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Dear Mr Schwartz

**Application for Packaged Liquor Licence
BWS Casula**

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 30 January 2015.

The Authority considered this Application at its meeting on 2 October 2015 and decided to *refuse* the Application pursuant to section 45 of the *Liquor Act 2007*. Authority staff provided informal advice of this outcome by email on 13 October 2015.

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

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

Yours faithfully

Micheil Brodie
Chief Executive

30 NOV 2015

STATEMENT OF REASONS

INTRODUCTION

1. On 30 January 2015 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 607-611 Hume Highway, Casula (Premises) in respect of a proposed licensed business to be known as "BWS – Beer Wine Spirits."
3. The proposed licensed trading hours sought for the business to be conducted on the Premises are from 8:00am to 10:00pm Monday through Saturday and from 10:00am to 10:00pm on Sunday.
4. It is noted that the proposed new licensed business will be associated with a proposed Woolworths Supermarket to be constructed in Casula. The Application is accompanied by a further application seeking that the daily 6-hour closure period mandated by section 11A of the Act be fixed at between 2:00am and 8:00am.
5. The Authority considered the Application at its meeting on 2 October 2015 and decided to *refuse* the Application, pursuant to section 45(1) of the Act, by reason that the Authority was not satisfied that requirements of section 48(5) of the Act had been met by the Application.
6. Authority staff informally notified the Authority's decision via email dated 13 October 2015. This letter serves to provide a formal record of the decision.
7. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those decisions prescribed by clause 6 of the Gaming and Liquor Administration Regulation 2008. The attached statement of reasons has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

MATERIAL BEFORE THE AUTHORITY

8. Liquor Licence Application Form dated 27 January 2015 received by the Authority on 30 January 2015. This Form discloses that Mr Anthony Charles Leybourne Smith, in his capacity as Business Manager Licensing for Woolworths Limited, has approval to execute documents on behalf of Woolworths Limited. The property owner of the Premises is identified as Fabcot Pty Limited and the owner of the proposed business to be conducted on the Premises is identified as Woolworths Limited.
9. Category B Community Impact Statement (CIS) Form and supporting material dated 27 January 2015. The CIS Form was accompanied by an 82-page Statement of Impact.
10. Statement of Impact dated 27 January 2015 and received by the Authority on 6 February 2015 prepared by the Applicant's solicitor, Mr Tony Schwartz of Back Schwartz Vaughan. This 82-page report addresses, *inter alia*, the:
 - a) the Applicant's "social risk matrix"
 - b) the nature of the proposal for the operation of the new business
 - c) the assessment of any "at-risk" groups in the relevant communities
 - d) the liquor outlet density

- e) the Socio Economic Indexes for Areas (SEIFA) data as published by the Australian Bureau of Statistics (ABS)
 - f) the location of any potentially sensitive facilities that the Applicant identifies as located "near" the proposed new store
 - g) the Applicant's submissions on the potential impact of granting the licence upon neighbourhood amenity
 - h) the community consultation process in relation to the Application and data pertaining to alcohol related crime and alcohol related harm in relation to what the Applicant identifies as the relevant communities.
11. Attachment 1 to the Statement of Impact dated 27 January 2015 – *Woolworths' operating experience to date with its retail liquor stores associated with a Woolworths Supermarket*. This 15-page document provides:
- a) the Applicant's account of "at-risk" socio-demographic indicators in the communities identified by the Applicant
 - b) the prevalence of packaged liquor licences and other liquor licences in the communities identified by the Applicant
 - c) the Applicant's assessment of potential for the proposed new business to bring about adverse change to the character of the "local community" (which the Applicant contends comprises the "trade area" of the proposed new store)
 - d) potential noise impacts from the operation of the new business
 - e) potential litter and pollution related concerns arising from the proposed new business
 - f) traffic and parking issues arising from the proposed new business
 - g) information about alcohol consumption by the population of what the Applicant identifies as the local and broader communities
 - h) the contended public interest benefits of granting the Application
 - i) the potential for this new business to bring about increased levels of alcohol related anti-social behaviour
 - j) the rates of alcohol related hospital admissions and deaths in the communities identified by the Applicant.
12. Attachment 2 to the Statement of Impact dated 27 January 2015 – *Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS – Beer Wine Spirits stores in NSW*. This 4-page document is a further submission prepared by the Applicant's solicitor and addresses such matters as Woolworths' responsibility in respect of legislation regulating the sale of alcoholic beverages; the stocking of products, in that any alcoholic or alcohol branded product submitted for potential sale by any buyer within the Woolworths Liquor Group must first be benchmarked against a checklist; design features of all Woolworths Liquor Group stores to "minimise the potential for risk, or otherwise create a disincentive for people to behave inappropriately at, or in the vicinity of the store" including, *inter alia*, a CCTV system, security alarm system, bright lighting and electronic article surveillance gates; policies and procedures in relation to harm minimisation and responsible service of alcohol; neighbourhood safety; the Applicant's account of Woolworths' "Exceptional Trading Record"; involvement in Liquor Accords and use of Self-Exclusion Arrangements. Attachment 2 also includes a copy of the Woolworths Liquor Group "House Policy" and Woolworths' *Best Practice Policies and Interventions* which set out business policies pertaining to the responsible service of alcohol (RSA).
13. Attachment 3 to the Statement of Impact dated 27 January 2015 – this 6-page document provides the Applicant's analysis of selected health statistics for the Liverpool Local Government Area (LGA) issued by the NSW Department of Health in November 2014.

14. Attachment 4 to the Statement of Impact dated 27 January 2015 – this document provides the Applicant's account of the existing hotels and packaged liquor licenced premises located in the State suburb of Casula and within the "local community" (as defined by the Applicant) and the broader community of the proposed new business (which the Applicant defines as the Liverpool LGA).
15. Attachment 5 to the Statement of Impact dated 27 January 2015 – this is a map provided by the Applicant identifying the geographical area of the "local community" of the proposed new business as specified by the Applicant.

[The Authority notes that the Applicant contends that the relevant "local community" of this proposed new liquor store is the "trade area" of the proposed new business, which according to the Applicant, "includes people who will use the services and facilities that will be provided on the licensed premises as well as people who are likely to be affected by the Application and may derive social benefit or suffer social harm as a result of the Application". The trade area is said to comprise some 33 ABS Census statistical areas. While the Applicant does not list the suburbs that are encompassed by this trade area, a map provided by the Applicant indicates that the expected trade area for the proposed new outlet is bounded by the State suburbs of Casula, Prestons and Edmondson Park. The Authority's finding that the local community comprises the state suburb of Casula is discussed below.]

16. National Police Certificate, three forms of identification and Responsible Service of Alcohol Certificate and Competency Card for Mr Anthony Charles Leybourne Smith on behalf of the Applicant.
17. Development Approval (DA) number 1349/2012 issued by Liverpool City Council (Council) on 4 September 2014. The DA describes the proposed development on the Premises as involving the "demolition of existing buildings; removal of trees on site, construction of a retail premise with 189 parking spaces".
18. Floor Plan for the Premises accompanying the Application, which is a diagram provided by the Applicant outlining the proposed licensed area of the new business to operate on the Premises.
19. Aerial photograph depicting the location of the proposed new store and "neighbouring premises", provided by the Applicant.

Submission from NSW Family & Community Services (FACS)

20. In this submission dated 1 December 2014, FACS states that it does not object to the Application subject to strict compliance by the Applicant with the Act. FACS observes that there are a "number of liquor outlets including Liquorland, Dan Murphy's, Glenfield Cellars and the Cross Roads Hotel in the surrounding suburbs". In this regard, FACS submits that it is "concerned about the increasing number of liquor outlets and hours of operation of licensed premises in South Western Sydney and the impact this may have on children, families and communities as a whole".

Submission from NSW Roads & Maritimes Services (RMS)

21. In this submission dated 11 November 2014, RMS provides observations 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 refer to its data indicating that 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 add that within the Liverpool LGA during 2012 there were 18 alcohol-related crashes resulting in 17 casualties.

22. RMS recommend that countermeasures to prevent and decrease the likelihood of alcohol involvement in road crashes in the Casula area be discussed in the approval process. RMS recommend that should the Application be approved, the licensee attend the local Liquor Accord in the LGA and that public education material focused on drink drive and pedestrian alcohol issues be displayed at the Premises.

Submission from Liverpool City Council (Council)

23. In this submission dated 3 December 2014, Council notes that it "welcomes" the introduction of a Woolworths Supermarket in Casula and submits that the Supermarket will help drive competition amongst retailers and this will benefit members of the community in providing enhanced choice.
24. Council then express a number of concerns regarding the potential social impact from granting the Application. These concerns include:

The high concentration of liquor licences within a 5km radius of the proposed site – there are a total of 98 liquor licences. There are 12 licences within 2km, 20 within 3km and 66 within a 5km radius including several packaged liquor outlets.

There are hotels in which patrons may drink onsite until late into the night within close proximity to the proposed development site. The Crossroads Hotel is a venue notorious for anti-social behaviour by patrons and is commonly attended to by Police.

