



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

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

Dear Mr Schwartz

**Application for Packaged Liquor Licence  
BWS – Beer Wine and Spirits, Bermagui**

I am writing to you regarding an application made by your client, Mr Anthony Smith on behalf of Woolworths Limited, which was received by the Independent Liquor and Gaming Authority (Authority) on 23 October 2014.

The Authority initially considered this Application at its meeting on 26 August 2015. However, the Application was deferred to convene a community conference with residents of Bermagui.

The Authority considered the Application again at its meeting on 28 October 2015 and has decided, pursuant to section 45(1) of the *Liquor Act 2007* to *refuse* the Application.

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.

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

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

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

Yours faithfully

Micheil Brodie  
Chief Executive

14 JAN 2016

## STATEMENT OF REASONS

### INTRODUCTION

1. On 23 October 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Mr Anthony Charles Leybourne Smith, the Business Manager Licensing for Woolworths Limited (Applicant).
2. The Application seeks the grant of a new packaged liquor licence within the meaning of section 29 of the *Liquor Act 2007* (Act) in respect of a proposed new "BWS – Beer Wine Spirits" store to be located at 1-9 Young Street, Bermagui, NSW 2546 (Premises).
3. The Application seeks licensed trading hours for the proposed new business to be conducted on the Premises to extend from 9:00am to 9:00pm Monday through Saturday and from 10:00am to 8:00pm on Sunday.
4. The Application is accompanied by a submission seeking that the 6-hour daily closure period required by section 11A of the Act be fixed at between 3:00am and 9:00am.
5. The Authority initially considered this Application on 26 August 2015. By reason of the considerable amount of community interest evident from the submissions made for and against the Application, the Authority deferred finalisation of the matter while the Authority explored convening a community conference with the Applicant and residents of Bermagui. However, due to the Applicants unavailability, the foreshadowed conference was abandoned and the Authority decided to determine the Application on the papers, which is its usual practice for applications of this kind.
6. The Authority considered the Application again 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 statement 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. This 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. **Liquor Licence Application Form dated 17 September 2014 and received by the Authority on 23 October 2014.** This Form discloses that Mr Anthony Charles Leybourne Smith, in his capacity as Business Manager Licensing for Woolworths Limited, has approval to execute documents on behalf of Woolworths Limited. The property owner of the Premises is identified as Fabcot Pty Limited (Premises Owner) and the owner of the proposed licensed business to be conducted on the Premises is Woolworths Limited (Business Owner).
10. **Category B CIS Form dated 17 September 2014.** The CIS Form was accompanied by a list of stakeholders consulted on the Application and a map indicating the location of the Premises.

11. **"Statement of Impact" dated 13 October 2014** prepared by the Applicant's solicitor, Mr Tony Schwartz of Back Schwartz Vaughan. This document provides the Applicant's case on the overall social impact of granting the Application. It includes, *inter alia*, a "social risk matrix" (the "social risk matrix" is a tool used by the Applicant to assign a numerical indicator of perceived risk to each factor of the application by comparing the perceived severity of a risk against the perceived likelihood of that risk eventuating); the nature of the proposed new liquor store that is the subject of the Application; the Applicant's submissions on the presence or otherwise of any "at-risk" socio demographic groups in the relevant communities; prevailing liquor outlet density; Socio Economic Indexes for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) for the broader community of the Bega Valley Shire local government area (Bega Valley LGA); the location of any potentially sensitive facilities that the Applicant considers to be located "near" the proposed new store; Applicant submissions on the potential impact of granting this licence upon neighbourhood amenity; a description of the community consultation process undertaken by the Applicant and an analysis of data pertaining to alcohol related crime and alcohol related harm in what the Applicant identifies as the relevant "local" and "broader" communities.
  
12. **Attachment 1 to the Statement of Impact dated 11 August 2014 – Woolworths' operating experience to date with its retail liquor stores associated with a Woolworths Supermarket**. This 15-page document provides the Applicant's account of at-risk socio-demographic indicators in the communities, as identified by the Applicant (being social groups typically identified in public health research as being relatively vulnerable to exposure to alcohol related harm); the prevalence of packaged liquor licences and other liquor licences in the communities identified by the Applicant; the Applicant's view of the potential for the new business to bring about adverse "change to the character" of the "local community" (which the Applicant contends comprises the expected trade catchment area of the proposed new store); potential noise impacts arising from the operation of the proposed new business; potential litter and pollution related concerns arising from the proposed new business; traffic and parking issues arising from the proposed new business; information about levels of alcohol consumption in the populations that the Applicant identifies as the local and broader communities; the Applicant's contentions as to the public interest benefits that will flow to the communities from granting the Application; the potential for this new liquor business to bring about increased levels of alcohol related anti-social behaviour in the communities; and data concerning prevailing rates of alcohol related hospital admissions and deaths in the local and broader communities (as those communities are identified by the Applicant).
  
13. **Attachment 2 to the Statement of Impact dated 11 August 2014 – Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS – Beer Wine Spirits stores in NSW**. This 4-page document is a further submission prepared by the Applicant's solicitor and addresses such matters as Woolworths' responsibility in respect of legislation regulating the sale of alcoholic beverages; the Applicant's approach to stocking products (in that any alcoholic or alcohol branded product submitted for potential sale by any buyer within the Woolworths Liquor Group must first be benchmarked against a checklist); the design features of all Woolworths Liquor Group stores that are designed to "minimise the potential for risk, or otherwise create a disincentive for people to behave inappropriately at, or in the vicinity of the store" (including, *inter alia*, a CCTV system, security alarm system, bright lighting and electronic article surveillance gates); Woolworths policies and procedures in relation to harm minimisation and responsible service of alcohol; Woolworths approach to neighbourhood safety; Woolworths' "exceptional trading record"; the relevant Liquor Accords and Self-Exclusion Arrangements to be administered by the business. This document also includes a copy of the Woolworths Liquor Group's "House Policy" and Woolworths' *Best Practice Policies and Interventions* document.

14. **Woolworths Liquor Group Liquor Store House Policy, and Woolworths' Best Practice Policies and Interventions document.** These two documents address internal policies and procedures maintained by the BWS (Beer Wine Spirits) business regarding the prevention of persons under the age of 18 from purchasing liquor or having liquor purchased for them - primarily by requiring the presentation of identification (**ID**) in the form of a current driver or rider licence, a current passport or NSW Photo ID Card from any person who appears to be under the age of 25. The Policies also require refusal of service to any person who appears to be intoxicated; ensuring that liquor is not consumed on the Premises nor displayed outside the licensed area; ensuring that all staff involved in the sale and supply of liquor are RSA certified; ensuring that CCTV and other security measures are in place and requiring participation in local liquor accords.
15. **Attachment 3 to the Statement of Impact dated 11 August 2014** – this 9-page document is an extract of data from the NSW Department of Health website providing health statistics relating to alcohol attributable deaths and hospitalisations by local government area in NSW. These statistics were issued by the NSW Department of Health on 11 June 2014. The Bega Valley LGA is specified as having had seven alcohol attributable deaths between 2006 and 2007 and 329 alcohol attributable hospitalisations between 2011-2012 and 2012-2013. The number of alcohol attributable deaths is indicated as being "not statistically different than the state average". The number of alcohol attributable hospitalisations are indicated as being "greater than the state average" at the "1 per cent level".
16. **Bega Valley Shire Council (Council) Development Application (DA) number DA:2013.405, dated 17 April 2014.** The decision, addressed to the Premises Owner, records the grant of development consent by Council for the "construction of a supermarket and two speciality retail tenancies, car-parking, landscaping and associated advertising signage". The decision provides that trade at the supermarket (for planning purposes) is restricted to the hours of 7:00am and 10:00pm Monday to Sunday. The DA also addresses, *inter alia*, the regulation of construction, fire safety requirements, maintenance requirements, the regulation of deliveries, and amenities.
17. **Vic Lilli & Partners Complying Development Certificate (CDC) No J140282, dated 29 September 2014.** This CDC relates to the "fit out of a commercial tenancy as a liquor store". It notes that the "proposed development is a complying development (and if carried out as specified in the certificate) will comply with all development standards applicable to the development and with such other requirements prescribed by the *Environmental Planning and Assessment Regulation 2000* concerning the issue of the certificate".
18. **Plan of the Premises.** The Applicant has provided a diagram showing the Premises and the boundaries of the proposed licenced area on the Premises.
19. **Submission from the Director of Bermagui Pre School, dated 30 July 2014.** The writer objects to the Application and makes the following contentions on the following bases:
  - a) **Social.** The writer submits that "research has shown that there is a high correlation between low socio-economic conditions and the availability of alcohol, leading to negative social and health issues". The writer submits that "having a high percentage of low income, unemployed and/or indigenous people within our community, there are concerns about the consequence of yet another liquor outlet".
  - b) **Economic.** The writer submits that "when local families are forced to close their doors because of unfair competition, our community loses children, resulting in drop in number in our Pre School and Primary School. This in turn affects class sizes, teacher numbers and funding".

- c) **Environmental.** The writer contends that "the run off from the oil and grease from the car park into drains and Horseshoe Bay are of major concern. The noise pollution created by the cooling and refrigeration units and truck is also not acceptable".
  - d) **Safety.** The writer submits that "I am concerned about the expected increase of traffic along Young Street, without signage or a safe crossing for the young children and families who access our service and other community buildings".
  - e) **Diminishment of Aesthetic Value.** The writer submits that "the industrial building is not in keeping with the current street scape".
20. **Submission from NSW Roads and Maritime Services (RMS), dated 1 August 2014.** This submission states that "While RMS does not object to the application in principle, it is recommended that the applicant joint the Bega Valley Liquor Accord".
21. **Submission from Bermagui Community Technology Centre, sent via email on 17 August 2014.** The writer objects to the Application, stating that "We do represent a small part of our community but we have been forced to accept another supermarket but had hoped the liquor store was deleted, but alas not the case...very sneaky BWS".
22. **Submission from The Sundeck, Bermagui, emailed to the Applicant's solicitor on 17 August 2014.** The writer objects to the Application contending that "I feel that introducing a third outlet for liquor sales is a bit overkill and would impact adversely on the current outlets, which would in turn reduce our options and value".
23. **Submission from a "small local wine producer" of Rankins Road, Coolagolite, 2550, lodged with the Authority on 28 October 2014.** The writer objects to the Application. In addition to contentions made by residents (noted below) the writer contends that granting the Application will "limit access for local wine producers to liquor sale points" by reason that "Woolworths has a strategic record of forcing out other suppliers either by making them unprofitable or more often just buying them out". The writer contends that when this occurs "choice and variety is lost for the consumer, and importantly the opportunity for small local producers to sell through retail outlets is taken away".
24. This submission follows on from an earlier submission sent to the Applicant's solicitor by this writer on 23 August 2014.
25. **Submission from the licensee of Bermagui Cellars, dated 18 November 2014.** In this submission this incumbent packaged liquor business objects to the Application. The writer makes a number of submissions in common with submissions made by residents of Bermagui (which are summarised below).
26. In addition, the writer contends that the new BWS store will be open for significantly longer licensed hours than Bermagui Cellars, opening one hour earlier and closing three hours later. The writer contends that this will occur "in a town where late night trading has never existed".
27. The writer contends that the proposed new business will have a negative impact on the community due to "cheap alcohol" policies and "in particular their cheap bulk wine, will greatly impact our local indigenous community, and the residents that have a problem (diagnosed or otherwise) with the consumption of alcohol".
28. The writer contends that the Applicant has made some "grossly inaccurate statements, and used completely false information" in the Application. The writer specifies the following examples of what are alleged to be misrepresentations:

