

Mr Tony Schwartz  
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4 September 2018

Dear Mr Schwartz

<b>Application No.</b>	1-6736500143; 1-6736500218
<b>Applicant</b>	Mr Clayton White
<b>Application for</b>	Removal of a packaged liquor licence Extended trading authorisation
<b>Licence name</b>	BWS – Beer Wine Spirits
<b>Licence number</b>	LIQP700300531
<b>Current address</b>	33 Oaks Avenue, Dee Why NSW 2099
<b>Proposed address</b>	Part of the new development site at 9,11,15 & 17 Howard Avenue & 14,16 & 28 Oaks Avenue & 884, 888, 890, 892, 894 & 896 Pittwater Road, Dee Why NSW 2099
<b>Current trading hours</b>	Monday to Saturday 5:00 AM – 12:00 midnight Sunday 8:00 AM – 10:00 PM
<b>Proposed trading hours</b>	Monday to Saturday 8:00 AM – 9:59 PM Sunday 8:00 AM – 9:00 PM
<b>Issue</b>	Whether to grant the removal of a packaged liquor licence and a new extended trading authorisation
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48, 49, 51 and 59 of the <i>Liquor Act 2007</i>

**Preliminary advice of decision of the Independent Liquor and Gaming Authority  
Application for the removal of packaged liquor licence and a new extended trading  
authorisation  
BWS-Beer Wine Spirits Dee Why**

At its meeting of 15 August 2018 the Independent Liquor and Gaming Authority (“Authority”) considered applications to remove a packaged liquor licence (“Removal Application”) with an extended trading authorisation (“ETA Application”) in respect of the above mentioned premises. The Authority has decided, pursuant to section 59 of the *Liquor Act 2007* (NSW) (“Act”) to grant the Removal Application and has also decided, pursuant to section 49(4) of the Act, to authorise the sale of liquor during the proposed extended hours on Sunday morning. Upon removal, the licence will be subject to the following conditions:

1. Retail Sales

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal trading

2. 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 six hours between 2:00 AM and 8:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority ("the Authority") in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the premises is required to close,
    - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
    - (c) any recorded image must specify the time and date of the recorded image,
    - (d) the system's cameras must cover the following areas:
      - (i) all entry and exit points on the premises, and
      - (ii) all publicly accessible areas (other than toilets) within the premises.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
    - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

If you have any questions, please contact [danielle.hatton@liquorandgaming.nsw.gov.au](mailto:danielle.hatton@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 6 April 2018 the Independent Liquor & Gaming Authority (“the Authority”) received an application (“Removal Application”) dated 27 March 2018 under section 59 of the *Liquor Act 2007* (“Act”) from the licensee Mr Clayton White (“Applicant”), to remove a packaged liquor licence LIQP700300531 currently attaching to premises at 33 Oaks Avenue, Dee Why NSW 2099 (“Current Premises”) to premises forming part of the new development site at 9, 11, 15 & 17 Howard Avenue & 14, 16 & 28 Oaks Avenue & 884, 888, 890, 892, 894 & 896 Pittwater Road, Dee Why NSW 2099 (“Proposed Premises”). The licenced business to operate on the Proposed Premises will trade as “BWS - Beer Wine Spirits”.
2. On 6 April 2018 the Authority received an associated application (“Extended Trading Application”) dated 27 March 2018 from Mr White, seeking the grant of an extended trading authorisation pursuant to section 49(4) of the Act. This authorisation (“ETA”) would enable the licence to trade on the Proposed Premises beyond the standard trading hours prescribed for a packaged liquor licence by section 12 of the Liquor Act, across the whole of the licensed area, from 8:00 am to 10:00 am on Sunday mornings.
3. Having considered together the positive benefits and negative impacts that the Authority finds likely to flow from granting the Removal Application and the Extended Trading Application (“Applications”), the Authority *is* satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting these Applications would *not* be detrimental to the well-being of the local and broader communities.
4. The Removal Application is granted pursuant to section 59(1) of the Act.
5. The hours sought by the Extended Trading Application are authorised pursuant to section 49(4) of the Act. For the purpose of section 49(6) of the Act, the ETA will apply between 8:00 am and 10:00 am on Sunday and will apply to the whole of the licensed area.
6. In reaching these decisions, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45, 48, 49, 51 and 59 of the Act and relevant provisions of the *Liquor Regulation 2008* (“Regulation”).