Further to this, the recent proposal to refurbish the existing venue at the Blue Fountain Hotel, 467 Hume Highway Casula, was assessed by the Independent Hearing and Assessment Panel with the Panel's recommendation to refuse the application due to the potential for considerable social impact on the community. This proposal had strong opposition from local residents and workers. Council's concerns about this development related to the Department of Family and Community Services' use of the hotel as temporary crisis accommodation for their clients, the proposed replacement of the existing motel which will reduce the number of rooms from 32 to 20 and the impact this will have for vulnerable clients, and also concern that the proprietors of the proposed hotel own another venue that is now at the equal top of the NSW Government's violent venues level one list.

The proposed packaged liquor outlet has the potential to contribute to the rise of alcohol consumption in residential areas as the liquor products are likely to be purchased for consumption at home or at another location given the nature of the product offering.

The suburb of Casula is slightly disadvantaged and an oversupply of packaged alcohol could encourage higher levels of alcohol consumption and exacerbate existing levels of alcohol related harm. Data from both Liverpool and Green Valley Local Area Commands show that reports of alcohol and domestic and non-domestic violence related assault have increased and are significantly higher than the state average.

Data collected for Last Place of Consumption (LPC) from October 2013 to March 2014 for the Liverpool LAC show that 29% of alcohol related assaults occurred in private residences, demonstrating that more people are increasingly consuming alcohol at home.

The Liverpool's LAC's concern related to the rate in which applications for packaged liquor premises are being submitted in this area.

The Department of Family and Community Services' concern related to the growing number of liquor outlets located in South Western Sydney and the impact that this may have upon children, families and communities as a whole.

Information from local stakeholders contends that adverse effects from increasing alcohol consumption can potentially result in increased social and health issues, increased workload pressure for local service providers and a reduced capacity to address social issues.

The proposed liquor outlet is located close to Gandangara Park and Leacocks Regional Park. These two sites provide convenience for the illicit consumption of alcohol and increase the potential for alcohol-related incidents to occur at the parks.

There are two high schools (Casula High School and All Saints Catholic Senior College) closely located to the site. Additional exposure and access to alcohol could increase alcohol consumption and risk of alcohol related harm to young people, as shown by recent studies.

A recent Western Australian study undertaken by McCusker Centre for Action on Alcohol and Youth (MCAAY) details effective approaches in preventing harm from alcohol to young people. Evidence suggests that alcohol outlet density, days and opening hours are strongly related to increased alcohol consumption and harms, including assault.

Another study in Victoria that assessed whether density of alcohol sales outlets in specific geographic communities was associated with adolescent alcohol consumption, found that increased alcohol availability was associated with an increased risk of alcohol consumption specifically for early adolescents (12 and 14 years).

37% of the population in Casula are younger than 25 years and 19% are aged between 12-24 years. Based on the outcomes of recent studies, Community Planning does not believe it would be in the community's best interests to approve an additional packaged liquor outlet in Casula.

25. [The Authority notes that Council's reference to "commands" and "LAC" in the Council submission are apparent references to NSW Police Local Area Commands.]
26. Council submits that these concerns "strongly highlight the need to closely consider the detrimental effects that the increased density of licensed liquor outlets may have in Casula and surrounding suburbs".
27. In support of these concerns, Council provided six pages of detailed "supporting evidence" that it alleges demonstrates the social impact relating to the exercise of liquor licences upon the local and broader communities.
28. Of note, Council submits that:

There are currently 160 packaged liquor outlets, on-premises licences and hotels/clubs located within the Liverpool local government area (LGA). Council is concerned about the high concentration of licensed venues in Liverpool. Approval for further licensed liquor outlets has the potential to encourage higher levels of alcohol consumption and exacerbate existing levels of alcohol related issues. The Department of Family and Community Services (FACS) have also expressed concern about the growing number of liquor outlets located in South Western Sydney and the impact that this may have upon children, families and communities as a whole.

Historical socio-demographic and crime data published for the Liverpool LGA contained in the 2009 Social Profile Report published by the Office of Liquor, Gaming and Racing (OLGR) indicated that the Liverpool LGA has higher than state average rates of unemployment, single parent families, culturally diverse communities and rented accommodation including social housing. 2011 Census and Socio-Economic Indexes for Areas (SEIFA) data for the Liverpool LGA indicates that the area is highly disadvantaged and granting more liquor licences would be detrimental to the safety and wellbeing of the local community due to the ease of accessibility to liquor products at local outlets (dependent on location). There are already higher concentrations of liquor licences in parts of the Liverpool LGA including the Liverpool City Centre.

Health data also indicates that residents of Liverpool have poorer health compared to the rest of the state including:

- *Higher rates of diabetes – 6.9% compared to 5.5% in NSW*
- *High or very high levels of psychological distress – 15.4% compared to 13.2% in SWS and 11.1% in NSW*
- *Higher rate of death that is from all causes – 107.3 per 100,000 persons compared to 100 per 100,000 persons*
- *Higher proportion of people aged 16 years and over that are overweight – 24.8% compared to 33.4%*
- *Higher proportion of people aged 16 years and over that are obese – 21.8% compared to 19.6%*
- *Lower proportion of people aged 16 years and over that participate in adequate physical activity – 48.1% compared to 55.2%*
- *Higher proportion of people who smoke – 22.3% compared to 17.1%.*

Data collected for Last Place Consumption (LPC) from October 2013 to March 2014 for the Liverpool LAC show that 29% of alcohol related assaults occurred in private residences,

demonstrating that more people are drinking at home. A packaged liquor outlet is considered a destination store where customers will predominately purchase their products to be consumed at home or at another location. Additional data showed that over 19% of alcohol related assaults occurred at or on licensed premises, 20% occurring in a public place and in 21% of cases the place where the liquor was last consumed was unknown or the person refused to supply this information. In recent times, licensed premises have become stricter in requesting intoxicated patrons to leave the premises due in part to changes in legislation. This increases the likelihood for people to be intoxicated on the streets or in the home. Research has shown that in homes where there are high levels of stress due to socio-economic disadvantage that violence often occurs as a result of consumption of alcohol.

Crime data from the Liverpool LAC for the period October 2013 to March 2014 has shown that reports of alcohol and non-domestic violence related assault has increased and is higher than the region average. Data showed that alcohol related non-domestic violence assaults increased on weekends, with a peak of 15.9% on Sunday mornings between 12am and 6am. The number of incidents increased between the hours of 6pm and 12am on Saturdays, at 10.6%.

Domestic violence related assault has also increased by 60 reports since last year and is double the region average. This data indicates that alcohol consumption has contributed to the rise in all types of assault in the Liverpool LGA. Data from Green Valley LAC has shown that reports of domestic violence incidents are significantly higher compared to the state average, ranking 20th in the state.

Additional data from the Liverpool LAC for the same period show that of all incidents of assault, alcohol is much more likely to be a factor than in any other types of crime – alcohol is a factor in 21% of domestic assaults, 17% of domestic violence assaults and 6% of all incidents of crime. BOCSAR data on domestic related assault occurring across Liverpool LGA for the year to September 2013 was 485.2 per 100,000 persons of population. This rate is substantially above the NSW rate of 284.5 per 100,000 persons.

Local stakeholders such as the local community service providers, local Council and the local police all contend that increased alcohol consumption has the potential to result in increased social and health issues, resulting in an increased workload for local service providers and a reduced capacity to address social issues. There is a potential to add to existing social problems in the local area in which Council and the Police would need to respond to, creating disharmony for residents. Local service providers such as the Green Valley Liverpool Domestic Violence Service, Housing NSW, Liverpool Community Kitchen and Hub and Mission Australia report that existing alcohol-related harm and domestic related harm have been major contributors to homelessness and those seeking assistance with temporary accommodation. Approving an additional liquor outlet in the area would escalate existing domestic violence and other social issues experienced in Liverpool.

Participation by local licensees in the Liverpool City Liquor Accord has declined over the past 12 months. Active participation by licensees would demonstrate a firm commitment to ensuring responsible management of alcohol supply and minimising alcohol-related harm in the community.

While a packaged outlet may not be typically attractive to young people, a packaged liquor outlet may raise concerns if it is proposed for a site where it is known young people congregate, such as at fast food outlets or entertainment venues. Research into access of places of interest by young people highlights that the local of a given service is the most important factor in the choice for young people, The price and nature of the product will also be contributing factors.

29. Council submits that should the Application be granted the certain conditions should be imposed upon the liquor licence. The proposed conditions would require, *inter alia*, licensed trading hours not exceeding 10:00pm; the development and adherence to a House Policy; display of mandatory liquor signs; installation of a CCTV system; active Liverpool City Liquor Accord participation; consideration of the provision of direct financial support to local drug and alcohol counselling in the Liverpool LGA; and provision of employment opportunities to local residents.
30. Council submits, however, that these conditions alone "will not adequately address or prevent the potential social impact concerns associated with oversupply of alcohol in a disadvantaged outlet dense area".
31. In addition to these submissions, Council provided a map of licensed premises in the Liverpool City Council area and a number of research articles and their abstracts which

document issues related to outlet density and assault, domestic violence, alcohol related harm, violent crime and neighbourhood problems.