- a) In the Application Form, the Applicant has not disclosed that the All Saints Anglican Church is within 100 meters of the Premises, but notes in the CIS that it is approximately 132 meters from the Premises.
  - b) Paragraph 50 of the CIS indicates that there are no alcohol free zones in Bermagui. However, the writer submits that all the foreshore and beaches, Dickenson Oval, the kids playground along Lamont Street, the Bermagui Skate Park, and the reserve across from the proposed site, are alcohol free zones and all "are Council sign posted".
29. This submission follows on from earlier submissions sent to the Applicant's solicitor on 19 and 24 August 2014.
30. **Submission from Bega Valley Shire Council (Council), emailed to the Authority on 26 November 2014.** This submission notes that Bega Valley Shire Council resolved in a meeting on 12 November 2014 that "further local research and consultation needs to occur, particularly with local health and community service providers, to better determine the impact on the community of Bermagui".
31. Council makes the following contentions with regard to the Application before the Authority:
- a) The NSW health related statistics referenced in the CIS "suggest that the Bega Valley has a higher than NSW average of alcohol related hospitalisations".
  - b) That "the assumption made in the CIS that as there was no feedback from key health agencies and Aboriginal organisations there are no issues relating to the consumption of alcohol within the community we suggest is flawed. The CIS states that feedback was sought but none was provided. There is no indication as to what attempts were made to gain this information, outside a written request for feedback".
  - c) Bermagui is an area of "disadvantage" according to the Socio Economic Index for Areas (SEIFA), with a score of 961, which is lower than the average for NSW as a whole which is 1000.
  - d) A number of groups within the community "are considered at risk in relation to alcohol related harm". Council submits that Bermagui has a significant population of "older people" and a "significant Aboriginal community" living in and around the Bermagui area. Furthermore, Council submits that "while the population is small, young people need to be included in this category. The issue of underage drinking and secondary supply in the Bermagui area is of concern, particularly in the busy tourist season".
  - e) Council submits that the introduction of a fourth packaged liquor outlet "would seem excessive for the population".
  - f) Council characterises as an "assumption" the Applicant's submission that Bermagui Country Club should not be included in an assessment of the incumbent packaged liquor retailers serving the community by reason that its sales of package liquor are very small proportion of its overall business.
  - g) Council submits that "the number of liquor outlets compared to the population is much higher than the NSW average – NSW 1:1525 against Bermagui 1:835".
  - h) Council submits that the proposed trading hours sought in the Application are "a significant increase in the overall packaged liquor outlet trading hours for Bermagui".
  - i) Council submits that "crime statistics for the Bega Valley Shire put the incidents for alcohol related offences higher than the NSW average in the categories of domestic assault/non domestic assault and offensive behaviour".
  - j) Council submits that "alcohol related crimes appear to be a more pressing issue in the Bega Valley Shire, with a ranking of 39<sup>th</sup> out of 140 LGAs in NSW for alcohol related offences (NSW Bureau of Crime Statistics)".

32. This submission follows on from an earlier submission emailed by Council to the Applicant's solicitor on 5 September 2014.
33. **Submission from the licensee manager of the Bermagui Beach Hotel, lodged with the Authority on 26 November 2014.** This submission objects to the Application. The writer contends that the suburb of Bermagui does not "need another PLL" as this would "detract from local businesses" and would not be as community oriented as the existing liquor stores. The writer argues that the fact that "there is not a single complaint against both the hotel and Bermagui Cellars" is "testament to our commitment to our community".
34. **Submission from NSW Police Far South Coast Local Area Command (LAC), emailed to the Authority on 27 November 2014.** This submission states that "whilst the application is NOT supported by police there is very little on which to base an objection, taking into account the basis on which police rely to lodge an objection".
35. Police note that "the main issue of concern by police in regards to developments of this nature surround the impact that it would have on police resources, the likelihood of an increase in anti-social (alcohol related) behaviour by the community and the impact that it may have on youth within the area".
36. Police request that if the Application is granted that the licensee become an active member of the local liquor accord and that no application for extended trading hours be made for a period of five years.
37. This submission follows on from an earlier submission emailed to the Applicant's solicitor on 18 August 2014.
38. **Submission from the Office of Liquor Gaming and Racing (OLGR), dated 10 March 2015.** This submission states that the OLGR Director of Compliance and Enforcement Division "does not object to the granting of this application" but notes that "there are apparent local and broader community concerns regarding this application".
39. OLGR assesses the type of licensed business model (a packaged liquor store) of the proposed new licensed business as "low risk". OLGR observes that the density of licensed premises in the suburb of Bermagui is "below the state average".
40. OLGR submits that the NSW Bureau of Crime Statistic and Research (BOCSAR) data indicates that from October 2013 to September 2014:
  - a) the rate of *alcohol-related assaults* (domestic and non-domestic) in the state suburb of Bermagui was 328 (per 100,000 persons) compared to a rate of 321 (per 100,000 persons) for NSW as a whole
  - b) the rate of *alcohol related disorderly conduct offences* in Bermagui for the same period was 201 (per 100,000 persons) compared to 105 (per 100,000 persons) for NSW as a whole.
41. In relation to the proposed opening hours of the liquor store, OLGR submits that it "does not find any compelling evidence to support the sale of liquor prior to 10:00am and believes that the sale of liquor prior to this time may have an adverse impact upon the local and broader community".
42. **Petition against the Application, emailed to the Authority on 17 August 2014.** This petition which contains 176 signatures, most of which are from persons who disclose their residence as within Bermagui, states:

*We strongly feel that a 4<sup>th</sup> off licence is simply counter intuitive and does not uphold our community interests. Please add our submission to recommend not to approve it.*

43. **Local community resident submissions.** The Authority received a significant number of resident submissions. Many of these submitters made similarly worded submissions or contentions (often repeated verbatim). To avoid duplication, the most common submissions and contentions made against the Application may be summarised as follows:
- a) The BWS Application was "biased, contained several inaccuracies and appeared to bury certain key information deep within their application".
  - b) In the CIS document there is "an analysis based on 3,513 Woolworths Rewards customers in postcode 2546, which included Bermagui. This is totally misleading. Postcode 2546 includes the large town of Narooma with a population of 10,000".
  - c) Nearby towns to Bermagui "have a much lower proportion of takeaway liquor outlets to their population than Bermagui would have: Bega has 6 outlets serving 12,000 people, Narooma has 6 outlets serving 10,000 people, whereas Bermagui with the new BWS would have 4 outlets serving just 1,671 people".
  - d) The Application "ignores the Bermagui Country Club as a packaged liquor outlet because access is only via membership however, at December 2013 the Club had 1,713 members".
  - e) In the CIS document "there is a sweeping assertion that there is no evidence of at-risk groups in the local community". The objectors submit that this "ignores the socio-economic profile of the town".
  - f) The proposed additional packaged liquor outlet "is not wanted in Bermagui principally because of alcohol-related social, health and domestic violence issues".
  - g) Bermagui "is a socio-economically disadvantaged town with some history of violence and malicious damage fuelled by alcohol".
  - h) The Bega Valley Shire Council (BVSC) "ranks 31 out of 140 local government areas in regard to alcohol related crime".
  - i) Drink driving offences in the BVSC "are double the NSW state average".
  - j) In the CIS document "it is asserted that the Bermagui population of 1,671 per the August 2011 census is significantly understated because many of the houses on census night were unoccupied". In reply, the objectors "believe this is principally because there are many holiday houses in Bermagui".
  - k) In the Applicant's CIS document it is asserted that the new store will provide additional convenience to shopper. The objectors submits that additional convenience "would be negligible as the next closest liquor outlet to the BWS is actually the pub's bottle shop, about 50 metres from the new store".
  - l) The proposed new store "will open up to three hours later than the existing main liquor store in Bermagui which shuts at 6:00pm on most nights".
  - m) In the Applicant's CIS document there is an assertion that at-risk groups...in the broader community will not be attracted to the new store because there are other liquor outlets closer to them. The objectors submit that "this runs counter to the arguments put elsewhere that the supermarket and BWS will offer extra convenience and become a one-stop shop".
  - n) On the submission that the state suburb of Bermagui currently has a low count of alcohol related crime, the objectors submit that if these count statistics were extrapolated on a per capita basis, they are actually close to the NSW average, due to the low population of Bermagui.
  - o) In the Applicant's CIS document there is an assertion made that the BVSC has already considered "the environmental, social and economic impacts of the proposal" for the liquor store when they approved the supermarket. The objectors reply that "this is absolutely not the case".
  - p) In the Applicant's CIS document the Applicant submits that Bermagui is in the northern part of the Bega Valley and that what occurs in the southern parts of the

broader community has no relevance to what is occurring in Bermagui or to this Application. The objectors submit that this contention is made by the Applicant without any reference to public data.

- q) The objectors contend that there is a low police presence in Bermagui and for this reason it is often the case that "minor crime incidents go unreported".
44. **Submission from a resident of Young Street, Bermagui, emailed to the Applicant's solicitor on 27 July 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  45. **Submission from a resident of Young Street, Bermagui, emailed to the Applicant's solicitor on 28 July 2014.** The writer objects to the Application. In addition to the contentions made by other residents the writer contends that, contrary to the Applicant's submissions, Council did not fairly assess the public interest in that the writer argues that "several well attended public meetings and over 300 submissions, of which over 90 per cent opposed the development, were ignored".
  46. **Submission from a resident of Fairhaven Point Way, Bermagui sent to the Applicant's solicitor and dated 4 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  47. **Submission from a resident of Bermagui, emailed to the Applicant's solicitor on 5 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  48. **Submission from a resident of Bermagui emailed to the Applicant's solicitor on 5 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  49. **Submission from a resident of Young Street, Bermagui emailed to the Applicant's solicitor on 6 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  50. **Two submissions from two residents of Barragoot Street, Bermagui emailed to the Applicant's solicitor on 6 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  51. **Submission from a resident of Corunna Street, Bermagui emailed to the Applicant's solicitor on 8 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  52. **Submission from a resident of Dickinson Avenue, Bermagui sent to the Applicant's solicitor and dated 8 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  53. **Submission from a resident of Flower Circuit, Akolele, sent to the Applicant's solicitor and dated 13 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
  54. **Submission from a resident of Tathra-Bermagui Road, Bermagui, lodged 13 August 2014.** The writer objects to the Application but does not make any specific contentions or submissions.

55. **Submission from two residents of Bermagui, mailed to the Applicant's solicitor and dated 17 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
56. **Submission from a resident of Bermagui, emailed to the Applicant's Solicitor on 17 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
57. **Submission from a resident of Sinclair Street, Bermagui, emailed to the Applicant's solicitor on 17 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
58. **Submission from a resident of Bermagui, emailed to the Applicant's solicitor on 17 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
59. **Submission from a resident of Murrah Street, Bermagui, emailed to the Applicant's Solicitor on 17 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
60. **Submission from a resident of George Street, Bermagui, emailed to the Applicant's solicitor on 17 August 2014.** The writer objects to the Application. In addition to the contentions made by other residents, the writer states that "I have a husband who has had alcohol problems in the past, which effects [sic] our home life. There are hundreds of people in our little village who have alcohol problems and the last thing we need is another place for them to purchase it".
61. **Submission from a resident of Benny Gowings Road, Murrah, emailed to the Applicant's Solicitor on 18 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
62. **Submission from residents of Young Street Bermagui, emailed to the Applicant's Solicitor on 18 August 2014.** The writer objects to the Application and in addition to contentions made by other residents contends that:

*In so many communities along the NSW costal seaside, the risk of drownings directly related to the consumption of alcohol cannot be ignored...Bermagui is not patrolled and or equipped to handle such risk.*
63. **Submission from a resident of Benny Gowings Road, Murrah, emailed to the Applicant's Solicitor on 18 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
64. **Submission from a resident of Comben Road, Bermagui, emailed to the Applicant's solicitor on 19 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
65. **Submission from a resident of Bermagui, sent to the Applicant's solicitor and dated 20 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
66. **Submission from a resident of Young Street, Bermagui, sent to the Applicant's solicitor and dated 20 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.

