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Dear Mr Cusack

**Application for Packaged Liquor Licence
ALDI – Lake Haven**

I refer to an application received by the Independent Liquor and Gaming Authority (Authority) on 9 September 2014 (Application) made by ALDI Foods Pty Limited (Applicant), seeking the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act).

The licence is sought for a proposed new internal packaged liquor department to be situated within an existing ALDI Supermarket located within the Lake Haven Shopping Centre at the corner of Goobarabah Avenue and Lake Haven Drive, Lake Haven (Premises).

Processing of the Application was delayed by reason that the Applicant's solicitors requested that the Application be considered concurrently with a separate application within the same shopping centre complex. The Authority first considered the Application at its meeting on 24 June 2015, but the Applicant was given further time to respond to a paper recently published by the NSW Bureau of Crime Statistics and Research dated February 2015, the latest crime research for the Wyong Shire Local Government Area and further research noted in Authority *Guideline 6*.

Following the receipt of a further round of submissions on behalf of the Applicant dated 17 August, 2015 the Authority again gave consideration to the Application at its meeting on 28 October 2015 and decided, pursuant to section 45(1) of the Act, to *refuse* the Application. Authority staff provided informal advice of this outcome in an email dated 2 November 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. 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.

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

Yours faithfully

- 7 DEC 2015

Micheil Brodie
Chief Executive

STATEMENT OF REASONS

INTRODUCTION

1. On 9 September 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by ALDI Foods Pty 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 a small internal packaged liquor department to be situated within an existing ALDI Supermarket located within the Lake Haven Shopping Centre at the corner of Goobarabah Avenue and Lake Haven Drive, Lake Haven, NSW 2263 (Premises).
3. The proposed licensed area will comprise an area of less than 45 square metres. The liquor sales area of the Premises will not be permitted to be open for trade at any time when the ALDI Supermarket is not trading.
4. The Application seeks licensed trading hours from 8:00am to 8:00pm on Monday to Friday, 8:00am to 7:00pm on Saturday and 10:00am to 7:00pm on Sunday.
5. The Application also seeks that the 6-hour daily closure period required by section 11A of the Act be fixed at between 2:00am and 8:00am, to allow the licensed area of the Premises to open during the same time that the ALDI Supermarket is open for trade.
6. The Authority considered the Application at its meeting on 28 October 2015 and decided to *refuse* the Application, pursuant to section 45(1) of the Act.
7. Authority staff informally notified the Authority's decision via email dated 2 November 2015. This letter serves to provide a formal record of the decision to refuse the Application.
8. 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 following 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

9. Before the Authority was the Application, the accompanying community impact statement (CIS), further submissions and other relevant material as follows:

The Application Material

10. Liquor Licence Application Form dated 9 September 2014. This Form discloses that ALDI trades in Australia as a limited partnership under the business name "ALDI Stores". The ALDI Stores Limited Partnership is registered in New South Wales (Registered No. PT0022328) and the partners of the ALDI Stores Limited Partnership are ALDI Pty Limited (ACN 086 493 950) and ALDI Foods Pty Limited (ACN 086 210 139). The property owner of the Premises is identified as Colonial First State Asset Management Pty Limited.
11. Attached to the Liquor Licence Application Form are copies of stakeholder notices dated 9 September 2014 signed by the contact person on behalf of the Applicant,

Mr Andrew Tindal, Managing Director of ALDI Foods Pty Limited, notifying the Application to various stakeholders required by the liquor legislation including the Tuggerah Lakes Licensing Unit of NSW Police, the Wyong Shire Council and the site notice placed on the Premises.

12. Category B CIS Form dated 8 September 2014. The CIS Form was accompanied by a "list of stakeholders" and "special interest groups" consulted on the Application and a map of the alcohol free zone (AFZ) bounded by Lake Haven Drive and Goobarabah Avenue that is currently in force in relation to the Lake Haven Shopping Centre.
13. "Additional Information – Application and Community Impact Statement" dated 8 September 2014 prepared by the Applicant's solicitor, Mr Grant Cusack of Hatzis Cusack Lawyers. This 11-page report addresses, *inter alia*, the proposal for the new liquor sales area; the type, scale and location of the proposed new licensed premises; liquor licence density for the local and broader communities (as defined by the Applicant); Socio Economic Indexes for Areas (SEIFA) data as published by the Australian Bureau of Statistics (ABS) for the broader community of the Wyong Shire local government area (Wyong LGA); measures to reduce the potential for alcohol related harms; the cumulative social impact of the proposal and the contended benefits flowing from granting the Application.

[The Authority notes that the Applicant refers to the document entitled "How to prepare a Category B CIS" which provides that the local community 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. This can include people who live and work in the area. This will include persons or groups who may utilise the services and facilities of the proposed licence and generally persons who may benefit or suffer harm as a consequence of the application being approved". The Applicant contends, on this basis, that the relevant "local community" of this proposed new ALDI liquor sales area can be considered to be the State suburbs of "Lake Haven, Gorokan, Kanwal, Charmhaven, Woongarra and Hamlyn Terrace". The broader community posited by the Applicant is the Wyong LGA. However, the Authority's finding that the *local community* comprises the State suburb of *Lake Haven* is discussed below.]

14. "Additional Information – 6-hour Closure Period" dated 8 September 2014 prepared by Mr Cusack. This 6-page report addresses the proposed mode of operation of the new liquor sales area; the demonstrated or likely needs of patrons; the interests of the local community (as defined by the Applicant) in relation to the proposal; an assessment of the proposal in light of the statutory objects and considerations of the Act and the Authority's policy position regarding the grant of similar applications for proposed new packaged liquor licensed premises.
15. Notice of Determination of Development Application No. DA/964/2013 issued by Wyong Shire Council (Council) dated 24 February 2014 (DA). This document records the grant of development approval for "alterations and additions to an existing shopping centre including fit-out and use as a shop (Supermarket - ALDI)". The approved hours of use of the Premises are from 7:00am to 9:00pm on Monday to Saturday and 8:00am to 9:00pm on Sunday. This document also records conditions of the DA pertaining to, *inter alia*, the regulation of noise pollution, waste disposal and operational requirements.
16. ALDI Liquor NSW *House Policy for the Responsible Service of Liquor*. This one and a half page document states that its purpose is to "minimise the likelihood of negative impacts and ensure compliance with the liquor laws". The *House Policy* addresses, *inter alia*, prevention of persons under the age of 18 from purchasing liquor or having liquor purchased for them, primarily by requesting ID in the form of a current driver's or rider's

licence, a current passport or NSW Photo Card from any person who appears to be under the age of 25; refusing service to any person who appears to be intoxicated; ensuring that liquor is not consumed on the Premises or displayed outside the licensed area; and ensuring that all staff involved in the sale and supply of liquor are RSA certified. The *House Policy* also states that "all required signage will be prominently displayed in the correct locations" and that a CCTV surveillance system will be installed on the licensed area of the Premises.

17. ALDI Liquor NSW *Management Policies and Strategies*. This 2-page document states that the ALDI group of companies is "committed to making a contribution to the community in which we operate and recognise the need to act upon our social obligations to our customers and the wider community". Management policies and strategies include requiring operation within approved trading hours only; use of CCTV surveillance; adequacy of staffing levels; staff training including ensuring staff awareness of NSW liquor legislation, signage, and prevention of intoxication and sale of alcohol to minors; and cooperation with "various interested persons" including licensing authorities, local Police, community organisations and transport authorities.
18. Australian Securities and Investment Commission (ASIC) Current Organisation Extract dated 30 July 2014 for ALDI Pty Limited and ALDI Foods Pty Limited, disclosing that the directors of both of those companies are Mr Thomas Jason Daunt and Mr Stefan Kopp.
19. ASIC Current Organisation Extract dated 27 August 2014 for Colonial First State Asset Management Pty Limited, the corporate owner of the Premises, disclosing that the directors of that company are Mr Robert Edbrooke Passmore and Mr George Karabatsos.
20. Floor Plan for the Premises accompanying the Application, which is a diagram outlining the proposed licensed area of the new liquor sales area on the Premises.

Submission from New South Wales Police

21. Submission from Senior Constable David Zappas attached to the Licensing Unit, Tuggerah Lakes Local Area Command (LAC) of the NSW Police Force (Police) dated 8 October 2014 objecting to the Application.
22. Police contend that the current number of licensed premises within the Tuggerah Lakes LAC is "of a growing concern to Police and is considered to be a contributing factor to alcohol related crime and associated harm".
23. Police contend that there are 35 licensed premises located within a 5klm radius of the Premises, with 21 of the 35 currently active licences being authorised to supply packaged liquor.
24. Police contend that there are currently two other applications for packaged liquor licences to be situated within the Lake Haven Shopping Centre in train before the Authority, to which Police also intend to object.
25. Police submit, on the basis of localised data sourced from the New South Wales Police Computerised Incident Dispatch System (CIDS) that during the period from 1 July 2013 to 30 June 2014, there were 575 reported incidents of anti-social behaviour and property theft for the Lake Haven Shopping Centre and surrounds.
26. Police submit that the "majority" of these incidents were recorded in relation to conduct involving assaults, graffiti, malicious damage to property, move on directions and thefts.

27. Police contend that Goobarabah Avenue and Lake Haven Drive border the Lake Haven Shopping Centre and are currently designated as AFZ.
28. Police contend that the car park situated in front of the Gravity Youth Centre, Lake Haven Cellars bottle shop and the Lake Haven YMCA Recreation Centre located outside the Shopping Centre also fall within an AFZ.
29. Police contend, on the basis of crime mapping data sourced from the NSW Bureau of Crime Statistics and Research (BOCSAR) that the Lake Haven area is a "hotspot for crime".
30. Police submit that the incidence of alcohol related assaults, domestic assaults, theft, malicious damage to property, harassment and threatening behaviour in the Lake Haven area is "well above the NSW state average".
31. Police refer to the 2009 OLGR *Social Profile Report* for the Wyong LGA (which the Authority notes is now out of date and of value for historical purposes only). Police submit on the basis of that data that the Lake Haven area is classified as the "most disadvantaged" with regard to families with low incomes, low skilled occupations and high rental rates. Police submit that the data in this report also highlights that the rate of incidents involving persons driving whilst under the influence of alcohol is "well above the NSW State average", with alcohol related hospitalisations for the Wyong LGA also higher than the State average.
32. Police submit that data sourced from the NSW Police Alcohol Related Crime Information Exchange (ARCIE) database indicates that during the period from January 2013 to December 2013, 59 per cent of all recorded alcohol related incidents occurring in the Toukley sector within the Tuggerah Lakes Local Area Command (Tuggerah LAC) occurred in circumstances where alcohol was recorded as having been "last consumed" in *homes or private residences*, with the alcohol in these cases having been purchased as takeaway sales from licensed premises.
33. Police submit that this local trend regarding the involvement of packaged liquor in these incidents is of "high concern" to local Police. Police submit that last place consumed data identifies the link between packaged liquor outlets and alcohol related harm.
34. Police further submit that the Tuggerah LAC has "consistently had one of the highest rates of domestic violence incidents in the State, many of these being alcohol related".
35. With regard to the location of the Premises, Police contend that the area of the Lake Haven Shopping Centre and surrounds is:

...the most heavily policed area in the Tuggerah Lakes Command due to the high number of anti-social incidents in the area consisting of malicious damage, hooligans, intoxicated persons, stealing and domestic violence.
36. Police contend that the Tuggerah LAC "regularly conducts anti-social behaviour taskings of the area, the majority being in the evenings" and that such taskings resulted in the recording of 114 incidents on the NSW Computerised Operational Policing System (COPS) database between February 2012 and January 2013.
37. Police further contend that "many youths congregate in and around the Shopping Centre and Police are regularly called to disperse them due to anti-social behaviour" and that "secondary supply to youths is also a big problem in the area".

38. Police submit that granting this Application "will not be in the best interest of the overall community or have a positive consequence". Police make this submission on the basis that there are already "sufficient" packaged liquor outlets in the area to supply the local community.
39. Police contend that the operation of a new ALDI liquor sales area on the Premises will "provide discounted alcohol which would allow the customers to access greater quantities and would likely encourage more incidents of anti-social behaviour".
40. Police submit while they "understand that competition in retail is healthy, the race for liquor sales supremacy should not override public interest".
41. Police contend that there is a high school, youth centre and skate park located "next door" to the Lake Haven Shopping Centre, and a retirement village nearby. Moreover, Police contend that the "surrounding streets [to the Lake Haven Shopping Centre] are AFZs".
42. Annexure 1 to the Police submission – this is a list of all licensed premises located within 5klms of the Premises. The list specifies the following:
 - a) *Ten packaged liquor licensed premises*, being Lake Haven Cellars; Liquorland Lake Haven; Liquorland Gorokan; Kanwal Cellars; ALDI Blue Haven; East Toukley Cellars; ALDI Toukley; Liquorland Toukley; Budgewoi Cellars; and Liquorland Budgewoi
 - b) *Four hotel licensed premises*, being Lake Haven Motor Inn & Apartments; The Dam Hotel; Northlakes Tavern; and Coast Hotel Budgewoi
 - c) *Seven registered club licensed premises*, being Wallarah Bay Recreation Club; Wyong Rugby League Club; Toukley RSL Sub-Branch Club; Toukley Golf Club; Canton Beach Sports Club; Budgewoi Soccer Club; and Halekulani Bowling Club
 - d) *Fourteen other licensed premises*, being Pizza Hut Lake Haven; Golden Lake Chinese Restaurant; Kam's Court Restaurant; The Secret Café; Onni's Thai; Canton Restaurant; Toukley Indian Restaurant; Toukley Chinese Restaurant; N Thai Sing Toukley; Beachcomber Resort and Conference Centre; Alberto's Italian Restaurant; Simply Sicilian Pizzeria; Silver Moon Restaurant; and La Bocca Woodfire Pizzeria & Restaurant.
43. Annexure 2 to the Police submission – Police analysis of the recorded anti-social behaviour and property theft incidents for the Lake Haven Shopping Centre and surrounding area for the period from 1 July 2013 to 30 June 2014, sourced from the CIDS database.
44. This data indicates that there was a total of 575 incidents recorded on the COPS database for the identified event categories of:
 - a) *Assault* (35 incidents)
 - b) *Break and Enter* (8 incidents)
 - c) *Crowd Control/Management* (1 incident)
 - d) *Located Vehicle/Vessel* (4 incidents)
 - e) *Malicious Damage* (124 incidents)
 - f) *Powers – demand name/address* (1 incident)
 - g) *Powers – move on* (52 incidents)
 - h) *Powers – person search* (178 incidents)
 - i) *Powers – vehicle search* (22 incidents)
 - j) *Resist/hinder/assault officer* (2 incidents)
 - k) *Robbery* (2 incidents)
 - l) *Sexual offence – indecent assault* (2 incidents)
 - m) *Stealing* (124 incidents)