32. The research cited by Council are:
- a) *Curtin University and McCusker Centre for Action on Alcohol and Youth (MCAAY), "Alcohol and Young People: What works to prevent harm" (2014)*
 - b) B Rowland et al, "Association between alcohol outlet densities and adolescent alcohol consumption: A study in Australian students" (2014) 39 *Addictive Behaviours* 1
 - c) M Burgess & S Moffat, "The association between alcohol outlet density and assaults on and around licensed premises" (2011) 14 *Crime and Justice Bulletin*
 - d) M Livingston, "A longitudinal analysis of alcohol outlet density and domestic violence" (2011) 106 *Addiction Research Report* 925
 - e) M Livingston, "Alcohol outlet density and assault: a spatial analysis" (2008) 103 *Addiction Research Report* 619
 - f) N Donnelly et al, 'liquor outlet concentrations and alcohol related neighbourhood problems' (2006) 8 April *Alcohol Studies Bulletin* NSW Bureau of Crime and Statistics and Research
 - g) T Chikritzhs, P Catalano & R Pascal, "Predicting alcohol related harms from licensed outlet density: a feasibility study" (2007) 28 Monograph Series, *National Drug Law Enforcement Research Fund*
 - h) T Toomey, D Erikson & B Carlin "The association between density of alcohol establishments and violent crime within urban neighbourhoods" (2012) 36 *Alcoholism: Clinical and Experimental Research* 9.

Submission from New South Wales Police (Police)

33. In this submission from Sergeant Jillian Gibson and Chief Superintendent Peter Gilam attached to the Licensing Unit, Liverpool Local Area Command (LAC), Police object to the Application. This undated submission was apparently provided by Police to the Applicant during the Notice of Intention stage of the Application.
34. Police begin their submission by outlining the Liverpool Local Area Command. This includes the provision of population statistics, Google maps imaging of the area and ABS 2011 census data.
35. First, Police object to the Application due to what they contend to be the high level of liquor outlet density already evident within the suburb of Casula and the Liverpool LGA. Police note that in 2013 when a copy of the DA was received from Council, the DA did not address the sale or supply of liquor. Police submit that due to concerns regarding the increased number of packaged liquor licences being sought near the Hume Highway in Casula, a formal Police report was submitted to Council in response to the DA application.
36. Police submit that the Premises is located "no less than 500 metres" from an existing Dan Murphy's outlet, located on the opposite side of the road. Police add that the Premises is "only 600m" from a Chambers Cellars development whose liquor application has been approved by both Council and the Authority.
37. Second, Police submit that the suburb of Casula "is already serviced by a number of locations which fulfil this requirement and also by other premises not only owned by other chains but by Woolworths themselves". Police add that the addition of a further liquor outlet in this location "would not be in the public interest due to the already high availability at numerous other locations within this area".

38. Police provide a table of licensed premises located within 5km of the Premises that are currently licensed to sell take away alcohol, namely:
- a) The Collingwood Hotel
 - b) Cross Roads Hotel
 - c) Liquorland
 - d) Lurnea Liquor
 - e) Leppington Liquor Supply
 - f) Dan Murphy's (Casula)
 - g) Prestons Village Liquor
 - h) ALDI Prestons
 - i) ALDI Liverpool
 - j) Costco Wholesale
 - k) Luddenham IGA
 - l) BWS Liverpool
 - m) Dan Murphy's (Warwick Farm)
 - n) BWS Moorebank
 - o) BWS Miller
 - p) Dan Murphy's (Carnes Hill)
 - q) Railway Hotel Liverpool.
39. Police note that this table does not include Lockie's Hotel which also houses a BWS outlet but is just outside of the Liverpool LGA, the recently approved Chambers Cellars or the recently approved transfer of the First Choice Liquor licence from Hoxton Park to Edmondson Park.
40. Police submit that the Premises is located approximately 5.6km from the Liverpool Police Station and if this distance is taken into consideration there are numerous other incumbent licensed premises with packaged liquor facilities.
41. Third, Police contend that 70% of the surrounding population is identified as "low income" and that the granting of the Application "could be detrimental to the community".
42. In support of the Police submission that alcohol outlet density is linked to alcohol-related harms including assault, domestic violence and health issues, Police provided a copy of an article entitled "Growing pains: alcohol and the suburbs" written by Sarah MacLean (a writer at the Centre for Health and Society, University of Melbourne) and Michael Livingston (a writer for the National Drug and Alcohol Research Centre), and published online in 2014 at <http://www.ofsubstance.org.au/component/content/article/55-of-substance/e-buletin/1330-growing-pains-alcohol-and-the-suburbs>.
43. In conclusion Police submit that they object to the Application due to concerns regarding: prevailing liquor outlet density; the objects raised during the DA process and objections raised by Council; concerns raised by Police in response to the DA; the prevalence of low income families surrounding the area of intended use; and the high proportion of "Woolworths owned" packaged liquor that are already within the local area.

Submission from the Applicant in Reply to Community Submissions

44. In a submission from the Applicant's legal representative, Mr Tony Schwartz, dated 30 January 2015. Mr Schwartz provided detailed responses to FACS, RMS, Council and Police during the initial community consultation process on the Application.
45. In response to FACS, Mr Schwartz submits that it is "quite apparent that if there were any matters of concern to the FACS author, they have been addressed by this

Applicant". Mr Schwartz observes that FACS "are not opposed to the Application and there are no matters outstanding".

46. In response to RMS, Mr Schwartz submits that RMS "does not oppose" the granting of the Application but rather, is concerned to ensure the licensee supports RMS initiatives and provides drink drive and pedestrian-alcohol issues material. Mr Schwartz submits that Woolworths supports these initiatives with respect to this Application and others. Mr Schwartz states that Woolworths consents to a condition being endorsed upon the licence requiring the active participation in the local liquor accord by the licensee or its representative.
47. In response to Council, Mr Schwartz provides a detailed table of responses to Council's concerns. Prior to providing these responses, Mr Schwartz notes that Council considered the operation of a BWS store as part of the development approval process and as such there are specific conditions in the DA addressing the future use of the Premises.
48. Mr Schwartz submits that it is "unknown" if the author of this Council submission was aware that the BWS proposal had already been carefully considered by Council as part of its consideration of the DA when framing this correspondence in response to the Application.
49. In respect to Council's concerns regarding the high prevailing concentration of liquor licences in close proximity to the Premises Mr Schwartz submits that Council refers to "liquor licences" rather than "packaged liquor licences" or "hotel licences" and for this reason he contends that "less weight should be given to those matters as they are largely irrelevant to this proposal".
50. Mr Schwartz submits that relevant to this Application, there are 34 packaged liquor licences and 13 hotel licensed premises within Liverpool LGA. There are 16 packaged liquor licences and 10 hotel licensed premises within 5km of the Premises.
51. Mr Schwartz submits that his licence density calculations confirm that comparatively there is an "under-provision" of licensed premises in Casula and the "local" and "broader" communities. Mr Schwartz submits that Council's concerns relating to outlet density are "obviously unfounded".
52. In respect to Council's concerns regarding hotels operating in close proximity to the Premises, Mr Schwartz submits that the potential for each licence type to cause social harm "are not comparable to the other". Mr Schwartz adds that the concerns of the Independent Hearing and Assessment Panel raised in regard to the Blue Fountain Hotel were "unrelated to the concerns of take-away liquor".
53. In respect to Council's concern that the Premises has the potential to contribute to the rise of alcohol consumption in residential areas, Mr Schwartz submits that this is an unsupported statement. Mr Schwartz adds that the Applicant has on a number of occasions provided evidence to the effect that the introduction of a new Woolworths store "does not of itself change the drinking patterns of existing customers of alcohol in that community for the worse" and nor does it "persuade non-consumers of alcohol to become future consumers".
54. Mr Schwartz adds that studies have shown that alcohol consumption is decreasing in Australia and that there is "no evidence" to demonstrate "irresponsible alcohol consumption" within Casula. In support of the submission that alcohol consumption levels have remained relatively stable and more recently are declining, Mr Schwartz

relies upon alcohol consumption data provided by ABS for the period 1997 to 2013 which indicate a figure between 9.88 and 10.76 litres of alcohol per person.

55. In response to Council's concerns regarding the disadvantaged socioeconomic status of Casula and the oversupply of packaged liquor in the community, Mr Schwartz submits that this is an "unsupported" statement.
56. [The Authority notes the Mr Schwartz' submissions on the socio economic data is provided in paragraphs 42 to 50 of the Statement of Claim where it is stated that while the SEIFA indexes relevant to this Application provide a "mixed view for Casula, it is doubtful that its residents consider themselves disadvantaged". Mr Schwartz adds that the level of disadvantage that "might be evident on paper has not translated into unmanageable levels of alcohol related crime in Casula" and that despite the existing availability of packaged liquor in Casula, alcohol related crime remains "very low".]
57. Mr Schwartz submits that on the basis of BOCSAR crime data (discussed below) the reported instances of alcohol-related crimes within Casula are "significantly lower" than the NSW average.
58. In response to Council's concerns regarding Police "Last Place of Consumption" data and the consumption of alcohol within residential homes, Mr Schwartz submits that whilst the majority of domestic violence occurs within residential homes, there is a "significantly low number" of "individual incidents of alcohol related domestic violence in Casula". He submits that there were six (6) such incidents from August 2013 to September 2014.
59. In response to Council's concerns regarding the close proximity of the Premises to Gandangara Park and Leacocks Regional Park, where illicit consumption of alcohol may occur, Mr Schwartz contends that neither of these parks are located "near" the Premises as the parks are located at a distance of 116m and 900m away respectively. Mr Schwartz observes that Police have not expressed concerns regarding the location of the Premises in relation to those parks.
60. In respect to Council's concerns regarding the close proximity of the Premises to two local high schools, Casula High School and All Saints Catholic Senior College, Mr Schwartz submits that neither of the schools are located "near" the Premises as they are located 200m and 870m away respectively.
61. Mr Schwartz adds that he is "unaware of any credible evidence" that suggests there "could be correlation" between the granting of this Application and the potential for increased harm to students of these schools.
62. In response to Council's reliance upon the McCusker Report, Mr Schwartz submits that this report is "irrelevant" because it was prepared in the context of proposed changes to the Western Australian liquor legislation.
63. In response to Council's concerns regarding the young population of Casula, Mr Schwartz provided the breakdown of different ages of persons in Casula under the age of 25 and submits that there is "nothing unusual about the spread of young persons" in this community.
64. In response to Council's proposed liquor licence conditions should the Application be granted, Mr Schwartz submits that these concerns demonstrate "the lack of thought given to this proposal" in that the matters raised in the proposed conditions have been "dealt with" by the conditions imposed upon the development consent.