67. **Submission from two residents of Bermagui, received by the Authority on 20 August 2014.** The writers object to the Application. In addition to the contentions made by other local residents, the writers contend that granting the Application would cause an increase in litter in public places.
68. **Submission from a resident of Montague Street, Bermagui, emailed to the Applicant's solicitor on 21 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
69. **Submission from a resident of Young Street, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
70. **Submission from a resident of Tathra Road, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
71. **Submission from a resident of Brassknocker Trail, Cobargo, 2550, emailed to the Applicant's solicitor on 22 August 2015.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
72. **Submission from a resident of Nutleys Creek Road, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not but does not make any specific submissions or contentions.
73. **Submission from a resident of Link Road, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
74. **Submission from a resident of O'Connells Point Road, Wallaga Lake, 2546, emailed to the Applicant's Solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
75. **Submission from a resident of Bermagui emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
76. **Submission from a resident of Haighs Road, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
77. **Submission from a resident of George Street, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
78. **Submission from a resident of approximately 25 kilometres outside of Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
79. **Submission from a resident of Lamont Street, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.

80. **Submission from a resident of Lamont Lane, Bermagui, emailed to the Applicant's solicitor on 22 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
81. **Submission from a resident of Young Street, Bermagui, emailed to the Applicant's Solicitor on 23 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
82. **Submission from a resident of Parbery Avenue, Bermagui, emailed to the Applicant's solicitor on 23 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
83. **Submission from a resident of Young Street, Bermagui, emailed to Applicant's solicitor on 23 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
84. **Submission from a resident of Bermagui, emailed to the Applicant's Solicitor on 24 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
85. **Submission from a resident of Barragga Bay, 2546, emailed to the Applicant's solicitor on 24 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
86. **Submission from a resident of Bermagui, emailed to the Applicant's Solicitor on 24 August 2014.** This is a submission in support of the Application. The writer contends that granting the Application would provide benefits by way of "increased employment, a much needed local amenity, convenient, competition for other establishments, less trips into town".
87. **Submission from a resident of Bermagui, emailed to the Applicant's solicitor on 24 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
88. **Submission from a resident of Lamont Street, Bermagui, emailed to the Applicant's solicitor on 25 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
89. **Submission from a resident Bermagui, emailed to the Applicant's solicitor on 25 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
90. **Submission from a resident of Lakeview Drive, Wallaga Lake Heights, emailed to the Applicant's solicitor on 25 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
91. **Submission from a resident of Parbery Avenue, Bermagui, emailed to the Applicant's solicitor on 25 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
92. **Submission from two residents of Wills Street Bermagui, emailed to the Applicant's solicitor on 25 August 2015.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.

93. **Submission from a resident of Hay Street, Bermagui, emailed to the Applicant's solicitor on 25 August 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
94. **Submission from a resident of Young Street, Barmagui, lodged with the Authority on 22 October 2014.** The writer objects to the Application. In addition to the contentions made by other residents, the writer contends that granting the Application would result in an "increase in litter" and the creation of "an undesirable element" in the residential area near the Premises.
95. The writer further submits that the Applicant's contention in the CIS that the new business would "cannibalise sales" from existing stores would be detrimental to the local businesses, in particular the "family owned" Bermagui Cellars, the "not for profit" Bermagui Country Club, and the Bermagui Beach Hotel, all of which the writer contends support community groups and local charities.
96. **Submission from a resident of Lamont Street, Bermagui, emailed to the Authority on 23 October 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
97. **Submission from a resident of Bermagui sent to the Applicant's solicitor and stored by the Authority on 27 October 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
98. **Submission from a resident of Comben Lane, Barmagui, lodged with the Authority on 28 October 2014.** The writer objects to the Application but does not make any specific contentions or submissions.
99. **Submission from a resident of Comben Lane, Barmagui, lodged with the Authority on 28 October 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
100. **Two submissions from two residents of Lake View Drive, Wallaga Lake Heights, 2546, lodged with the Authority on 28 October 2014.** These identical submissions object to the Application but do not make any specific contentions or submissions.
101. **Submission from a resident of Barragoot Street, Wallaga Bermagui, emailed to the Authority on 28 October 2014.** The writer objects to the Application. In addition to contentions raised by other residents, the writer contends that on the basis of discussions with aboriginal elders "they too are concerned re the potential problems a BWS style of operation could cause their people". The writer contends that granting the Application would result in "additional litter" particularly in relation to the "public parks, children's' playground and beach nearby".
102. **Submission from a resident of Bermagui Road, Akolele, 2546, lodged with the Authority on 28 October 2014.** This submission objects to the Application. The writer makes the following contentions:
  - a) There is an "over-provision of licenced premises" in Bermagui and the broader community
  - b) There are "actually at least five liquor outlets in Bermagui, three offering take-away services".
  - c) The population of Bermagui "is correctly stated in the ABS census".
  - d) While the Applicant highlights the low level of alcohol related incidents counted in Bermagui in recent times, the writer submits that the Applicant "fails to acknowledge that this good record is achieved through co-ordination actioned by

- existing licence holders". The writer contends that "it is unrealistic to expect that BWS would participate in such steps".
- e) In response to the Applicant's claim that there is no evidence the at-risk groups, as determined by reference to Bermagui and the local community (as defined by the Applicant) will be adversely impacted by the operation of this Licence in this location, the writer submits that this contention is "not supported by the data and is wrong, particularly for indigenous persons".
  - f) The writer submits that "the demographic characteristics...clearly show that indigenous persons, Older Australians, Persons with Disability, Unemployed and Labourers are at least 10 per cent higher than NSW".
  - g) The writer submits that "it is blatantly obvious" that the Applicant "knows nothing about proper consultation with Aboriginal people and communities". The writer quotes from an unidentified government publication which states that the best form of communication with Aboriginal communities is face-to-face rather than via letters and emails.
  - h) The writer contends that "there are significant problems with unemployment and alcohol in the Bermagui area".
  - i) The writer raises concerns about domestic violence in the area contending that these issues are exacerbated by the lack of police presence in the area and that "Aboriginal people are reluctant to call police for assistance in domestic violence situations due to their previous negative experiences in dealing with police".

**103. Submission from a resident of Young Street, Bermagui lodged with the Authority on 28 October 2014.** This submission objects to the Application. In addition to the contentions made by other residents the writer makes the following further contentions:

- a) In relation to the DA provided by the Applicant the writer contends that "Council resolved unanimously that consideration be given to the Liquor Store being removed from the Development Application. The liquor store component was duly withdrawn".
- b) In relation to the location of the Premises, the writer contends that "the applicant's proposed store would draw traffic into the residential area. Its customers could be expected to arrive at different hours to most supermarket customers".
- c) The writer contends that the proposed business would be a danger to the Bermagui Country Club, which has "critically precarious" finances. "If the Country Club should be forced to fold or even to recue its activities, there is no prospect of anything to replace its large staffed facility".
- d) In relation to demography of the community the writer contends that "Bermagui presents as a very disadvantaged town, set in a disadvantaged broader community and serving a nearby severely-disadvantaged ATSI [Aboriginal and Torres Strait Islander] locality" and "unemployment is intractable...The district has an ATSI population, low household income, lower educational achievement, shortage of jobs, and lower-status workforce: all indicators of populations vulnerable to alcohol abuse. In conjunction with these socio-economic factors there is a known high prevalence of alcohol-related crime in the Shire, and a regular drug and alcohol clinic serving the local Koori population".
- e) In relation to "vulnerable populations" in the community the writer contends that evidence from Australia and overseas indicates that increases in packaged liquor outlets correlate with problems including domestic violence (Livingston, 2011) and underage drinking (Rowland et al, 2013).
- f) In relation to the Applicant's contention regarding the use of SIEFA data in *Martin Morris & Jones Pty Limited v Shoalhaven City Council* [2012] NSWLEC 1280, the author contends that Livingston's 2013 research contradicts the findings of the experts in court, indicating that respondents living in more disadvantaged neighbourhoods were more likely to report heavy alcohol consumption.

104. In support of this submission this objector has provided a number of documents (including newspaper articles, web documents and research) which are as follows:
- a) Extract from Bega Valley Shire Council Minutes of ordinary meeting held on Wednesday, 26 March 2014 – noting that "consideration be given to the Liquor Store being removed from the Development Application" (DA 2013.405).
  - b) *Bega District News*, 'Ed's Red Pen: Has Woolworths pulled wool over our eyes', 28 July 2014.
  - c) *Bega District News*, 'Bermagui Woolworths liquor store enters back door'.
  - d) Bermagui Country Club Limited, 'Directors' Report' 28 July 2014.
  - e) Livingston, M., 'Measuring Risky Drinking: An examination of the validity of different episodic drinking thresholds in predicting alcohol-related harms' (2013) *Centre for Alcohol Policy Research*.
  - f) Livingston, M., 'Bulk impact: Why we need to pay attention to packaged liquor' (2014) *Of Substance*, vol. 12, no. 1.
  - g) Livingston, M., 'A longitudinal analysis of alcohol outlet density and domestic violence' (2011) *Addiction* 106.
  - h) Rowland et al, 'Associations between alcohol outlet densities and adolescent alcohol consumption: A study in Australian students' (2013) *Addictive Behaviours* 39, 282.
  - i) Printout from the *Wandarma Aboriginal Drug and Alcohol Service* web page.
  - j) ABS 2011 Census QuickStats, employment and education statistics for Bermagui.
  - k) BOCSAR LGA crime data ranking tool.
  - l) ABS SIEFA data for Bermagui.
  - m) Bermagui and Wallaga Lake 'Structure Report' produced by ID.
105. **Submission from Dr Edward Hills, a councillor at Lake Side Counselling, received by the Authority on 6 November 2014.** The writer objects to the Application. In addition to the contentions raised by other residents the author makes the following contentions:
- a) The writer contends, with regard to the Koori village located in Wallaga Lake, that there has been a movement in recent years for the village to become a "dry" community. The writer contends that "there are many within the indigenous community who are deeply alarmed by the prospect of yet another alcohol outlet" [The Authority notes that Dr Hills has not provided any evidence to support this particular contention].
  - b) The writer contends that on 21 January 2014 the Australian Medical Association made a call for "national action" on alcohol, referring to the ACEM's [Australian College of Emergency Medicine] research that one in seven cases in emergency departments are linked to alcohol.
  - c) In relation to counselling work done in this community, the writer states that "Many of my clients have suffered deeply as a result of the impact of alcohol on their lives...we know that it is the easy availability of cheap alcohol that contributes most to alcohol-related problems".
  - d) The writer contends that the "collapse of the fishing industry" has created a "sub-culture of deprivation especially among young men making them particularly vulnerable when it comes to alcohol".
  - e) The writer submits that Woolworths (BWS) has social responsibility policies on display in the Application document but contends that Woolworths' prime objective is, inevitably, profit. The writer contends that the sale of alcohol by retail is a "highly remunerative" source of that profit. The writer submits that the health of the community "will not be, when push comes to shove, the prime aim of the company".
106. **Submission from a resident of Comben Lane, Barmagui, emailed to the Authority on 12 November 2014.** The writer objects to the Application but does not make any specific contentions or submissions.

