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Dear Sir

**Application for Packaged Liquor Licence Removal
Parramatta Fine Wines to BWS PARRAMATTA**

I am writing to you about an application made by your client, Mr Anthony Smith on behalf of Woolworths Limited, to the Independent Liquor and Gaming Authority on 22 August 2014, in respect of a removal of a packaged liquor licence from Parramatta Fine Wines, at 354 Church Street, Parramatta to premises at Level 1, Shop 1153, Westfield Shopping Centre, 159-175 Church Street, Parramatta where the licence will be known as BWS - Beer Wine Spirits.

As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to the Licensing Co-ordinator (Delegate) the power to grant certain liquor licence applications that fall within a designated risk threshold. This Application falls within the relevant threshold, enabling the matter to be determined under delegation.

The Application was considered by the Delegate who has decided on 18 June 2015 to grant the Application and *approve* the removal of the licence pursuant to section 59 of the Act. This decision was advised to you informally in an email from Authority staff dated 18 June 2015.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*. This letter attaches the statement of reasons for the Delegate's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

The detailed conditions subject to which the licence is granted will be set out in the OneGov record of the liquor licence, to be provided separately by staff assisting the Authority.

Yours sincerely

Micheil Brodie
Chief Executive

- 4 AUG 2015

STATEMENT OF REASONS

INTRODUCTION

1. On 22 August 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Mr Anthony Smith on behalf of Woolworths Limited (Applicant).
2. The Application seeks to remove the licence from its present location at 354 Church Street, Parramatta (Current Premises) to Level 1, Shop 1153, Westfield Shopping Centre, 159-175 Church Street, Parramatta (Proposed Premises). Once removed, the new licenced business will be known as BWS – Beer Wine Spirits.
3. As described in the Authority's Regulatory Delegations Manual, the Authority has delegated to the Manager of Licensing (Delegate) the power to grant certain packaged liquor licence applications that fall within a designated risk threshold. This Application falls within the relevant threshold, enabling the matter to be determined under delegation.
4. The Application as initially made proposes that the packaged liquor business be licensed to sell or supply liquor for consumption off the Proposed Premises during the trading hours of:

Monday to Wednesday	8:00am – 8:00pm
Thursday	8:00am – 9:00pm
Friday and Saturday	8:00am – 8:00pm
Sunday	10:00am – 5:00pm.
5. However, following later correspondence between Authority staff and the Applicant, the Application was varied for a 9.00am commencement of licensed trading on Monday through Saturday, consistent with the Authority's usual policy position for stand-alone packaged liquor stores not connected to a supermarket.
6. The Application as varied seeks that the 6-hour closure period required by section 11A of the Act be fixed at between 3:00am and 9:00am.

MATERIAL BEFORE THE DELEGATE

7. Application Form for Packaged Liquor Licence Removal filed with the Authority on 22 August 2014: In the Application form, the proposed licensed trading hours of the Proposed Premises will be between 8:00am and 8:00pm Monday through Wednesday, Friday and Saturday, 8:00am and 9:00pm Thursday and 10:00am and 5:00pm Sundays. The Application outlines that a 6-hour closure period fixed for the purposes of section 11A of the Act will operate from 2:00am to 8:00am. The Application contends that "no owner, mortgagee, lessee or sub-lessee" of the Current Premises "will be adversely affected by the removal of the licence".
8. Community Impact Statement (CIS) filed with the Authority on 22 August 2014: The various contentions and submissions made by the Applicant in the CIS document regarding the overall social impact of granting the Application are discussed in further detail below. However, the following documents were attached to the CIS:
 - (a) Statement of Impact dated 4 July 2014 prepared and lodged by Tony Schwartz (Back Schwartz Vaughan Lawyers) on behalf of the Applicant: This 40-page document addresses the social impact of the removal of the licence to the Proposed Premises. This document outlines the analysis performed by the

Applicant to conclude that "the overall social impact of the Application will not be detrimental to the wellbeing" of the community.