65. With respect to Council's submissions as a whole, Mr Schwartz concludes that the "author of the Council submission has not provided any explanation for the Council providing development approval for the use of the premises as a retail liquor outlet and now lodging a submission with the Authority expressing concerns with the actual application for a liquor licence".
66. With respect to the submissions from Police, Mr Schwartz provided a detailed table of specific responses to the various Police concerns. As a preliminary submission, Mr Schwartz submits that the information provided within the 60 page Police submission is either "out-dated" or "irrelevant" by reason that these are matters that were addressed in the DA. In the alternative, Mr Schwartz submits that Police do not provide any reasoning as to how the licensing of the Premises could impact adversely on the local community identified by Police as being "at-risk".
67. Mr Schwartz submits that it has "long been recognised that there must be something tangible that links those at-risk with the granting of a liquor licence that gives rise to a conclusion that it is not in the public interest for it to be approved".
68. Mr Schwartz contends that the community of Casula have "demonstrated an ability to consume alcohol responsibly" and thus it is "not known" how the granting of this Application could result in a "change in community behaviour for the worse".
69. In response to Police concerns regarding prevailing liquor outlet density, Mr Schwartz notes that the Police suggestion of a likely trade area for the Premises is "not based on any qualified assessment and can be ignored". Mr Schwartz refers to the trade area assessment report prepared by an expert consultant that was provided with the Application. In addition, Mr Schwartz questions Police reliance upon the article entitled, "Growing Pains: Alcohol and the Suburbs" on the basis that it related to Melbourne's inner city suburbs.
70. Mr Schwartz repeats the submissions made above regarding what he submits is the "under-provision of licensed premises" in Casula and in the "local" and "broader" communities (as defined by the Applicant).
71. Mr Schwartz disagrees with the distance calculations provided by Police in respect of the distance from certain incumbent licensed premises to the proposed new business (specifically Dan Murphy's and Chamber Cellars). Mr Schwartz states that the ALDI licence referred to by Police has a condition imposed upon it only allowing permitting that licensed business to take orders over the phone, internet, mail or facsimile. Mr Schwartz submits that the Police information is "misleading and incorrect" and for this reason "cannot be relied upon".
72. In respect to Police concerns regarding the DA, Mr Schwartz submits that the development consent conditions "clearly include conditions relevant to the sale of liquor in this location". Mr Schwartz adds that Police concerns regarding the DA were considered by Council during their deliberation at the time of granting the DA.
73. Mr Schwartz further questions Police reliance upon six research papers on the basis that Police have not identified how those reports apply to this Application (noting that Mr Schwartz provided further detailed submissions as to why these reports have "little to no relevance" to the Application).
74. In response to Police concerns regarding the prevalence of low-income families residing near the Premises, Mr Schwartz submits that Police have provided "little individual

analysis" of the information concerning income levels. Mr Schwartz questions why Police compared income data for Liverpool LGA to Greater Sydney and not to NSW as a whole.

75. Mr Schwartz provides the ABS income figures for these three areas and submits that there is "no evidence that there is any greater number of low income families in the area immediately surrounding the New Store". These figures indicate that 67.1% of weekly household income in Casula is \$1,000 or greater (compared to 65.7% for the Liverpool LGA and 62.3% for NSW); 28.2% of weekly household income in Casula is \$2,500 or greater (compared to 27.5% for the Liverpool LGA and 29.5% for NSW); and 32.4% of weekly household income in Casula is less than \$999 (compared to 34.5% for the Liverpool LGA and 37.6% for NSW). Mr Schwartz submits that even if there were a large proportion of low-income families residing near the Premises, this "must not be viewed in isolation of other statistical evidence".
76. In respect to Police concerns regarding the high proportion of existing Woolworths owned and operated packaged liquor licences within the local area, Mr Schwartz submits that this "personal view is simply not relevant" and that "anti-competition policies should be disregarded". Mr Schwartz contends that Woolworths' retail stores are "probably the best in this State as to compliance related matters".
77. In response to the Police submission as a whole, Mr Schwartz concludes that "the concerns raised during the Development Application process were addressed through conditions of Development Consent" and that "in a real and practical way their submission has also been addressed by the terms of the Development Consent".

Office of Liquor Gaming and Racing (OLGR) Report

78. In a submission from the compliance section of the OLGR dated 26 September 2015 OLGR note that the proposed business model (a packaged liquor business with proposed trading hours from 8:00am to 10:00pm Monday to Saturday and 10:00am to 10:00pm Sunday) is assessed as a "moderate risk operation".
79. OLGR submit that BOCSAR data indicates that from January 2014 to December 2014:
 - a) the rate of *alcohol related assaults* (domestic and non-domestic) within the State suburb of Casula was 58 (per 100,000 population) compared to 311 (per 100,000 population) for the whole of NSW
 - b) the rate of *alcohol related disorderly offences* that occurred in the suburb of Casula was zero (per 100,000 population) compared to 110 (per 100,000 population) for the whole of NSW.
80. OLGR submit that these figures indicate that the suburb of Casula "does not appear to have a concentration of alcohol-related anti-social behaviour when compared against the State average".
81. OLGR observe that the radial density of licensed premises in Casula is "below average". However, OLGR submit that Casula is "already well serviced by four existing packaged liquor providers", being:
 - a) Liquorland (LIQP700350873)
 - b) Chambers Cellars (LIQP770016753)
 - c) Costco (LIQP770016625)
 - d) Dan Murphy's (LIQP700382228).
82. OLGR submit that these physical packaged liquor outlets are in addition to the "multitude" of online packaged liquor providers, including Woolworths and Coles who are capable of delivering liquor to the area.

83. In addition, OLGR submit that of these four incumbent retail providers, Costco and Dan Murphy's are "significant in size, i.e. warehouses, and are both located within very close proximity to not only each other but also the proposed venue".
84. OLGR note that the Dan Murphy's outlet in Casula (which is owned by the Applicant company) is located "just 700 metres" from the Premises.
85. OLGR note that section 11A of the Act applies to this licence. OLGR contend that section 11A stipulates that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00am and 10:00am during each consecutive twenty-four hour period.
86. OLGR submit that should the Application be granted it is "not considered necessary to commence the sale of packaged liquor prior to 10:00am on any given day".
87. OLGR note the various reasons why Police object to the granting of the Application (which include outlet density; development application and objections raised by Council; concerns raised by Police at the time of the development application; low income families surrounding the Premises; and a high proportion of Woolworths owned packaged liquor already within the area).
88. OLGR further note that Council have raised concerns regarding the Application and that most of these are the same concerns as those held by Police. OLGR note that FACS does not object to the Application provided there is strict compliance with the provisions of the Act.
89. OLGR note that a review of its Compliance Branch records did not disclose any adverse information in respect of the Applicant, Mr Anthony Charles Smith, and note that he has involvement (either as a contact person or licensee) with several packaged liquor outlets operating under 'BWS', 'Dan Murphy's', 'Pinnacle Drinks', and 'Woolworths Liquor' brands that are also owned by Woolworths.
90. OLGR further note that the Applicant has been the licensee at Dover Heights Liquor Store (LIQP700350903), Jones Beach Liquor Store (Kiama Downs) (LIQP700384905), Mac's Liquor Pyrmont (LIQP700352124), Mr Liquor Alexandria (LIQP700350059) and Parramatta Fine Wines (LIQP700351969).
91. OLGR observe that it is "concerning to see an individual as the licensee for so many licensed venues simultaneously".
92. Lastly, OLGR note that the accompanying National Police Certificate (NPC) provided in respect of Mr Smith for the Applicant was issued in 2008. OLGR submit that any NPC that was issued more than three months prior to the date of the application "should not be accepted". OLGR submit that this has been identified "on multiple occasions" in respect of the Applicant and the applications that he has been associated with.
93. OLGR conclude that although it "does not object to the application as it relates to the proposed business model, the collective concerns raised by police, council and Family and Community Services are not only valid but are also shared by the Office of Liquor, Gaming and Racing".

Second Submission from New South Wales Police

94. Submission from Senior Constable, Anthony Lynes, attached to the Licensing Unit, Liverpool Local Area Command (dated 12 February 2015) objecting to the Application.