- n) *Stolen vehicle/vessel* (5 incidents)
 - o) *Street Offence* (15 incidents).
45. According to Police, this data indicates that:
- a) 248 of the 575 recorded incidents concerned malicious damage and stealing offences
 - b) 255 of these 575 incidents were recorded as occurring on locations that fell within the Police designated premises sub-type of "Shopping Complex"
 - c) the "hot" (or most prevalent) day of the week for the occurrence of anti-social behaviour and property theft incidents occurring within the Lake Haven Shopping Centre and surrounds was Friday, when 137 of the 575 incidents were recorded as occurring
 - d) the "hot" (or most prevalent) time of day for the occurrence of these 575 incidents was from 12:00 midday to 3:00pm (140 incidents), followed by 9:00am to 12:00 midday (121 incidents).
46. Police further submit that during the period from 1 July 2013 to 30 June 2014, a total of 165 incidents were recorded on the CIDS Police database (recording the *dispatch* of Police to an event) within the nominated categories. The majority of these events were in the event category of "Check *bona fides*" (99 incidents). The complete CIDS records for this time period are also provided by Police.
47. Annexure 3 to the Police submission – a map of the *alcohol free zones* located within the Lake Haven area. This document notes that the AFZs are located on the streets bounding the Lake Haven Shopping Centre, being Lake Haven Drive and Goobarabah Avenue; and the car park of the Lake Haven Shopping Centre.
48. Annexure 4 to the Police submission – BOCSAR crime data for the period from January 2012 to December 2013, indicating that the rates of recorded offence incidents per 100,000 persons of resident population for the categories of:
- a) alcohol related assault
 - b) non-domestic assault
 - c) theft (break and enter non-dwelling)
 - d) theft (break and enter dwelling)
 - e) malicious damage to property
 - f) disorderly conduct
 - g) harassment, threatening behaviour and private nuisance.
- occurring within the suburb of Lake Haven are all substantially higher than the corresponding rates per 100,000 persons of resident population recorded for New South Wales as a whole.
49. Also included as part of Annexure 4 to the Police submission are two BOCSAR crime maps for calendar year 2013 indicating that within the suburb of Lake Haven and extending over the location of the Shopping Centre, is:
- a) a *high density hotspot* for the occurrence of incidents of *malicious damage to property* and
 - b) a *medium density hotspot* for the occurrence of incidents of *assault*.
50. Also provided in Annexure 4 to the Police submission are BOCSAR crime maps for the period from April 2013 to March 2014, indicating that within the suburb of Lake Haven and extending over the location of the Shopping Centre, is:
- a) a *high density hotspot* for the occurrence of incidents of *malicious damage to property*
 - b) a *high density hotspot* for the occurrence of *non-domestic assault*
 - c) a *high density hotspot* for the occurrence of *domestic assault*

- d) a *high density hotspot* for the occurrence of incidents of *theft (break and enter dwelling)*
 - e) a *high density hotspot* for the occurrence of incidents of *theft (steal from dwelling)*
 - f) a *medium density hotspot* for the occurrence of incidents of *theft (motor vehicle theft)*
 - g) a *medium density hotspot* for the occurrence of incidents of *theft (steal from motor vehicle)*.
51. Annexure 5 to the Police submission – *Social Profile Report* for the Wyong LGA published by OLGR in January 2009, providing information on the general categories of population characteristics; transport; liquor licences; crime; and health.
- [As noted in *Authority Guideline 6*, the Authority considers this *Social Profile Report* data to be now out of date. It is now mainly of assistance in gaining an historical perspective on socio-demographic trends or crime and other data for the relevant communities. More up-to-date data is available from the relevant agencies which provided the source data for these reports.]
52. Annexure 6 to the Police submission – Police data recording "Last Place of Alcohol Consumption" for events recorded within the Toukley sector of the Tuggerah Local Area Command.
- [The Authority notes that Lake Haven falls within the Toukley sector.] This data, for calendar year 2013, is sourced from the NSW Police ARCIE database. It indicates that 59 per cent of all alcohol related reported incidents requiring Police intervention in this sector occurred in circumstances where the alcohol was recorded to have been last consumed in homes or private residences.

**Submission from NSW Health,
Central Coast Local Health District**

53. Submission from Mr Matt Hanrahan, Chief Executive, Central Coast Local Health District (NSW Health) dated 10 October 2014 in response to the Application. Briefly, this submission advises that NSW Health "does not support" the Application and contends that approval of the Application "is likely to contribute to further alcohol related harm and negative health outcomes for the local community".
54. Mr Hanrahan contends that hospitals and other frontline health services in the Wyong LGA "already bear a substantial burden associated with treating disease and injury associated with excessive alcohol consumption" and cites NSW Health data sourced from the NSW *Centre for Epidemiology and Evidence* indicating that the rates of smoothed alcohol-attributable injury hospitalisations are "significantly higher" in the Wyong LGA (360 per 100,000 persons of population) than for NSW generally (319 per 100,000 persons of population).
55. Mr Hanrahan further submits, on the basis of 2011 ABS Census data available from the "QuickStats" website, that Lake Haven stands out in the Wyong LGA as an area of "particular socio-economic disadvantage", with a higher unemployment rate and a lower average weekly family income than New South Wales generally.
56. Mr Hanrahan submits that the State suburb of Lake Haven is ranked within decile "1" for relative socio-economic disadvantage within NSW, while the Wyong LGA is ranked at decile "4" (with a decile ranking of 10 being the highest or most socioeconomically advantaged).

57. Mr Hanrahan submits that this is "the same situation" as other areas where similar applications for packaged liquor licences were refused by the Authority during 2013. Mr Hanrahan refers to the applications for ALDI Macquarie Fields and ALDI Toormina, which are both examples of State suburbs with SEIFA decile rankings of "1", within local government areas which have SEIFA decile rankings of "4" (Campbelltown and Coffs Harbour respectively).
58. Mr Hanrahan submits, on the basis of licensing data available from the Office of Liquor, Gaming and Racing (OLGR) dated August 2014 and the population forecasts available from <http://forecast.id.com.au>, that the Wyong LGA "already boasts a greater rate of packaged liquor licences than Campbelltown and the same rate as Coffs Harbour", with 29 packaged liquor outlets per 100,000 persons of population.
59. Mr Hanrahan contends that "a number of significant services for young people" are based at the Gravity Youth Centre that is located within the Lake Haven Shopping Centre precinct. He contends that "investigations within these services indicate existing problems with the current availability of liquor and a strong desire to oppose any increase".
60. Mr Hanrahan contends that Ms Val Lambert, Coordinator of the Phoenix Youth Support Service (PYSS), which is funded by Family and Community Services and is located in the Gravity Youth Centre, reports the following to NSW Health:
- ...liquor is consumed daily on the grassy lawn in front of the neighbourhood centre where the Youth Centre is based, often commencing as early as 8:30am; regularly witnessing the supply of alcohol to underage people, exchange of drugs, public displays of drunken behaviour, and verbal and physical violence; educators working for the support service avoid conducting activities for young persons on the lawn due to intimidation from drinkers; and families who bring their lunch from the nearby food stalls are often exposed to these behaviours.*
61. Mr Hanrahan advises that the Australian Government Department of Health and Ageing funded "headspace" program, which is an early intervention service primarily focussing on the mental health and wellbeing of young people aged 12 to 25, will soon be located within the Gravity Youth Centre.
62. Mr Hanrahan submits, on the basis of a research paper entitled "Comorbidity: Addiction and Other Mental Disorders" that was published by the *National Institute of Drug Abuse* in 2011, that the relationship between alcohol and drug use and the development of mental health problems is "well established". He contends that *headspace* staff is "deeply concerned about the proposed increase of alcohol availability in the Lake Haven Shopping Precinct and the potential to reaffirm a culture of drinking as the norm".
63. Mr Hanrahan refers to a number of research articles published both in Australia and overseas and submits that there are documented links between:
- a) Increased alcohol outlet density and increased alcohol related harm ("Predicting alcohol-related harms from licensed outlet density: A feasibility study" (2007), *National Drug Law Enforcement Research Fund*)
 - b) Increased outlet densities and alcohol-attributable admissions and alcohol-attributable death (Pereira et al, "Access to Alcohol Outlets, Alcohol Consumption and Mental Health" (2013), Open Access, *Published Library of Scientists* – www.plos.org; Stockwell et al, "Minimum Alcohol Prices and Outlet Densities in British Columbia, Canada: Estimated Impacts on Alcohol-Attributable Hospital Admissions" (2013), *American Journal of Public Health*, Volume 103(11) and Stockwell et al, "The relationship between minimum alcohol prices, outlet densities

- and alcohol-attributable deaths in British Columbia, 2002-2009" (2013), *Addiction*, Volume 108 at 1059-1069)
- c) Increased packaged liquor licences and violent crime within urban neighbourhoods (Toomey et al, "The Association between Density of Alcohol Establishments and Violent Crime within Urban Neighbourhoods" (2012), *Alcohol Clin Exp Res*, Volume 36(8) at 1469-1473)
 - d) Increased density and increased underage alcohol consumption (Rowland et al, "Associations between alcohol outlet densities and adolescent alcohol consumption: A study in Australian students" (2014), *Addictive Behaviours*, Volume 39 at 282-288.
64. With regard to prevailing crime rates in the local community, Mr Hanrahan submits that the suburb of Lake Haven is "already identified as a hotspot for non-domestic violence related assault on the BOCSAR website".
 65. With regard to the socio-demographic profile of Lake Haven, Mr Hanrahan submits, on the basis of 2011 ABS Census data available from the "QuickStats" website, that Lake Haven has a "disproportionate percentage of older teenagers, with 15 to 19 year olds being the largest age group below 55 years". He contends that this factor exacerbates the existing concerns maintained by the Central Coast District of NSW Health regarding the large number of potential opportunities for purchases by underage customers.
 66. Mr Hanrahan contends, on the basis of NSW High School Survey and Census data, that more than 250 Central Coast teenagers aged 16 and 17 years purchase their own alcohol from a retail source each week, the "vast majority" from packaged liquor outlets. Additionally, these underage purchasers "potentially represent a significant supply source" to the more than 1200 Central Coast 16- and 17 year olds who report being given alcohol by a friend or having another person purchase it for them weekly.
 67. Further, Mr Hanrahan contends that an internal report prepared by Shadow Organisation Pty Limited for the Central Coast Local Health District Health Promotion Service in 2012 entitled "Do Bottle Shops sell Alcohol to Teenagers without ID?" states that a "mystery shopping" survey of 57 Central Coast packaged liquor outlets conducted in 2012 revealed that 44 per cent sold liquor "without checking identification of 18 and 19 year old purchasers".
 68. Mr Hanrahan contends that Police operations have been conducted to target sales to minors from retail outlets, but the very nature of this offence makes it extremely difficult to detect by passive observation. Mr Hanrahan contends that "additional outlets only increase this problem". [The Authority notes that Mr Hanrahan does not specify the source of his statement with regard to the details of any Police operations conducted.]

**Submission from rival licensed business,
Fostif Pty Limited dated 10 October 2014**

69. Submission from Mr Chris Kingston of the law practice *Kingston Swift* on behalf of Fostif Pty Limited dated 10 October 2014. This short submission letter attaches a report prepared by BBC Consulting Planners dated October 2014. Mr Kingston advises that his client, Fostif Pty Limited is the holder of an existing packaged liquor licence for the licensed premises known as "BYO Cellars Lake Haven", which is located within the Lake Haven Shopping Centre complex. Fostif Pty Limited objects to the Application.
70. Mr Kingston notes the comments made by the [Authority] Chairperson in a presentation made on 21 March 2013 [the Authority notes that Mr Kingston does not specify the presentation] in respect of his scepticism towards objections made by local incumbent

liquor businesses to new liquor applications, but notes the Chairperson's concession that, like any other stakeholder, local business owners are entitled to draw the Authority's attention to any relevant independent data and any shortcomings in an application.

71. Assessment of the Application prepared by BBC Consulting Planners (BBC) for Fostif Pty Limited dated October 2014. Briefly, BBC consultants, who have been engaged by Fostif, submit that an assessment of the Application has been undertaken with consideration of the following "indicators of potential social risk", being demographics; liquor licence density; alcohol related crime; and alcohol related health.
72. In summary, BBC contend that the Application "does not provide a clear understanding of the likely social impact of the proposal to allow the determination that the new licence will not be detrimental to the local and broader community".
73. BBC submit that the Applicant should provide an analysis of the proposed new liquor licence in relation to the "varying pockets of advantage and disadvantage" in the local and broader communities and that "consideration of the availability of lower priced alcohol should be given to potential risks associated with underage drinking, the phenomenon of pre-loading, [and] alcohol related harms as well as the potential to increase resources of health and emergency services within the community".
74. BBC submit that the Application "does not effectively establish the conclusion that there will be no detrimental impact to the wellbeing of the local or broader community" in relation to alcohol related crime, particularly alcohol related domestic violence assault rates. BBC also submit that the Applicant "has not effectively established that there will be no detrimental impact to the local and broader community in relation to health specific indicators"; and that "no evidence has been provided with the Application to establish the suggested indicated community demand for additional packaged liquor outlets and therefore facilitation of social and recreational opportunities".
75. BBC acknowledges that the Applicant is "an experienced retailer with good regulatory history" with management strategies to operate the licence with "proper" responsible service of alcohol practices. However, BBC submit that, given the proposed location of the licence, with specific reference to the indicators of social risk, the Applicant's proposed management and harm minimisation strategies "are not site specific enough" to allow for a confident assessment that the proposed licence will provide an overall positive benefit to the local community and will not be detrimental to the wellbeing of the local and broader communities.
76. In relation to prevailing alcohol related crime in the communities, BBC submit that the rates of occurrence of *alcohol related domestic violence* assault incidents per 100,000 persons of population are higher in the Wyong LGA than for NSW as a whole. BBC further submit that:

...there are a number of clusters of higher density areas of domestic violence related assault located within the local community area, specifically relating to parts of the Lake Haven, Gorokan, Woongarra and Kanwal areas.

77. BBC conclude that the Application "does not clearly relate the proposal to the planning objectives for the area" and that it does not "provide a significant, positive contribution to the objectives of the Lake Haven Town Centre Masterplan and the Central Coast Regional Strategy". BBC submit that further analysis of the indicators of harm identified above is warranted so that "potentially appropriate mitigation measures can be identified".

78. Appendix 1 to the BBC Report – BBC provide a BOCSAR crime map based upon data from July 2013 to June 2014 showing the locations of high, medium and low density hotspots in relation to domestic violence assaults for the Wyong LGA.

Procedural communications during November 2014

79. Email from the Applicant's solicitor to the Authority dated 5 November 2014 attaching a copy of Development Approval No. DA/964/2013 for the Premises issued by Wyong Shire Council on 24 February 2014, together with the approved plan for the licensed area of the Premises. Also attached to this email are a *Certification of Advertising Application Form*, signed by Ms Lisa Wilson, Property Manager for ALDI Stores on behalf of the Applicant dated 5 November 2014 and a *Certification of Advertising Application Form* signed by Mr Grant Cusack, solicitor for the Applicant, also dated 5 November 2014.
80. Email from the legal representative for Woolworths Limited, Mr Tony Schwartz of Back Schwartz Vaughan to Authority staff dated 13 November 2014. This email notes that an application for a proposed new "BWS - Beer Wine Spirits" packaged liquor store, to be located within the Lake Haven Shopping Centre complex, was made to the Authority during September 2014 within a short period of the lodgement of *this* Application for a proposed new "ALDI" liquor sales area within the existing ALDI Supermarket also located in the Lake Haven Shopping Centre complex. Mr Schwartz submits that "it is in the public interest" for both this Application and the BWS application to be determined together.
81. Email from staff assisting the Authority to Mr Schwartz dated 13 November 2014 confirming that both the Application and the BWS application are to travel together "as they are in the same shopping complex and will have the same socio-economic characteristics".

[The Authority notes, however, that Mr Schwartz subsequently requested that the Authority proceed to determine the BWS application independently of the ALDI Application, notwithstanding his earlier request that both the BWS application and this Application be considered together. The BWS application was finally determined on 26 August 2015.]