### Material considered by the Authority

7. The Authority has considered the Applications, the Community Impact Statement (“CIS”), and all submissions received in relation to the Applications.
8. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding these decisions, as all parties required to be notified were provided with a reasonable opportunity to make submissions.
9. In accordance with the Authority’s *Guideline 6*, the Authority has also had regard to relevant Liquor and Gaming New South Wales (“LGNSW”) liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by LGNSW from publicly available sources.
10. The list of material considered by the Authority is set out in the Schedule.

### Legislative framework

11. The Authority has considered the Applications in the context of the following provisions.

### Objects of the Liquor Act

12. The objects of the Act, as set out in section 3(1), are to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community, to facilitate the balanced development, in the public interest, of the liquor industry, and to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
13. In pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

### Trading hours and 6-hour closure period

14. Section 12 of the Act prescribes the standard trading period for liquor licences. Additionally, section 11A imposes a condition upon certain licences that fall within the scope of that section, prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

### Minimum procedural requirements

15. Section 40 of the Act and relevant provisions in the Regulation prescribe the minimum procedural requirements for the making of a liquor licence application to be validly made to the Authority.

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

16. Section 45(3) of the Act provides that the Authority may only grant a licence if it is satisfied that:
  - a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
  - b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - c) the applicable development consent required for use of the premises for the proposed business is in force.

### Community impact statement

17. Sections 48(2) and (3) of the Act require that certain “relevant applications” (including an application to remove a packaged liquor licence and an application for ETA in respect of such licence) must be accompanied by a CIS that is prepared in accordance with the relevant requirements specified in the Act and Regulation.
18. Section 48(5) of the Act provides that the Authority may only grant an application to which section 48 applies if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter the Authority becomes aware of during the application process.

### Provisions specific to a packaged liquor licence

19. Further legislative provisions that are specific to a packaged liquor licence are set out in sections 29 to 31 of the Act and in the Regulation.

### Provisions specific to the removal of a liquor licence

20. Section 59 of the Act provides the minimum legal requirements regarding the removal of a liquor licence to other premises.
21. Pursuant to section 59(3) of the Act, when determining an application for approval to remove a licence to other premises, the Authority is to deal with and determine the application as if it were an application for the granting of a licence in respect of those other premises. The Authority has the same powers in relation to such applications as it does in relation to an application for a new licence.
22. Section 59(5) of the Act provides that the Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that:
  - practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed to ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
  - those practices will remain in place.

### Provisions specific to extended trading authorisations

23. The legal requirements for making a valid application for an ETA are provided by section 51 of the Act and the Regulation. Section 51(3) provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the application as it has in relation to an application for a licence.
24. The power to grant an ETA for take-away sales on Sundays is provided by section 49(4) of the Act. Section 49(8) of the Act provides that the Authority must not grant an ETA in respect of licensed premises unless the Authority is satisfied that:
  - practices are in place, and will remain in place, at the licensed premises 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
  - the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

### **Key findings on the Removal Application**

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

### Validity, procedural and trading requirements

26. The Authority is satisfied that the Applications and accompanying CIS documents were validly made in that they meet the minimum content and consultation requirements of sections 40, 51 and 59 of the Act and clauses 6 through 11A of the Regulation.
27. This finding is made on the basis of the information provided in the Removal Application form, the ETA Application form, the CIS form and the Certificates of Advertising signed by Mr Anthony Charles Leybourne Smith (on behalf of Woolworths Group Limited) and Mr Tony Schwartz (the Applicant's legal representative) dated 12 April 2018.

### Trading hours and the 6-hour closure period

28. The Authority is also satisfied, on the basis of the Removal Application, the ETA Application, the CIS material and the additional submissions from the Applicant dated 7 May 2018 and 30 July 2018 that the trading hours, additional early morning trading hours on Sunday and the 6-hour closure period that have been granted upon this licence, with

consent of the Applicant, fall within the requirements of sections 11A, 12, 29, and 49(4) of the Act.