95. This second Police submission is nearly identical to the first submission summarised above and made during the initial consultation process of the Application. However, Police identify the following additional concerns:
96. First, Police note that the Applicant has submitted that licensing a supermarket is in the public interest and that by not approving the Application the reasonable requirement for one-stop supermarket will not be met. Police submit that the "Supermarket facilities would adequately service the community and the addition of further liquor outlets would not be in the public interest due to the already high availability at numerous other locations within the area". Police submit that by not having liquor sold at this supermarket this "would also provide a family friendly environment which would not be subject to allegations of increasing alcohol consumption in the already low socio-economic area, domestic violence or to local youths".
97. Second, Police query whether the granting the Application will provide any real employment opportunities to the local community due to "low staffing levels in the premises at any one time as compared to its supermarket sister".
98. Third, Police submit that whilst the construction of the retail building housing the Woolworths Supermarket will "provide a vital boost for the local area", this would "still be achieved by the supermarket ALONE without the inclusion of the BWS store".
99. Fourth, Police note that according to the 2011 ABS Census, the population of Casula is 14,836 persons, 8,953 of who are over 18 years of age. Police submit that there is currently one packaged liquor outlet to every 3886 persons in that community when only taking into account the table of licensed premises provided by Police.
100. Police submit that there is currently one packaged liquor outlet for every 1790 persons in the community who are over 18 years of age. If the Application is granted, this figure will be reduced to one for 1492 persons over 18 years of age.
101. Fifth, Police refer to the Applicant's submission that the majority of alcohol related crime occurs between the hours of 9pm and 3am. Police submit that local crime statistics (last place of consumption data) maintained for the *Liverpool LAC* during the last 12 months show that:
 - a) 42 per cent of offences within that Police command occur at home/private residences (being a total of 1105 offences)
 - b) 15 per cent of offences occur in public places.
102. Police submit that "considering alcohol is not likely to have been purchased at an on-premises facility this would allow police, with some authority to submit, that over 62 per cent of alcohol related crime and the last place it is consumed is attributed to the sale of alcohol from packaged liquor outlets".
103. Submission from Mr Tony Schwartz to staff assisting the Authority dated 17 February 2015. In response to a request from Authority staff Mr Schwartz provided signed certificates of advertising completed by the Applicant and Mr Schwartz.
104. Email from staff assisting the Authority to Tony Schwartz, dated 2 June 2015. Mr Schwartz was provided with the submissions received from Police and OLGR. Mr Schwartz was also informed that should the Authority be minded to grant the Application, certain standard conditions usually 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 2:00am to 8:00am each day.

105. Submission from Mr Tony Schwartz to staff assisting the Authority dated 27 August 2015. First, Mr Schwartz provided consent on behalf of the Applicant to the conditions proposed by staff assisting the Authority in their email dated 2 June 2015.
106. Second, Mr Schwartz provided updated BOCSAR crime data for the Liverpool LGA and Casula as the data included within the Statement of Impact was dated as at September 2014. The new figures provided include tables of data and hotspot maps relating to alcohol related incidents in Casula.
107. Mr Schwartz contends that "little to no weight" should be given to the hotspot maps where "(a) it does not reflect the number of alcohol related offences occurring but rather where all offences are occurring (i.e. whether alcohol was a contributing factor or not); and (b) there are low numbers of incidents occurring (as is the case here)".
108. In respect of reported *alcohol related domestic assault* incidents in the suburb of Casula from April 2014 to March 2015, there were 10 incidents (at a rate of 64.1 per 100,000 population compared with a NSW rate of 128.9). Mr Schwartz submits that while the hotspot map is "irrelevant" for the reasons stated above, the Premises are not located within "any significant hotspot location where incidents are likely to occur".
109. In respect of reported *alcohol related non domestic assault* incidents in the suburb of Casula from April 2014 to March 2015, there were 3 incidents (at a rate of 19.2 per 100,000 population compared with a NSW rate of 153.2). Mr Schwartz submits that the Premises are not located within any hotspot location in respect of these types of reported incidents. Mr Schwartz submits that "in circumstances where 1 non-domestic violence assault occurs approximately every four months in Casula means the potential for this type of incident to occur in this location is very low".
110. In respect of reported *alcohol related assault police* incidents in the suburb of Casula from April 2014 to March 2015, there were 0 incidents in Casula.
111. In respect of reported *liquor offences* in Casula from April 2014 to March 2015, there was one reported offence. Mr Schwartz submits that this "low number is significant because if there was an issue in Casula, with say youths and drinking in public places, then it would be evident in this data". Mr Schwartz further submits that the rate per 100,000 population is also low at 6.4 compared with NSW at 171.9.
112. In respect of reported *alcohol related disorderly conduct* in the suburb of Casula from April 2014 to March 2015, there were 0 reported incidents in Casula.
113. In addition to these figures, Mr Schwartz provided tables of BOCSAR data relevant to the rate of alcohol related incidents recorded for the Liverpool LGA.
114. In respect of reported *alcohol related domestic assault* incidents in the Liverpool LGA from April 2014 to March 2015, the rate was 118.7 per 100,000 persons compared to the NSW rate of 128.9. Mr Schwartz argues that this is "low" compared to the State average.
115. In respect of reported *alcohol related non domestic assault* incidents in the Liverpool LGA from April 2014 to March 2015, the rate is 70.6 per 100,000 persons compared to the NSW rate of 153.2. Mr Schwartz submits that this rate is "significantly lower" than the State average.

116. In respect of reported *alcohol related assault police* incidents in the Liverpool LGA from April 2014 to March 2015, the rate is 12.0 per 100,000 persons compared to the NSW rate of 19.2. Mr Schwartz submits that this rate is "low" compared to the State average.
117. In respect of reported *liquor offences* in the Liverpool LGA from April 2014 to March 2015, the rate is 22.5 per 100,000 persons compared to the NSW rate of 171.9. Mr Schwartz submits that this rate is "significantly lower" than the State average and this is "important" because if there were an issue in the Liverpool LGA with "youths and drinking in public places then it would be evident in this data".
118. In respect of reported *alcohol related disorderly conduct* incidents in the Liverpool LGA from April 2014 to March 2015, the rate is 21.4 per 100,000 persons compared to the NSW rate of 94.5. Mr Schwartz submits that this rate is "significantly lower" than the State average.
119. On the basis of the above data, Mr Schwartz submits that:
- ... despite the number of existing bottleshops located in Casula and in the BC [Liverpool LGA]...the public residing in (or visitor to) this location are not causing any alcohol related concerns to this community.*
120. Mr Schwartz notes that previous decisions made by the Authority have placed "some emphasis" on the rates of malicious damage to property incidents in a given community. In this regard, Mr Schwartz notes that within the Liverpool LGA, the BOCSAR data confirms "a high number of offences are *unrelated to alcohol* (ie, 91.4 per cent of all incidents are unrelated to alcohol use)".
121. Mr Schwartz submits that this category of offences "should not be given significant weight in the assessment process of this Application where only a small number of incidents are attributable to alcohol use".
122. In support of this submission, Mr Schwartz notes that frequency in which these incidents occur within the Liverpool LGA and Casula are "also low" (at a rate of 748.3 per 100,000 population in the Liverpool LGA and 666.2 in Casula, compared with a NSW rate of 912.1).
123. Third, Mr Schwartz provided detailed responses to the submission from OLGR. In this regard, Mr Schwartz first notes that OLGR submitted that it is "of the view that the proposed venue would be a moderate risk operation". Mr Schwartz submits that OLGR has "not disclosed what evidence it bases that assessment upon" and submits that a packaged liquor licenced business "usually" returns a "low risk" assessment from OLGR. In support of this latter submission, Mr Schwartz notes the recent OLGR assessments made in response to BWS Nelson Bay, BWS Bulli, and BWS Bermagui.
124. Mr Schwartz submits that it is "logical and reasonable that all BWS Stores would return the same 'Premises Risk Assessment' because that assessment is based upon: licence type; patron capacity; extended trading; liquor accord membership; and other mitigation measures".
125. Mr Schwartz further adds that because the Premises will form part of the BWS branded stores, each BWS store "should logically return an identical 'Premises Risk Assessment'".
126. Mr Schwartz refers to the "Evaluation of the trial of the Environment and Venue Assessment Tool (EVAT) Report" issued by OLGR in July 2014 and specifically page 21 of the Report where it states "Allen Consulting has since advised that the risk rating

attached to packaged liquor licences should be raised from low to moderate (ACIL Allen Consulting, 2014)". Mr Schwartz submits that "it appears the findings in the Allen Report have been applied to this proposal".

