAR cautions that identifying an association with alcohol in property offences is difficult by reason of the difficulties in identifying a perpetrator in those matters.
140. The Authority is satisfied that a concentration of malicious damage data provides another objective indicator that this local community and the location in which the Premises is situated is exposed to a concentration of this form of anti-social conduct, some of which is recorded as linked to alcohol.
141. While the Premises is not located within a hotspot for the occurrence of *domestic violence assault*, it is located *close to* a medium to high hotspot for the concentration of *domestic assault*.
142. The Authority considers it more likely than not that liquor sold from the Premises may be reasonably expected to serve the residents in those vulnerable areas, in addition to other areas in the local and broader community that fall within the trade area of the new business.
143. Domestic violence is of particular concern when assessing a packaged liquor application by reason that it mostly occurs in private residences, where most packaged liquor is expected to be consumed, as this Applicant submits.
144. While domestic violence will include both alcohol related and non-alcohol related incidents, the Authority is nevertheless concerned that the Premises remains located near a *medium to high density hotspot for domestic violence*, within a broader community that has higher than state average rates for domestic violence. The BOCSAR data satisfies the Authority that a substantial proportion of domestic violence incidents are linked as alcohol related events.
145. The Authority has noted the BOCSAR data provided by the Applicant for the suburb of Minto as a whole which (for calendar year 2013) recorded a domestic assault rate (113.2) that was below the State wide rate for that year (138.4). Nevertheless, within this local community there is a concentration of domestic violence offences apparent from the latest available BOCSAR crime mapping data in parts of this local community that this business may be expected to serve, noting the Applicant's expected trade area.
146. The Authority considers it more likely than not that over time the packaged liquor supplied by this business to the local and broader community will contribute, along with the incumbent licensees, to the relatively challenging domestic violence rates to which broader community is exposed and which, according to crime mapping data, is concentrated within areas of the local community in close proximity to the Premises.
147. Police data from the *Alcohol Related Crime Information Exchange* database indicates that at the level of the Macquarie Fields Local Area Command 63 per cent of all alcohol related incidents engaged with by Police from October 2013 to September 2014 involve liquor that was last consumed in the home, as distinct from licensed premises or in a public place. The Authority is satisfied that packaged liquor consumption is a major driver of alcohol related incidents requiring the engagement of law enforcement.

148. The Authority is concerned that the localised socio-economic disadvantage (including higher than State average unemployment and low incomes) within Minto and the higher than average Aboriginal and Torres Strait Islander (ATSI) population are indicia associated with a community's vulnerability to adverse alcohol related impacts.
149. The latest available SEIFA data published by ABS and noted by the Applicant in its Social Impact Assessment satisfies the Authority that the local community of Minto is relatively very disadvantaged. The Authority notes that the suburb ranks on only the second decile for the Index of Socioeconomic Advantage and Disadvantage, with (for example) comparatively higher rate of unemployment (8.25) compared to the State average (5.9 per cent) and a higher rate of persons from an ATSI background (3.3 per cent) compared to the State average (2.5 per cent).
150. With respect to the MRP, the Authority accepts that significant changes to the socio-demographics of Minto are apparently underway with regard to the provision of public housing within this suburb, and that some positive results have been achieved in terms of dispersal of what was an acutely problematic housing estate that prompted FACS to invite the Applicant to reconsider the Previous Application.
151. Nevertheless, the Authority notes that on the basis of the Planning Report, this redevelopment project is yet to be completed and that its estimated date of completion at this stage is sometime in 2016. The Authority further notes the submissions from Police to the effect that the scope of impact of the implementation of this project is not yet known.
152. The Authority concludes that there is insufficient data or material before the Authority to determine the full effect of social change brought about by that renewal project at this time. The Applicant's submission that Minto is no longer a disadvantaged community has yet to be established by any substantial body of socio demographic data.
153. Noting that the next ABS Census is due in 2016, this may provide the Applicant or a decision maker with more comprehensive demographic data to support the Applicant's contention that Minto is no longer a disadvantaged one.
154. The Authority's concerns as to the compounding effect of social disadvantage as a factor when assessing the relative vulnerability of a community to adverse alcohol related social impact is not only confined to the most acutely disadvantaged in that community (ie, those in public housing), but the local community as a whole. On the whole, the available data indicates relative social disadvantage.
155. The Applicant submits that there is no evidence to suggest that the grant of this licence will cause an overall increase in crime rates at the level of the local or broader community. The Authority accepts that it does not have before it the kind of data that would enable it to predict whether the volumes of liquor sold will increase or experience no change should another licence be granted.
156. NSW does not require the collection of liquor sales data that have enabled researchers in other jurisdictions (as noted in Authority Guideline 6, Laing W and Chikritzhs T, "Revealing the link between licensed outlets and violence: counting venues versus measuring alcohol availability 2011" *Drug and Alcohol Review* September 2011) to identify an association between volumes of liquor sales at the level of a local government area and assault rates in that area.
157. Nevertheless, the Authority accepts that there is a general correlation, identified in the BOCSAR Report, between higher densities of packaged liquor outlets and domestic