29. The Onegov licence record as at 8 June 2018 indicates that the licence commenced on 2 July 1982 and is therefore not subject to a 6-hour liquor cessation period. However, if an extended trading authorisation is granted on or after 30 October 2008 section 11A of the Act will apply. The Applicant has consented to a daily 6-hour liquor cessation under section 11A of the Act to be fixed between 2:00 am and 8:00 am being imposed on the licence upon removal to the Proposed Premises.

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

30. Pursuant to section 45(3)(a) of the Act, the Authority is satisfied that the Applicant is a fit and proper person to carry on the business to which the proposed licence relates. This finding is made on the basis that no concerns regarding Mr White's probity were raised upon consultation with relevant law enforcement agencies, including NSW Police ("Police") and the Compliance unit of LGNSW.
31. Pursuant to sections 45(3)(b), 49(8)(a) and 59(5) of the Act, the Authority is satisfied that practices will be in place from the commencement of licensed trading at the Proposed Premises and will remain in place to ensure the responsible serving of alcohol and prevention of intoxication. This finding is made on the basis of the Applicant's policy documents, namely the Endeavour Drinks Group *Liquor Store House Policy* (updated June 2016) and *Woolworths Best Practice Policy and Interventions* (which include policies on licensee responsibilities, service of liquor to persons in school uniform, refusal of service to intoxicated persons, requiring identification by persons who appear under 25 years of age and measures addressed at the risk of secondary supply). The Authority has also had regard to the information provided by the Applicant's legal representative as part of the CIS material discussing operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at *BWS – Beer Wine Spirits* stores across New South Wales.
32. Pursuant to section 45(3)(c) of the Act, the Authority is satisfied that any development consent required for the conduct of the business or activity to which the licence relates (a packaged liquor licence business) is in force with respect to the Proposed Premises. This finding is made on the basis of the development approval DA2016/0705 ("DA") determined by Northern Beaches Council ("Council") dated 10 May 2017. Council makes no objection to the Applications and the DA expressly permits the "construction of a Mixed Use Development comprising retail, commercial and residential uses and a child care centre". Condition 120 permits the Ground Floor Retail Tenancies to trade between 7:00 am and 10:00 pm Monday to Saturday and between 7:00 am to 9:00 pm Sunday. The Authority notes that while the Applicant initially sought licensed hours that would extend as late as 10:00 pm Sunday through Thursday and 11:00 pm Friday and Saturday, in emails from the Applicant's representative dated 7 May and 30 July 2018 the Applicant has consented to the licensed hours that have now been determined by the Authority.

#### Further restrictions on granting an extended trading authorisation

33. For the purposes of section 49(8)(b) of the Act, the Authority is satisfied on the basis of the Extended Trading Application, CIS and the Applicant's policy documents *Liquor Store House Policy* and *Woolworths Best Practice Policy and Interventions* that the proposed extended trading period (between 8:00 am and 10:00 am Sunday morning) will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the

Proposed Premises. The Authority notes the absence of any specific evidence of disturbance events or complaints from law enforcement agencies or the community arising from the exercise of the licence on the Current Premises. As discussed below, while Police have raised some concerns about existing levels of alcohol related stealing, assaults and domestic violence in Dee Why, no supporting evidence will pose a greater risk to those in the local or broader communities than the Current Premises. The Police concerns, taken at their highest, do not indicate a risk of frequent undue disturbance occurring during the relevant extended trading period, between 8:00 am and 10:00 am on a Sunday.

#### Community impact statement

34. The Applicant is required to submit a CIS by reason that the Removal Application and the Extended Trading Application are “relevant applications” under section 48(2) of the Act.
35. Consistent with *Authority Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Dee Why, while the relevant “broader community” comprises the local government area (“LGA”) of Northern Beaches (“Northern Beaches LGA”).