This document discusses what is proposed in the Application, with two images that show the location of the Proposed Premises within the shopping centre and a plan that addresses the layout of the Proposed Premises.

This document also contains an assessment of the likely social change that will occur as a result of granting the Application. This document refers to the BOCSAR (Bureau of Crime Statistics and Research) data and "...the demographic, socio economic status and density information relevant to this Application". After analysing the data outlined, the Applicant contends that the Application meets every aspect of the objects of the Act, satisfied the tests in section 48 of the Act and has an overall social impact that is not detrimental to the wellbeing of the local or broader community.

- (b) Woolworths' operating experience to date with BWS-Beer Wine Spirits *packaged liquor* licences: This 15-page document provides a summary of what the Applicant describes as Woolworths' "...many years of experience operating 316 BWS-Beer Wine Spirits stores in NSW together with 57 Dan Murphy's Stores". This document addresses, *inter alia*, at-risk indicators, potential for adverse change, noise, litter and pollution related concerns, alcohol consumption by the population of the community, public interest benefits and the "...potential for increased levels of alcohol related anti-social behaviour".
- (c) Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS- Beer Wine Spirits stores in NSW: This 6-page document contends that each BWS store conducts the same harm minimisation and responsible service of alcohol strategies, policies and procedures which ensures each store operates to the high standards expected by Woolworths and its customers. The document includes sections detailing *inter alia* Woolworth's responsibility, stocking of products, design features, policies and procedures, neighbourhood safety and liquor accords. The liquor store *House Policy* and Woolworths' *Best Practice Policies and Interventions* are also outlined within this document which include *inter alia* ensuring that people appearing to be under the age of 25 get checked for identification; that liquor is not consumed on the Proposed Premises; that all staff are "...properly trained in the responsible service of alcohol; and that liquor is "not sold or supplied" to intoxicated persons.
- (d) Health statistics issued by the NSW Department of Health outlining data for alcohol attributable deaths by Local Government Area, NSW 2006 to 2007 and alcohol attributable hospitalisations by Local Government Area, NSW 2001-12 to 2012-13.
- (e) List of hotels and packaged liquor licences. The first page of the document provides details of *hotels* and *packaged liquor* licences within the local community of the Proposed Premises whilst the second page provides details within the broader community of the Parramatta Local Government Area (LGA).
- (f) Centre Directory: This is a 2-page document with the first page providing a list of all other shops and their store locations within the shopping centre and the second page documenting the five levels of the Westfield shopping centre in images.
- (g) Google Maps: showing the location of the Proposed Premises.

- (h) Submission by Mr Tony Schwartz dated 10 July 2014: This 6-page document outlines reasons supporting the proposed trading hours and 6-hour closure period outlined in the Application.
9. Application Form for Changing a Licence Name: This Form outlines that the licence name for the Proposed Premises will be "BWS – Beer Wine Spirits" and the removal of the licence to the new store requires the existing licence name be changed.
 10. Plan of the Premises: being a one page document showing the proposed licenced area, imagery of the shop front, layout of the Proposed Premises, loading dock and locality.
 11. Copies of stakeholder notices: notifying the Application to various stakeholders as required by the liquor legislation - including Police, Council and the site notice placed on the Proposed Premises.
 12. Certification of Advertising signed and dated by the Applicant and Mr Tony Schwartz, the solicitor for the Applicant, on 1 September 2014.
 13. List of Stakeholders located near the Proposed Premises who were notified by the Applicant along with the occupiers of every premise within a 100metre radius of the Proposed Premises.
 14. Geographical Map: being a 1-page document showing where the Proposed Premises is located in regards to the Parramatta CBD Boundary and Alcohol Free Zone.
 15. Submission from Department of Family and Community Services (FACS) dated 10 February 2015: This letter notes that FACS has *no objection* to the Application.
 16. Submission from New South Wales Aboriginal Land Council (NSWALC) dated 30 April 2014: This letter notes that the NSWALC is the body representing Aboriginal people in NSW and simply notes that it has received the correspondence regarding the Application. No submission is made.
 17. Submission from NSW Roads and Maritime Services (RMS) dated 12 May 2014: This letter presents statistics for the Parramatta LGA indicating that during 2012, there were "...23 alcohol-related crashes, resulting in nine casualties". RMS suggests that during the approval process, measures preventing the "...likelihood of alcohol involvement in road crashes in the Parramatta area should be discussed". RMS suggest if the Application is approved that the Applicant maintain awareness of local alcohol-related issues; that the Applicant attend the LGA's Liquor accord and that public education material, focusing on drink driving and pedestrian-alcohol issues, be supported and displayed within the premises.
 18. RMS suggest that when there are "...customers buying large quantities of alcohol for a party or social event" that bottle shop staff draw attention to the safe party kit available on the police website or suggest that the purchaser contacts the local police for guidance. RMS suggest that the Proposed Premises display a list of tips for people hosting social events containing suggestions that customers ensure that guests have a transport option to get home safely or access to details for taxi and public transport options; that non-drinking guests are encouraged to provide lifts for those who are, that low alcohol and soft drinks are available as an alternative; that food is offered; and that guests are prevented from being pressured into continuing to drink alcohol.