127. Mr Schwartz notes that the findings of the Allen Report rely upon five papers when considering lifting the "Premises Risk Assessment" for packaged liquor licences from low to medium. Mr Schwartz submits that "to our knowledge no-one in the liquor industry was asked to comment on the applicability of the above five reports to packaged liquor licences in NSW, and neither report was independently reviewed by a qualified statistician as to the reliability of their findings for the purpose of lifting the 'Premises risk Assessment' from low to medium".
128. Mr Schwartz notes that while the purpose of this submission is not to challenge the findings of the Allen Report or OLGR on this issue, "it is inappropriate for the risk rating to be increased without the above first occurring".
129. In respect of the submission by OLGR that radial density of licensed premises in Casula is below the state average and the BOCSAR figures provided by OLGR for Casula, Mr Schwartz submits that it is "obvious" that OLGR "has accepted outlet density and alcohol related crime is low in Casula".
130. Mr Schwartz notes the BOCSAR figures provided within this submission above and submits that based on "proven circumstances that apply to Casula that population is consuming alcohol responsibly". Mr Schwartz adds that the Statement of Impact confirms outlet density is low in both the local and broader communities.
131. Mr Schwartz then submits that the observation by OLGR that Casula is "already well serviced" by the four existing packing liquor providers is "simply irrelevant" because the data provided in the Statement of Impact "confirms there is an under-provision of licensed premises" in the local and broader communities.
132. In respect of the submission by OLGR that the concerns of Police, Council and FACS are valid and shared by OLGR, Mr Schwartz submits that OLGR "seeks to rely on the submissions and comments made by others (without any consideration as to whether or not there is any foundation for the making of those submissions or comments)". Mr Schwartz adds that "clearly" OLGR "has not given sufficient weight to the data that applies to this proposal" and it is "uncertain if officers have attended the site of the New Store, or the existing licensed premises that they speak of in Casula".
133. Mr Schwartz submits that the OLGR Report "has been submitted in circumstances where the staff at the Compliance Branch has not checked the accuracy of what has been said by the respective authors".
134. Mr Schwartz submits that the concerns raised by the community submitters are "either exaggerated or unfounded". In support of this argument Mr Schwartz notes, inter alia, that the reference to Costco being a "warehouse" facility is "incorrect" as the store is only 400sqm and it does not carry the range of products lines as the Premises.
135. Mr Schwartz contends that the Dan Murphy's store in Casula is "obviously a destination store, whereas the New Store provides a convenience offer mainly to customers of the Supermarket". Mr Schwartz submits that Council is "clearly supportive of the Application by the simple fact that the Council granted the development application".
136. In response to OLGR's concerns regarding the Applicant's NPC that was issued in 2008 and the fact that the Applicant has been simultaneously associated with a number of

licences, Mr Schwartz provided an updated NPC (issued 20 February 2015) for the Applicant, He submits that the other licences held by the Applicant that are identified by OLGR are held in a *dormant capacity*.

137. Mr Schwartz adds that "not only does the Applicant hold several licences in a dormant capacity, and has done so for many years with the permission of the IL&GA (and previously the Licensing Court and Liquor Administration Board), but also on a number of occasions in the past the Compliance Branch has found the Applicant is a fit and proper person to hold a liquor licence".
138. In respect of OLGR's concern regarding the proposed opening time for the licensed business to operate on the Premises and the requirements of Section 11A of the Act, Mr Schwartz submits that the Applicant has specifically addressed this requirement in the Application and that Woolworths has previously addressed this concern in their "very comprehensive" letter to the Authority dated 9 May 2014 regarding the BWS Oran Park application.
139. Mr Schwartz submits that the Authority has "confirmed through its decisions that it is appropriate for Woolworths' retail liquor stores to operate before 10.00am on a Monday to Saturday".
140. In summary to the submission from OLGR, Mr Schwartz concludes that "little to no weight should be given to the views of the Compliance Branch that are based on – a concern that expresses a lack of need for the Licence; comments made by other submitters where staff have not attended to the site; where alcohol related crime is low in both Casual and the BC [broader community], despite packed liquor service; and a failure to provide any evidence to support their views".
141. Fourth, Mr Schwartz provided detailed responses to the second submission received from Police. In response to Police submissions in reply to Applicant's contention that the Premises will offer the convenience of a one-stop shopping centre, Mr Schwartz submits that the Police reply "fails to consider this proposal from the viewpoint of shoppers of this Supermarket" and that this view of Police is "not based on any credible evidence or previous findings of the Courts or the IL&GA".
142. Mr Schwartz adds that the Authority has, on a number of occasions in the past, acknowledged the public interest benefits of one-stop shopping. In support of this submission, the Applicant quoted a number of submissions made by the Authority in respect of the BWS Tamworth decision (Ref 1-25500002027). In addition, Mr Schwartz notes that the Courts have also acknowledged the public interest benefit of one-stop shopping and references decisions of the High Court and supreme courts of other states in this regard including, *Marie O'Sullivan v Ronald James Farrer and Anor* [1989] HCA 61, *Charlie Carter Pty Limited v Streeter and Male Pty Limited & Anor* (1991) 4 WAR, *Woolworths Limited v Director of Liquor Licensing* [2013] WASCA 227, and *Woolworths Limited v Fassina Investments Pty Limited* [2015] SASCFC 72.
143. Mr Schwartz submits that "the reasonable requirement for *one-stop* supermarket shopping will not be met at this Supermarket unless this Application is approved" and that if the Applicant is not approved, "a customer would need to travel a return round trip of approximately 900 metres from this Supermarket to the nearest outlet in Casula where they could purchase their packaged liquor requirements". Mr Schwartz argues that this is "clearly unreasonable and does not meet the expectations, needs and aspirations of the Casula community in 2015".

144. Mr Schwartz submits that the nearest *supermarket* that provides packaged liquor is the Coles Casula Supermarket and associated Liquorland which is "approximately 874 metres (straight line distance)" from the Premises. Mr Schwartz submits that "many residents will find this Supermarket more conveniently located compared with the Coles Supermarket" and that "many shoppers prefer to visit a standalone supermarket, such as the proposed Woolworths Supermarket, rather than a supermarket in a sub-regional shopping centre such as Casula Mall, where the Coles Supermarket is located". Mr Schwartz further submits that this Application "addresses the requirements of regular Woolworths shoppers" and that the Liquorland "cannot reasonably cater to these loyal Woolworths shoppers".
145. In respect to Police concerns regarding the "family friendly" environment that would be encouraged by *not* permitting the sale of alcohol at this Woolworths Supermarket, Mr Schwartz questions whether there is any evidence "of any nature in this Country that provides any finding that a Woolworths Supermarket associated with a BWS retail liquor store is not a 'family friendly environment'". Mr Schwartz repeats his submission that persons in the suburb of Casula are consuming alcohol responsibly.
146. In respect to Police concerns regarding the extent of actual employment opportunities that will be provided as a result of the granting of the Application, Mr Schwartz submits that it is "incorrect to dismiss employment opportunities surrounding this New Store because they are insignificant when compared with those surrounding the Supermarket". Mr Schwartz adds that there will be employment opportunities in the construction and fit-out of the store, as well as during the operational stage with three full-time staff and five part-time staff engaged at the Premises who (where possible) will be sourced from within the local community.
147. In respect to Police concerns regarding prevailing outlet density and "eligible voters" (persons under 18 years of age), Mr Schwartz submits that this comparison "means little when it is not compared to an average so that more meaning can be gained from it". Mr Schwartz compares the liquor outlet density figures (of hotels and packaged liquor licences) for Casula, Liverpool LGA and NSW with respect to the number of persons over 18 years of age and submits that "the data still shows support for increasing the density of licensed premises" in that the number of persons to each hotel/package liquor licence in Casula is 2,134 (compared with 2,756 in the broader community and 1,162 in NSW).
148. In response to concerns raised by Police as to its last place of consumption data and Police submissions regarding the role of packaged liquor in alcohol related crime in the home, Mr Schwartz submits that "what is relevant here is that only 10 incidents occurred in Casula in the last 12 months".
149. Mr Schwartz argues that "less weight must be given to the last place of consumption data due to it not identifying what category of offences it relates to" and the Police failure to identify the geographical area the data relates to and that it is "not known" if that data applies to Casula.
150. Mr Schwartz further argues against reliance upon *last place of consumption* data as it "merely indicates where the last drink was consumed, not where the majority of alcohol, in a particular drinking session, was consumed".
151. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) in 2011, indicating that the state suburb of Casula is ranked in the fifth decile on the Index of Relative Socio-economic Advantage and Disadvantage for all

suburbs in NSW. The Liverpool LGA falls within the sixth decile for all LGA's in NSW (with a ranking of 10 being the most advantaged).

152. 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 Casula, Chipping Norton, Glenfield, Hammondville, Liverpool, Lurnea, Moorebank, Mount Pritchard, Prestons, and Warwick Farm. This data is identified in further detail below.
153. NSW Bureau of Crime Statistics and Research (BOCSAR) crime data for the Liverpool LGA regarding incidents of liquor offences, malicious damage to property, assault (domestic assault) and assault (non-domestic assault) offences for the calendar year 2014.

LEGISLATION

154. 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.*

155. 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.

156. 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

157. 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.

158. 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.*

159. 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.

SUMMARY OF APPLICANT CASE ON SOCIAL IMPACT

160. Noting the Applicant's definition of the "local community" as encompassing several suburbs comprising the expected trade catchment area of the new liquor business (a definition that the Authority does not accept) and that the Applicant's definition of the "broader community" as the Liverpool LGA, within the Applicant's Statement of Impact dated 27 January 2015 and provided with the CIS, the Applicant made the following submissions:

There is an under-provision of licensed premises in Casula and in the LC [local community] and the BC [broader community] of the New Store. Further, the existing licensed premises in Casula (see Attachment 5) cannot reasonably cater to the requirements of shoppers to this supermarket. Shoppers of this Supermarket are reasonably entitled to modern, well-stocked bottleshop facility as part of their daily, weekly or monthly shop.