#### Positive social impacts from granting the Removal Application

36. The Authority accepts the Applicant’s contentions in the material provided with the CIS, that the removal of the licence (which has been trading at the Current Premises since December 1999) from a “tired and outdated building” to a location that comprises part of a redeveloped new mixed-use precinct will permit customers to continue “one-stop” shopping from within a “new and modern shopping facility”.
37. Notwithstanding the concerns raised by Police (which are discussed in greater detail below), the Authority notes that no submissions were received from members of the public or other stakeholders opposing the Application. Council have advised in submissions dated 17 November 2017 and 13 April 2018 that they do not object to the removal of the licence and the Compliance Unit of LGNSW in their submission dated 15 May 2018 raise no concerns with regard to the social impact of removing the licence. In their communication dated 24 November 2017 Family and Community Services advise that they do not propose to make a submission. The only other public agency submission was from Roads and Maritime Services (“RMS”) dated 21 November 2017 who noted alcohol related crash statistics for 2016 in the Northern Beaches LGA and made the usual recommendations relating to attending the LGA’s liquor accord and the licensee displaying a list of tips for people hosting social events and strategies that customers should be aware of. RMS do not object to the Application nor indicate how removal of this licence a short distance away from the Current to the Proposed Premises would give rise to any risk with respect to drink driving or alcohol related pedestrian impacts.
38. On this basis, the Authority is satisfied that removing this licence is consistent with the expectations, needs and aspirations of the community in respect of the sale, supply and consumption of liquor in the local and broader communities, in furtherance of the statutory object in section 3(1)(a) of the Act.
39. The Authority finds that this proposal concerns an existing long-running business that is moving its operations a distance of approximately 130 metres, within the same suburb and LGA. Removal of the licence will enable an existing business to continue to operate, albeit from a more modern premises. The Authority is satisfied that granting the removal will

facilitate the balanced development, in the public interest, of the liquor industry serving the local and broader communities pursuant to the statutory object in section 3(1)(b) of the Act.

40. The Authority has considered the other contended benefits proposed by the Applicant in the CIS, including claims of improved amenity, improved access to liquor, an improved product range, availability of a well-known BWS brand, a customer loyalty program, good customer service, improved neighbourhood safety and security, increased employment and career opportunities and support for the local communities.
41. The Authority has given minimal weight to these contended benefits. The Applicant is proposing the relocation of the same BWS liquor business a short distance away to operate a liquor store of significantly smaller scale to that currently in operation. It is difficult to see how any of these contended benefits will flow to the communities, given the established operation of the BWS business in the same local community. The Applicant's assertions about improved neighbourhood safety, improved security and increased employment are not apparent from relocating a similar business from the Current to the Proposed Premises and would warrant further evidence to be accorded any significant weight.

#### Negative social impacts from granting the Removal Application

42. The Authority considers that over time there is a risk that liquor sold from this packaged liquor licence will contribute to prevailing levels of alcohol related crime, disturbance or adverse impact upon the amenity in the local and broader communities from a minority of patrons who abuse liquor and engage in alcohol related misconduct.
43. However, this is mitigated by the fact that this packaged liquor licence business has been operating from the Current Premises since 1999, involving a substantially larger licensed area (270 sqm) than the Proposed Premises (208 sqm) with longer licensed trading hours (5:00 am to 12:00 midnight Monday to Saturday and 8:00 am to 10:00 pm Sunday) compared to the licensed hours that will be exercised on the Proposed Premises. The Authority accepts the Applicant's advice provided in the CIS that it has actually been exercising licensed trading on the Current Premises between 8:00 am and 10:00 pm Sunday to Thursday and between 8:00 am and 11:00 pm on Friday and Saturday. Removal of the licence will bring with it a reduction in licensed hours and actual trading hours, including during higher risk times of the evening on weekends.
44. LGNSW licensed premises information as at 20 May 2018 indicates that there are 5 packaged liquor licences in the suburb and 117 across the LGA, with a rate of packaged liquor licences of **23.24** per 100,000 persons in the suburb of Dee Why, which is below the NSW rate of **34.34**. The rate for the broader community (**46.27**) is above the State average. The communities are already well serviced by liquor outlets authorised to sell takeaway liquor. However, since this Application concerns the removal of an operating licensed business within the same suburb, granting the Applications will not impact licence density in respect of either community.
45. As for the suitability of the *location* by reference to prevailing alcohol related crime and other anti-social conduct, BOCSAR crime data for the year to March 2018 indicates that the suburb and LGA perform better than the State average on rates of alcohol related crime and malicious damage. The exceptions are that *alcohol related domestic assault* is moderately elevated in the suburb of Dee Why (recording a rate of **127.6** per 100,000 persons compared to **114.4** for NSW) and *alcohol related disorderly conduct (offensive*



*conduct*) is moderately elevated in the LGA (recording a rate of **49.6** per 100,000 persons compared to **41.2** for NSW).