assault rates. The Authority is satisfied on the basis of the information provided by the Applicant and Police (and as confirmed by licensing records) that there is one hotel licensed premises (the Minto Mirage, which is authorised to sell takeaway liquor) and three packaged liquor licensed premises (Aldi Minto, Minto Cellars, Who Beverages) in the State suburb of Minto along with the dormant Foodworks Minto licence. While local density is not particularly high, the prospect of further increasing licence density in this local community provides a general cause for concern within a local community that exhibits a nearby localised concentration of domestic violence events and within the context of a broader community that has higher than state average rates of domestic violence.

158. The Authority is satisfied that once this new business is in operation, it will more likely than not *contribute*, along with the incumbent licenced businesses supplying takeaway liquor, to a challenging environment for alcohol related crime at the local and broader level and this is a negative aspect of the Application with respect to *this* local and broader community.
159. The Authority notes that the local freehold owner of the Shopping Centre has confirmed "...that if this Application is approved, it will provide a written direction to Coles to remove its licence from this Centre".
160. Whether or not that directive is legally enforceable, the Authority remains concerned that Coles could reactivate at an alternative location within the local community. While the Authority accepts that the Liquorland licence issued in respect of this Shopping Centre is currently dormant, the Police submission satisfies the Authority that Liquorland has been in recent negotiation with another incumbent dormant liquor licensee in the local community (Foodworks Minto). The Authority cannot rule out the prospect that Liquorland may also seek to trade in the local community in the short to medium term. This provides another risk of increasing licence density, albeit not a decisive factor in this case.
161. The location of the Premises is objectively problematic with regard to the local community in that it is in close proximity to the declared AFZ, the location of the AFZ was disclosed in the CIS. The Authority is satisfied that that Council would not declare the AFZ without some reason for doing so, and the objective of these declared areas is typically to discourage and attempt to manage a demonstrated problem of public drinking.
162. The location of the AFZ provides a further objective local factor that mitigates against granting the Application, in that the operation of a new packaged liquor business close to an AFZ is more likely than not to frustrate the objects of that AFZ than one located elsewhere.
163. The Authority accepts that the Applicant has very well developed practices for the management of risk in the supply of alcohol and that the site of the proposed business, in the Shopping Centre. The Authority accepts that the new licensed business will be situated in a relatively secure location offering electronic and passive surveillance. The Authority has considered all of those aspects of the Applicant's proposal that are designed to minimise harm and that Police have noted as likely to assist with harm minimisation.
164. The Authority does not consider it likely that the Applicant's staff would intentionally supply liquor to intoxicated or under aged persons or to persons who were known to engage in public drinking or alcohol related violence or who are intoxicated. However, the Applicant's staff can only meaningfully deal with packaged liquor at the point of sale

and can only practically monitor the conduct of patrons at or close to the store, which is located within a Shopping Centre.