The OLGR Report

82. Submission from the Compliance and Enforcement Division of the Office of Liquor, Gaming and Racing dated 22 January 2015 (OLGR Report) objecting to the Application. Briefly, the OLGR Report submits that the type of licence and proposed business model (a packaged liquor licensed premises) is of "low risk" and the radial density of liquor licences in the suburb of Lake Haven is also assessed as having a "low" risk rating.
83. However, OLGR submit that BOCSAR data shows that:
- a) the rate of *alcohol related assaults* in Lake Haven is "short of double the State average"
 - b) the rate of *disorderly conduct offences* in Lake Haven is "above the State average"
 - c) the rate of *alcohol related domestic assaults* in Lake Haven is "more than double the State average".
84. The OLGR Report further notes that NSW Police, NSW Health and a solicitor representing a packaged liquor competitor have provided submissions objecting to the Application, with data evidencing that the area "already faces significant anti-social behaviour and crime issues".

85. OLGR note that the Premises is located inside the Lake Haven Shopping Centre complex, within close proximity to a youth centre receiving Federal Government funding for an early intervention service for young people aged between 12 and 25 with drug and alcohol issues.
86. OLGR further note that the "relatively small suburb" of Lake Haven is currently already serviced by two incumbent packaged liquor providers and that there are another two new packaged liquor licence applications pending consideration by the Authority, including a proposed packaged liquor outlet to be situated within the same Lake Haven Shopping Centre complex.
87. With respect to prevailing crime data for the local and broader communities, the OLGR Report refers to BOCSAR data for the period from October 2013 to September 2014 which indicates that:
- a) the rate of *alcohol related assaults* (both domestic and non-domestic) recorded as occurring in Lake Haven was 574 per 100,000 persons of population compared to 321 per 100,000 persons of population for NSW as a whole
 - b) the rate of *alcohol related disorderly conduct offences* recorded as occurring in Lake Haven was 143 per 100,000 persons of population compared to 105 per 100,000 persons of population for NSW as a whole
 - c) the rate of *alcohol related domestic assaults* recorded as occurring in Lake Haven was 287 per 100,000 persons of population compared to 135 per 100,000 persons of population for NSW as a whole.

88. The OLGR Report submits, on the basis of the above crime data, that:

Lake Haven has a significant concentration of alcohol related anti-social behaviour and violence with the rate of alcohol related domestic assaults particularly concerning.

89. OLGR further note that Senior Constable Zappas from Tuggerah Police, Licensing Unit objects to the Application on various grounds including liquor outlet density; frequent incidents of anti-social behaviour; the proximity of the Premises to sensitive facilities including a youth centre, skate park and high school with secondary supply of liquor being an issue for Police; and the high rate of alcohol related domestic violence using alcohol purchased from the incumbent packaged liquor licensed outlets in the Lake Haven Shopping Centre complex and surrounds.
90. OLGR also note that the Central Coast Local Health District of NSW Health object to the Application on various grounds, including prevailing licensed outlet density and the links between increased liquor outlet density and increased alcohol related harm. OLGR note that NSW Health refer to numerous recent published articles including a 2014 Australian research paper concluding that increased licence density is linked to increased underage alcohol consumption. OLGR note that NSW Health submit that granting the Application is "likely to contribute to further alcohol related harm and negative health outcomes for the local community, particularly the youth".
91. OLGR observe that there did not appear to be a submission from Council, therefore the position of Council in relation to the Application is "not known".
92. OLGR submit that a review of OLGR Compliance Branch records disclosed that the Applicant, ALDI Foods Pty Limited, has been the subject of 1 substantiated complaint in June 2013 regarding ALDI stores in NSW selling alcohol based food essences in bottle sizes exceeding 50mL. However, the licensee "complied with OLGR directives" and received a warning letter in relation to the incident. OLGR note that no adverse

information was found in respect of the contact person for the Applicant, Mr Andrew Tindal.

93. OLGR note that while the Applicant submits that the proposed licensed premises will provide "substantial public interest benefits" including convenience; choice; avoidance of special trips and economic spin-offs, both NSW Police and NSW Health argue that if the Application is granted, the impact on the local community "would be detrimental in many ways".
94. The OLGR Report concludes that the Director of Compliance objects to the Application on the basis that:

...the [Lake Haven] area is already serviced and if this Application is granted it would further contribute to alcohol related harm and issues in an area already exhibiting a high prevalence of such issues. This in turn would ultimately have an adverse cumulative impact upon the local and broader community, particularly the youth.

Further submissions from the Applicant

95. Email from Authority staff to the Applicant's solicitor dated 17 February 2015. In this communication, Mr Cusack was requested by Authority staff to provide evidence (such as a final occupation certificate or photographs) demonstrating that the Premises is ready to trade, and was provided with the submissions received by the Authority in response to the Application from OLGR, NSW Police, NSW Health and Fostif Pty Limited.
96. Mr Cusack was also informed that should the Authority be minded to grant the Application, certain standard conditions imposed upon packaged liquor licences may be imposed upon this licence, as follows:
 - a) A 6-hour daily closure period from 2:00am to 8:00am
 - b) A requirement that the licence not operate with a greater overall social impact on the wellbeing of the community than what could be reasonably expected from the information contained in the CIS, Application and other information submitted in relation to the Application
 - c) Active local liquor accord participation by the licensee or its representative
 - d) A condition that the liquor sales area is adequately defined from the rest of the ALDI Supermarket by means of a fixed, solid and permanent barrier
 - e) Compliance by the licensee with the *Management Policies and Strategies* and *House Policy* documents lodged with the Authority in relation to the Application
 - f) A condition that the licensee will not sell refrigerated liquor products from the licensed premises
 - g) A condition that the licence cannot be operated until the Authority has been provided with evidence that an approved manager has been appointed and the Premises is complete and ready to trade.
97. Email submission from Mr Tony Hatzis of Hatzis Cusack Lawyers on behalf of the Applicant dated 10 March 2015 in response to the email from staff assisting the Authority dated 17 February 2015 and the submissions from OLGR, NSW Police, NSW Health and Fostif Pty Limited.
98. Annexure A to the Applicant's further submissions dated 10 March 2015 – a copy of Development Approval No. DA/964/2013 issued by Wyong Shire Council on 24 February 2014 for use of the Premises. The Applicant submits that the plan approved by Council as part of the development consent expressly shows the proposed licensed premises, with the word "liquor" endorsed on that plan.

99. Annexure B to the Applicant's further submissions dated 10 March 2015 – a diagram showing the respective locations of the previous and new Liquorland stores within the Lake Haven Shopping Centre complex. The location of the proposed new ALDI liquor sales facility is also shown on that plan.
100. Further email submission from Mr Cusack on behalf of the Applicant dated 15 April 2015 submitting that the proposal under consideration is for a small packaged liquor facility which is "only a fraction of the size of a traditional liquor store" to be located wholly within an existing ALDI Supermarket.
101. The Applicant submits that:
- ...the public has come to expect to be able to purchase liquor products in conjunction with other grocery items, and the granting of the Application would afford residents of Lake Haven who choose to shop at the ALDI Supermarket that very substantial convenience.*
102. The Applicant submits that the "best evidence of that public expectation" is the fact that, between 18 March 2015 and 1 April 2015, over 3,400 customers of the ALDI Supermarket signed a petition in favour of granting the Application. The full text of this petition states as follows:
- We, the undersigned, support the application by ALDI for a small packaged liquor facility (34 square metres) within the ALDI Supermarket at Lake Haven.*
- We expect to be able to purchase liquor at the ALDI Supermarket at the same time as we do our grocery shopping. We prefer ALDI's own-branded liquor products.*
- The creation of a small liquor department in the ALDI Supermarket is not likely to lead to any increase in crime or anti-social behaviour, in our view.*
- We support the grant of a small liquor department for ALDI in order to cater for the liquor purchasing needs of our rapidly growing local community, in a controlled and modest fashion.*
- We understand that the last liquor licence granted in Lake Haven was more than 35 years ago.*
103. The Applicant also notes advice from Authority staff to the effect that this Application and the BWS application would be determined concurrently by the Authority, and refers to paragraphs 12.4 to 12.9 of its earlier submissions dated 10 March 2015 as to why, in the event that the Authority grants only one of these two applications, the ALDI Application should be preferred.
104. The Applicant submits that the ALDI proposal is "on a much smaller scale" than that proposed by Woolworths in respect of the BWS application in terms of size (only 34 square metres); hours; product lines; and manner of operation. The Applicant notes that it has provided its consent to various conditions, including a condition that prevents the sale of refrigerated liquor.
105. The Applicant submits that, unlike proposals by Woolworths Limited or other existing packaged liquor facilities in the Lake Haven area (*Liquorland* and *Lake Haven Cellars*), ALDI "will primarily sell its own non-branded product, making available to the local community various liquor products that cannot be purchased in the suburb". The Applicant contends that a large number of products presently or previously stocked by ALDI are "award winning products".
106. Attachment "A" to the Applicant's further submissions dated 15 April 2015 – a copy of the petition forms signed by over 3,400 customers of the ALDI Lake Haven Supermarket between 18 March 2015 and 1 April 2015.

107. Attachment "B" to the Applicant's further submissions dated 15 April 2015 – a document listing the awards and other recognition received in respect of ALDI's liquor products in recent years (2012-2014).

**Further material provided to the Applicant
by staff assisting the Authority**

108. Email from Authority staff to the Applicant's solicitor, Mr Cusack dated 29 June 2015. This email advises that the Application was considered at the Authority meeting on 24 June 2015, but that consideration of the Application has been deferred until such time as the Applicant makes further submissions in response to the Police submission; concerns with the risk of secondary supply to minors; and the most recent BOCSAR crime data in relation to alcohol related assaults and domestic violence for the Wyong Shire LGA. This email also attaches a paper published by BOCSAR in February 2015.
109. NSW Bureau of Crime Statistics and Research paper entitled, "*The effect of liquor licence concentrations in local areas on rates of assault in New South Wales*", February 2015 (BOCSAR Paper). The BOCSAR Paper investigates the relationship between liquor licence concentrations and assault rates within 147 of the total 152 local government areas in NSW, by conducting spatial regression analyses of data sourced from the NSW Police Computerised Operational Policing System (COPS) database, liquor licensing data from OLGR, and ABS socio-demographic data for calendar year 2011.
110. The introduction to the BOCSAR Paper notes, *inter alia*, that there is "good evidence" of a relationship between liquor outlet concentrations in local areas and alcohol related harm (Escobedo and Ortiz, 2006; Lipton and Grunewald, 2002). Higher concentrations of liquor outlets have consistently been found to be associated with increased social harms, such as higher assault rates (Chikritzhs, Catalano, Pascal and Henrickson, 2007; Zhu, Gorman and Horel, 2004) and motor vehicle injury rates (Grunewald, Johnson and Treno, 2002; Jewell and Brown, 1995; La Scala, Gerber and Gruenewald, 2000).
111. On the difference between off-premises and on-premises liquor outlets, BOCSAR note that Pridemore and Grubestic (2013) have found off-premises licence density in Cincinatti, USA to be a stronger predictor of assault than on-premises licence density, while Toomey et al (2012) found the opposite effect in Minneapolis, USA.
112. BOCSAR further note that Livingston (2008) found that postcodes in Melbourne with higher outlet density levels generally had higher assault rates, while Livingston (2011) found that an increase in the density of *packaged liquor licences* in Melbourne postcodes was predictive of an increase in domestic violence rates.
113. BOCSAR note that using liquor sales data, which is still collected in Western Australia, Liang and Chikritzhs (2011) found that increases in the mean volume of alcohol sold per packaged liquor outlet was predictive of more assaults at private residences within a local government area.
114. The BOCSAR Paper finds that the concentration of hotel licences in a local government area in New South Wales was "strongly predictive" of both domestic violence and non-domestic violence assault rates.
115. The BOCSAR Paper also found that domestic assaults increase markedly when the number of hotels in a local government area exceeds two per 1,000 residents. The study found that a sharp increase in domestic violence was associated with increases in

packaged liquor licences, but the relationship was "weaker" and the threshold was lower (0.75 per 1,000 residents).

116. BOCSAR conclude that:

Regulatory authorities should be concerned about increases in liquor outlet density. In particular, increases in the density of hotels above 2 per 1,000 residents are of greater concern than increases in the density of premises with other types of liquor licence.

117. Email from Authority staff to the Applicant's solicitor, Mr Cusack dated 1 July 2015. This email:

- a) Provides the most recently published 2015 *Crime by Local Government Area* report by BOCSAR for the Wyong LGA and NSW for calendar year 2014
- b) Provides the latest available 2014 *Report on Alcohol Related Crime*, based on alcohol related data for 2013 and the latest crime mapping data for the Wyong LGA
- c) Confirms that when making its determination on the Application, the Authority will have before it the 2008 and 2011 Livingston reports on the relationship between licence density and assault that are noted in *Authority Guideline 6*; the (UK) University of Sheffield Report noted in *Authority Guideline 6*; and the 2014 Report by the NSW Chief Health Officer on The Health of Children and Young People in NSW. Authority staff invited the Applicant to address this material in its final submissions.

118. The Health of Children and Young People in NSW: Report of the Chief Health Officer 2014. Briefly, this Report discusses factors affecting the health of children and young people in New South Wales, including infant health; newborn, infant and child screening; immunisation; overweight, obesity and underweight; healthy eating; active living; the NSW *Healthy Children* initiative; oral health; smoking; alcohol consumption; substance misuse; and environmental exposures. This Report then assesses the health of children and young people in relation to health service utilisation; preventable and leading causes of hospitalisation; deaths; asthma; diabetes; cancer; communicable disease; injury; healthy development; disability; and mental health.

119. Relevantly, with regard to alcohol consumption and young people, this Report notes that rates of alcohol drinking among school students have declined over the period from 1987 to 2011. However, rates of emergency department visits for alcohol related problems remain high across the State at 203 per 100,000 persons aged between 15 and 17, and 327 per 100,000 people aged 18 to 24 years. Alcohol-attributable hospitalisations are the highest among young males, young Aboriginal people, and young people living in more remote areas and areas with lower socioeconomic status. Most of these hospitalisations were for injuries.

120. Livingston, M., "A longitudinal analysis of alcohol outlet density and domestic violence" (2011) *Addiction*, Society for the Study of Addiction. The aims, methodology and a summary of the findings and conclusions of this research are summarised in this academic journal article as follows:

A small number of studies have identified a positive relationship between alcohol outlet density and domestic violence. These studies have all been based on cross-sectional data and have been limited to assess ecological correlations between outlet density and domestic violence rates. This study provides the first longitudinal examination of this relationship.

The study uses data for 186 postcodes from within the metropolitan area of Melbourne, Australia for the years 1996 to 2005. Alcohol outlet density measures for three different types of outlets (hotel/pub, packaged liquor, on-premises) were derived from liquor licensing records and domestic violence rates were calculated from Police recorded crime data, based on postcode of the victim. The relationships between these three types of alcohol outlet density and domestic violence were

assessed over time using a fixed-effects model. Controls for the spatial autocorrelation of the data were included in the model.

Alcohol outlet density was significantly associated with rates of domestic violence, over time. In particular, the density of hotel (pub) licences and the density of packaged liquor licences were positively related to domestic violence rates and the density of on-premises licences was negatively related to domestic violence.

In Melbourne, changes in density of hotel (pub) licences and packaged liquor licences have been positively associated with changes in rates of domestic violence whereas the rates of on-site liquor licences have been negatively associated with domestic violence.

121. Livingston, M., "A Longitudinal Analysis of Alcohol Outlet Density and Assault" (2008) *Alcoholism: Clinical and Experimental Research*, 32(6) (June 2008). The background, methods, results and conclusions of this research are summarised in this academic journal article as follows:

The majority of studies that have examined the local-level relationship between alcohol outlet density and violence have utilised cross-sectional data. These studies have consistently demonstrated that there is a spatial link between outlets and violence, but because of their design they have not been able to determine whether changes in outlet density result in changes in rates of violence. The few studies that have examined this question over time have found that the violence rates are related to changes in outlet density. This study provides further evidence of this link and examines the characteristics of regions in which changes in outlet density are most strongly associated with changes in violence rates.