107. **Submission from a resident of George Street, Bermagui, lodged with the Authority on 16 November 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
108. **Submission from a resident of Fairhaven Point Way, Wallaga Lake, 2546, emailed to the Authority on 19 November 2014.** The writer objects to the Application on the following grounds:
- a) The writer submits that "Council, like many of us, cannot see the need for another liquor outlet, especially as the potential effects have not been researched in Bermagui itself. Small country towns vary in their demographics and in many subtle ways and general research is not appropriate".
  - b) The writer contends that within Bermagui "there is a troubled aboriginal community", a situation that was "brought about by the enforced movement of indigenous people from other parts of the state to Wallaga Lake and Bermagui. The writer contends that this "mixing of indigenous groups" has "resulted in a breakdown of traditional aboriginal leadership" which in turn "has produced a delicate power balance which sometimes erupts into very violent actions". The writer submits that "only the local aboriginal community have a real understanding of how something like an extra liquor outlet may affect them".
  - c) The writer contends that "the introduction of a new supermarket and liquor outlet presents a high risk to current businesses".
  - d) The writer contends that "the current privately owned liquor outlet supports a family with small children. If their business becomes unviable, Bermagui loses a couple who are actively involved in sporting and cultural activities and some children who attend the local school".
  - e) The writer contends that "Woolworths and its liquor outlet won't attract more people to town. Tourists are all the time telling us that what brings them to Bermagui is that it is so different to their big city living".
109. **Submission from two residents of Corunna Street, Bermagui emailed to the Authority on 20 November 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
110. **Submission from a resident of Nutleys Creek Road, Bermagui, lodged with the Authority on 20 November 2014.** This submission objects to the Application, in addition to the contentions made by other residents this submission contends that, "although no written submission was made to the CIS process by the local indigenous community, I attended a recent community meeting at which a local Lands Council representative advised he was strongly opposed to this new liquor licence proposal".
111. **Submission from a resident of Parbery Avenue, Bermagui emailed to the Authority on 22 November 2014.** The writer objects to the Application, in particular on the basis that the indigenous community that is located "less than 10 kilometres from Bermagui". The writer contends that at one of the public meetings discussing the DA "an aboriginal gentleman made an impassioned plea that, for the sake of the young indigenous people we, as a community, reject an additional liquor outlet, and particularly one that sought significantly longer trading hours than the hours presently voluntarily observed in Bermagui".
112. **Submission from two residents of Dickinson Avenue, Bermagui, emailed to the Authority on 24 November 2014.** The writers object to the Application, contending that there are already "three x Packaged Liquor and eight x Premise licences within 600 metres" of the Premises, which is located "only metres away from the Bermagui Hotel". The writers contend that while there is a police station in Bermagui there are only "1-2 police officers on duty at any given time" who have "a large area to patrol".

113. **Submission from a resident of Hay Street, Bermagui, emailed to the Authority on 25 November 2014.** This submission objects to the Application on the basis that "it will enable the drinkers in my neighbourhood and surrounding community to buy liquor later at night and with less restrictions on them".
114. The author of this submission contends that currently in the state suburb of Bermagui "in all instances the sale of liquor is not only controlled by the laws governing the responsible service of alcohol, but also by the fact that these outlets serve the community and watch out for the community by setting self-imposed community based standards regarding the sale of alcohol". The Author contends that the Applicant will not have the same regards for the responsible service of alcohol as the stores run by residents as Woolworths is "profit and shareholder driven" rather than "community driven".
115. The author also contends in this submission that the BVSC has not approved this Application as has been contended by the Applicant, rather a development application without reference to a liquor store was approved.
116. The author contends that there are "low employment opportunities for our youth" and as such additional liquor retailers may encourage problem drinking and furthermore local Police have a large jurisdiction and as such are not capable of responding quickly.
117. **Submission from a resident of Young Street, Bermagui, lodged with the Authority on 25 November 2014.** This submission objects to the Application, in addition to the contentions made by other residents this submission objects on the following grounds:
- a) "Bermagui is a low income community, with very little to do other than fishing, the access to more alcohol in particular later in the evening will lead to potential boating, water and road accidents".
  - b) "The police station is often not manned in the evening. A retired senior police officer has advised that many lesser cases of domestic violence and malicious damage are often not reported due to the lack of available police personnel, hence skewing the statistics relied on by the case of the Applicant".
118. **Submission from two residents of Young Street, Bermagui, emailed to the Authority on 26 November 2014.** The writer objects to the Application due to the presence of existing packaged liquor retailers in the community as well as the presence of the local Aboriginal community. The writer contends (without further specification) that "One of the elders have [*sic*] already spoken out against this proposal. Providing cheap alcohol would invite more domestic violence and crime in our area".
119. **Submission from a resident of Montague Street, Bermagui emailed to the Authority on 26 November 2014.** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
120. **Submission from a resident of Barragoot Street, Bermagui emailed to the Authority on 26 November 2014.** This submission objects to the Application. The author objects on the basis of the number of packaged liquor licences in the suburb of Bermagui contenting that "the impact of another liquor outlet (a 4th) in our small village is not acceptable. Our existing liquor outlets would not be able to compete with the discounted prices of big business". Furthermore, the author notes that the local indigenous population "have raised objections to me as it would impact on the wellbeing of their people".

121. **Submission from a resident of Tathra-Bermagui Road, Barragga Bay, 2546, lodged with the Authority on 27 November 2014.** The writer objects to the Application but does not make any specific contentions or submissions.
122. **Submission from a resident of Lamont Street, Barmagui, emailed to the Authority on 27 November 2014.** The writer objects to the Application but does not make any specific contentions or submissions.
123. **Submission from a resident of Lamont Street, Barmagui, stored by the Authority on 28 November 2014.** The writer objects to the Application but does not make any specific contentions or submissions
124. **Submission from a resident of Rankins Road, Coolagolite, 2550, lodged with the Authority on 28 October 2014.** The writer objects to the Application but does not make any specific contentions or submissions.
125. **Submission from a resident of Parbery Avenue, Bermagui, sent to the Applicant's solicitor (not dated).** The writer objects to the Application but does not make any contentions or submissions that are distinct from those noted above.
126. **Late submissions not considered by the Authority.** The following submissions were received by the Authority very late in the process. The Authority decided not to read these submissions in the interest of finalising the Application, as accepting them would necessitate a right of reply from the Applicant, in the interests of procedural fairness, and it is in the public interest to finalise the matter without further, undue delay:
  - a) Merrimans Local Aboriginal Land Council submission, dated 23 October 2015.
  - b) Submission from a resident of Bermagui, dated 23 October 2015.
  - c) Submission from a resident of Comben Lane, Bermagui emailed to the Authority on 9 June 2015.
127. **Publically available BOCSAR crime mapping data for April 2014 to March 2015.** These crime maps covering areas within the Bega Valley LGA indicate that the Premises:
  - a) is located near a prevailing *low density hotspot* for the concentration of incidents of *non-domestic assault*
  - b) is located near a prevailing *low density hotspot* for the concentration of incidents of *malicious damage to property*.
128. **Crime data sourced from BOCSAR for calendar year 2013 detailing rates of offences for the Bega Valley LGA compared to rates for NSW as a whole.** This data concerns BOCSAR reported incidents of offences recorded by reporting Police as *alcohol-related*. It indicates that for calendar year of 2013:
  - a) the rate of *alcohol-related assault police* incidents was **19** per 100,000 persons compared to NSW as a whole which had **24** per 100,000 persons.
  - b) the rate of *alcohol-related domestic-violence assault* incidents was **156** per 100,000 persons compared to NSW as a whole which had **145** per 100,000 persons.
  - c) the rate of *alcohol-related malicious damage to property* incidents was **207** per 100,000 person compared to NSW as a whole which had **122** per 100,000 persons.
  - d) the rate of *alcohol related non-domestic violence assault* incidents was **329** per 100,000 persons compared to NSW as a whole which had **191** per 100,000 persons.
129. **SEIFA data published by the ABS in 2011**, indicating that the state suburb of Bermagui falls within the second decile on the Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) for all suburbs in New South Wales. The Bega Valley LGA falls

within the fifth decile on the IRSAD for all LGAs in New South Wales (with a ranking of 10 being the most advantaged).

130. **Authority licensing records.** These records, which are updated regularly and available for purchase from OLGR indicate that within the state suburb of Bermagui there is:
- one (1) existing packaged liquor licenced premises
  - one (1) registered club licenced premises
  - one (1) full hotel licenced premises.
131. **Authority license density data.** This data records the liquor licence density in respect of the Bega Valley LGA compared to the State of New South Wales as a whole. It indicates that within Bega Valley LGA there are:
- 15.65** club licences per 100,000 persons compared to NSW as a whole which has **20.48** per 100,000 persons
  - 31.30** full hotel licenses per 100,000 persons compared to NSW as a whole which has **30.36** per 100,000 persons
  - 40.69** packaged liquor licenses per 100,000 persons compared to NSW which has **32.85** per 100,000 persons.
132. **Livingston, M., ‘Measuring Risky Drinking: An examination of the validity of different episodic drinking thresholds in predicting alcohol-related harms’ (2013) Centre for Alcohol Policy Research.** The following is a summary of this research located on page 4 of the document:

*In 2009 the National Health and Medical Research Council released revised low-risk drinking guidelines, which suggested that Australians drinking five or more standard drinks on a particular occasion were putting themselves at risk of harm (1). These guidelines were heavily criticised (2, 3), despite being broadly consistent with guidelines specified internationally. In the research literature too, studies of episodic drinking typically use a measure based on the frequency of drinking five or more standard drinks (a definition which itself varies based on the standard units being used). While this threshold clearly defines drinking behaviour with a range of risks and negative consequences, there has been limited research outside of United States college-based studies to determine its appropriateness.*

*This report explores this issue in two ways. Firstly, using the 2010 National Drug Strategy Household Survey data, a variety of different drinking thresholds are examined, to determine the demographic and attitudinal predictors of episodic heavy drinking at various levels (i.e. 5+, 11+ and 20+ drinks). There are significant variations in prevalence rates depending on the threshold used:*

- 42% of drinkers report drinking 5+ drinks on a monthly basis
- 15.8% of drinkers report drinking 11+ drinks on a monthly basis and
- 5% of drinkers report drinking 20+ drinks on a monthly basis.

*There are substantial variations in heavy drinking prevalence based on demographic and other factors. Generally speaking, across all three definitions, heavy episodic drinking is more common amongst males, young adults, people who have never married, those living in regional Australia, people who smoke, people who use illicit drugs, people who started drinking at younger ages and people who drink beer or pre-mixed spirits.*

*Across the three different definitions of risky drinking, broadly similar relationships were identified, suggesting that the same factors are associated with heavy drinking regardless of how it is defined.*

*The second phase of this study examined 15 risky-drinking thresholds (based on volume and frequency) and their relationship with three self-reported alcohol-related problems and behaviours to try to determine the most appropriate definition of ‘risky-drinking’. The most appropriate risky drinking threshold identified varied depending on the mode of analysis (i.e. on the goodness of fit measure used) and on the type of outcome being considered (e.g. thresholds were generally higher for injury than for self-reported risky behaviour). In general, risky drinking thresholds of seven or fewer drinks provided the best balance between sensitivity (ability of a threshold to correctly identify people likely to experience harm) and specificity (the ability of a threshold to correctly identify people not likely to*

experience harm). These findings support the continuing use of a risky-drinking definition of five or more drinks, based on the Australian drinking guidelines.