19. Submission from J Gardiner dated 10 February 2015 who works and lives in close proximity to the Proposed Premises: This submission forms part of the CIS Survey and contends that the Proposed Premises is located at the Parramatta Transport Interchange, which has been subject to a considerable amount of antisocial behaviour. The writer contends that this probably occurs as a result of the area being subject to high traffic flow, people stuck having to sit and wait for transport and intoxicated or affected people accessing or arriving on transport links. The writer further contends that people who are homeless or struggling with poor mental health can gravitate towards this location.
20. This submission notes that the location is convenient and easily accessible for commuters and residents. The writer submits that the licence is not warranted, as a BWS shop already exists in Westfield Parramatta, not 200m from the Proposed Premises.
21. Submission from Parramatta City Council (Council) dated 5 June 2014: This letter outlines that Council raises no objections to the Application to remove the packaged liquor licence to the Proposed Premises.
22. Email submission from Sergeant Kylie Hedges (licensing supervisor) of the Parramatta Local Area Command (LAC) of NSW Police to the Authority dated 19 February 2015: In this email, Police advise that they have no objections to the Application but request the following conditions *inter alia* be placed upon the licence if the Application is granted: that the Applicant and staff members take all practical steps to preserve crime scenes; that adequate CCTV systems be maintained; and that outlaw motorcycle gangs (OMCG) are not permitted to enter or remain on the Proposed Premises. The Police also request that the Applicant be an active member of the Parramatta Liquor Accord.
23. Email submission from Senior Constable Michael Blades of the Parramatta LAC of NSW Police to the Authority dated 20 February 2015: In this email, Police advise that they "...will be objecting" to the Application, with a formal response being provided in the "...near future with supporting evidence".
24. Email submission from Senior Constable Michael Blades of the Parramatta LAC of NSW Police to the Authority dated 24 March 2015: In this email, Police note the correspondence and comments of Sergeant Hedges on 19 February 2015 but advise that Police have "...no further objections at this stage".
25. Email submission from Sergeant Kylie Hedges (licensing supervisor) of the Parramatta LAC of NSW Police to the Authority dated 27 March 2015: In this email, Police note they have "...prepared an objection submission and have submitted it to the commander for approval". [However, the Delegate notes that Authority staff are yet to receive this objection submission].
26. Report to Authority dated 13 March 2015 from a delegate of the (then) Secretary of NSW Trade and Investment (Secretary) via the Compliance & Enforcement Division of the Office of Liquor, Gaming and Racing (OLGR): OLGR advise that this Application was assessed using the Automated Liquor Application Risk Matrix (ALARM) and it was categorised as lower risk. OLGR did not provide a comment and on the Application and note that it "...does not intend to carry out further assessment".
27. Complying Development Certificate (CDC) number 14/27 by Council dated DA number DA-303/2014 by Council dated 07 July 2014: This document provides the CDC for the "...change of use and new tenancy fit out for BWS within shop 1153". [The Delegate

notes that a complying development consent is a form of evidence that the proposed use of a premises complied with planning requirements.]