The study examined 9 years of data measuring alcohol outlet density (using liquor licensing records) and alcohol related violence (using Police recorded night time assaults) from 186 postcodes in the metropolitan area of Melbourne, Australia. The relationships between 3 types of alcohol outlet density and alcohol related violence were assessed using fixed-effects models. The postcodes were then grouped into 5 clusters based on their socio-demographic profile and separate fixed-effects models were fitted to assess whether the relationships between outlets and violence differed based on the type of region being examined.

The initial models found overall positive relationships between all 3 types of alcohol outlets and violence. When separate models were developed for postcode clusters, they demonstrated that the link between outlet density and violence was significant in all neighbourhood types, but the specific relationships varied substantially.

Changes in the number of alcohol outlets in a community are linked to changes in the amount of violence the community experiences. This relationship varies across the clusters of suburbs examined, with packaged liquor outlets consistently associated with violence in suburban areas and general (hotel) and on-premises (nightclubs, restaurants, and bars) licences associated with violence in inner-city and inner-suburban areas.

122. Livingston, M., "Association between increased density of alcohol outlets and harmful outcomes", *Turning Point Alcohol and Drug Centre*, University of Melbourne. This presentation provides, by way of background, a brief introduction to alcohol and young people, a history of liquor licensing in Victoria, and a summary of previous research on alcohol availability (including the earlier research conducted by Livingston). The presentation also explores recent trends in alcohol consumption and harm, a summary of current work examining the effects of alcohol availability in Victoria, and future implications for policy in this area.
123. Booth, A. et al, "Independent Review of the Effects of Alcohol Pricing and Promotion" (2008) University of Sheffield Report for the Department of Health (UK), University of Sheffield. The aim of this research, funded by the UK Department of Health Policy Research Programme, was to quantify the potential impact of policies targeting pricing and promotion of alcohol on alcohol related harm in England. The research modelled the potential implications of changes to current policies, especially the population-based impact on health, crime and the wider economy for the wider population as a whole, but with a focus on young people under 18 who drink alcohol; 18 to 24 year old binge

drinkers; and harmful drinkers whose patterns of drinking damage their physical and/or mental health or causes substantial harm to others. The questions that the study aimed to address are: What is the potential effect on alcohol related harm of introducing (1) general price increases; (2) minimum prices per unit of alcohol; and (3) restrictions on the extent of discounted price-based promotion in the off-trade.

124. A summary of the main trends, themes and findings of this research are as follows:
- a) General price increases tend to exhibit relatively large reductions in mean consumption for the population. Increasing levels of minimum pricing show very steep increases in effectiveness.
 - b) Price increases are not matched by consumption reductions and overall spending on alcohol is estimated to increase. Changes in spending per drinker for each policy are broadly proportionate to the price increase.
 - c) The extent to which the on-trade or off-trade sectors benefit from significant gains in retail receipts varies according to policy. Policies targeting only off-trade prices, for example, sometimes cause switching behaviour to on-trade consumption. Effects on tax and duty are estimated to be relatively small and vary according to whether on- or off-trade is most affected.
 - d) As prices increase, alcohol-attributable hospital admissions and deaths are estimated to reduce.
 - e) Crime harms are estimated to reduce as prices are increased, particularly for 11 to 18 year olds because they are disproportionately involved in alcohol related crime and are affected significantly by targeting price rises at low-priced products. Different policies emerge as effective when compared with health harms – discount bans, targeting cheap off-trade alcohol and low minimum pricing options, which effectively influence only the off-trade sector, are all less effective in reducing crime compared to health or employment.
 - f) Unemployment harm reduces proportionately more than health or crime harms. Generally, all policy options that target harmful and hazardous drinkers are effective in reducing alcohol related harm in the workplace.
 - g) The societal value of harm reduction for many of the potential policies can be substantial when accumulated over the ten year time horizon of the model. The financial value of harm reductions becomes larger as prices are increased.
 - h) Moderate drinkers are affected in only very small ways by the policy options examined, both in terms of their alcohol consumption and their spending. Harmful drinkers are expected to reduce their absolute consumption most, but in the more effective policy options, also spend significantly more on their purchases.
 - i) Health effects are shared across the priority groups – there are significant effects on harmful drinkers, but important health gains also occur in hazardous and moderate drinkers. In general across the policies, deaths avoided occur disproportionately in the harmful drinking group.
 - j) Patterns of crime reduction estimated by the model are very different across the priority groups from those for health. When estimating policy impacts, crime avoided comes more from the harmful and hazardous drinking groups than from the moderate group. However, there is some reduction in crime due to changes in moderate drinkers' consumption because even though they are by definition moderate, and therefore a lower risk in terms of their average weekly alcohol intake, they do occasionally binge and within the model used it is binge drinking behaviour that is related to risk of committing crime.
 - k) The results of sensitivity analysis and uncertainty (pricing policy results) reveal that each had some small or modest effect.
 - l) Exploratory analyses around the effects of advertising restrictions suggest that the effects of a total ban on advertising are estimated to range from an overall change in consumption ranging from -26.9% to +4.9% and a financial value of harm avoided over 10 years ranging from -£44.0 billion to +£9.5 billion.

Final submissions from the Applicant

125. Submission from Mr Hatzis on behalf of the Applicant in response to the emails from Authority staff dated 29 June 2015 and 1 July 2015 attaching the latest BOCSAR data and other research papers before the Authority, received on 17 August 2015. In summary, the Applicant's key contentions and observations in response to this material are as follows.

Applicant's response to BOCSAR data for the year ending March 2015

126. While the 2015 BOCSAR *Crime by Local Government Area* report was provided by Authority staff, the Applicant submits that "the most up-to-date data" can be found by accessing the online BOCSAR Crime Tool which contains crime statistics for the Wyong LGA and NSW for the year ending March 2015. On the basis of this data, the Applicant submits that:
- a) The rate of incidents involving *liquor offences* recorded as occurring in the Wyong LGA was only 68.1 per 100,000 persons of population compared to the NSW rate of 171.9 per 100,000 persons of population. A review of five year trends shows that this rate has decreased by 8.7% per year since the year ending March 2011.
 - b) The rate of incidents of *alcohol related assault* recorded as occurring in the Wyong LGA was 394.2 per 100,000 persons of population. This rate has dropped by 6.8% per year since the year ending March 2011.
 - c) The rate of incidents of *alcohol related domestic assault* recorded as occurring in the Wyong LGA was 170.8 per 100,000 persons of population. This rate has declined by 7.4% per year since the year ending March 2011.
 - d) The rate of incidents of *alcohol related non-domestic assault* recorded as occurring in the Wyong LGA was 204.2 per 100,000 persons of population. This rate has dropped by 6.2% per year since the year ending March 2011.
 - e) The rate of incidents of *alcohol related assault Police* recorded as occurring in the Wyong LGA was 19.3 per 100,000 persons of population. This rate is "on par with" the corresponding rate for NSW of 19.2 per 100,000 persons of population.
 - f) The rate of incidents of *disorderly conduct* (including the categories of offensive language, offensive conduct, trespass and criminal intent) recorded as occurring in the Wyong LGA is "very low" in comparison to the NSW rate. In the year ending March 2015, incidents of disorderly conduct occurred at a rate of 176.5 per 100,000 persons of population for the Wyong LGA, compared to a rate of 311.2 per 100,000 persons for NSW as a whole.
 - g) The rate of incidents of *malicious damage to property* recorded as occurring in the Wyong LGA was 1,144.7 per 100,000 persons of population. This rate has declined by 9.2% per year since the year ending March 2011.

Applicant's response to NSW Health "HealthStats" data

127. The Applicant notes that although the Authority did not request further submissions in respect of *HealthStats* data relating to alcohol-attributable hospitalisations, the Applicant submits that the Smoothed Estimate of Standardised Separation Ratio (SSSR) was 99.0 in 2011-2013 and only 91.6 in 2012-2014, which constitutes a "considerable drop".
128. The Applicant submits that the SSSR has been "steadily declining" since 2004-2006, when it was 135.2 and submits that these figures suggest that the Wyong LGA is "not particularly susceptible to alcohol related health harms". The Applicant disputes the claim made in the submission by the Central Coast Local Health District of NSW Health that health services in the Wyong LGA are currently unreasonably burdened by treating disease and injury associated with excessive alcohol consumption.

[The Authority notes that NSW Health does not contend that health services are "unreasonably burdened" by alcohol impacts, but they contend that "hospitals and other frontline health services in the Wyong Local Government Area already bear a substantial burden associated with treating disease and injury associated with excessive alcohol consumption".]

Applicant's response to the BOCSAR Paper

129. Briefly, the Applicant notes that the authors of the BOCSAR Paper examine whether there is a point at which the higher density of certain types of liquor licence (hotel licences, packaged liquor licences and on-premises licences) is correlated with increases in assault rates.
130. In respect of packaged liquor licences, the BOCSAR Paper found that where the density of packaged liquor licences exceeds 75 per 100,000 persons of population, there is a "sharp upward turn" in the rate of *domestic assault*.
131. However, the Applicant notes that the relevant graph provided shows a steady *reduction* in rates of domestic assault as densities increase from around 20 per 100,000 persons of population until they reach 75 per 100,000 persons of population, after which point rates of domestic assault "steadily climb upwards".
132. The Applicant submits that in terms of rates of *non-domestic assault*, there is no marked increase in assault rates until the density level reaches approximately 75 packaged liquor licences per 100,000 persons of population.
133. The Applicant notes that for rates of both domestic and non-domestic assault, the study found that "the effect for hotels was much more pronounced than for packaged liquor outlets".
134. The Applicant submits that the BOCSAR Paper suggests that if licence density in any given local government area reaches a threshold of 75 packaged liquor licences per 100,000 persons of population, there are correlations with higher levels of assault. However, the Applicant submits that "that is not a concern" in the present case.
135. The Applicant contends that even if both the ALDI Application and the BWS application were granted, the density of *packaged liquor licences* in the Wyong LGA would be 31.38 per 100,000 persons of population, which is still less than the State wide rate of 32.85 per 100,000 persons of population. The Applicant submits that granting both the ALDI Application and the BWS application "will not give rise to density figures anywhere near the threshold levels associated with higher levels of assault".

Applicant's response to the Report of the NSW Chief Health Officer on the Health of Children and Young People in NSW (2014)

136. The Applicant states that this Report refers to the "steadily declining rates" of alcohol-attributable hospitalisations in young people aged 15 to 24 years across New South Wales and submits that the three "greatest predictors of risk" for alcohol-attributable hospitalisations are:
 - a) Sex – male
 - b) Indigeneity
 - c) Living in a remote or very remote area.

137. The Applicant submits that these identified indicators of risk are "mixed" in the Wyong LGA. According to 2011 Census data:
- a) the proportion of the population within the Wyong LGA who identify as Indigenous was 3.6%, moderately above the State average of 2.5%
 - b) the proportion of people aged 20 to 24 years in the Wyong LGA was 32.7%, compared with 32.1% for NSW, suggesting "only a very slightly elevated proportion" of people in the younger age groups
 - c) the median age in the Wyong LGA was 40 years compared with 38 years for NSW, suggesting a "large cohort of people in the older age groups" in the Wyong LGA.

Applicant's response to research by Miller, Droste, Baker and Gervis, "Last drinks: A study of rural emergency department data collection to identify and target community alcohol related violence" in Emergency Medicine Australasia (2015)

138. The Applicant states that this was a study undertaken in Warrnambool, Victoria over an eight month period. People presenting at the emergency department (ED) with alcohol related injuries were questioned about how much alcohol they had consumed and the source of the alcohol.
139. The Applicant submits that the authors of this study concluded that "some two-thirds" of alcohol related ED attendances "could be attributed to the consumption of packaged liquor, with most injuries occurring in private residences".
140. However the Applicant concedes that there are "some difficulties" in extrapolating these figures to the wider society. The sample size was "relatively small" (399 alcohol related injuries) and the liquor licence density in the sample area was not known. The Applicant further concedes that, without data comparing against the market share of alcohol sales represented by packaged liquor licences in the relevant community, it is "difficult to conclude that alcohol related injuries linked to [packaged liquor licences] account for a disproportionate share of all alcohol related injuries".

Applicant's response to a study entitled, "One on every corner: the relationship between off-licence density and alcohol harms in young people"

141. The Applicant submits that this study found a correlation between the density of off-licence premises in the UK and alcohol specific hospital admissions in young people under the age of 18 years, in that the addition of every two extra off-licences per 100,000 persons of population is linked to one additional alcohol specific hospital admission of a person under the age of 18 years per 100,000 persons of population.

[The Authority notes that the Applicant has not provided this study or its citation.]

142. The Applicant submits that even this figure "appears to be skewed to the high side" because the study excluded young people from all London boroughs, where no statistical relationship between off-licence density and harms in young people was found. Moreover, there were "significant disparities" between various areas within the UK (pages 5 to 6).
143. The Applicant contends that if the ALDI Application were granted, that will represent one additional licence serving a local government area of 143,000 people. The Applicant submits that if one were to accept the data put forward in this study at its highest, then it "might suggest that there is a risk of one underage hospital presentation occurring over a three year period as a result of the grant of this licence".

144. The Applicant submits that such a risk "appears tenuous as well as remote". Further, the Applicant submits that it is "unsafe" to draw conclusions of likely harm based on this study, as the study relies on data which shows "highly varying results" and which "excludes the most favourable data" (being the London boroughs).
145. The Applicant concludes that as with many other such studies, this research "does not demonstrate a causative link between increased density and greater numbers of hospitalisations".

Applicant's response to Livingston, M., "A Longitudinal Analysis of Alcohol Outlet Density and Assault" (2008) Alcoholism: Clinical and Experimental Research, 32(6) (June 2008)

146. The Applicant submits that this study found that, broadly, changes in the number of alcohol outlets in a community are related to changes in the amount of violence experienced in that community. While the results do not indicate whether any one particular licence category is more problematic than others, it was found that different licence types were more problematic in different types of communities - for example, packaged liquor outlets were found to be more problematic in suburban areas when compared to inner-urban suburbs.
147. The Applicant contends that the results of the study suggest "seemingly small impacts for alcohol outlets on violence". For example, the addition of one extra general liquor licence (which applies to taverns, hotels and pubs) is estimated to result in an increase of only 0.90 assaults per year, whereas an additional packaged liquor licence is estimated to result in an increase of only 0.39 assaults per year. The Applicant notes, however, that these impacts "become more significant with the addition of hundreds or thousands of new licences over a period of time".
148. The Applicant submits that this study has limitations, as acknowledged by the author - for example, the lack of longitudinal control data, including "socio-demographic characteristics of areas, drug market activity and other retail activity". These variables have previously been demonstrated to correlate with rates of violence, and changes in these variables alongside with changes in outlet density may affect a community's experience of violence.
149. The Applicant submits that a second limitation is that the study does not acknowledge the variations between licensed premises that fall within each category, such as trading hours; alcohol sales; capacity and venue style. The Applicant submits that this limitation is "particularly relevant" in respect of this Application, given that "the ALDI model is unique and modest in terms of the size of the licensed area, the number of lines of liquor sold, the no refrigeration condition, and the proposed trading hours".
150. The Applicant submits that, as with many other such studies, this research "does not demonstrate a causative link between increased density and greater numbers of hospitalisations". The Applicant submits that this study also needs to be interpreted in the context of the latest BOCSAR data up to March 2015 extracted above, which indicates that rates of alcohol related assaults have been "steadily declining" in the Wyong LGA during the past five years.