46. The BOCSAR hotspot maps sourced by licensing staff on 7 June 2018 for the period between April 2017 to March 2018 indicate that there are concentrations of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property within the local community of Dee Why.
47. However, noting that this is an application to remove an existing licence only a short distance away within the same local community, the available BOCSAR crime rate and crime hotspot data does not suggest that the licence is being relocated to a more problematic location.
48. Socio-economic disadvantage is not a compounding factor when assessing the scope for adverse liquor related social impacts to occur as the ABS Socio-Economic Indexes For Areas data derived from the 2016 Census ranks the suburb in the 9<sup>th</sup> decile and the LGA in the 10<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs and LGAs within the State of NSW.
49. NSW HealthStats data indicates that there is some cause for concern in relation to alcohol related hospitalisations with the former Pittwater LGA recording a smoothed estimate of standardised separation ratio of 111.0 (2013-2015). This LGA recorded a smoothed estimate of mortality ratio of 79.5 (2012-2013).
50. The Authority has taken into consideration the Police submissions dated 6 November 2017, 16 May 2018 and 24 May 2018 in which Police raise concerns about the number of licensed premises in the “close vicinity” of the Proposed Premises. Police make broad submissions that the suburb of Dee Why is renowned for underage drinking, secondary supply, anti-social behaviour, incidents of stealing and assault. Police are ultimately concerned about the location and the crime that occurs around the Proposed Premises. Police contend that large numbers of youth frequent local shopping centres, parks and bus stops and are concerned that this new shopping centre will attract young persons.
51. Police note the location of Walter Gors Park (about 150 metres from the Proposed Premises), which is a crime hotspot attracting youths and young adults who consume alcohol resulting in assaults, brawls and anti-social behaviour. Police are concerned that removing this licence will increase the underage drinking, secondary supply sales of alcohol to minors, incidents of stealing and anti-social behaviour.
52. The Authority accepts that the Proposed Premises is somewhat closer to this park than the Current Premises but both locations are within walking distance. The Authority has had regard to the Applicant’s submission dated 12 June 2018 advising that a 24-hour alcohol prohibited area applies to the Walter Gors Park. The Authority accepts that the Park is a sensitive location for the abuse of packaged liquor, with both the current and proposed location of the licensed business problematic in this regard.
53. Police also contend that stealing from packaged liquor licences within the northern beaches area has become a problem and that from November 2017 to February 2018 the number one suburb on the Northern Beaches for alcohol related domestic violence assaults is Dee Why. Police also object to the commencement of trading between 8:00 am and the closure being 11:00 pm.
54. The Authority finds that Police concerns about localised alcohol related crime, minors consuming liquor, alcohol related theft and public drinking are broadly credible. While these

submissions are adverse to the Applicant, in the absence of information or data quantifying the nature and scope of these issues or identifying how removing this licence a short distance will increase the risk profile of the operation (taking into account mitigating factors including some reduced hours and smaller scale of liquor store) the Authority is unable to give Police submissions decisive weight.

55. While takeaway liquor is already conveniently available in the local and broader community, the licence density is not particularly high in the local or broader communities. At 46.27 packaged liquor licences per 100,000 persons, licence density in the LGA is moderately elevated compared to the New South Wales rate of 34.4. The LGA comprises a broad geographic area with numerous other licences more likely to service and impact other suburbs within this broader community.
56. The Authority has considered Police proposals for the imposition of licence conditions relating to unaccompanied minors, identification checks, CCTV measures, no alcohol being placed on the outside or close to the entrance, the securing of high risk products, restricting easy access to the Proposed Premises through turn styles or something similar, no excess of products in the store, not serving alcohol to customers seen drinking on approach, signage relating to persons under the age of 18 being accompanied by an adult and implementing a plan of management.
57. However, in light of the Applicant's response to the Police submission dated 12 June 2018 and the conditions to which the Applicant has consented, as specified in a submission dated 7 May 2018, and having regard to the Applicant's harm minimisation plans and positive trading history on the Current Premises, the Authority is satisfied that imposing the Conditions specified in this decision will satisfactorily mitigate risk of adverse social impact.