133. **Livingston, M., 'Bulk impact: Why we need to pay attention to packaged liquor' (2014) *Of Substance*, vol. 12, no. 1.** The following is the abstract of this article:

*In recent years, the conversation about alcohol problems in Australia has focused heavily on street violence, young people and night-time entertainment precincts. Media and policy attention to alcohol seems to be predominantly driven by the occurrence of horrific assaults in Kings Cross, St Kilda or Fortitude Valley. In response, governments implement lock-outs, restrict particular products and implement a range of policing initiatives to try to better manage the night-time economy. Alcohol-related violence is a problem worthy of attention, and one that concerns a large proportion of the population, but to limit our focus to alcohol-related violence in and around pubs and nightclubs is to miss most of the story.*

134. **Livingston, M., 'A longitudinal analysis of alcohol outlet density and domestic violence' (2011) *Addiction* 106.** The following is the abstract of this research paper:

**AIMS:**

*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 the assessment of ecological correlations between outlet density and domestic violence rates. This study provides the first longitudinal examination of this relationship.*

**DESIGN:**

*Cross-sectional time-series using aggregated data from small areas. The relationships between 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.*

**SETTING:**

*The study uses data for 186 postcodes from within the metropolitan area of Melbourne, Australia for the years 1996 to 2005.*

**MEASURES:**

*Alcohol outlet density measures for three different types of outlets (hotel/pub, packaged liquor, on-premise) were derived from liquor licensing records and domestic violence rates were calculated from police-recorded crime data, based on the victim's postcode.*

**FINDINGS:**

*Alcohol outlet density was associated significantly with rates of domestic violence, over time. All three licence categories were positively associated with domestic violence rates, with small effects for general (pub) and on-premise licences and a large effect for packaged liquor licences.*

**CONCLUSIONS:**

*In Melbourne, the density of liquor licences is positively associated with rates of domestic violence over time. The effects were particularly large for packaged liquor outlets, suggesting a need for licensing policies that pay more attention to off-premise alcohol availability.*

135. **Rowland et al, 'Associations between alcohol outlet densities and adolescent alcohol consumption: A study in Australian students' (2013) *Addictive Behaviours* 39, 282.** The following is the abstract of this paper.

**OBJECTIVE:**

*To assess whether the density of alcohol sales outlets in specific geographic communities is associated with adolescent alcohol consumption.*

**METHOD:**

*A cross-sectional representative sample of secondary school students from Victoria, Australia (N=10,143), aged between 12 and 17 years, self-reported on alcohol use in the last 30 days in 2009. The density of alcohol outlets per local community area was merged with this information.*

**RESULTS:**

*After controlling for risk factors, multilevel modelling (MLM) revealed a statistical interaction between age and density on alcohol consumption. While older adolescents had higher alcohol consumption,*

*increases in the density of alcohol outlets were only significantly associated with increased risk of alcohol consumption for adolescents between the ages of 12 and 14.*

**CONCLUSION:**

*Increased alcohol availability was associated with an increased risk of alcohol consumption specifically for early adolescents (12 and 14 years). Potential mechanisms as to how density is associated with direct and indirect alcohol availability, such as through parents or older siblings, need to be explored in future research.*

## LEGISLATION

136. The power to grant a new liquor licence is provided by section 45 of the Act, which states:

**45 Decision of Authority in relation to licence applications**

- (1) *The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.*
- (2) *...*
- (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.*

137. 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.

138. Section 48(5) of the Act states:

**48 Community impact**

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

139. An application for a packaged liquor licence is a type of licence prescribed by section 48(2) requiring a CIS and satisfaction of the overall social impact test.

140. In determining the Application, the Authority also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

### 3 **Objects of Act**

- (1) *The objects of this Act are as follows:*
  - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community.*
  - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
  - (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
- (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
  - (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
  - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
  - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*

### **SUMMARY OF APPLICANT CASE ON OVERALL SOCIAL IMPACT**

141. In the Applicant's CIS document dated 13 October 2014, the Applicant addressed the potential for the proposed new packaged liquor business to positively and negatively impact the "local community" (which the Applicant identifies by reference to the expected trade catchment area of the proposed business) and the broader community (which the Applicant identifies as the Bega Valley LGA).
142. The Applicant describes the nature of the proposed new licensed business in the CIS document. The Applicant notes that the proposed business "is to be associated with a proposed Supermarket to be constructed in the Bermagui Town Centre" which comprises the Supermarket itself and "two specialty tenancies, one of which will comprise the new store".
143. The Applicant states that the proposed new licensed business will occupy approximately 144 square metres.
144. The Applicant contends that the proposed business (described in the Applicant submissions as the "new store") would provide the following "public interest benefits", being:
  - a) The proposed business would "represent an improvement to the character of the area in terms of visual presentation".
  - b) The proposed business would "assist in enhancing the economic viability of the neighbourhood of the new store by attracting patronage to the precinct".
  - c) The proposed business would "enhance neighbourhood safety and security through casual surveillance generated by the presence of a modern development within the site". This includes the CCTV monitoring and security systems that would be installed within the proposed business.
  - d) The proposed business would "yield a significant social and economic benefit" through "increased competition".
  - e) The proposed business would "provide employment opportunities". [The Authority notes that the Applicant has not specified how many jobs would be created].
  - f) The proposed business would "have the ability to contribute to local organisations and charities".
  - g) The proposed business would provide goods that might be consumed as part of social and recreational scenarios.
  - h) The proposed business would provide "improved choice and convenience" with respect to liquor products.

- i) The proposed business would meet "the "one-stop" supermarket shopping requirement of locals, visitors and tourists to the Supermarket".
  - j) The proposed business would provide convenience, in that the Applicant contends that there is "an expectation that when customers attend Bermagui there is an opportunity to purchase their packaged liquor requirements at their preferred location and at a time this is convenient to them".
145. The Applicant submits a table of information extracted from 2011 ABS Census data that the Applicant submits indicates all of the usual "at risk" groups within the Bega Valley LGA and the state suburb of Bermagui (that is, sociodemographic groups associated with a relatively greater exposure to adverse alcohol related social impacts). The Authority notes that this table provides the following data:
- a) Indigenous persons (NSW 2.5%, Bega Valley LGA 2.8%, the suburb of Bermagui 2.3%).
  - b) Young persons, 15-24 years of age (NSW 12.9%, Bega Valley LGA 9.8%, the suburb of Bermagui 6.9%).
  - c) Older Australians, 65+ years of age (NSW 14.7%, Bega Valley LGA 21.4%, the suburb of Bermagui 27.6%)
  - d) Persons with disabilities (NSW 4.89%, Bega Valley LGA 5.68%, the suburb of Bermagui 7.18%)
  - e) Non English speaking background persons (NSW 72.5%, Bega Valley LGA 93.1%, the suburb of Bermagui 93.7%). The Applicant contends that with regard to this statistic the percentage figure represent those in the area who only speak English.
  - f) Unemployed persons (NSW 5.9%, Bega Valley LGA 5.9%, the suburb of Bermagui 8.8%)
  - g) Labourers (NSW 8.7%, Bega Valley LGA 13.9%, the suburb of Bermagui 13.1%)
  - h) One parent families (NSW 16.3%, Bega Valley LGA 14.9%, the suburb of Bermagui 15.6%)
  - i) Renters (NSW 30.1%, Bega Valley LGA 23.8%, the suburb of Bermagui 26.5%)
146. The Applicant makes the following contentions with regard to the ABS data:
- a) **Indigenous persons.** The Applicant acknowledges that "generally speaking there is a greater risk of alcohol related harm to indigenous person". However, the Applicant contends the following:
    - 1) There "is a low number of indigenous person residing in Bermagui".
    - 2) Two local groups or organisations representing the local Aboriginal people were identified and invited to provide feedback on the proposal..."No response was received".
    - 3) BOCSAR data notes that 28 *assault domestic violence* related incidents and 20 *assault non-domestic violence* incidents where the offender was recorded to be Indigenous occurred in the Bega Valley LGA during the 12 month period ending December 2013.
    - 4) The Applicant submits that theoretically this means that there were 12 alcohol related *assault domestic violence* incidents and 12 alcohol related *assault non-domestic violence* incidents where the offender was Indigenous during 2013 (given that the BOCSAR data indicates that 51% of all *assault domestic violence* incidents and 36% of all *assault non-domestic violence* incidents in the Bega Valley LGA in 2013 were unrelated to alcohol use). The Applicant contends that this shows that "Even in the unlikely circumstances that all of the above offences were alcohol related, it nevertheless still shows Indigenous crime in this BC is low" and that "the Indigenous population are consuming alcohol responsibly".
    - 5) "It is reasonable that if there were significant concerns with alcohol related harm and the local Indigenous population that this concern would have been

raised by the leaders or representative of the local indigenous population, but that has not occurred".

- b) **Older Australians.** The Applicant contends that while there is a higher representation of Older Australians in the Bega Valley LGA than in NSW as a whole they are "consistently not the subject of matter of a higher risk for alcohol related harm".
  - c) **Persons with disabilities.** The Applicant contends with regard to persons with disabilities that the Applicant is "not aware of any evidence that suggests persons with disabilities should be considered any differently to the remaining population in this location".
  - d) **Labourers.** The Applicant submits that while there is an overrepresentation of labourers in the Bega Valley LGA and the state suburb of Bermagui it is nevertheless "a small segment of the workforce" and is not "an element that is at a heightened risk of social harm by approving this Application".
  - e) **Unemployed.** The Applicant contends that "high unemployment can generally be found in many seaside locations...Anecdotal evidence suggests that this "sea change" effect results in not only higher statistical levels of unemployment but also higher levels of "quality of life" aspects" and the "2010 National Drug Strategy Household Survey Report (July 2011) also confirms that unemployed persons (compared with employed persons) are: higher abstainers/ex-drinkers; at a lower lifetime risk for alcohol related harm; and are at a low single occasion risk for alcohol related harm".
  - f) **One parent families.** The Applicant submits that evidence that a "low" risk of alcohol related harm applies to single parent families is found in the *2010 National Drug Strategy Household Survey Report*. The Applicant has provided the supplementary table from the 2013 Household Survey Report which the Applicant contends indicates that single persons with dependent children are higher abstainers or ex-drinkers than couples with dependent children (3.1% difference), and at "lower lifetime risk" than couples with dependent children.
147. On the issue of the prevailing liquor licence density in the communities, the Applicant submits that while there is an overrepresentation of licensed premises in the both the suburb of Bermagui and the Bega Valley LGA, this is mitigated by the following factors:
- a) The suburb of Bermagui has a low population of 1,671 persons, but is geographically very large.
  - b) The Applicant submits that "it is quite clear that Bermagui itself services a wider area than its ABS defined boundaries".
  - c) ABS data "confirms that on census night (ie, in 2011) 719 dwellings in Bermagui were occupied, but notably 461 were unoccupied. This confirms that the population of Bermagui is numerically greater than its base in August 2011 for most parts of the year".
  - d) The "rural and regional population, due to their isolation and the distances between towns, actually need to be serviced at a higher ratio to prove parity with urban populations".
  - e) The Applicant contends that "it is clear that there are opportunities for population expansion in Bermagui...the new store will provide a service to the current and future population of Bermagui and contribute to its attraction as a residential destination".
  - f) The suburb Bega Valley LGA is a tourist destination. The Applicant submits that the "relatively large number of visitors to the areas at any one time should be considered, and the reasonable expectation that there will be a higher and therefore sufficient number of licensed premises".
  - g) The Applicant submits that the location of licensed premises within shopping environments is "neither unusual nor inappropriate and is in fact encouraged by

established town planning principles and practices, and by Council zoning provisions".