Applicant's response to Livingston, M., "Alcohol outlet density and harm: Comparing the impacts on violence and chronic harms" (September 2011), Drug and Alcohol Review, Australasian Professional Society on Alcohol and Other Drugs

151. The Applicant notes that this study aimed to extend on Livingston's previous work by utilising hospital admissions data and submits that the results of the study suggest that

the density of alcohol outlets is positively related to rates of alcohol related hospital admissions and chronic alcohol use disorders. All three licence categories considered (on-premises, general and packaged liquor licences) were "positively and significantly associated" with assault hospitalisation rates, with increases in licence densities being associated with increases in both assault hospitalisations and chronic alcohol related hospitalisations.

152. The Applicant submits that the same type of limitations that applied to the previous study (Livingston, 2008) also relate to this particular study, in that the measures of alcohol outlet density are quite "crude" and do not account for variations within licence types.
153. The Applicant submits that a study by Liang and Chikritzhs undertaken in Western Australia (Liang and Chikritzhs, "Revealing the link between licensed outlets and violence: Counting venues versus measuring alcohol availability", *Drug and Alcohol Review*, September 2011) "fills some of these gaps", in that it demonstrated that "the higher the amount of alcohol sold per off-site outlet, the greater the risk of reported assault within an LGA". In that study the volume of alcohol sold was found to be a better indicator of risk of alcohol related violence when compared to the count of off-site outlets.
154. However, the Applicant submits that the limitations of the Livingston study are of particular relevance to the present Application, given that "the ALDI model can be differentiated from traditional bottle shops" in respect of its modest size and trading hours, the limited number of lines available and the no refrigeration condition. The Applicant submits that it is "unlikely that a facility of this style and scope would result in any significant increase in alcohol related harms".

Applicant's response to Booth, A. et al, "Independent Review of the Effects of Alcohol Pricing and Promotion" (2008) University of Sheffield Report for the Department of Health (UK), University of Sheffield

155. The Applicant notes that this research examines the effect of pricing and taxation on alcohol consumption generally and in respect of younger drinkers by undertaking a review of literature and data from a variety of jurisdictions, primarily the UK and the US but also Australia, Canada, Finland, New Zealand, Norway and Sweden.
156. The results of this research indicate that where other factors remain unchanged, "an increase in prices generally led to a decrease in alcohol consumption" and "a decrease in prices usually led to an increase in alcohol consumption". Further, given that young drinkers, binge drinkers and harmful drinkers have a tendency to choose cheaper liquor products, the authors suggest that changes in the price of alcohol have a greater impact on those groups.
157. The Applicant contends that the limitations of the numerous studies reviewed in this report include the possibility that levels of taxation may reflect the "characteristics of the wider environment" (such as the presence of anti-alcohol sentiment, for example). Further, many of the studies that describe associations between alcohol prices and variations in harm use time series data, but not all include comparisons with control jurisdictions where changes have not been implemented.
158. The Applicant notes that "none of the submissions received in response to the Application" identified any concerns in respect of ALDI's pricing. Further, the Applicant contends that ALDI's prices for liquor products are "merely competitive with other supermarket operators" and that ALDI's pricing "will remain entirely unchanged" if the Application is granted.

159. The Applicant submits that ALDI's prices are "consistent amongst all of its stores located across NSW and will not be reactive to any of the prices offered by its competitors in Lake Haven".
160. The Applicant submits that, in a submission made by ALDI to the Authority in 2012 in response to concerns raised by the Authority about liquor pricing, ALDI demonstrated that:
- a) ALDI's liquor pricing is merely competitive with the pricing of comparable products by its competitors.
 - b) The majority of liquor purchased from ALDI supermarkets is wine, suggesting that customers predominantly use ALDI liquor departments to make purchases which complement their food choices.
 - c) The levels of pure alcohol sold by a typical ALDI liquor department are considerably less than that of average retail liquor stores, *notwithstanding* ALDI's competitive pricing policies.
 - d) ALDI's alcohol sales volumes are likely to remain substantially less than average liquor store sales volumes, because of:
 - i. The effect of branding
 - ii. The fact that ALDI mainly stocks own-brand liquor products rather than mainstream products
 - iii. Size constraints
 - iv. Range constraints
 - v. The relative inconvenience of entering a supermarket to make liquor purchases
 - e) Given that alcohol related harms are proportionate to the volumes of alcohol sold (with larger outlets associated with commensurately more harm) the potential for ALDI liquor departments to cause alcohol related harms is "less than average sized stores conducted by competitors".
 - f) There is "no objective evidence" to suggest that Lake Haven has a sizeable population of young drinkers. As at the date of the 2011 Census, Lake Haven had a median age of 47. Only 7.33% of the population in Lake Haven were aged 18 to 24 years, compared to 9.03% of the NSW population. The suburb also has a "higher than average proportion" of persons who are retirees.
 - g) The Applicant submits that with respect to underage drinking in the local and broader communities, the "very low rates" of liquor offences in respect of both the suburb of Lake Haven and the Wyong LGA "do not suggest that there is an existing problem with minors purchasing or consuming alcohol or secondary supply of liquor to minors". The Applicant submits that if such offences were particularly prevalent in Lake Haven, "one would expect BOCSAR data to demonstrate that".
161. Email from Mr Cusack on behalf of the Applicant to the Authority dated 19 August 2015 noting that Authority staff had provided the Applicant with two emails attaching material and requesting a response, and that the Applicant's response to this material was provided on 18 August 2015. Mr Cusack also noted that the BWS application lodged by Woolworths Limited had been included in the list of matters to be determined by the Authority at its next meeting on 26 August 2015, but the ALDI Application had not.
162. Mr Cusack requested that the Authority determine the BWS application and the ALDI Application together and submitted that, if the Authority were minded to grant only one of these two applications, then the ALDI Application should be preferred on the following bases:
- a) Over 3,400 customers of the ALDI Supermarket have signed a petition in favour of granting the Application, attached to the Applicant's submissions of 15 April 2015. The Applicant submits that this "overwhelming support" was collected over a very short period of time between 18 March 2015 and 1 April 2015.

- b) The ALDI proposal is on a "much smaller scale" than that proposed by Woolworths Limited in respect of the BWS application. The BWS store will comprise an area of 198 square metres, while the ALDI liquor sales area will be only 34 square metres, or 17% of the size of the proposed new BWS store.
 - c) The hours sought for ALDI are "considerably less" than the hours sought in respect of the BWS application. The BWS store intends to trade until the legislated maximum closing time of 10:00pm on Monday to Saturday, while ALDI seeks to close at 8:00pm on Monday to Friday and 7:00pm on weekends.
 - d) The BWS store will operate as a "traditional bottle shop", selling generally available branded products which are likely to be already available at Liquorland and Lake Haven Cellars. The grant of the BWS application is therefore "more likely to stimulate and generate price competition in respect of highly available branded liquor items".
 - e) By contrast, ALDI will primarily sell its own-branded product, which is generally only available from ALDI. The Applicant submits that ALDI customers "have a preference for ALDI's non-branded products and also expect to be provided with the convenience of one-stop shopping from within their chosen supermarket".
 - f) Further, liquor products available at ALDI will not be sold refrigerated, meaning that purchases are "unlikely to be made with a view to immediate consumption". The Applicant submits that this means that ALDI's packaged liquor facility is less likely to lead to public drinking in the vicinity of the Lake Haven Shopping Centre.
 - g) The ALDI packaged liquor facility will be located "wholly within the bowels of the ALDI Supermarket" and customers will have to enter the supermarket floor to proceed to the liquor department. The Applicant submits that this provides a "disincentive to impulse purchases".
 - h) The Applicant submits that Wyong Shire Council has expressly considered the social and economic impact of approving an ALDI Supermarket with an ancillary liquor department, and it has been the judgment of Council that it is "appropriate to approve development". By contrast, the Applicant is of the understanding that no development application was made to Wyong Shire Council by Woolworths Limited in respect of the BWS application, with the necessary works having been certified by an accredited private certifier.
163. Email from Mr Cusack on behalf of the Applicant to the Authority dated 25 September 2015 noting that the BWS application had been finally determined on 26 August 2015, notwithstanding the Authority's previous position that the ALDI Application and the BWS application would be determined concurrently.
164. The Applicant noted that the ALDI Application had been listed for consideration at the Authority's next meeting on 2 October 2015. However the Applicant requested that consideration of the ALDI Application be *deferred* until after the Authority had released its written decision in relation to the refusal of the BWS application, in order to provide the Applicant with an opportunity to address any matters that have a bearing on the ALDI Application in relation to any concerns of the Authority *viz-a-viz* the local community.
165. Email from staff assisting the Authority to Mr Cusack dated 13 October 2015 advising that the Authority had, at its meeting on 2 October 2015, considered the Applicant's latest request to defer determination of the Application until such time as the reasons for the refusal of the BWS application were published. However, it was determined that it would not be in the public interest to defer finalisation of this Application on that basis as the Authority has a statutory obligation to determine all applications on their merits and in a timely manner. The Applicant was advised that if it did not wish to have the Application determined at the Authority's next meeting on 28 October 2015, then it had the option of withdrawing the Application and making a fresh application at a later date.

166. Email from Mr Cusack to staff assisting the Authority dated 15 October 2015 in response to the above email stating that the Applicant does not propose to withdraw the ALDI Application and noting that the Application will be considered by the Authority at its next meeting on 28 October 2015.

Other relevant data

167. Authority licence density data, recording the liquor licence density rate for the population within the 2263 postcode (which contains the suburbs of Canton Beach, Norah Head, Toukley, Noraville, Charmhaven, Lake Haven and Gorokan), the Wyong LGA and the state of NSW.
168. This licensing data indicates that the Wyong LGA has:
- a) a rate of 8.68 packaged liquor licences per 100,000 persons, compared with a rate of 32.85 packaged liquor licences per 100,000 persons for NSW as a whole
 - b) a rate of 3.34 club licences per 100,000 persons, compared with a rate of 20.48 club licences per 100,000 persons for NSW as a whole
 - c) a rate of 6.68 "full" hotel licences per 100,000 persons, compared with a rate of 30.36 "full" hotel licences per 100,000 persons for NSW as a whole.
169. Authority licensing records dated June 2015. These records, which are updated regularly and available for purchase from the Office of Liquor, Gaming and Racing, indicate that as of June 2015 within the Wyong LGA (comprising the State suburbs of Alison, Bateau Bay, Berkeley Vale, Blue Bay, Blue Haven, Budgewoi, Budgewoi Peninsula, Buff Point, Canton Beach, Cedar Brush Creek, Central Mangrove, Chain Valley Bay, Charmhaven, Chittaway Bay, Chittaway Point, Colongra, Dooralong, Doyalson, Fountaindale, Glenning Valley, Gorokan, Gwandalah, Halekulani, Hamlyn Terrace, Jilliby, Kangy Angy, Kanwal, Killarney Vale, Kulnura, Lake Haven, Lake Munmorah, Lemon Tree, Little Jilliby, Long Jetty, Magenta, Mannering Park, Mardi, Norah Head, Noraville, Ourimbah, Palm Grove, Palmdale, Ravensdale, Rocky Point, San Remo, Shelly Beach, Summerland Point, Tacoma, Tacoma South, The Entrance, The Entrance North, Toowoona Bay, Toukley, Tuggerah, Tuggerawong, Tumbi Umbi, Wadalba, Wallarah, Warnervale, Watanobbi, Wyong, Wyong Creek, Wyongah, and Yarramalong), there are:
- a) 45 packaged liquor licensed premises
 - b) 17 "full" hotel licensed premises
 - c) 24 registered club licensed premises.
170. The Authority notes that packaged liquor licensed premises, "full" hotel licensed premises (as distinct from hotels designated as general bars) and club licensed premises are all liquor licence types that have the authorisation to sell liquor for takeaway and consumption off the licensed premises. Authority licensing records disclose a total of 86 licensed premises falling within those three categories across the Wyong LGA.
171. Noting that the permanent population of the State suburb of Lake Haven, according to ABS data, is 3,369, Authority licensing records indicate that there are currently only two licensed premises within the State suburb of Lake Haven alone – both of which are packaged liquor licensed premises.
172. Furthermore, within the close neighbouring suburb of Kanwal (to the south-west of Lake Haven), there are two "full" hotel licensed premises, one packaged liquor licensed premises and one club licensed premises.
173. Moreover, within the close neighbouring suburb of Gorokan (to the south-east of Lake Haven), there is one club licensed premises and one packaged liquor licensed premises.

174. Publicly available BOCSAR crime mapping data before the Authority for January 2014 to December 2014. This crime mapping data indicates that the Premises is located:
- a) **near** a *medium density hotspot* for the concentration of *non-domestic assault* events
 - b) **near** a *medium density hotspot* for the concentration of *domestic assault* events
 - c) **within** a *high density hotspot* for the concentration of offences involving *malicious damage to property* events.
175. Crime data sourced from BOCSAR for calendar year 2013 detailing rates of offences for the Wyong LGA compared to NSW as a whole. This data details rates of both *alcohol related incidents* and *non-alcohol related incidents*. It indicates that for calendar year 2013, for the Wyong LGA:
- a) the rate of *domestic violence assault* incidents recorded across the LGA was 482 per 100,000 persons, significantly above the rate of 410 for the State as a whole
 - b) the rate of *non-domestic assault* incidents recorded across the LGA was 560 per 100,000 persons, significantly above the rate of 489 for the State as a whole
 - c) the rate of *assault Police* incidents recorded across the LGA was 27 per 100,000 persons, below the rate of 38 for the State as a whole
 - d) the rate of *malicious damage to property* incidents recorded across the LGA was 1,462 per 100,000 persons, substantially above the rate of 1,102 for the State as a whole.
176. With regard to the rate of offences that were also recorded by Police as "alcohol related", the BOCSAR data discloses that:
- a) the rate of *alcohol related domestic assault* incidents across the Wyong LGA was 193 per 100,000 persons, substantially above the rate of 145 for the State as a whole
 - b) the rate of *alcohol related non-domestic assault* incidents in the LGA was 203 per 100,000 persons, slightly above the rate of 191 for the State as a whole
 - c) the rate of *alcohol related assault Police* incidents in the LGA was 18 per 100,000 persons, below the rate of 24 for the State as a whole
 - d) the rate of *alcohol related malicious damage to property* incidents across the LGA was 156 per 100,000 persons, substantially above the rate of 122 for the State as a whole.
177. SEIFA data published by the ABS in 2011, indicating that the State suburb of Lake Haven is ranked in the first decile on the IRSAD for all suburbs in NSW. The 2263 postcode (which encompasses an area of seven nearby suburbs including Lake Haven) is ranked in the first decile on the IRSAD for all postcodes in NSW. The Wyong Shire LGA as a whole is ranked in the fourth decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most socioeconomically advantaged).

LEGISLATION

178. 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 as follows:

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.*

179. 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 as follows:

- 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.

180. Division 5 of the Act makes provision for packaged liquor licences. Relevantly, sections 29 to 31 of the Act state as follows:

- 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 10pm 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

181. 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.
182. Section 48(5) of the Act states as follows:
- 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.*
183. The CIS usually provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.