28. Email from Authority Staff dated 20 March 2015 at 11:57PM: This document notifies the Applicant that in order for the Authority to finalise the Application, the estimated date that the Proposed Premises is anticipated to commence trading must be provided.
29. This email also advises that the Applicant needs to provide consent to the following conditions that would appear on the licence if is granted by the Authority: that a 6-hour closure period under section 11A of the Act be fixed between 2:00am and 8:00am; that the business must not operate with a greater overall level of social impact on the wellbeing of the community; that the licensee join the local liquor accord; and that the licence is not to be exercised at the Proposed Premises until the Authority is provided with evidence that the Proposed Premises are complete and ready to trade.
30. This email advises that the current condition on the licence that states the licence be held by Mr Smith in a dormant capacity only; will be removed "...as it will no longer be relevant". This email informs the Applicant that the Authority is waiting on submissions from Police and the Secretary.
31. Email from Tony Schwartz (Back Schwartz Vaughan Lawyers) on behalf of the Applicant dated 23 March 2015 at 2:31PM: This document responds to the email from Authority staff dated 20 March 2015 and advises that the Applicant agrees to the imposed conditions. The Applicant advises that upon notification that the Application has been approved, preparation work for the fit-out of the tenancy will commence and from that time approximately 6-8 weeks will lapse before the licence is ready to be exercised at the Proposed Premises.
32. The Applicant advises the Authority staff that an email was received from J and D Dyer on 22 August 2014, sent from Dot's Flower Shoppe at 30 Darcy Street, Parramatta which is approximately 120 metres walking distance from the Proposed Premises. This email outlined the writer's concern for a packaged liquor licence being situated "...so close to the entrance to Parramatta station" which is "...used by hundreds of school children" and contends that granting this Application "...may cause alcohol problems for commuters to the station and bus interchange". The writer notes that "...there are already outlets in the Westfield centre for the sale of alcohol" and as Dot's Flower Shoppe has been operating in the location for 27 years witnessing enough "crazy behaviour" it contends that the community doesn't need to feed more violence on the transport system.
33. The Applicant responds to the contentions raised in the email by James and Diane Dyer on 22 August 2014 and submits that Dots Flower Shoppe have relied on "...no evidence...to support their concerns; that the email failed to acknowledge that the Application relates to the removal of an existing packaged liquor licence"; and argues that all the concerns raised have been addressed in the Statement of Impact provided with the CIS.
34. Email from Authority Staff dated 24 March 2015 at 4:26PM: This document informs the Applicant that the Authority has received submissions from the NSW Police and Secretary and invites the Applicant to provide comment.
35. Email from Tony Schwartz (Back Schwartz Vaughan Lawyers) on behalf of the Applicant dated 25 March 2015 at 12:22PM: This Applicant responds to the email from Authority staff dated 24 March 2015 and notes the conditions proposed by the NSW Police. The Applicant contends that the Police proposed conditions do not apply to the type and

nature of a *packaged liquor* licence and do not actually consider the actual location of the Proposed Premises in the Westfield Shopping Centre.