- h) The Applicant submits that "Woolworths has analysed the data it has received through its *Everyday Rewards* system for the postcode number 2546 which includes the township of Bermagui... 1,799 of customer registered to postcode 2546 made 15,483 visits to a BWS store and purchased over 16,000 products. Consequently there are numerous customers registered to this postcode who reside in or near Bermagui who would most likely prefer to shop at this location".
  - i) The Applicant contends that approval of the Application will not result in a lowering of the price at which liquor products are sold or supplied. The Applicant contends that "discounted liquor is already available to resident of Bermagui".
148. With regard to the ABS SEIFA data for Bermagui, the Applicant acknowledges that the score for both the suburb of Bermagui is low (with an IRSAD score of 2), however the Applicant contends that "many people choose to live in Bermagui for the quality of life aspects it provides. They do not consider themselves disadvantaged".
149. The Applicant refers to a 2012 Land and Environment Court decision *Martin Morris & Jones Pty Limited v Shoalhaven City Council* [2012] NSWLEC 1280 in which the court noted that the expert consultants both agreed that "that relative disadvantage has many aspects and the SEIFA indices are not the only indicators of disadvantage" and that "there is no statistical difference in rates of high risk drinking by socioeconomic status as measured by SEIFA".
150. The Applicant submits, on the basis of an ABS article entitled "Alcohol Consumption in Australia: A Snapshot, 2004-2005" that ABS have found that 11 per cent of respondents in the most disadvantaged areas were classified as drinking alcohol at risky/high risk levels, compared to 16 per cent in the least disadvantaged areas.
151. The Applicant submits on the basis of this data that "there is less risk of persons consuming alcohol at risk/high risk levels in Bermagui when compared with more advantaged areas".
152. With regard to any potentially sensitive facilities located near the Premises the Applicant notes the presence of the Naturopath at 1 Lamont Street, approximately 40 metres from the Premises, the Bermagui Park approximately 100 metres from the new store and a recreational reserve approximately 85 metres from the Premises. The Applicant also makes the following contentions:
- a) There are "no alcohol free zones in Bermagui".
  - b) There is "no church or place of worship *near* the new store with the nearest facility the *All Saints Anglican Church* at 11 Wallage Street (east) Bermagui, approximately 132 metres (SLD) from the new store".
  - c) The Bermagui Pre School is located "approximately 2024 metres (SLD) from the new store".
  - d) The proposed new business will be "modern, well illuminated, subject to a sophisticated surveillance system, and have proper demonstrated and proved to work harm minimisation and responsible service of alcohol policies and procedures in place".
  - e) The proposed new business will operate "pursuant to conditions of the Development Consent thereby minimising its impact on neighbouring premises".
  - f) There are no services, facilities, businesses or organisations at this location that are frequented by "at risk" persons or groups for alcohol related harm.

153. With regard to the impact of granting this Application upon neighbourhood amenity the Applicant makes the following contentions:
- a) A number of expert reports were prepared in respect of the Development Application...it follows that as a starting point it is "reasonable for the Authority to be satisfied that *neighbourhood amenity* has been addressed and any concerns were either satisfied or found to be manageable through the terms of the Development Consent".
  - b) Concerns with respect to undue noise surrounding customer movement "generally do not surround Woolworths' retail liquor stores".
  - c) Litter and waste issues "generally do not surround Woolworths' retail liquor stores".
154. In response to the resident submissions made against the Application, the Applicant contends in the CIS document that Woolworths application with regard to Mullumbimby (on the far North Coast of the State) is "not dissimilar to this Application" and although there was strong resident opposition to that Application "the community have completely embraced the Mullumbimby Supermarket and BWS Store since they opened".
155. The Applicant notes in the CIS document that 57 local resident submissions were received 55 of which were opposed to the Application and two were in favour of it. The Applicant contends that there has been "significant activities in Bermagui to organise and encourage objections to this proposal" and that this resulted in many submissions "not originating from *neighbouring premises*".
156. The Applicant also noted that there were submissions from the existing licensed premises in Bermagui, including the Bermagui Beach Hotel, Bermagui Cellars and a local wine producer.
157. The Applicant provides the following submissions in response to the most common objections raised in the resident submissions:
- a) **Increase in traffic.** The Applicant submits that traffic related matters were considered in the DA process and "were found to be satisfactory".
  - b) **Indigenous persons.** The Applicant submits that "what is significant to this Application is that the Applicant invited five Aboriginal groups to take part in the consultation process of this Application as well as three Aboriginal Elders in the region" however, the Applicant notes that "no feedback was received at all". Furthermore, the Applicant contends that there are three other licensed premises in a more convenient location to the Koori village and "there is simply no reason why resident of Wallaga Lake would travel a round trip of 31.8klms to specifically visit the new store".
  - c) **Character of the area.** The Applicant contends that during the DA process "it was found that the Centre was not out of character with the area" and the "new store will form part of the footprint of the Supermarket Shell...it does not have the potential to cause any adverse character changes".
  - d) **Impact on tourism and local wine producers.** The Applicant contends that "matters of this type lack foundation where it is clear the submitter wishes to protect his own interests". The Applicant contends that Woolworths "provides specific space, support and marketing for local region wines who wish to do business with Woolworths".
  - e) **The extent of trading hours and crime.** The Applicant contends that Woolworths Licensing Officer advises that there is "no mention" of any voluntary trading hour restrictions operating in Bermagui. The Applicant is not aware of any previous "riots" or issues at Wallaga Lake. The Applicant contends that Dan Murphy's Bega and BWS Tura Beach stores "have never heard of any voluntary restrictions on trading hours in Bermagui...". The Applicant contends that the "attendance of the businesses from Bermagui at the Liquor Accord meeting was very low".

- f) **No need for the licence and competition related issues.** The Applicant submits that consideration of "need" for a new licence is not part of the *Liquor Act 2007*. The Applicant contends that it is "not aware of any circumstances where a BWS Store introduced into an area forced the closure of an independent retail liquor store". The Applicant contends that as there is a minimum number of staff required to operate a bottle shop and there is unlikely to be "excess staff engaged at other bottleshops" and for this reason there will not be a reduction in employment.
  - g) **Development consent.** The Applicant submits that the Council did not revoke the DA which included the BWS store, as suggested by some submitters. Furthermore, the Applicant submits that "matters of this nature have no relevance to the matters now under consideration".
  - h) **Waste.** The Applicant contends that these types of concerns have been mitigated by the requirements of the DA.
  - i) **Alcohol related crime.** The Applicant contends that alcohol related violence in the communities is low and "there is no current data that shows if "drink driving offences" are higher or lower in an LGA compared with an average". The Applicant submits that "Woolworths goes above and beyond the legislated requirements for the responsible service of alcohol".
158. In response to the Council submission the Applicant states:
- a) The Bermagui Country Club is not relevant to consideration of the social impact of granting this Application as "Packaged liquor sales are a very small part of the service provided by this club" and only its members or guests may purchase packaged liquor from that club.
  - b) Council "did not provide any evidence" to support its view that alcohol consumption and secondary supply are "significant issues" in the suburb of Bermagui or the Bega Valley LGA.
  - c) The Applicant submits that alcohol related crime in Bermagui and its surrounding suburbs is "very low".
  - d) The Applicant submits that despite Wallaga Lake having convenient access to licensed premises "there was very little to no alcohol related crime at Wallaga Lake...it is unreasonable for there to be a suggestion that the Aboriginal community at Wallaga Lake are not consuming alcohol responsibly where there is no evidence of that situation in the crime data".
  - e) The minutes of the last five meetings of the Bega Valley Liquor Accord do not indicate any significant issues with alcohol related crime or secondary supply. The Applicant contends that "secondary supply and supply to minors are discussed at Bega Valley Meetings...those discussions are generally about preventative measures rather than there being any specific problem".
159. On the prevalence of alcohol related crime in the relevant communities, the Applicant refers to the following BOCSAR data for the Bega Valley LGA for calendar year 2013:
- a) *Alcohol related domestic assault* - the rate per 100,000 persons is higher than the NSW average at **151** compared to NSW at **137.3**.
  - b) *Alcohol related non-domestic assault* - the rate per 100,000 persons is higher than the NSW average at **317.1** compared to NSW at **181**.
  - c) *Alcohol related assault police* - the rate per 100,000 persons is lower than the NSW average at **18.1** compared to NSW at **22.6**.
  - d) *Alcohol related offensive behaviour* - the rate per 100,000 persons is higher than the NSW average at **259.7** compared to NSW at **116**.
160. In relation to the above data the Applicant submits that the Bega Valley LGA is a "large geographical area" including major towns. Bermagui is located north of the major towns and the Applicant contends that "what occurs in the southern parts of this BC has no relevance to what is occurring in Bermagui or to this Application".

161. The Applicant further contends that the Bega Valley LGA is a "substantial tourist destination" and "mathematically there is a higher probability that a crime may occur where there are large number of people in town".
162. The Applicant submits that the BOCSAR *count data* for alcohol related crime in Bermagui for the 12 month period ending in March 2014 is "very low" with two incidents of *domestic violence assaults*, three *non-domestic violence assaults* and 0 incidents of *assault police*.
163. With respect to the BOCSAR crime maps the Applicant contends that these hotspots are "irrelevant" by reason that they do not reflect the "count" of crime, only where the majority of offences are occurring.
164. With respect to the issue of harm minimisation measures on the Premises, the Applicant makes the following contentions:
  - a) Woolworths impalements "Harm minimisation and responsible mitigation measures to ensure (as much as humanly possible) that the new store operates with the minimum of harm or disturbance".
  - b) The licensee (or his/her representative) of the new store "will be an active participant in the Local Liquor Accord, thereby addressing the real or perceived concerns with alcohol related harm in the community".
  - c) The proposed business "will be fitted and will operate with a sophisticated CCTV security system".
  - d) The proposed business will "close the store early on a particular day if there is a need to do so (ie, for festivals and the like)".
  - e) The proposed business will "not stock any liquor products that are the subject matter of concern in Bermagui".
  - f) The proposed business will "consider any local policies and procedures that are seen to be necessary".
  - g) The proposed business will "consider any matters outlined or recommended by the Local Liquor Accord that are relevant to bottleshop operations".
  - h) The proposed business will "issue banning orders to customers who are problematic".
  - i) The proposed business will "follow the directions of the Local Licensing Police".
165. In an email sent to the Authority on 11 June 2015 the Applicant responded to submissions made to the Authority after the submission of the CIS document to the Authority.
166. The Applicant contends that of the resident submissions made to the Authority after the making of the Application, only seven were from residents who had not previously made submissions to the Applicant's solicitor. The Applicant observes that "there has been significant duplication both in the identity of the submitters and the information they rely on".
167. In response to the OLGR submission on the Application, the Applicant submits as follows:
  - a) The proposed venue, its location and the business model have been assessed by OLGR as of "low risk".
  - b) OLGR observe that "the radial density of licensed premises in Bermagui is below the State average"
  - c) OLGR "does not object to the granting of this application based upon the proposed business model and location factors".