APPLICANT SUBMISSIONS ON OVERALL SOCIAL IMPACT

CIS document and Additional Information

184. In the CIS document dated 8 September 2014, the Applicant submits that as a responsible operator, the company (ALDI) and its staff will maintain an "ongoing and open dialogue" with the community, Council and Police as to any issues which may be raised in the future.
185. In the document entitled "Additional Information – Application and Community Impact Statement" also dated 8 September 2014, the Applicant provides information about ALDI stores generally and states that "unlike ALDI's largest supermarket competitors", ALDI does not employ persons under 18 years of age or casuals.
186. The Applicant submits that in addition to completing an approved responsible service of alcohol course, all staff to be involved in the sale or supply of liquor will undertake a special induction course which will include detailed training in respect of the Applicant's liquor operations and legal requirements, and periodically receive "refresher" training. The Applicant also submits that policies will be in place, including the use of CCTV surveillance and enforcement of its *House Policy*, to ensure the responsible service of liquor.
187. The Applicant refers to the document entitled "How to prepare a Category B CIS" published by the Authority, which provides that the local community 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. This can include people who live and work in the area. This will include persons or groups who may utilise the services and facilities of the proposed licence and generally persons who may benefit or suffer harm as a consequence of the application being approved".
188. The Applicant contends, on this basis, that the relevant "local community" of this proposed new ALDI liquor sales area can be considered to be the State suburbs of "Lake Haven, Gorokan, Kanwal, Charmhaven, Woongarah and Hamlyn Terrace". The broader community posited by the Applicant is the Wyong LGA.
189. With regard to the *type* of proposed licensed premises, the Applicant submits that the licensed area will be "small in size, will sell a modest range of liquor, and will trade fewer hours than most traditional retail liquor stores".
190. The Applicant refers to research including Nicholas (2006), Briscoe and Donnelly (2003), and the National Drug Law Enforcement Research Fund (2006) which the Applicant submits demonstrates that the most problematic licensed venues, typically hotels and nightclubs concentrated in late night entertainment districts, account for a "grossly disproportionate" share of assaults and alcohol related harms. The Applicant submits that such venues "bear no similarity" to the modest packaged liquor department that will be responsibly operated by ALDI in a small section of its Supermarket.
191. With regard to the *scale* of the proposed licensed premises, the Applicant submits that the licensed area will be "located within an ALDI supermarket"; will "only comprise an area of less than 45 square metres"; and will sell only a small range of ALDI brand products, including beers, wines and spirits, and on occasion a limited range of non-ALDI branded products.
192. The Applicant contends that, with a range of "less than 100 lines (products) of liquor", the range offered by this business will be "substantially less than that of a traditional liquor

store". Further, the Applicant submits that "liquor products will not be sold refrigerated" and notes that ALDI consents to the imposition of a licence condition to this effect.

193. The Applicant submits that the proposed licensed business will consist of a display area with various shelving and a designated cashier area. All purchases of liquor will be paid for at the designated checkout within the licensed area.
194. The Applicant submits that CCTV surveillance is presently in place throughout the existing ALDI Supermarket and that this will also be the case in respect of the proposed licensed premises. CCTV footage is stored to a hard drive and images are displayed on a monitor, which is kept in the store office.
195. With regard to the *location* of the proposed licensed premises, the Applicant submits that the ALDI Supermarket is located in the Lake Haven Shopping Centre, which has "large car parking areas for use by customers".
196. The Applicant submits that as the majority of customers of the Premises will comprise ALDI Supermarket customers who arrive and depart by car and who will have the convenience of purchasing some or all of their liquor needs at the same time, it is "unlikely that the granting of the licence will result in any adverse impact on the amenity of the area such as by way of noise, litter, traffic, etc".
197. With regard to the proposed *licensed trading hours*, the Applicant submits that the proposed hours of trade (8:00am to 8:00pm on Monday to Friday, 8:00am to 7:00pm on Saturday and 10:00am to 7:00pm on Sunday) are "less than the standard trading hours permitted for such a licence, and the hours that many liquor stores associated with a major Supermarket generally trade".
198. With regard to prevailing licence density, the Applicant submits that of the 45 packaged liquor licences currently located within the Wyong LGA, four are "limited to the sale of liquor only by means of taking orders over the telephone or by facsimile or mail order, or through an internet site".
199. The Applicant submits that the Lake Haven Shopping Centre and Lake Haven Home Mega Centre are located within the Lake Haven Town Centre, which includes "the main shopping and business destinations for a sub-region".
200. Further, the Applicant submits that the Lake Haven Shopping Centre is described as a "core retail centre" in the *Wyong Shire Retail Centre Strategy*, with a primary trade area comprising the Warnervale-Wadalba social planning district (SPD).
201. The Applicant contends that the population of this SPD is forecast to grow by 10.72 per cent between 2014 and 2031, and the estimated \$223 million of retail expenditure currently available from households in the Lake Haven catchment area is expected to increase to \$239.5 million by 2021.
202. The Applicant states that the local community is considered as comprising the State suburbs of Lake Haven, Gorokan, Kanwal, Charmhaven, Woongarra and Hamlyn Terrace. The Applicant submits that there are only four packaged liquor licensed premises within the "local community" as posited by the Applicant, and that there is an "under-provisioning of dedicated packaged liquor facilities in both the broader and local communities".
203. The Applicant contends that "the grant of a packaged liquor licence for premises of this type, of such a modest scale and with the modest trading hours set out above, is unlikely

to cause an overall social impact which is detrimental to the wellbeing of the local or broader communities".

204. With regard to measures to reduce the potential for alcohol related harm, the Applicant submits that ALDI is an "experienced operator" of supermarkets in a number of countries throughout the world, and a "significant proportion" of its supermarkets are licensed or permitted to sell liquor.
205. The Applicant states that ALDI was the "first retailer in Australia to commit to a long term funding partnership with *DrinkWise* Australia" and in accordance with a recent announcement by *DrinkWise*, ALDI has "voluntarily agreed" to provide certain warnings on a range of liquor products to be sold at its stores.
206. The Applicant submits that the proposed corporate licensee will join, and through its staff, be an active participant in any local liquor accord for the area and that the Authority "can be satisfied" that adequate practices will be in place to ensure that liquor is sold, supplied and served responsibly on the Premises, and that all reasonable steps are taken to prevent intoxication on the Premises or minors gaining access to liquor, including by way of secondary supply. The Applicant submits that such measures include "adequate" staff training and compliance with its *House Policy*.
207. The Applicant further submits that various harm minimisation and responsible service of alcohol practices will also be in place to "minimise the likelihood of any crime or other anti-social behaviour as a result of granting the licence", including security related measures such as CCTV surveillance of the relevant liquor sales area. Additionally, liquor products will not be sold refrigerated, meaning they are less likely to be purchased for immediate consumption.
208. The Applicant refers to section 30(1) of the Act and submits that as required, and as indicated on the plan accompanying the Application, the proposed liquor sales area will be "adequately separated" from the Supermarket by way of partitioning comprising a fixed, solid and permanent screen wall approximately 1.8 metres high constructed of timber and acrylic panels. The Applicant notes that, in granting packaged liquor licences for various other ALDI Supermarkets in NSW, the Authority was satisfied that such a physical barrier constituted adequate separation for the purposes of section 30 of the Act.
209. The Applicant submits that, during the CIS process, various neighbouring occupiers and other stakeholders and special interest groups were notified of the proposal during the consultation period and only one response was received; being an email from Police advising that they would be making a submission upon the lodgement of the Application.
210. The Applicant contends that the proposed new licensed business will provide "significant public interest benefits which are likely to be beneficial to the wellbeing of the local and broader communities", as follows:
 - a) Convenience – customers of the ALDI Supermarket will be able to purchase liquor in conjunction with their grocery shopping, which is consistent with the needs, expectations and aspirations of the community within the meaning of section 3(1)(a) of the Act
 - b) Avoidance of special trips – ALDI customers will not be required, in many cases, to make a "special trip" to purchase their packaged liquor requirements
 - c) Choice – customers will gain access to a wider range of alcohol at competitive prices

- d) Facilitating social/recreational opportunities – the grant of the Application will service "legitimate community demands" for packaged liquor products, in conjunction with social and recreational opportunities
- e) Strengthening the viability of other nearby businesses – customers will be encouraged to undertake other shopping in the vicinity of the ALDI Supermarket
- f) Economic spin-offs – granting the Application will "contribute to the economic health of the local and broader communities" by creating employment opportunities such as in retail at the liquor outlet, as well as delivery, warehouse and supply-chain staff
- g) Contributing to initiatives to moderate the drinking culture – assistance to community organisations, such as ALDI's contribution to the "*DrinkWise*" initiative, contributes positively to the social and economic health of communities
- h) Outlet for local producers – granting the Application will provide local producers with an alternative outlet to sell products from local vineyards (such as those based in McLaren Vale or Margaret River).

211. In the document entitled "Additional Information – 6-hour Closure Period" also dated 8 September 2014, the Applicant proposes a daily closure period between 2:00am and 8:00am on Monday through Sunday. The Applicant submits that members of the public attending the Supermarket would expect, particularly on Mondays to Saturdays, that the proposed licensed premises will be open from the same time that the Supermarket is open.
212. The Applicant submits that if the application to change the 6-hour closure period is successful, then residents of the area and surrounding areas and other persons making use of the Supermarket (including mothers doing their grocery shopping after dropping their children off at school) will have the added convenience of being able to purchase some or all of their packaged liquor needs when purchasing their grocery needs prior to 10:00am.
213. The Applicant reiterates the various harm minimisation measures that will be in place at the Premises and submits, upon assessment of the proposal in light of the statutory objects and considerations of the Act, that a 6-hour daily closure period from 2:00am to 8:00am "will not lead to an increase in harm associated with the misuse and abuse of liquor, and the hours sought are required to meet the needs, demands and expectations of customers who may want to purchase liquor prior to 10:00am".
214. The Applicant also submits that, since the release on 26 March 2010 of the Authority's new Policy in relation to similar applications, the Authority has granted "numerous" applications for proposed new packaged liquor licensed premises with a changed closure period to allow trade prior to 10:00am on Monday through Saturday.
215. The Applicant notes that "all of the applications for packaged liquor licences for ALDI Supermarkets granted by the Authority to date" have included a relevant shutdown period which permits trade prior to 10:00am on Monday through Saturday.

Applicant's further submissions dated 10 March 2015

216. In a further letter to the Authority dated 10 March 2015 on behalf of the Applicant, Mr Hatzis makes several further submissions in support of the Application.

217. Mr Hatzis notes that the Applicant consents to the imposition of the following conditions upon the licence should it be granted:
1. *Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00am and 8:00am during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.*
 2. *The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.*
 3. *The licence cannot be exercised unless and until the Independent Liquor and Gaming Authority has been notified of the appointment of a manager to the licence.*
 4. *The licensee will ensure compliance with the Management Policies and Strategies and House Policy documents lodged with the Independent Liquor and Gaming Authority and will provide to the Authority copies of those documents as they are developed or updated from time to time.*
 5. *The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.*
 6. *The licence cannot be exercised unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises are complete and ready to trade.*
 7. *Upon evidence of completion of the premises being provided to the Independent Liquor and Gaming Authority, the licensee or its representative must join and be an active participant in the local liquor accord.*
 8. *The licensee will not sell refrigerated liquor products from the licensed premises.*
218. Mr Hatzis submits that within the same Shopping Centre, the former Liquorland store has recently been relocated from the shop adjoining ALDI to a smaller shop located nearer to the Coles Supermarket.
219. The former Liquorland store had a total area of 511 square metres, while the new Liquorland store will comprise only 194 square metres. Mr Hatzis submits that if the Application is granted, this will still result in a total floor area given over to liquor retailing within the Shopping Centre (194 sqm + 34sqm = 228sqm) which is *less than half* the floor area occupied by the former Liquorland store alone.
220. Mr Hatzis refers to ABS Census data and submits that Lake Haven and the surrounding area are "marked by ongoing, rampant, population growth", which is driven by the proximity via freeway to Newcastle and Sydney, demand for relatively affordable land near the coast and lifestyle factors that are particularly attractive to families and retirees. Mr Hatzis contends that the expansion of the Lake Haven Shopping Centre is being undertaken to facilitate that rampant population growth, pursuant to the Lake Haven Town Centre Master Plan.
221. Mr Hatzis notes that, notwithstanding that past and ongoing population growth and the fact that Lake Haven comprises the main shopping precinct for a much wider area, there are only 2 liquor licences in Lake Haven which were granted in 1978 and 1979 respectively, more than 36 years ago.
222. Further, in respect of the "local community" (as defined by the Applicant), Mr Hatzis submits that:
- a) There is no packaged liquor licence in Hamlyn Terrace
 - b) There is no packaged liquor licence in Woongarra
 - c) There is no packaged liquor licence in Charmhaven
 - d) There is one packaged liquor licence in Gorokan which was granted in 1975, some 30 years ago

- e) There is one packaged liquor licence in Kanwal which was granted in 1958, some 57 years ago.
223. In relation to the responses received during the Application process, Mr Hatzis submits that some 27 stakeholders and special interest groups were notified of the Application, but notes that only four responses were received.
224. Mr Hatzis also notes that Council, NSW Roads and Maritime Services, and Family and Community Services did not provide a submission in relation to the Application.

Applicant's response to the submission from Fostif Pty Limited

225. Mr Hatzis notes that the submission from Fostif Pty Limited suggests that the proposed licensed premises is located within an area of "relative disadvantage". Mr Hatzis acknowledges that 4.5 per cent of the population of Lake Haven identify as Aboriginal or Torres Strait Islander compared to only 2.5 per cent of the NSW population, but submits that this proportion comprises "only 152 persons".
226. Mr Hatzis acknowledges that, generally speaking, Indigenous people across Australia exhibit higher levels of alcohol related harm, but also exhibit higher levels of abstinence from alcohol – and submits that such generalisations do not apply uniformly to all Indigenous communities. Mr Hatzis notes that, despite two rounds of consultation, no concerns were expressed by local Indigenous community representatives in relation to this Application.
227. Mr Hatzis also notes that the submission from Fostif Pty Limited provides unemployment figures for Lake Haven and NSW as at the 2011 Census date. Mr Hatzis submits that these figures, when compared to 2006 Census data, demonstrate that indicators of social advantage and/or disadvantage in Lake Haven - such as unemployment, median weekly household income and the proportion of professionals - are "decidedly improving".
228. Further, Mr Hatzis notes that data provided in the 2010 National Drug Strategy Household Survey Report (NDSHS) demonstrates that unemployed persons are "higher abstainers, at lower lifetime risk for alcohol related harm and are also at a low single occasion risk for alcohol related harm".
229. Mr Hatzis reproduces the SEIFA data noted in previous submissions and contends that important factors to consider when interpreting the demographic profile of Lake Haven are its seaside location and the fact that "many of its residents have relocated to the area because they seek a different and more relaxed way of life" – for example, early retirement, or a preference to work fewer hours or in "lower paid, lower pressure positions". Mr Hatzis submits that the "sea change" phenomenon often results in higher rates of unemployment and lower median household incomes in coastal areas.
230. The submission from Fostif Pty Limited draws attention to the fact that Lake Haven records a higher level of dwellings used for social housing (9.3 per cent as at the 2011 Census date) compared with NSW generally (4.4 per cent).
231. Mr Hatzis concedes that a disproportionately high level of social housing in a community *may* be evidence of "social fragmentation and disadvantage", but submits that if that were the case here, one would have expected Council to express concerns about the Application.