#### **Overall social impact**

58. Having considered the positive and negative impacts that are likely to flow from granting the removal of the licence and extended trading hours on Sunday mornings, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Removal Application and authorising the hours sought in the Extended Trading Application will not be detrimental to the well-being of the local or broader communities.
59. The Removal Application is granted pursuant to section 59(1) of the Act.
60. The Extended Trading Application is authorised pursuant to section 49(4) of the Act.



Philip Crawford  
Chairperson

#### **Important Information:**

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

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

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

## Schedule

### Material before the Authority

1. Packaged Liquor Licence Removal Application Form (“Removal Application”) lodged by Mr Clayton White (“the Applicant”) on 6 April 2018, signed and dated 27 March 2018 and accompanied by:
  - (a) the Site Notice, Local Consent Authority Notice and Notice to Police.
  - (b) A five-page document prepared by the Applicant’s legal representative Back Schwartz Vaughan (“BSV”) dated 19 March 2018 providing additional information on the 6-hour closure period to be imposed upon removal to new development site in Dee Why (“Proposed Premises”).
2. Extended Trading Authorisation (“ETA”) Application Form (“Extended Trading Application”) lodged by the Applicant on 6 April 2018, signed and dated 27 March 2018 and accompanied by the Site Notice, Local Consent Authority Notice and Notice to Police.
3. Community Impact Statement (“CIS”) lodged with the Removal Application and ETA Application (“Applications”) on 6 April 2018. This document was prepared by BSV, is signed by the Applicant and dated 27 March 2018 and is accompanied by the following:
  - (a) A twenty-one page document prepared by BSV dated 19 March 2018 providing additional information on the Removal Application.
  - (b) A nine-page document prepared by BSV discussing the operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS – Beer Wine Spirits stores in NSW.
  - (c) Endeavour Drinks Group Liquor Store House Policy NSW (updated June 2016) and the Woolworths Best Practice Policy and Interventions including policy documents relating to responsibilities, school uniform, refusal of service – intoxication, ID25 and secondary supply.
  - (d) A two-page document outlining the name and addresses of the various stakeholders who were notified of the Removal and Extended Trading Applications.
4. Plans/diagrams of the Proposed Premises highlighting the licensed area in red, provided by the Applicant when lodging the CIS and Applications on 6 April 2018.
5. Geographical map depicting the 100-metre notification zone, provided by the Applicant when lodging the CIS and Applications on 6 April 2018.
6. Notice of Determination of development approval DA2016/0705 (“DA”) determined by Northern Beaches Council (“Council”) dated 10 May 2017 for “Construction of a Mixed Use Development comprising retail, commercial and residential uses and a child care centre”, provided by the Applicant when lodging the CIS and Applications on 6 April 2018.
7. Liquor and Gaming NSW (“LGNSW”) competency card CCH10156907 for the Applicant expiring on 7 February 2023, provided by the Applicant when lodging the CIS and Applications on 6 April 2018.
8. The following submissions were received and provided by the Applicant when lodging the CIS and Applications on 6 April 2018:
  - (a) One-page submission from Senior Constable Holly Carter of Northern Beaches Licensing Unit of NSW Police (“Police”) dated 6 November 2017 raising concerns about the location and crime and requesting a number of conditions be imposed (which are discussed in greater detail above).
  - (b) One-page letter from Council to LGNSW dated 17 November 2017 advising no objection and discussing applicable general requirements.