165. As for the scale of the business, the Authority is satisfied on the basis of the Applicant's SOI, that the new liquor business will have a floor space of 168 square metres. While not a "big box" retailer this will nonetheless be quite a substantial packaged liquor business, larger in size than many stand-alone liquor stores throughout NSW. The scale of the business is a factor that objectively increases the scope of *this* proposed business to contribute, along with the incumbent licensees, to the supply of liquor in the local and broader community.
166. The trading hours from 9:00am to 8:00pm six nights per week and from 10:00am to 7:00pm on Sunday do not extend to the maximum evening trading time of 10:00pm. The hours are moderate in respect of evening closing times but the 8:00am opening time means that licensed trading will span a substantial period of time across the course of the week. The Authority notes that the Sunday closing hours have been reduced to 7:00pm in response to Police concerns that the Premises should operate in parity with the Supermarket's hours.
167. In conclusion, the Authority is satisfied that there remains real cause for concern as to the contribution that this proposed new business may make to prevailing adverse liquor related crime or anti-social conduct in the local and broader community, arising from the BOCSAR rates of crime noted above for the Campbelltown LGA, the BOCSAR hotspot data indicating some nearby concentration of domestic assault within the local community of Minto. The Authority's concerns as to the role played by liquor consumed in the home is further underscored by the Police submission indicating that although crime has been decreasing in some categories most of the alcohol related incidents in which Police became involved concerned liquor that was last consumed in private residences.
168. The latest available ABS socio-economic data for Minto remains a compounding factor of concern to the Authority as to the capacity for a business of this scale operating in this location to contribute to adverse alcohol related outcomes in the local community.
169. As noted in the research that is disclosed in the Appendix to *Authority Guideline 6* socio-economic disadvantage has been consistently linked as a factor in rates of domestic violence (see for example Livingston, "A Longitudinal Analysis of Alcohol Outlet Density and Domestic Violence" – *Addiction* 2011). Socio economic disadvantage in a given community is a contributing factor when assessing the vulnerability of that community to adverse alcohol related impacts.
170. While socio-economic disadvantage should not be considered in isolation, it is a factor of concern in this case when there is BOCSAR evidence of a nearby concentration of alcohol related domestic violence offences and in the context of relevant broader community, of which this local community is a part that bears higher than state wide rates for domestic violence.
171. Accepting, on the basis of the Applicant's submissions, including its consultant submissions, that there has been some recent progress towards suburban renewal within Minto as a result of the MRP, the Authority is nevertheless satisfied that it is too early to find that there has been a substantial change in the overall demographics of Minto to accept the Applicant's contention that this is no longer a disadvantaged community.



172. The change in position by FACS with respect to this Application, by comparison to the Previous Application, is a positive development and suggests some improvement with regard to social issues attributed to the most disadvantaged in this suburb (those in nearby public housing), but FACS submissions do not support the Applicant's position that socio demographic fortunes at the level of the local community as a whole have transformed to the extent that the Applicant contends.
173. More and better data for the local community as a whole is required to displace the currently available ABS data indicating that the local community is quite disadvantaged.
174. While the socio-economic disadvantage of the local community has not been considered in isolation, this remains a compounding factor that militates against the grant of this Application when considered in light of the BOCSAR crime data for the local and broader community, the Police "last place consumed" crime data and the location of the Premises in proximity to nearby areas that are subject to the AFZ.
175. The upcoming data collected from the ABS 2016 census, which will coincide with the estimated completion date for the MRP, should together provide a more prudent and reliable evidence base for finding the extent of socio economic social change at a local community wide level that is contended by the Applicant.

## CONCLUSION

176. Having considered together the Authority's findings on positive benefits and negative impacts found on the material before it, the Authority is not satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting *this* Application would not be detrimental to the well-being of this local and broader community.
177. In making this decision the Authority has had regard to all of the statutory objects of section 3(1) and has taken into account all of the considerations prescribed by section 3(2).



Micheil Brodie

**Chief Executive**

for and on behalf of the **Independent Liquor and Gaming Authority**

DATED 11 / 9 / 2015