- d) OLGR now seek to rely on "the unsubstantiated views of others" and "an incorrect belief that there are high levels of alcohol related: domestic violence, non-domestic violence, and disorderly conduct offences in Bermagui".
  - e) The crime rates submitted by OLGR are "incorrect" in that the BOCSAR "has not made those comparisons [of rates] for Bermagui, presumably because the number of alcohol related offences that do occur are very low".
  - f) The Applicant submits that the count of alcohol related crime in the suburb of Bermagui is "not significant" and notes the BOCSAR crime counts for Bermagui from 2010 to 2014 as follows:
    - 1) **Alcohol related non domestic assault.** Seven incidents in 2010, one incident in 2011, 0 incidents in 2012, three incidents in 2013, and seven incidents in 2014
    - 2) **Alcohol related domestic assault.** One incidents in 2010, 0 incidents in 2011, 0 incidents in 2012, four incidents in 2013, and one incident in 2014
    - 3) **Alcohol related disorderly conduct.** Five incidents in 2010, four incidents in 2011, two incidents in 2012, 0 incidents in 2013, and two incidents in 2014.
168. In response to the further submission made by Council the Applicant makes the following submissions:
- a) In relation to the Council's contention that Bermagui is a disadvantaged community, the Applicant contends that the *Household Survey Report* produced by the Australian Institute of Health and Welfare "confirms that persons in the lowest SES are more likely to be abstainers from alcohol; are less likely to be "lifetime risky drinkers"; and are less likely to be "single occasion risk (monthly)" drinkers, when compared with those in the highest SES".
  - b) In relation to the Council's contentions about the inconclusive nature of stakeholder consultation the Applicant submits that "Woolworths cannot force stakeholders to consult with it".
  - c) In relation to the Council's contentions about health data for the community the Applicant argues that "Council seeks to highlight alcohol related hospitalisation data for the entire BC. In doing so it completely ignores the Applicant's evidence why that data has little if anything to do with what is occurring in Bermagui".
  - d) The Applicant further submits that there has been no position put to the Authority in relation to this Application by any health organisation, Aboriginal group, the Department of Health or Family and Community Services.
  - e) In response to Council's contentions about the presence of at risk groups the Applicant submits that the at risk indicators in the relevant communities have been identified in the Statement of Impact accompanying the CIS document and that if Council disputes this information "it should say so and explain why".
  - f) In response to Council's contentions on prevailing crime rates the Applicant submits that "the Council emphasises the crime statistics in the BC but ignores the localised data that confirms what is occurring in Bermagui".
169. In response to the further submissions made by local residents the Applicant make the following contentions across the areas of common concern raised in those submissions:
- a) **Existing licensed premises and a lack of "need"**. The Applicant contends that there are only two packaged liquor outlets that service the general public and the proposed business would provide a "one-stop shopping convenience" in addition to providing employment, choice, neighbourhood security, and contributions to local community organisations and charity.
  - b) **Litter and waste.** The Applicant contends that "litter and waste generally do not surround Woolworths' retail liquor stores" and this has not been an issue that arises from the other packaged liquor outlets in the area. As such, the Applicant submits that there is no reason to assume the BWS would generate such issues.

- c) **Limited police presence.** The Applicant submits that the Bermagui Police Station is centrally located and operates 24 hour a day seven days a week but "the clear failing of the position of the submitters is that there is no evidence the Bermagui community are not consuming alcohol responsibly now, and further the BWS Store will not cause established consumer behaviour to deteriorate".
  - d) **Existing liquor outlets.** The Applicant contends that Woolworths will be able to match the "standard of independent operators" both in terms of responsible service of alcohol and community contribution (including charitable contribution and events). The Applicant also notes that the security feature of the proposed business will be "well beyond what is available at Bermagui Cellars and Bermagui Beach Hotel now".
  - e) **Trading hours.** The Applicant contends that there will be "no increase" in opportunist alcohol purchases arising from the trading hours of the proposed new business by reason that the Bermagui Beach Hotel sells packaged liquor until 10:00pm seven days per week, while the proposed new business would close at 9:00pm.
  - f) **Indigenous community.** The Applicant contends that "there has been no opposition to this Application by any Aboriginal group" and "there is no evidence the local Aboriginal community living in Bermagui do not understand this Application due to some form of language barrier". The Applicant also contends that "there is nothing here that links the Indigenous community in Bermagui or the LC with any heightened level of risk surrounding the approval of this Application".
  - g) **Crime.** In response to concerns as to levels of crime in the suburb of Bermagui Applicant refers back to the CIS document and contends that there is "no evidence" of significant crime issues in Bermagui. The Applicant contends that Woolworths will "take all steps...to prevent sales to minors, secondary sales, and drinking in public places surrounding its stores".
  - h) **Health.** The Applicant submits that none of the health concerns raised in resident submissions were "founded on evidence". The Applicant refers to research by Guenwald and Stockwell (Controls on the physical availability of alcohol) which the Applicant submits indicates that greater availability of alcohol in a society will directly affect alcohol-related harm where such changes affect the distribution of "routine drinking activities". The Applicant submits that "based on those findings it is quite clear that the BWS Store will not disrupt routine drinking habits".
  - i) **Development consent.** The Applicant submits that from a town planning perspective and with respect to typical amenity type matters considered for those purposes, the new store is to be treated as "the same as any other retail use proposed for this Centre". Development consent is in effect.
  - j) **Danger to the Bermagui Country Club.** The Applicant contends that the grant of this Application will likely have "little impact" on the finances of the Bermagui Country Club as "it is very evident any packaged liquor sales it makes are insignificant to its main business".
  - k) **ABS Census data.** The Applicant contends that the population of the town at any given time is likely to be incorrect because of the visitor and tourist population. The Applicant contends that "while January is a peak month for tourism in Bermagui...we disagree that tourism is not high at other times of year. Bermagui clearly positions itself as a tourist destination for all months of the year".
170. In response to the research documents submitted with one of the resident's submissions to the Authority the Applicant makes the following submissions:
- a) **Livingston M., 'Bulk impact; why we need to pay attention to packaged liquor'.** The Applicant characterises this article as "merely an editorial, and lack independent research or peer review" and for this reason "no weight" should be given to it.

- b) **Livingston M., 'A longitudinal analysis of alcohol outlet density and domestic violence.** The Applicant contends that this research is "not robust" and "does not consider the complex and interplaying issues that are the underlying concern with domestic violence. By contrast the Applicant contends that the BOCSAR research paper, 'Personal stress, financial stress, and violence against women' indicates that alcohol related domestic violence is a higher risk amongst those who experience a greater degree of personal stressors. The Applicant also notes other research indicating that while alcohol may exacerbate domestic violence the cause of domestic violence are attitudinal. These other papers cited include:
- 1) Chan, C. 'Alcohol Issues in Domestic Violence', (2005) *Australian Domestic and Family Violence Clearinghouse Topic Paper*
  - 2) Bennett, L.W. 'Substance Abuse and Women Abuse by Male Partners' (1998) *Applied Research Forum of the National Electronic Network on Violence Against Women*
  - 3) McGregor, H. 'Domestic Violence: alcohol and other distractions – a grassroots perspective' (1990) *Alcohol and Crime*.
- c) **Rowland et al, 'Associations between alcohol outlet densities and adolescent alcohol consumption: A study in Australian Students, Addictive Behaviours'**. The Applicant submits that this study has "little repercussions on the Bermagui Community" due to the low number of local persons in the age bracket 12-14. Furthermore the Applicant findings in the 2009 GFK 'Rope Youth Report' which indicates that parents are the most significant influence on 8-17 year olds decisions to drink. The Applicant further contends that "Woolworths have arguably the toughest industry policies and procedures in place to prevent the potential for sales to minors and secondary sales".
- d) **Livingston, M. 'Measuring Risk Drinking: An examination of the validity of different episodic drinking thresholds in predicting alcohol-related harms'**. The Applicant contends that 'a close review of Livingston's 2013 study reveals that its findings are inconsequential, and support the earlier findings of the expert witnesses".

## REASONS

171. 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 and broader community for the purposes of section 48(5) of the Act.

### Local and Broader Community

172. 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 Bermagui, while the broader community comprises the Bega Valley Shire LGA.

173. The Authority notes that the Applicant has posited in its submissions that the local community comprises the expected "trade area" of the proposed new packaged liquor business to operate on the Premises.

174. The Act does not define what "local community" means. Consistent with the Authority's *Guideline 6* and its long established practice, 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.

175. While the Authority accepts that the Applicant has provided evidence identifying its expected catchment area for patronage of the new business, the Authority nevertheless takes the view that to define a local community in such a manner would tend to lose any "local" focus for the purposes of assessing social impact.
176. For the sake of administrative consistency and regulatory certainty, the Authority prefers to identify the state suburb of Bermagui as the relevant local community, while the broader community comprises the Bega Valley LGA.

### **Overall Social Impact**

177. 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.

### **Positive Benefits**

178. The Authority accepts the Applicant's contention that granting this Application will provide some additional measure of *convenience* to those members of the local and broader community who wish to purchase liquor for consumption off the Premises at the same time as buying their groceries from the nearby Woolworths Supermarket, as they will be able to do so during the licensed trading hours of the Premises
179. The Authority is satisfied that some additional convenience is established by the Applicant in respect of those shoppers who wish to engage in "one-stop" liquor shopping within the same shopping centre in which the Woolworths Supermarket, and other stores, are located. In the abstract this 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) and may also contribute to the responsible development of the industry which is an object of section 3(1)(b) of the Act.
180. However, the extent to which the new business is consistent with the expectations needs and aspirations of the local community is somewhat diminished by the extent of local community opposition to the Application.
181. Moreover, the cumulative benefits to the community of increased convenience offered by this new business are objectively reduced by the currently availability and range of incumbent licensed premises that are authorised to sell liquor for consumption off the licensed premises and readily available to the local and broader community. The Authority notes, for example, that the incumbent Bermagui Beach Hotel bottle shop is located approximately 50 metres away from the Premises.
182. The Authority is satisfied, on the basis of Authority licensing records, that there are currently three (3) licensed premises, within the suburb of Bermagui, capable of selling packaged liquor. The Authority accepts the Applicants submission that one of these licences belongs to the Bermagui Country Club which may only sell packaged liquor to members, and while this is a mitigating factor the Applicant has not substantiated the claim that package liquor sales are insignificant as to its main business.
183. While the Applicant contends that granting the Application will support employment opportunities within the Premises, 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.

184. The Authority also notes the Applicant's submission that granting the Application will allow the proposed new business to contribute to local groups and organisations. However, the Authority notes that the nature and extent of community support has not been substantiated nor specified with any great deal of certainty and so little weight can be given to these purported community benefits on the material before the Authority.
185. Notably, the Applicant contends that the new business will provide no downward pressure on pricing. That is a remarkable proposition given that *prima facie*, the Authority would expect that the arrival of a new competitor operated by a rational business operator into a local market that is not marked by high licence density would more likely than not bring some competitive pressure – even if pricing for BWS outlets is fixed centrally.
186. The scale of this proposed new retail liquor operation and what the Authority would expect to be a rational objective of the Applicant (to compete for market share) also seems inconsistent with the Applicant's submission that its sales will likely cannibalise local demand.
187. Nevertheless, the Authority is largely in the hands of an applicant to identify and satisfy the Authority as to the cumulative community wide benefits (as distinct from private commercial benefits) that will flow from granting a license to a proposed new business.
188. Accepting for the purposes of this decision that the Applicant does not intend to impose downward pressure upon pricing, it is difficult for the Authority to see how the new business will provide substantive additional benefits by way of developing the local liquor industry for the purposes of section 3(1)(b) of the Act, particularly when the Applicant also contends that it will not be introducing any new product lines that are not otherwise available to the communities.

### **Negative Impacts**

189. The Authority is satisfied 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.
190. 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 nearby beach and park, anti-social behaviour and secondary supply to minors.
191. The Authority notes that there has been strong local community objection to this Application. The Authority accepts the Applicant's contention that some of these submissions are from outside the local community, but the Authority is required to consider the interests of both the local and broader community.
192. Many of the concerns raised in response to the Application have centred upon the contended damage that the operation of this proposed business would have upon local businesses and the local economy. While accepting that those concerns are genuinely held, the Authority has not given any weight to those concerns. The Authority's role is to consider overall social impact, not alleged abuses of market power which may be raised

with the Australian Competition and Consumer Commission. It is not the Authority's role to play favourites between incumbent businesses and new entrants.