232. Mr Hatzis notes that Wyong Shire Council granted development consent for this proposed new liquor sales area. Mr Hatzis also notes that no concerns were expressed by Family and Community Services or from two local special interest groups who deal with accommodation issues in the local community.
233. The submission from Fostif Pty Limited draws attention to the presence of a greater proportion of the population engaged as labourers (12.3 per cent compared with 8.7 per cent in NSW). Mr Hatzis contends that this higher proportion of people working in the construction industry reflects the "particular economic opportunities available in a growing community and is not of itself indicative of social disadvantage".
234. The submission from Fostif Pty Limited also draws attention to the larger proportion of single parent households in Lake Haven (23.6 per cent). Mr Hatzis notes that evidence from the 2010 NDSHS Report suggests that single parents with dependent children have "similar levels of lifetime and single occasion risk drinking" when compared with couples with dependent children, but submits that no concerns were raised by any relevant Government departments about risk to single parents in this local community in relation to this Application.
235. Mr Hatzis then refers to the Applicant's previous submissions on liquor licence density in the local community, and contends that granting this Application will not result in excessive licence densities, but will "only bring about numbers of licences which are closer to the State average".
236. Mr Hatzis submits that granting the Application will cater to the "growing demands and expectations of customers for one-stop shopping from this sub-regional shopping centre serving a large population area".
237. In relation to BOCSAR crime data for the year ending June 2014 in respect of alcohol related assaults occurring in Lake Haven and surrounding suburbs as noted by Fostif Pty Limited, Mr Hatzis submits that while these rates are generally higher than the corresponding NSW rate, the "small populations" of those suburbs must be considered.
238. Mr Hatzis submits that the population of Charmhaven is 2,325; the population of Kanwal is 3,873 and the population of Lake Haven is 3,369. Mr Hatzis notes BOCSAR's caution that "in areas with small populations, a modest number of incidents/victims/offenders can have a large effect on the calculated crime rate, thus giving a misleading representation of crime in that location".
239. Mr Hatzis refers to *count data* for incidents of *alcohol related domestic violence* and *alcohol related non-domestic violence* occurring in Lake Haven for the five years from 2010 to 2014, and submits that these counts need to be understood in the context of the two sub-regional shopping centres located in Lake Haven (Lake Haven Shopping Centre and Lake Haven Home Mega Centre) and the tourist population visiting Lake Haven and surrounds during the summer months.
240. Mr Hatzis also notes BOCSAR's caution that "rates should also be treated cautiously for regions with high visitor numbers relative to the residential population" and submits that this warning is a reflection of "routine activities theory", whereby locations attracting very high levels of visitations can be expected to attract commensurately higher levels of criminal activity.

241. Mr Hatzis further submits that:

Here, in a suburb which has a relatively small residential population (3,369 as at 2011) but which attracts more than 140,000 persons every week to its sub-regional shopping centre, a total annual count of 10 alcohol related non-DV assaults is relatively small and does not suggest a high risk of alcohol related non-DV assault from the grant of this Application.

242. Mr Hatzis contends that the submission from Fostif Pty Limited provides an incorrect smoothed estimate of standardised mortality ratio in respect of the Wyong LGA (119.0) when the correct figure for 2011 is 107.8.

243. Mr Hatzis submits that other relevant data is "more favourable" and demonstrates that the Wyong LGA does not have a particular propensity for adverse health effects relating to alcohol consumption or any particular susceptibility of the local population to alcohol related health harms.

244. The Authority has taken into account and accepts the Applicant's submissions with regard to projected growth in the population of the broader community although it observes that projections out to the year 2031 are less helpful to the short and medium term impact of granting the licence. As discussed below, the Authority does not consider that licence density at the level of the local or broader community is particularly high.

Applicant's response to the submission from NSW Health

245. Mr Hatzis submits that NSW Health provides "limited statistical evidence" for the claim that health services in the LGA are currently burdened by treating disease and injury associated with excessive alcohol consumption and contends that socio-demographic indicators have been improving in the area, as evidenced by comparisons between 2006 and 2011 Census data.

246. The submission from NSW Health refers to anecdotal evidence provided by Ms Val Lambert, Coordinator of the Phoenix Youth Support Service, suggesting that there is an "existing problem with public drinking, underage drinking and secondary supply of liquor to persons underage".

247. Mr Hatzis submits that objective data sourced from BOCSAR and Health Statistics NSW does not support these assertions and that Lake Haven has had a "consistently very low rate" of liquor offences (including the Police incident categories of, *inter alia*, consume alcohol in public by minor, consume alcohol in an alcohol free zone and supply liquor to juvenile) during the previous five years.

248. The submission from NSW Health claims that Lake Haven is already identified as a hotspot for non-domestic assault. Mr Hatzis acknowledges that BOCSAR crime maps reveal that the Shopping Centre and its surrounds are located within a low to medium density hotspot for non-domestic assault, but submits that there are no *alcohol related* assault hotspots located anywhere in the suburb of Lake Haven.

249. The submission from NSW Health also refers to reports of minors purchasing takeaway liquor from packaged liquor outlets located across the Central Coast. Mr Hatzis notes that the report from which this data was taken is not publicly available, so the Applicant is not able to provide comment. Mr Hatzis submits that it may well be, for example, that this phenomenon is "more prevalent in parts of the Central Coast which are within entertainment precincts" and reiterates that ALDI has an "exemplary track record" in respect of the responsible service of alcohol.

Applicant's response to the submission from NSW Police

250. Police report the number of liquor outlets within a radius of 5klms of the Premises, but Mr Hatzis notes that no population figures are provided by Police to enable the Authority to measure densities in those areas.
251. Mr Hatzis reiterates the licence density data referred to in the Applicant's previous submissions and contends that the density of liquor licences (including those capable of selling packaged liquor) in the suburb of Lake Haven, the "local community" (as defined by the Applicant) and the Wyong LGA is "clearly not excessive".
252. The Police submission provides evidence of a number of "incidents" recorded on the CIDS database for an unspecified area described as "Lake Haven Shopping Centre and surrounds". Mr Hatzis submits that these CIDS reports "should not be taken as a measure or surrogate for the extent of criminal activity in a given area" and are "not a proper substitute" for BOCSAR data, which is "objective, directly comparable with other areas of the State and which has undergone an internal vetting process before being published through BOCSAR".
253. Mr Hatzis submits that ALDI "welcomes" the designation of the area near the Lake Haven Shopping Centre as an alcohol free zone and contends that the presence of an AFZ will "make it even less likely that alcohol will be purchased from ALDI for consumption in public areas".
254. Police contend that there are a "high number of anti-social incidents" including malicious damage incidents and stealing offences. Mr Hatzis submits that stealing offences do not appear to be linked to the consumption of alcohol and are "more clearly referable" to the presence of a large sub-regional shopping centre.
255. Mr Hatzis refers to "routine activities theory", which posits that crime is generally higher where human activity is higher, and provides data indicating that Westfield shopping centres in Chatswood, Hornsby, Miranda, Parramatta and Warringah Mall are all located within high density hotspots for malicious damage, despite being located in local government areas recording "very low" rates of that kind of event.
256. Mr Hatzis submits that there is "nothing inherently problematic or unusual" about a well-patronised shopping centre recording high rates of malicious damage relative to its suburb's resident population.
257. Mr Hatzis contends that if rates of public drinking, juvenile drinking and drinking in AFZs were genuinely problematic, then one would have expected this to be reflected in the rates of "liquor offences" occurring in the local community of Lake Haven – however this rate is "well below average".

Applicant's response to the OLGR Report

258. Mr Hatzis reiterates his previous submissions in relation to the low *count* of alcohol related assaults in the Lake Haven area and the fact that despite the proximity of the Premises to sensitive facilities such as the Gravity Youth Centre, no concerns were raised by any of the youth support services operating from within the Gravity Youth Centre at any stage of the consultation process. Further, Mr Hatzis submits that objective data obtained from BOCSAR and NSW Health "does not suggest that minors are purchasing alcohol from the existing licences, or drinking in public areas, in numbers that are problematic".

The Competing BWS application

259. Mr Hatzis submits that "there is room for the Authority" to grant both this Application and the BWS application, based upon the past and projected rampant population growth in the Lake Haven area, and the fact that even if both applications are granted, the floor area devoted to liquor retailing in Lake Haven Shopping Centre "will still be less than" that which prevailed prior to the recent Liquorland removal application.
260. Mr Hatzis submits that in the event that the Authority is minded to grant only one of the two applications, then the ALDI Application should be preferred, by reason that the ALDI Application demonstrates:
- a) A much smaller footprint
 - b) A far more modest span of trading hours
 - c) A much lesser range of products
 - d) No sale of refrigerated liquor products and location within the bowels of a Supermarket, meaning a lesser risk of impulse purchases or of liquor being purchased for immediate consumption
 - e) A much lesser risk of stimulating price competition than the BWS application, given that ALDI does not generally sell directly comparable, mainstream branded liquor products
 - f) Catering to the needs of the large numbers of ALDI shoppers, who have an expectation for provision of non-branded liquor products, in conjunction with their non-branded grocery products
 - g) The express approval by Wyong Shire Council of the proposed development, including a liquor department, after a consideration of the likely social and economic impacts upon its own local community.
261. Mr Hatzis concludes that the "significant public benefits" in granting this Application well outweigh the "minimal" potential for incremental alcohol related harm from granting the Application. The "correct and preferable decision" is for the Authority to grant the Application.

REASONS FOR REFUSAL

262. The Authority has critically examined the Application and all of the material before it and has decided to refuse the Application pursuant to section 45 of the Act, by reason that the Authority is *not* satisfied that the overall social impact of granting the Application will not be detrimental to the wellbeing of the local community within the State suburb of Lake Haven and that the Applicant has established that the Application satisfies the requirements of section 48(5) of the Act.

Overall Social Impact

263. Determining the overall social impact of granting a liquor application in respect of a proposed new licensed business requires a degree of speculation about what is likely to occur in the event that the Application is granted – albeit speculation that is informed by what is known about the proposed business and the prevailing circumstances in the relevant local and broader communities.
264. For the purposes of assessing the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the relevant local community comprises the State suburb of Lake Haven, while the broader community comprises the Wyong Shire LGA.
265. The Authority notes that the Applicant has posited that the local community of this proposed new ALDI liquor sales area 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", which comprises the State suburbs of Lake Haven, Gorokan, Kanwal, Charmhaven, Woongarra and Hamlyn Terrace.

266. The Act does not define what "local community" means. Consistent with the Authority's *Guideline 6* and its long established practice and policy evident from the many published decisions on the Authority website, the Authority is satisfied that the local community comprises the State suburb or town (as the case may be) in which the proposed licensed premises is to be located.
267. The section of the "How to complete a CIS" form referred to by the Applicant and published on the OLGR website is focussed upon providing guidance to applicants when consulting special interest groups, which may or may not be situated in the suburb in which the relevant business will operate.
268. The Authority takes the view that to define a local community in the broad manner posited by the Applicant, incorporating multiple suburbs, would tend to lose any "local" focus for the purposes of assessing social impact. The additional suburbs posited by the Applicant as falling within the local community are, in any event, incorporated by an assessment of the broader community of the Wyong LGA.
269. For the sake of administrative consistency and regulatory certainty, the Authority finds it preferable to identify the State suburb of Lake Haven as constituting the relevant local community, while the broader community comprises the Wyong LGA.

Positive Benefits

270. 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 communities who wish to purchase liquor for consumption off the Premises at the same time as buying their groceries from the nearby ALDI Supermarket, as they will be able to do so during the licensed trading hours of the Premises (from 8:00am to 8:00pm Monday to Friday, 8:00am to 7:00pm on Saturday and 10:00am to 7:00pm on Sunday).
271. The Authority is satisfied, on the basis of the petition forms signed by over 3,400 customers of the existing ALDI Supermarket between 18 March 2015 and 1 April 2015, that some additional convenience is established by the Applicant in respect of those ALDI shoppers who wish to engage in "one stop" liquor shopping within the same Shopping Centre in which the ALDI Supermarket, and other stores, are located. In this respect, the Application may be said to promote the object of section 3(1)(a) of the Act (catering for the expectations, needs and aspirations of the community).
272. However, the extent of those cumulative benefits to the community offered by granting this Application is reduced to some extent by the availability of packaged liquor licensed premises that are authorised to sell liquor for consumption off the licensed premises within the local community.
273. The Authority is satisfied, on the basis of Authority licensing records, that there are two (2) licensed premises within the suburb of Lake Haven, both of which are packaged liquor licensed – *Liquorland Lake Haven* (located within the Lake Haven Shopping Centre) and *BYO Cellars Lake Haven* (located approximately 100 metres from the Lake Haven Shopping Centre). The extent of convenience is further reduced by the fact that there is already a liquor store operating within this same Shopping Centre.

274. The Authority notes the Applicant's submission that ALDI predominantly sells non-branded liquor products sourced from local producers, which are generally not available in mainstream packaged liquor outlets. The Authority accepts that this is an aspect of the Application that will provide benefits by way of developing the local liquor industry for the purposes of section 3(1)(b) of the Act but note that not all ALDI products are locally sourced – and so this benefit is modest.
275. However, the Authority is satisfied, on the basis of Authority licensing records, that there are two (2) other ALDI packaged liquor outlets located within 5klms of Lake Haven Shopping Centre (ALDI Blue Haven and ALDI Toukley) outside the local community but within the broader community.
276. While the Applicant contends that granting the Application will support employment opportunities within the Premises by employing staff residing within the local community of the proposed new liquor sales area, the Applicant has not provided clear or unequivocal undertakings that employees of the new business will actually be sourced from within the relevant local or broader communities. Little weight is given to that purported community benefit on the material before the Authority.
277. The Authority notes that the Applicant contends that granting the Application will contribute to initiatives to moderate the drinking culture – in that assistance to community organisations (such as ALDI's contribution to the "*DrinkWise*" initiative) will contribute positively to the social and economic health of communities. However, the Applicant has not provided any specific detail or quantitative evidence in support of this contention and little weight is given to that purported community benefit on the material before the Authority.
278. The Authority also notes the Applicant's submission that granting the Application will service "legitimate community demands" for packaged liquor products, in conjunction with facilitating social and recreational opportunities. However, the Applicant has not provided any examples or evidence demonstrating how and to what extent this will occur, were the Application granted. Little weight is given to that purported community benefit on the material before the Authority.
279. In summary, the Applicant has established positive benefit principally by way of convenience and one stop shopping for ALDI customers at this Shopping Centre should the licence be granted.

Negative Impacts

280. The Authority accepts that, over time, there will more likely than not be some contribution from the liquor sold at the Premises to local alcohol related crime, disturbance or adverse impacts on amenity (whether or not they rise to the level of criminality) caused by a minority of customers who abuse the packaged liquor purchased from this new business.
281. A minority of patrons of the new business may also contribute to other adverse impacts upon local amenity, including (relevantly to the issues raised in this Application) drinking in public places, particularly in the vicinity of the Youth Centre located within close proximity to the Lake Haven Shopping Centre, anti-social behaviour and secondary supply to minors.
282. The location of the proposed new liquor outlet is objectively problematic when assessing the overall social impact of granting a new licence of the type proposed.