[The Applicant provided BOCSAR crime statistics in respect of Casula for the 12 month period ending September 2014 in regards to alcohol related domestic violence assaults, non-domestic violence assaults and other alcohol related incidents and submitted that these figures are "low" or "very low" when compared to the NSW rates. The Authority notes that as outlined above, the Applicant provided updated BOCSAR data in their submission dated 27 August 2015]

In the Authority's own decisions where it has refused liquor applications, the concern relates to the new venue contributing 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 Applicant provided BOCSAR crime statistics in respect of the Liverpool LGA for the same period and offence categories as above and submitted that these figures are "low" when compared to the NSW rates and that it is "clear that the Application cannot adversely impact on the above rates".]

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 91% 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 to this proposal by any neighbouring premises or the Department of Health. The F&CS and the TR&MS, while providing correspondence, are also not opposed to the Application. While the Council and the Police have raised some concerns with it, those matters have been considered and addressed by the Applicant's document titled Response to Submissions.

The SEIFA scores for Casula are mixed, however evidence in this document confirms that a low score does not necessarily reflect a high propensity for alcohol related harm. Indeed, despite packaged liquor service in Casula, the evidence is quite clear that the public have demonstrated an ability to consume alcohol responsibly.

...

It is obvious from the physical set up and the nature and extent of alcohol being sold from existing venues (see Attachment 4) in the BC that the public attending Casula are entitled to a modern, contemporary bottleshop facility as part of their shopping experience at this Supermarket. This is in circumstances where the Licence is unlikely to contribute to any social or amenity type problems. It is the Applicant's submission that the grant of this Application would not impact negatively upon the amenity of the area and that the benefits to the community outweigh any potential negatives.

...

In view of the mitigation measures proposed, together with Woolworths' established monitoring systems to ensure compliance, the New Store obviously represents a low level of potential risk to cause any social detriment to the community, including any future generations.

The impacts relevant to this proposal have been balanced as shown by this document. This balancing of identifiable impacts relevant to this Application confirms the overall social impact of the Application will not be detrimental to the well-being of the LC or BC. As such the test to be satisfied by Section 48 of the Act has been satisfied and in these circumstances the Authority is in a position to approve this Application".

REASONS

161. 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 that relevant consultation and advertising requirements of the legislation were observed.
162. 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.
163. The Authority notes that the legitimate concerns raised by OLGR as to the ageing 2008 NPC provided by the Applicant and concerns that the Applicant is simultaneously licensee for several Woolworths owned liquor licences has been addressed by the Applicant's provision of an up to date NPC and the Applicant's advice that the other licensed premises are dormant, which the Authority accepts.
164. The Authority is satisfied, for the purposes of section 45(3)(b), that plans and policies with respect to 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.
165. 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 DA 1349/2012 issued by Council on 4 September 2014 and provided by the Applicant.

Overall Social Impact

166. 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 Casula and the broader community comprises the Liverpool LGA.
167. 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

168. 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.
169. For the purposes of this Application, the Authority is satisfied that the relevant "local community" comprises the community located within the State suburb of Casula while the "broader community" comprises the Liverpool LGA.
170. The Applicant has posited a local community that extends beyond the suburb of Casula by reason that this accords with the expected trade catchment area of the supermarket identified by the Applicant's consultant.
171. The Authority accepts that the supermarket may well have a trade catchment area that extends beyond the suburb in which it is located, but in the absence of a statutory definition of "local community" and for the sake of administrative consistency, the Authority finds the relevant local community to comprise the suburb in which the actual premises is situated. This is a preferable formulation to the Applicant's alternative formulation of local community which encompasses several suburbs and is cast so broadly as to lose a genuinely "local" focus or character.

Positive Benefits

172. The Applicant has contended in the Application and CIS that granting this Application will provide benefits to the community by way of:
- a) There being an under-provision of licensed premises in Casula and the broader community
 - b) Improved choice and convenience
 - c) Meeting the 'one-stop' supermarket shopping requirements
 - d) Creation of employment opportunities at both the construction and operation phases
 - e) Contributions from the Premises to local groups and organisations.
173. The Authority notes the contention made by the Applicant in the 'Woolworths Operating Experience' document noted above where it is stated that the Premises "will yield a significant social and economic benefit for the LC [local community] by introducing competition in the sale of packaged liquor from liquor stores operated by other companies".
174. 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 Supermarket.

175. The Authority is satisfied that to a certain extent the granting the licence would be consistent with the "expectations, needs and aspirations" of shoppers at this supermarket for the purposes of statutory object in section 3(1)(a) of the Act in respect of those shoppers who wish to engage in "one stop" liquor shopping while conducting grocery shopping at the supermarket. However, the Authority is satisfied, given the presence of other packaged liquor stores located in reasonable proximity to the Premises (according to Authority licensing records), that this cumulative convenience benefit, when assessed on a local or broader community wide basis, is objectively reduced by the four other packaged liquor licenced premises within the local community alone, including a major Dan Murphy's outlet, a Costco outlet and a Cellarbrations outlet only 400 metres away.
176. The Applicant has not provided a great deal of positive evidence or information establishing the nature or extent to which granting this licence in this location will advance the expectations, needs and aspirations of the community.
177. There are no submissions from residents or business owners in the local or broader community in support of the proposal. While the Applicant provides some general market research conducted by BWS with regard to New South Wales, there is no independent evidence establishing the extent to which expectations, needs and aspirations of *these* communities are not being met, and would be met by licencing a business of this type in this location.
178. Furthermore, some community submissions suggest that granting the Application may not be consistent with community expectations, needs and aspirations with respect to the availability of packaged liquor at this location. The Authority gives weight to the submission from Council, the jurisdictional representative body of the local and broader community, which supports the operation of the supermarket but raises concern with the social impact of licensing of the supermarket.
179. Council expresses detailed concerns as to the increasing density of licensed premises in Casula, including but not limited to packaged liquor licensed outlets and the prevailing levels of local alcohol related crime data presented to Council by Police during the DA process. The Authority further notes the submission by Police that not licensing the supermarket would also make the supermarket a more "family friendly" location.
180. The Authority accepts as generally credible the proposition that a supermarket that is not licensed is more likely to be "family friendly" than a supermarket with a substantial liquor store, in that a supermarket or shopping centre is less likely to attract a minority of patrons who abuse packaged liquor or engage in alcohol related misconduct.
181. On the material before it, the Authority finds that some additional measure of convenience will flow to shoppers in the local and broader community who attend this supermarket, but when assessing the extent to which the Application is consistent with this community "expectations, needs and aspirations" (being an object of section 3(1)(a)) the submissions from Council and Police are contra indicative. However, the extent of convenience benefits when assessed on a local community wide basis are objectively reduced by the range and availability of packaged liquor elsewhere in the local community – including the Chambers Cellars premises 400 metres away.
182. As for the contended employment benefits, the Authority considers it generally credible to claim that the new business will provide some short term employment opportunities while the fit out of the Premises is underway and long term employment through staff of the business. However, the extent of any commitment to actually hire the proposed three full-time and five part-time staff from within the local or broader community has been qualified.

183. In the absence of a clear and certain commitment to employ specified numbers of people from the local and broader community and in circumstances when the Applicant could recruit its staff from within, or without, the local or broader communities, less weight is given to any ongoing community benefit of employment that is contended to flow from the exercise of this licence on the material before the Authority.
184. The Authority notes the Applicant's submission that the granting of the Application will result in an "ability for the New Store to contribute to local groups and organisations". While the Authority finds it generally credible for the Applicant to refer to Woolworths program of community support, that submission has not been substantiated or even specified to any great extent with regard to the relevant communities. The Authority would need clarity as to the nature and timing of such benefits for the local and broader community to give weight to this part of the Applicant's case.
185. Notably, the Applicant contends that the new business will provide no downward pressure on pricing. That is a remarkable proposition given that *prima facie*, the Authority would expect that the arrival of a new and substantial operation into a local market that is not marked by particularly high prevailing licence density would more likely than not bring or prompt some competitive response, even if pricing for BWS outlets is fixed centrally. The Authority would ordinarily expect a rational objective of the Applicant and certainly of established local competitors would be to compete for market share.
186. Nevertheless, the Authority is largely in the hands of an applicant to identify and satisfy the Authority as to the community wide benefits (as distinct from private commercial benefits) that will flow from granting a licence.
187. Accepting, for the purposes of this decision, that the Applicant does not intend to impose downward pressure upon pricing, it is difficult for the Authority to see how the new business will provide benefits by way of developing the local liquor industry for the purposes of section 3(1)(b) of the Act, particularly when the Applicant also contends that it will not be introducing any new product lines that are not otherwise available and given the incumbent availability of retail liquor licensed premises in the local community alone, including four local licensed premises (one of which being a "big box" operation in Dan Murphy's), Costco and two other mainstream packaged liquor licensed premises.

Negative Impacts

188. The Authority accepts that over time there will more likely than not be some contribution from the liquor sold at this Premises to alcohol related crime, disturbance or adverse impact on amenity from a minority of customers who abuse packaged liquor that is purchased from the Premises.
189. The Authority considers it more likely than not that 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 through alcohol related litter or engaging in alcohol fuelled crime and disturbance in the home. Of those types of concerns that are typically associated with the abuse of *packaged* liquor, alcohol related domestic violence has presented as the main cause for concern in this case – there being little by way of evidence or information as to localised amenity problems associated with the shopping centre itself.
190. 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 the rate for the Liverpool LGA for certain alcohol related incidents is below the state average rates for New South Wales as a whole.