36. The Applicant contends that the proposed conditions do not presently apply to Woolworths existing BWS Store operating alongside the Woolworths Supermarket in this Centre today and argues that there is "...no precedent for conditions of this type and nature to apply to BWS stores in this location either".
37. The Applicant submits that the proposed CCTV condition is unusual and could not be agreed to in its current wording by reason that matters such as footpaths immediately adjacent do not apply to the Proposed Premises.
38. The Applicant contends that conditions as to CCTV systems are generally not imposed on Woolworth's licences presumably because the Authority is aware of the sophisticated CCTV systems operating from each of its 377 licenced premises in NSW.
39. The Applicant submits that the conditions relating to crime scene prevention and OMCG prohibition are unwarranted and unnecessary and there is no precedent for imposing them on BWS licences.
40. Google Maps image and data showing that walking distance between the Current Premises and Proposed Premises is 1.1km or 14 minutes.
41. BOCSAR Crime Maps based upon data from January 2014 to December 2014 detailing hotspots of offences for the location of the Proposed Premises: This data obtained by the Authority from published BOCSAR sources shows the immediate location surrounding the Proposed Premises at Level 1, Shop 1153, Westfield Shopping Centre, 159-175 Church Street, Parramatta, is located in a high density area for incidents of *malicious damage to property, non-domestic assault and domestic assault*.
42. Authority licensing records indicating the addresses of other liquor licenced premises in the suburbs of Parramatta and the neighbouring suburb of Harris Park.
43. Authority Key Liquor licence details recorded indicating details of the licence currently held in respect of the Current Premises (Parramatta Fine Wines) as of 2 September 2014.
44. Authority liquor licensing data: This data indicates that the Parramatta LGA had a rate of **7.79 packaged liquor licences** per 100,000 persons and the postcode 2150 (which is the postcode for the state suburb of Parramatta) had a rate of **16.10**. The rate of packaged liquor licences in postcode 2150 and the Parramatta LGA are significantly lower than the NSW state average of **32.85**.
45. Authority licensing statistics indicate that postcode 2150 (which is not confined to the local community of Parramatta but also incorporates Harris Park) and the Parramatta LGA have lower rates of *club licences, on premises licences and wholesaler licences* per 100,000 people compared to rates for NSW as a whole. Postcode 2150 has a higher rate of *full licences* per 100,000 persons of **32.20** compared to the NSW rate of **30.36**. Postcode 2150 has a total of **12 packaged liquor licences**.
46. *BOCSAR Report on Crime by LGA and Alcohol Related Status* for calendar year 2013: This document indicates that the rate of recorded *domestic violence related assault* incidents in which alcohol was flagged by reporting Police as a contributing factor, across

the Parramatta LGA, was **104** per 100,000 persons, which is lower than the NSW state average of **145** per 100,000 persons.

47. The rate of *non-domestic violence related assault* incidents flagged by reporting Police as alcohol related in the Parramatta LGA for 2013 was **164**, again lower than the rate for NSW of **191**.
48. The rate of *offensive conduct* offences flagged by reporting Police as alcohol related in this LGA was **37** per 100,000 persons, which is significantly lower than the NSW rate of **83**.
49. However, the rate of *assault police* incidents flagged by reporting Police as alcohol related in this LGA was **42**, which is significantly higher the NSW rate of **24**.
50. The statistics indicate that rate of alcohol related *malicious damage to property* in the Parramatta LGA is **95**, which is lower than the NSW rate of **122**.
51. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS): ABS data indicates that the suburb of Parramatta ranked in the sixth decile compared to other suburbs in the State, while the Parramatta LGA ranked in the eighth decile in the State compared to other local government areas on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

STATUTORY OBJECTS AND CONSIDERATIONS

52. An application for the removal of an existing packaged liquor licence from its current location to another location is made under section 59 of the Act.
53. Pursuant to section 59(3) of the Act, an application for approval to remove a licence to another premises, is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises.
54. Accordingly, the provisions of Division 1 of the Act, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence. Section 59 of the Act states:
 - 59 *Removal of licence to other premises*
 - (1) *A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.*
 - (2) *An application for approval to remove a licence to other premises must:*
 - (a) *be in the form and manner approved by the Authority, and*
 - (b) *be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and*
 - (c) *be advertised in accordance with the regulations, and*
 - (d) *comply with such other requirements as may be approved by the Authority or prescribed by the regulations.*
 - (3) *An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.*
 - (4) *The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.*

- (5) *The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that:*
 - (a) *practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and*
 - (b) *those practices will remain in place.*
- (6) *The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.*
- (7) *The approval to remove a licence to other premises takes effect:*
 - (a) *on payment to the Authority of the fee prescribed by the regulations, and*
 - (b) *when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.*