283. The Authority notes that the suburb of Lake Haven is ranked in the first decile on the Index of Relative Socioeconomic Advantage and Disadvantage for all suburbs in NSW. The 2263 postcode (which includes the suburb of Lake Haven) is ranked in the first decile on the IRSAD for all postcodes in NSW, and the Wyong LGA is ranked in the fourth decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most socioeconomically advantaged).
284. The Authority also notes that as a whole, the broader community of the Wyong LGA performs relatively poorly in terms of rates of crime when compared to NSW State averages.
285. The BOCSAR *Report on Crime by LGA and Alcohol Related Status* for 2013 focuses upon the proportion of crime reports in certain offence categories that have also been flagged by individual reporting Police officers as "alcohol related".
286. This report discloses that the rate of *alcohol-related domestic violence related assault* occurring across the Wyong LGA was 186.0 per 100,000 persons of population, which is significantly higher than the NSW rate of 137.3 per 100,000 persons of population. The rate of *alcohol related non-domestic assault* incidents occurring across the Wyong LGA was 195.7 per 100,000 persons of population, which is slightly higher than the NSW rate of 181.0 per 100,000 persons of population. This report further discloses that the rate of *alcohol related malicious damage to property* incidents across this LGA was 156 per 100,000 persons, which is again significantly above the NSW rate of 122 per 100,000 persons.
287. Turning to the local community in the State suburb of Lake Haven, BOCSAR crime mapping data for the period from January 2014 to December 2014 reveals that the Premises is located near a medium density hotspot for the concentration of *non-domestic assault offences* and *domestic assault offences*.
288. Importantly, the Premises is located within a *high density hotspot* for the concentration of offences involving *malicious damage to property* (noting that such matters may or may not be recorded as alcohol related).
289. While noting that BOCSAR caution that it is difficult to assess the degree of involvement of alcohol in property offences (where a perpetrator may not be identified), the prevalence of malicious damage offences lends additional objective support and credibility to the concerns expressed by NSW Police and NSW Health about public drinking and anti-social conduct on the lawn outside the Gravity Youth Centre, which is in close proximity to where the Premises is to be located.
290. The Authority notes the Applicant's submission that the rates of offences of *alcohol related domestic assault*, *alcohol related non-domestic assault*, *alcohol related assault Police*, *liquor offences* and *alcohol related disorderly conduct* recorded as occurring in the broader community of the Wyong LGA over the 12 months to March 2015 are either stable or decreasing.
291. Accepting this, the Authority is nevertheless satisfied that the rates per 100,000 persons of population for *alcohol related assaults* (both domestic and non-domestic) in this broader community are higher than NSW State average rates.
292. The Authority does not accept the Applicant's submission that, in respect of crime statistics, *count data* should be preferred over the rates per 100,000 persons of population, given the small permanent population base of Lake Haven and the high transient population within the local and broader communities. Assessing the rate per 100,000 persons of population provides some relative insight into the extent to which a population is exposed to crime by comparison to State wide rates.

293. Further, taking account of the transient population is complex and would ultimately result in false comparisons unless the data for every suburb and town in the State and the State as a whole were adjusted to take transient populations into account.
294. The population of Lake Haven is small, and this warrants a degree of caution given that the rate of offences may be influenced by smaller changes in the number of reported incidents from year to year, but the population is not so small as to warrant disregarding the rates reported in local crime data, especially when that crime occurs in the context of a broader community that also has rates of alcohol related domestic violence that are well above the State average.
295. A very large number of suburbs and towns in the State have large transient populations and indeed the State itself has a very large number of tourists visiting from interstate and overseas. None of the State wide or local rates take transient populations into account. To do so in this case would result in false comparisons, not comparisons of like with like.
296. Count data provides further refinement to the data on the recorded rates of offending, which is of assistance when the population of the local community is relatively smaller, but the count of 10 reported alcohol related domestic assault events over a 12 month period in a suburb with a small population like Lake Haven nevertheless remains troubling. The Authority is particularly concerned with the relative prevalence of alcohol related domestic violence in a community when assessing an application for a new packaged liquor licence as the BOCSAR data demonstrates that most domestic violence occurs in the home, where packaged liquor is consumed.
297. The Authority notes the data sourced from the Alcohol Related Crime Information Exchange and referred to in the submission from NSW Police, disclosing that during calendar year 2013, 59 per cent of all recorded alcohol related incidents occurring in the Toukley sector of the Tuggerah LAC occurred in circumstances where alcohol was recorded as having been "last consumed" in *homes or private residences*, with the alcohol in these cases having been purchased as takeaway sales from licensed premises.
298. The Authority is satisfied that this "last place of consumption" data presents further objective evidence of the role that packaged liquor plays in localised alcohol related incidents of crime or disturbance requiring the engagement of Police.
299. While the Authority is satisfied that the prevailing crime data presents a real cause for concern, it has not been considered in isolation.
300. The crime data have been considered alongside information from credible local sources indicating local amenity impacts from crime and anti-social conduct to which the local community is currently exposed and which is relative to an assessment of the social impact arising from the location of the Premises.
301. NSW Police and NSW Health have raised specific concerns arising from the location of the Premises *viz-a-viz* a Shopping Centre that is already an established trouble spot for a range of reported anti-social conduct.
302. The Authority notes the submission from NSW Police that the Lake Haven area is a "hotspot for crime" and that the area of the Lake Haven Shopping Centre and surrounds is the "most heavily policed area in the Tuggerah Lakes Command due to the high number of anti-social incidents in the area consisting of malicious damage, hooligans, intoxicated persons, stealing and domestic violence".

303. The Authority further notes the submission from NSW Health that "*liquor is consumed daily on the grassy lawn in front of the neighbourhood centre where the Youth Centre is based, often commencing as early as 8:30am*" and that the "*supply of alcohol to underage people, exchange of drugs, public displays of drunken behaviour, and verbal and physical violence*" are regularly witnessed in the vicinity of the Youth Centre, which is located directly behind the Lake Haven Shopping Centre. [Authority emphasis].
304. The Authority gives weight to the local knowledge of Police and accepts as credible the concerns raised by NSW Police in relation to anti-social behaviour occurring at the Lake Haven Shopping Centre, including incidents perpetrated by young persons who are affected by alcohol to some degree.
305. The Authority is satisfied that there are noticeable and prevailing adverse impacts upon local amenity, some of which are alcohol related; and that the location of the Premises is within a part of the local community that is problematic for its exposure to anti-social conduct, notwithstanding that, as submitted by the Applicant, this has been reflected in higher rates of liquor offences (which would include offences by the licensees of licensed premises as well as individuals).
306. Council's declaration of the AFZ in respect of streets surrounding the Lake Haven Shopping Centre provides further objective support for the proposition that public consumption of packaged liquor is a prevailing problem for the local community in respect of this part of the local community and that law enforcement agencies are attempting to manage this problem.
307. The Authority is satisfied that Council would not have taken the step of declaring that AFZ if public drinking were not an issue, and the Authority is satisfied that granting a new licence in proximity to an AFZ will more likely than not frustrate the objects of managing public drinking in that AFZ by increasing the accessibility of liquor in that area and providing yet another outlet which may be targeted by a problematic minority of patrons who engage in public drinking or the secondary supply of liquor to minors. Increasing the number of licensed premises increases the opportunity for such persons to acquire liquor, either through direct purchase or secondary supply.
308. The CIS requires applicants to identify sensitive areas nearby the Premises and section 3(2) of the Act requires the Authority to consider whether the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
309. The Authority is satisfied that the lawn outside the Gravity Youth Centre situated near the Premises and the AFZs in the local community are already problematic, from the perspective of public drinking and anti-social conduct. This is an adverse incident of the location of the proposed new business.
310. The Central Coast Local Health District of NSW Health have provided a site specific and detailed account of prevailing alcohol related impacts on local amenity that are already being experienced and observed by staff at what is a sensitive facility – the Phoenix Youth Support Service, which operates out of the Gravity Youth Centre, located within the Lake Haven Shopping Centre precinct.
311. While the persons engaging in public drinking at the locations identified by NSW Health will likely continue to obtain liquor from other local outlets irrespective of whether or not this Application is granted, the Authority is nevertheless satisfied that in a practical sense, this new business will provide a new source and opportunity for the acquisition of

liquor for those engaging in public drinking or secondary supply in the locations identified.

312. That is, the location of the Premises is relatively problematic in that it is proximate to areas of the local community that are already exposed to these prevailing adverse impacts on local amenity.
313. New South Wales does not mandate the collection of liquor sales data of the kind that researchers in other jurisdictions have used to identify an association between the volume of liquor sold in a local government area and assault rates (as disclosed in *Authority Guideline 6 – Liang and Chikritzhs: "Revealing the Link between Licensed Outlets and Violence", Drug and Alcohol Review, September 2001*).
314. There is insufficient data before the Authority in this matter to determine whether granting this additional licence will lead to an overall increase, decrease or no change in the volume of liquor consumed at the level of the local or broader community as a whole.
315. However, the Authority is satisfied that even if the new outlet does no more than cannibalise the existing demand, by taking market share from other incumbent retailers, the contribution that *this* licensed business will make over time to the amenity impact of public drinking, along with the incumbent licensees, is a negative incident of this Application.
316. The Authority considers this to be a substantial negative social impact in this case, having regard to the scale, trading hours and location of the proposed new licensed business in relation to this local community and the prevailing problems evident from the material before the Authority that are occurring in and around the location of the Premises.
317. The Authority notes that, in response to concerns regarding secondary supply of alcohol to minors and public drinking, the Applicant has referred to its *House Policy for the Responsible Service of Liquor, Management Policies and Strategies*, and a substantial number of practices it will have in place to address this potential hazard.
318. The Authority also notes that the Applicant has consented to the imposition of a licence condition to the effect that refrigerated liquor products will not be sold from the licensed premises, which is an additional harm minimisation measure.
319. While the Authority does not consider it likely that ALDI staff within the new liquor sales area will knowingly break the law with regard to supply to intoxicated persons or those who engage in secondary supply, the Authority is satisfied that those busy staff working within a local ALDI supermarket will have, in a practical sense, limited ability to address the likelihood of liquor sold from this new outlet contributing to the established alcohol related amenity impacts that are occurring in the AFZ and in areas outside, but within close proximity to, the Lake Haven Shopping Centre.
320. There was some considerable discussion by the Applicant about the relationship between outlet density and alcohol related harms, and whether or not the available research provides any insights into the circumstances of this local and broader community in relation to this Application.
321. However, the Authority is satisfied, on the basis of Authority licence density data, that within the Wyong LGA, the licence density of *packaged liquor licences* is 8.68 per 100,000 persons of population. That is, licence density is not particularly high (in relative terms) at the level of the broader community compared to the density rate for packaged

liquor licences across New South Wales, which is 32.85 per 100,000 persons of population.

322. At the level of the local community, there are currently two packaged liquor licensed premises (*Liquorland Lake Haven*, located within the Lake Haven Shopping Centre and *BYO Cellars Lake Haven*, located approximately 100 metres from the Lake Haven Shopping Centre) in the suburb of Lake Haven.
323. Noting that ABS data discloses that the population of Lake Haven is only 3,369 this means that one packaged liquor licensed premises services 1,685 persons of local community population.
324. The Authority is satisfied that licence density compared to State wide rates is not particularly problematic and that density *per se* has not been a decisive adverse factor with respect to an assessment of the impact of *this* Application upon *this* local and broader community.
325. The Authority notes that the Applicant provides a comparison between this Application and the competing BWS application, and submits that the ALDI Application should be preferred by reason of, *inter alia*, the smaller scale, reduced trading hours and lesser range of products in respect of the proposed new ALDI liquor sales area.
326. While noting that the BWS Lake Haven application has been refused, each Application is determined on its merits. The Authority accepts that the scale of the proposed new ALDI liquor sales area to be located on the Premises is small (only 34 square metres).
327. The proposed licensed trading hours in this Application are from 8:00am to 8:00pm on Monday to Friday, 8:00am to 7:00pm on Saturday and 10:00am to 7:00pm on Sunday. While the hours across the week are substantial (in that the business is proposed to open early), the evening hours do not extend to the 10:00pm limit permissible under the Act for the sale of packaged liquor in New South Wales. The smaller scale of operation and the relatively early evening closing times on the weekend are factors that objectively reduce the scope for liquor sales from this proposed business to contribute to prevailing problems associated with the abuse of packaged liquor in the local and broader community.
328. The Authority is satisfied, on the basis of the ABS SEIFA data for the local community, that the local community is relatively very disadvantaged. Lake Haven is ranked in only the first decile on the IRSAD for all suburbs in NSW.
329. The Applicant makes the submission that lower median household incomes and higher rates of unemployment are not necessarily indicative of more risk in this location as the "sea change" phenomenon often results in a "different and more relaxed way of life" - including, for example, early retirement, or a preference to work fewer hours or in "lower paid, lower pressure positions".
330. The Authority is nevertheless satisfied that socioeconomic disadvantage in Lake Haven is not only a matter of lower income but also education and occupation, as the local community ranks within only the first decile of the Index of Education and Occupation.
331. Socioeconomic disadvantage is not considered in isolation, but is considered to be a compounding factor of concern in this case, when there is already evidence of higher rates of localised domestic violence offences in the local community in the context of higher than State average rates recorded for the broader community, of which this local community is a part.

332. As noted in the research that is disclosed in the Appendix to *Authority Guideline 6*, socioeconomic disadvantage has been consistently linked as a factor in rates of domestic violence (see for example Livingston, "A Longitudinal Analysis of Alcohol Outlet Density and Domestic Violence" (2011), *Addiction*).
333. Socio-economic disadvantage in a given community is a further risk factor when assessing the relative vulnerability of a given community to adverse liquor related impacts.
334. The Authority has considered the Applicant's submissions as to those measures (such as business policies) that the Applicant will implement to reduce or minimise the scope for alcohol related harm generated by the operation of the business, above and beyond the minimum requirements of the legislation.
335. The Authority accepts that the ALDI Group has a good regulatory record and accepts that its well-developed internal business policies described in the Application will be in place. The Authority has also 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.
336. 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. The Authority further notes the Applicant's proposal that liquor not be sold refrigerated and accepts that this is a practical harm minimisation measure designed to discourage the impulse consumption of liquor products after purchasing them from the ALDI Supermarket.
337. Nevertheless, the Authority considers that the Applicant's staff will only have the meaningful capacity to monitor the point of sale and its immediate environs, and the measures disclosed in the material before the Authority do not overcome the prevailing sensitivity of the location and surrounding area to alcohol related impacts on public amenity that have been established on the basis of the submissions from NSW Police and NSW Health.
338. A substantial body of research on the effects of alcohol outlet density and alcohol pricing and promotions is before the Authority in relation to this Application, including the BOCSAR Paper, the studies noted in *Authority Guideline 6* (particularly the Livingston reports) and the further research articles referred to by NSW Health.
339. Broadly, this research provides a general cause for concern, establishing that positive relationships have been identified in Australian and international studies between the density of liquor outlets and increased alcohol related assault; increased outlet densities and motor traffic accidents, alcohol-attributable hospital admissions and death; increased packaged liquor licences and violent crime within urban neighbourhoods; and increased density and increased underage alcohol consumption. The UK University of Sheffield research notes the relative vulnerability of youth drinkers to alcohol pricing.
340. However, this decision has turned upon the credible and specific local information provided by Police and NSW Health as to the rate and persistence of anti-social conduct in the immediate area surrounding of the Premises. The Shopping Centre is already problematic for alcohol related misconduct and the Authority considers it more likely than not that the competitively priced liquor to be sold by this Aldi Supermarket will be attractive to persons who abuse packaged liquor. The licensed business will contribute to the already challenging local environment for alcohol related anti-social conduct and the new business will contribute to those problems, along with the incumbent licensees

servicing that community. This information is objectively reinforced by Council's declaration of an AFZ and the problematic crime data for the local and broader community, particularly with regard to alcohol related domestic violence.

CONCLUSION

341. Considering the found benefits and negative impacts together, the Authority is *not* satisfied, on the material before it, that the overall social impact of granting *this* type of licence to a business located at *this* particular site will not be detrimental to *this* local community for the purpose of section 48(5) of the Act.
342. In making this decision, the Authority has had regard to all of the objects and considerations prescribed by section 3 of the Act, but has given particular weight to section 3(2)(a), the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) and section 3(2)(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.
343. The Application is refused pursuant to section 45(1) of the Act.



Micheil Brodie
Chief Executive

DATED 7 / 12 / 2015