191. The report indicates that in the Liverpool LGA, the rate per 100,000 population of *alcohol related assault police* incidents was 13.6 compared with a NSW total of 22.6. The rate per 100,000 population for *alcohol related domestic violence assault offences* was 101.0 compared with a NSW total of 137.2. The rate of *alcohol related non-domestic violence assault offences* was 84.2 compared with a NSW total of 181.0.
192. In relation to the suburb of Casula, BOCSAR crime mapping data for the period from April 2014 to March 2015 reveal that the Premises is situated in a location of some prevailing relative sensitivity in terms of the concentration of prevailing crime impacts, in that within the Liverpool LGA, the Premises is situated within a low to medium concentration "hotspot" for the occurrence of *domestic violence assault*. Furthermore, though not directly bordering the Premises, there is a high concentration hotspot for the occurrence of *domestic violence assault* further to the north of the suburb of Casula.
193. The Authority notes the Applicant's submission that the hotspot maps should be "disregarded" when there are low numbers of incidents occurring (as here where there were 10 recorded incidents) but the Authority rejects that submission. It is not able to rationally dismiss these ten recorded alcohol related domestic violence incidents in the local community over a 12 month period as insignificant.
194. The Authority notes the Applicant's submission that the local community of the Premises should be defined by the trade area of the Premises and as per the map provided with the Application, the Applicant contends that the expected trade area for the proposed new outlet includes the State suburbs of Casula, Prestons and Edmondson Park. While the Authority has defined the local community as the suburb of Casula, it notes that those neighbouring suburbs are within the expected trade area of the business and there is a large high concentration hotspot for the occurrence of *domestic violence assault* in the suburb of Prestons. This is an adverse factor when considering the impact the business may have on the broader community.
195. Hotspot maps are useful in indicating potential areas of relative concern from a social impact perspective, particularly when assessing the *location* of a proposed new business and the community that it is likely to service, and whether sales from the business are likely to impact communities that are already exposed to some concentration of alcohol related crime and disturbance, particularly alcohol related domestic violence, in which packaged liquor plays a role.
196. The new licensed business can be expected to service, along with the incumbent licensees, areas that are already somewhat sensitive for the occurrence of domestic violence, albeit within the context of a broader community where the total rate of alcohol related domestic violence is below the state wide rate.
197. Of particular concern to the Authority is the local Police data regarding the last place where alcohol was consumed in incidents of alcohol related crime recorded by the local area command during February 2014 to February 2015.
198. This data is provided at the level of the Local Area Command. While noting that the LAC extends beyond the suburb of Casula alone and covers other areas within the broader community, that data substantiates Police concern as to the role played by *packaged liquor* in the occurrence of alcohol related domestic violence, most of which occurs in the home. It substantiates the likelihood of liquor supplied by this substantial new outlet playing a role, along with the liquor supplied by the incumbent licensees authorised to sell takeaway liquor, in alcohol related violence in the home in the relevant communities.

199. While the Premises is not located *within* a hotspot for the occurrence of *non-domestic violence assault*, it is located within a low concentration hotspot for the occurrence of *malicious damage offences* (noting the difficulties cautioned by BOCSAR in attributing alcohol to reported property offences where there is often no perpetrator identified).
200. The Authority is satisfied, on the basis of the ABS SEIFA data for the local community, that the suburb of Casula is neither particularly advantaged nor particularly disadvantaged, with some indication of moderate relative disadvantage.
201. The suburb is ranked in the fifth decile on the Index of Relative Socioeconomic Advantage and Disadvantage (IRSAD) for all suburbs in NSW and in the fourth decile in the Index of Relative Socio-economic Disadvantage. The local community ranks in the fifth decile on the Index of Education and Occupation. The socio economic profile of the local and broader community is not decisive either way. It neither indicates particular social vulnerability nor a relatively robust, educated and prosperous community.
202. The Authority notes that some concerns regarding the prevailing outlet density in the local and broader communities have been raised by OLGR, Council and Police. The Applicant counters that the density of licensed premises in Casula and the Liverpool LGA is lower than the NSW average.
203. The Authority is satisfied that within the broader community of Liverpool LGA as a whole, the licence density of *packaged liquor* licenced premises is considerably lower than NSW rates at 7.22 per 100,000 persons of population compared to a NSW rate of 32.85.
204. The Authority is satisfied that within the broader community of Liverpool LGA, the licence density of hotel licenced premises is significantly lower than NSW rates at 5.55 per 100,000 persons of population compared to a NSW rate of 30.36.
205. At the level of the local community, the Authority is satisfied, on the basis of Authority licensing data and the Police submission that there are currently five packaged liquor or hotel licensed premises being:
- a) *Chambers Cellars*, located 400 metres from the Premises
 - b) *Cross Roads Hotel*, located approximately 1.3km from the Premises
 - c) *Liquorland*, located approximately 1.4km from the Premises
 - d) *Dan Murphy's*, located 1.3km from the Premises
 - e) *Costco Wholesale*, located 1.8km from the Premises).
206. The Authority notes that the *Dan Murphy's* outlet in Casula is a very extensive operation in terms of its scale and the range and quantity of liquor products available. While not in the same shopping centre, the Chambers Cellars business is located only 400 metres away, within walking distance of the Premises.
207. The Authority accepts, on the basis of the Police submission that in addition to the above mentioned 5 licensed premises located within Casula alone, that within only a 5km radius within the broader community there are 13 further packaged liquor or hotel licensed premises authorised to sell takeaway liquor for off premises consumption. These are:
- a) *Collingwood Hotel*
 - b) *Lurnea Liquor*
 - c) *Leppington Liquor Supply*
 - d) *Prestons Village Liquor*
 - e) *ALDI Prestons*
 - f) *ALDI Liverpool*
 - g) *Luddenham IGA*

- h) *BWS Liverpool*
- i) *Dan Murphy's Warwick Farm*
- j) *BWS Moorebank*
- k) *BWS Miller*
- l) *Dan Murphy's Carnes Hill and*
- m) *Railway Hotel Liverpool.*

208. The Authority notes that at the time of the Application, the *Chambers Cellars* business was yet to open. At the time of this decision letter the business has recently commenced operation. As such, the impact of the operation of this recently licensed business upon the local or broader community is not yet known. While licence density is not high, the Authority accepts that the local community is already well serviced by a range of liquor outlets and this reduces the extent of benefits offered by a new business that on the Applicant's account won't be bringing any competitive pressure to bear or new product lines.
209. The Authority does not accept that the local community is "under provisioned". The Authority considers that it would not be prudent, from a harm minimisation perspective, and when considering the statutory object of the *balanced* development of the industry for the Authority to grant another packaged liquor application in this location.
210. As for the *location* of the Premises, the BOCSAR crime data is mixed. Rates of domestic assault at the level of the broader community are lower than state average but there are areas of relative concentration of domestic violence, particularly in immediately neighbouring suburbs, that the business may be expected to service. The location of the Premises is not particularly problematic in terms of documented problems occurring at the site of the Premises or near the shopping centre in which it will be located, but it is of concern, when assessing social impact, by reason of the likely residential areas that sales from this business will service.
211. The *scale* of the proposed licensed business currently under consideration is 182 square metres. This is a substantial licensed premises exceeding many other stand-alone packaged liquor licensed premises in New South Wales, particularly those associated with supermarkets.
212. This is a factor that objectively increases the capacity for *this* business to contribute, along with the incumbent licensees, to any existing social problems associated with the abuse of packaged liquor in the local community. The size of the premises, though an exacerbating factor, is not the critical issue.
213. Furthermore, the *proposed licensed trading hours* sought by the Applicant are extensive – opening early and trading to the limit of night time trading hours that are permissible in New South Wales on seven nights per week – from 8:00am to 10:00pm Monday through Saturday, and from 10:00am to 10:00pm on Sunday. This is a substantial adverse factor increasing the scope for *this* licensed business to contribute to adverse alcohol related impact in the local or broader communities over time.
214. The Authority accepts that the Woolworths Group has a good regulatory record and accepts that its internal business policies described in the Application will be in place. The Authority does not consider it likely that the Applicant's staff would knowingly supply liquor to persons who are intoxicated or known to engage in alcohol related misconduct, but the staff will only be in a position to meaningfully monitor or respond to issues arising at the point of sale and within the shopping centre.

215. The Authority has taken into account that the location of the Premises within a shopping centre provides certain benefits in terms of surveillance and security that other street front retailers may not. The Authority further notes security measures such as the CCTV system and a back to base security alarm system. The Authority accepts that the licensee will participate in the local liquor accord and notes that it has agreed to the imposition of a condition to that effect and other licence conditions aimed at harm minimisation.
216. There is insufficient evidence before the Authority to find whether the addition of another licence in this location will increase, decrease, or make no difference to the level of liquor consumed in the local or broader communities. Nevertheless, even assuming that the business does no more than cannibalise existing local or broader community demand, the location, scale and trading hours proposed give rise to moderate concern as to the extent to which *this* business will *contribute*, along with the incumbent licensees, to current issues relating to alcohol related violence in these communities.

CONCLUSION

217. Having considered together extent of positive benefits found by the Authority alongside the concerns arising from the crime data for the local and broader communities, the Authority is not satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application would not be detrimental to the well-being of the local and broader community.
218. 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

DATED 30 / 11 / 2015