55. The following provisions apply to packaged liquor licences:

- 29 *Authorisation conferred by packaged liquor licence*
 - (1) *Retail sales A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:*
 - (a) *during the standard trading period or such other period as may be authorised by an extended trading authorisation, or*
 - (b) *in the case of any Sunday that falls on 24 December-from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.*
 - (2) *No retail trading on restricted trading days Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.*
 - (3) *Selling liquor by wholesale or to employees A packaged liquor licence also authorises the licensee:*
 - (a) *to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and*
 - (b) *to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.*
 - (3A) *An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.*
 - (4) *Tastings A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.*
- 30 *Liquor sales area required if bottle shop is part of another business activity*
 - (1) *If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises ("the liquor sales area") that is adequately separated from those parts of the premises in which other activities are carried out.*
 - (2) *The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.*
- 31 *Restrictions on granting packaged liquor licences*
 - (1) *A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:*
 - (a) *in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and*
 - (b) *the grant of the licence would not encourage drink-driving or other liquor-related harm.*
 - (2) *A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.*
 - (3) *In this section:*

"general store" means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

"service station" means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

"take-away food shop" means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

56. By the operation of section 59(3), the removal of packaged liquor licence is treated in the same manner as an application to grant a new packaged liquor licence. The power to grant a new liquor licence is provided by section 45 of the Act, which states, relevantly:

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.*
- (4) ...
- (5) ...
- (5A) *Without limiting subsection (3)(a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:*
- (a) *is of good repute, having regard to character, honesty and integrity, and*
- (b) *is competent to carry on that business or activity.*

57. 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.

58. 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.*

59. An application for the removal of a packaged liquor licence is a type of licence prescribed by section 48(2)(b).

60. In determining the Application, the Delegate has 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.*

APPLICANT CASE ON SOCIAL IMPACT

61. The Applicant outlines that Council, Family and Community Services and NSWALC were all provided with the notice of intention and no objections were received from those agencies.

62. The Applicant submits that it is committed to working "...actively with the local police and the local liquor accord to address any real or perceived concerns directly attributable to alcohol related harm in the local and broader community".

63. The Applicant contends that the local and broader community surrounding the Proposed Premises are "...considered low risk communities based on the potential for increased rates of alcohol related harm or adverse social impact from the operation of the licence" at the Proposed Premises.

64. The Applicant submits that the requirement of section 48(5) of the Act that the overall social impact of granting the application not be detrimental to the wellbeing of the local and broader community is satisfied, on the following bases:

- (a) The Applicant notes that the removal distance is 860 metres and that approving the Application will not alter the density of licenced premises within the Parramatta LGA instead the statistics "will remain unchanged".
- (b) The Applicant argues that the Proposed Premises will be a relatively small store consisting of 88 square metres of Westfield's "...net lettable area of over 137,000 square metres".
- (c) The Applicant submits that the purpose of this Application is to provide "...a planned response to an identified need for improved access to consumer goods and retail services at this Centre".
- (d) The Applicant acknowledges that there is an existing BWS store located approximately 500 metres walking distance from the Proposed Premises. However, the Applicant submits that the Proposed Premises differs in that it will not be

associated with any supermarket (that is, a stand-alone store) and as a result will deliver convenience, choice, range and value for shoppers.