193. The Authority notes that the State suburb of Bermagui has fewer than 2000 permanent residents and is ranked in the second decile of the IRSAD scale indicating significant socio-economic disadvantage. The Authority accepts that a large scale chain packaged liquor store would more likely than not, as contended by the Applicant, cannibalise a share of the existing market, while this may be to the detriment of local business, the extent of that detriment has not been quantified or estimated in opposing submissions.
194. The Authority accepts the Applicant's submission that many of the contentions or submissions made by local residents were general in nature or otherwise could not be substantiated, but the Authority does not accept that this renders those submissions of little relevance.
195. The submission process enables the Authority to gain some sense as to whether an application is likely to advance the statutory purpose of section 3(1)(a) of the Act (regulating the industry in a manner that is consistent with the "expectations, needs and aspirations" of the relevant communities).
196. While there is a good deal of commonality among many of the arguments raised by submitters, the volume of local submissions made in opposition to this Application indicate a significant degree of inconsistency between this proposed new liquor store and the "expectations, needs and aspirations" of the local and broader community.
197. Local opposition alone is not decisive of itself and the Authority is wary of the potential for local competitors to engage in "astroturfing" (the artificial creation of grass roots opposition for commercial purposes). Nevertheless, assessed on the whole, the extent of local and broader community opposition evident on the material before the Authority cannot be dismissed and is an adverse factor when assessing the extent to which this proposal is consistent with local expectations, needs and aspirations.
198. The Authority is satisfied, on the basis of the ABS data, that the suburb of Bermagui is ranked in only the second decile on the Index of Relative Socioeconomic Advantage and Disadvantage for all suburbs in NSW. The Bega Valley LGA is ranked in the fifth decile on the IRSAD for all LGAs in NSW (with a ranking of 10 being the most socioeconomically advantaged).
199. The relative disadvantage of the local community provides some further cause for concern as to the degree of social capital maintained by that community and its capacity to address adverse social harms associated with the abuse of liquor. Socio-economic disadvantage in a community is not a factor that is considered in isolation but it is a compounding adverse factor when considered alongside adverse crime data. Accepting that the causes of domestic violence are complex, socio economic status is typically taken into account when assessing domestic violence in a given community by reason that it is recognised as an associated risk factor (See for example Livingston M., 'A longitudinal analysis of alcohol outlet density and domestic violence (2011) as noted in *Authority Guideline 6*).
200. The fact that there is national household survey data cited by the Applicant that there is risky drinking in relatively advantaged communities does not discount concern as to adverse alcohol related impacts in low income communities as well.
201. The alcohol related hospitalisation data for *this* broader community indicates that risky drinking in this broader community is a relative problem, leading to higher rates of

alcohol related hospitalisation. The Authority is satisfied, on the basis of the Health Statistics published by the NSW Department of Health dated 11 June 2014, that the broader community of the Bega Shire LGA is already overexposed to significantly higher than state average rates of *alcohol related hospitalisations*, with a smoothed estimate of standardised separation ratio of **127.6**

202. With regard to prevailing exposure of the communities to crime and alcohol related crime, the Authority notes that on the whole, the broader community of the Bega Valley LGA is of some concern when compared to NSW State averages.
203. The BOCSAR data for the broader community of the Bega Valley LGA, for calendar year 2013, as cited in the Applicant's Statement of Impact, satisfies the Authority that:
- a) the rate of *alcohol-related domestic assault* occurring across the Bega Valley LGA was **151** per 100,000 persons, higher than the rate of **137.2** per 100,000 persons for New South Wales as a whole.
  - b) the rate of *alcohol related non-domestic assault* incidents occurring across the Bega Valley LGA was **317.1** per 100,000 persons of population, again higher than the NSW rate of **181** per 100,000 persons of population.
  - c) the rate of *alcohol related offensive behaviour* across this LGA was **259.7** per 100,000 persons, higher than the NSW rate of **116** per 100,000 persons.
  - d) The rate of *alcohol related assault police* incidents was **18.1** per 100,000 persons, below the rate of **22.6** for New South Wales as a whole.
204. The Authority has taken into account and accepts the Applicant's submission that the LGA is a large geographical area, and that Bermagui attracts visitors to the town centre, but this data nevertheless provides cause for concern as to the contribution that liquor sold from this substantial new business may make to the local and broader community, over time, along with the incumbent licensed premises selling packaged liquor. The broader community presents a moderately challenging environment for exposure to alcohol related crime and anti-social conduct across the broader community.
205. While the NSW Police have not objected to the Application, concerns have been raised by OLGR who have submitted, by reference to BOCSAR data that there is significant level of "alcohol related anti-social behaviour" in the state suburb of Bermagui.
206. OLGR refer to BOCSAR crime data for the period from October 2013 to September 2014 indicating that the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Bermagui was **328** (per 100,000 persons) compared to **321** (per 100,000 persons) for the whole of NSW.
207. OLGR further submit, based on this BOCSAR crime data, that the rate of *alcohol related disorderly conduct* offences in the suburb of Bermagui was **201** (per 100,000 persons) compared to **105** (per 100,000 persons) for the whole of NSW.
208. The Authority notes the Applicant's submission that OLGR's calculation of these rates at the level of Bermagui are "incorrect" by reason that BOCSAR has not calculated rates at the level of Bermagui itself.
209. The Applicant has not however explained how OLGR's assessed rates are wrong. Rather, the Applicant expresses a preference for the count of localised events, rather than the rate, by reason of the relatively small local population for Bermagui of 1671 persons.

210. The Authority accepts the Applicant's arguments that the small local population provides a reason to exercise caution when considering crime rates at the local level as small numbers may effect large changes in the rate per 100,000 persons.
211. However, the numbers involved in a count of alcohol-related offences are not insignificant. The Applicant cites BOCSAR data from 2014 in its submission in reply to OLG, which records seven alcohol related non-domestic assaults within this small local community of Bermagui, one alcohol related domestic assault and two alcohol related disorderly conduct offences in the local community.
212. The Authority accepts that the community of Bermagui itself has a quite small population, which goes to the weight that should be given to the crime rates recorded at the local community level.
213. The broader community has a population over 31, 000 persons and does not have this "small number" problem. The Authority accepts the Applicant's contention that the broader community may be subject to an influx of visitors during holiday periods but the Authority will take a local or community as it finds it, and as noted above, there is moderate cause for concern as to the relative alcohol related assault rates in the broader community.
214. While the Applicant correctly submits that the LGA is geographically large, the Bermagui town centre is likely to service both Bermagui and other parts of this regional LGA who seek to shop there. The Authority accepts, on the basis of the Applicant's submission as to the likely catchment area from which it will draw its customers, that this is likely to extend beyond Bermagui alone and incorporate and impact other areas within this broader community.
215. The Authority is obliged to consider the overall social impact on both the local and the broader community. The BOCSAR data satisfies the Authority that there is a moderate problem of alcohol related crime and misconduct in this broader community compared to State wide rates.
216. The Authority notes that there is some community concern raised in relation to the presence of the nearby indigenous community located in Wallaga Lake. It is well established that while persons of ATSI descent typically have higher rates of abstention from alcohol than the non-indigenous population, but considerably higher rates of risky levels of alcohol consumption. (The research known to the Authority is identified in the Schedule to *Guideline 6*).
217. The Authority has considered the Applicant's contention that the BOCSAR data relating to the indigenous population of Bermagui indicates that the crime rate for the indigenous population is low.
218. The Authority is nevertheless satisfied that the available data on indigenous crime across the broader community is problematic. For example, the BOCSAR report on crime for Bega Valley LGA for 2014 indicates that 12 of the 60 reported *domestic violence assault events* involved an alleged offender recorded to be of indigenous background, indicating an over representation of this demographic in this crime category.
219. Although local aboriginal group submissions were made too late in the process for the Authority to fairly have regard to them, the relative vulnerability of the local indigenous community to adverse alcohol related impacts was an issue raised in community submissions that are before the Authority in opposition to the Application. It is an adverse factor when assessing the relative vulnerability of the local and broader community to alcohol related impacts, but has not been a decisive factor in this case.

220. The licensed trading hours sought by this Application are quite extensive – extending from 9:00am and 9:00pm Monday through Saturday and from 10:00am to 8:00pm on Sunday, bearing in mind that the limit of night time packaged liquor licensed trading permissible in New South Wales is 10:00pm.
221. The floor space of the Premises is approximately 144 square metres, according to the Applicant's CIS document. In relative terms this is a medium scale packaged liquor enterprise, rivalling many stand along packaged liquor businesses across the State.
222. The scale of this proposed new business and the extensive licensed trading hours sought by the Applicant are factors that objectively increase the scope for *this* business to contribute, along with the incumbent licensees, to any prevailing social problems associated with the abuse of packaged liquor in the local and broader community over time.
223. The Authority has considered certain measures that the Applicant proposes to implement at the proposed new business. Harm reduction measures are detailed in the comprehensive business planning documents "Woolworths Liquor Group Liquor Store House Policy", and "Operational matters; security, harm minimisation and responsible service of alcohol practices adopted at BWS stores in NSW" *provided* by the Applicant as part of the Application.
224. The Authority further notes the intended installation of CCTV surveillance. While the Authority is satisfied that such CCTV coverage provides a certain measure of the security to the operations, it is not clear as to the extent to which, if any, such surveillance will be improved outside the store. The Authority accepts that CCTV surveillance will be comprehensive inside the Premises. However, packaged liquor licences by definition sell alcohol to be consumed away from the licensed premises and consequently CCTV surveillance within the store will only be of utility in detecting or deterring misconduct occurring on the Premises.
225. In conclusion, having regard to the scale, trading hours and location of the proposed new liquor business, the Authority is satisfied that over time the business will contribute, along with the incumbent licensed premises supplying packaged liquor to the local community, to the current challenges faced by this broader community, particularly in respect of alcohol related *domestic and non-domestic violence* and *alcohol related offensive behaviour* that is apparent from the BOCSAR data before the Authority, including the local community data identified by OLGR.
226. Domestic violence is of particular concern to the Authority when assessing a packaged liquor licence application as domestic violence overwhelmingly occurs in private residences where packaged liquor is intended to be primarily consumed.
227. The Premises is located in a hotspot within the local community for the concentration of incidents of *domestic violence* events and that is a further adverse factor of concern to the Authority when assessing the overall social impact of granting this Application.
228. The Authority does not have sufficient evidence or analysis before it to predict whether liquor consumption will increase, decrease or not change with the grant of another licence, but even if the Authority accepts the Applicant's submissions that the new business will do no more than compete for and cannibalise the existing level of market share, the new business will contribute, along with the incumbent licensees to the moderately challenging environment in the local and broader community with regard to alcohol related crime and misconduct and adverse health outcomes in the broader community. The scale, trading hours and location of the business are factors that

objectively increase the scope for this new business to contribute to those prevailing community problems.

229. In light of the concerns about the prevailing crime rates in the broader community, the concentration of crime hotspots within the local community, the adverse alcohol related health data for the broader community, the number and type of incumbent licensed premises in the local community (which diminish the convenience benefits from granting this Application for this location) and the nature and extent of objections from residents in the local and broader community, the Authority is *not* satisfied, on the material before it, that the overall social impact of granting this Application will not be detrimental to this local and broader community.

## CONCLUSION

230. Having considered the likely positive benefits and factors indicating relative negative impact arising from the available crime data for the local and broader communities the Authority is not satisfied for the purposes of section 48(5) of the Act, that the overall social impact of granting *this* Application would not be detrimental to the well-being of the local and broader community.
231. In making this decision the Authority has had regard to all of the statutory objects of section 3(1) and has taken into account all of the considerations prescribed by section 3(2). In refusing the Application the Authority has given 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 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.



Micheil Brodie  
Chief Executive

DATED: 14 JAN 2016