- (c) Two-page letter from Roads and Maritime Services dated 21 November 2017 providing alcohol-related crash statistics for 2016 and making recommendations to prevent and decrease the likelihood of alcohol involvement in road crashes in the Dee Why area.
  - (d) One-page letter from Family and Community Services ("FACS") dated 24 November 2017 advising that FACS do not have a response.
9. Certificate of Advertising for the Applications signed by Mr Anthony Charles Leybourne Smith (Woolworths Group Limited) and the Mr Tony Schwartz of BSV dated 12 April 2018.
  10. One-page letter from Council dated 13 April 2018 advising no objection and discussing applicable general requirements.
  11. A four-page submission prepared by BSV on behalf of the Applicant dated 8 May 2018 responding to conditions proposed by licensing staff in an email dated 4 May 2018 and attaching a Australian Securities and Investments Commission ("ASIC") director history schedule for Karimbla Properties (No. 41) Pty Ltd.
  12. Email from LGNSW Compliance to licensing staff dated 15 May 2018 advising that the Compliance Unit does not intent to make a formal submission for either application.
  13. Two-page letter (sent via email of the same date) from Police to licensing staff dated 16 May 2018 raising concerns about the location and crime and objecting to the commencement of trade being 8:00 am and the closure being 11:00 am (which was corrected to mean 11:00 pm in an email dated 24 May 2018). Police also request a number of conditions be imposed (which are discussed in greater detail above).
  14. Email from Police dated 24 May 2018, in response to an email from licensing staff dated 17 May 2018, making a minor correction to their previous submission and discussing four conditions requested by Police (relating to CCTV, the storing of high-risk products, not serving alcohol to people seen drinking on approach and displaying signage relating to minors entering the licensed premises accompanied by an adult).
  15. National Police Certificate NCHRC-2018-42652 for the Applicant issued on 11 May 2018, provided via email from the Applicant dated 1 June 2018.
  16. Licence density calculations performed by licensing staff on 7 June 2018 for relevant areas on the basis of LGNSW licensed premises information as at 20 May 2018 and population data from the ABS 2016 Census.
  17. LGNSW licensed premises records for the suburb of Dee Why and the Northern Beaches Local Government Area ("LGA") sourced by licensing staff on 7 June 2018.
  18. Bureau of Crime Statistics and Research ("BOCSAR") hotspot crime maps for Dee Why between April 2017 to March 2018 recording concentrations of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property events, sourced by licensing staff on 7 June 2018.
  19. Google geographical maps depicting the location of the current premises and Proposed Premises, sourced by licensing staff on 7 June 2018.
  20. BOCSAR crime data for April 2017 to March 2018 for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) in Dee Why, Northern Beaches LGA and NSW, sourced by licensing staff on 7 June 2018.

21. BOCSAR crime data for calendar year 2017 for the proportion of incidents by offence type, day of week and time of day for the Northern Beaches LGA and NSW, sourced by licensing staff on 7 June 2018.
22. Australian Bureau of Statistics (“ABS”) Socio-Economic Indexes For Areas (“SEIFA”) data on the basis of the 2016 ABS Census data for the suburb of Dee Why, sourced by licensing staff on 7 June 2018.
23. NSW Department of Health *Healthstats* data for the former Pittwater LGA for alcohol attributable deaths (between 2012 and 2013) and hospitalisations (between 2013 and 2015), sourced by licensing staff on 7 June 2018.
24. Google geographical map depicting the location of the Proposed Premises and two architectural rendered drawings of what the front of the Proposed Premises will look like including the neighbouring areas, (sourced by licensing staff on 7 June 2018).
25. Onegov key liquor licence details for LIQP700300531 for BWS- Beer Wine Spirits as at 8 June 2018 (sourced by licensing staff).
26. A fourteen-page submission prepared by BSV on behalf of the Applicant dated 12 June 2018 responding to the Police submission and conditions sought by Police.
27. Email correspondence from BSV on behalf of the Applicant to licensing staff dated 30 July 2018 consenting to revised trading hours.
28. ABS SEIFA data on the basis of the 2016 ABS Census data for the Northern Beaches LGA, sourced by the Independent Liquor and Gaming Authority Reviews and Secretariat Unit on 10 August 2018.
29. ASIC current organisation details for WOOLWORTHS GROUP LIMITED extracted on 26 March 2018 and business name summary for BWS – BEER WINE SPIRITS extracted on 4 April 2018, sourced by licensing staff.