- (e) The Applicant contends that the Application would provide a modern facility with employment opportunities for members of the local community.
 - (f) The Applicant acknowledges that *packaged liquor services* are already currently available within the Westfield Shopping Centre, throughout Parramatta, within the local and broader Community and over the internet.
 - (g) As a result of the incumbent licensees, the Applicant contends that granting the removal Application will not "...result in a change of existing consumer behaviour as to the type or quantity of alcohol to be consumed" or "...introduce new drinkers to the market".
 - (h) The Applicant contends granting this Application will not result in the same amenity type concerns in the neighbourhood as other licenced premises, by reason that the Proposed Premises not engaging in any late night trading, as the latest opening hour is 9:00pm, and the licence only permitting the consumption of alcohol off the licensed premises.
 - (i) The Applicant contends that granting the Application will not result in the lowering of the price of alcohol within the community as the same prices that apply to the BWS store at level 5 of this centre will apply to the Proposed Premises.
 - (j) The Applicant contends that the Parramatta LGA is fast growing and receives an influx of workers, tourists, or visitors each day.
 - (k) The Applicant argues that the rates per 100,000 population comparisons are irrelevant as they do not take into consideration this influx of people. The Applicant outlines that it expects "...no additional impact on the existing rates or frequency of alcohol related crime" in the Parramatta LGA as "...the majority of persons in Parramatta are consuming alcohol responsibly".
65. The Applicant further submits that the Proposed Premises is entirely internal to the Westfield Shopping Centre, with no external street visibility or presence. The Applicant contends that the Proposed Premises was designed to provide both convenient access to the liquor products as well as quality service and supervision.
66. The Applicant submits that "...neighbourhood amenity has been addressed and any concerns were either satisfied or found to be manageable through the terms of the Development Consent for the Centre".
67. The Applicant submits that the Application will benefit the public *inter alia* by improving choice, convenience, neighbourhood safety and security and increasing employment opportunities.
68. The Applicant contends that out of the 511 copies of the CIS notice provided to occupiers of all premises within 100metres of the Proposed Premises, "...there was only one response". The Applicant concludes that "...this means there is little to no concern with this Application at a local level".
69. The Applicant contends that receiving no response from local groups or organisations that were provided with the CIS Notice "...suggests that the community does not have a concern with the proposal".

70. The Applicant also discusses data relating to at risk groups or individuals within the community and contends that the risk of increased harm to these people is not significant, as the level of consumption would have to increase as a result of the Application being granted, and there is no evidence that would occur.
71. The Applicant contends by reference to the size of the shopping centre, the fact "...it spreads across five city blocks" and "...receives on average 28 million customers a year", shows that the public at this centre need improved access to consumer goods and retail services and the Application is a planned response to help achieve this.
72. The Applicant submits that the local community are "...entitled to a modern, well-appointed retail liquor store at this location".
73. The Applicant submits that the Proposed Premises is not an entertainment venue, nor is it located within an entertainment precinct and that it does not trade late into the night. The Applicant contends these factors will limit the amount of anti-social behaviour that will occur as a result of the operation of the Proposed Premises.
74. The Applicant notes that the Proposed Premises is located near an existing Alcohol Free Zone but contends that "...this is beneficial" to the Proposed Premises operations.
75. The Applicant contends that the Proposed Premises are unlikely to cause an adverse impact to any of the neighbouring premises as a result of the Proposed Premises being modern, well illuminated, subject to a sophisticated surveillance system, run in accordance with harm minimisation and responsible service of alcohol policies and being professionally run and well managed.
76. After discussing the BOCSAR crime data, the Applicant submits that the Proposed Premises is "...not located within Parramatta Precinct, where the majority of all alcohol related crime occurs". The Applicant contends that the Proposed Premises "are unlikely to increase the rates" of alcohol related harm or crime. This is based *inter alia* on the following contentions:
 - The community "...has demonstrated an overall ability to consume alcohol responsibly"
 - The rates of alcohol related crime are low compared with the NSW average
 - There is no evidence the Proposed Premises has the ability to change the established drinking patterns of the local and broader community
 - The store will be subject to CCTV and security systems.
77. The Applicant further contends that "...Woolworths has demonstrated", through its other store locations, "...an ability to serve alcohol responsibly with little disturbance to the quiet and good order of the neighbourhood".
78. The Applicant outlines its actions in respect of becoming an active participant in the Local Liquor Accord and the implementation of sophisticated CCTV security systems and harm minimisation and responsible mitigation measures, will mitigate the negative impacts of the Application.
79. The Applicant contends that the operational policies and procedures that will be implemented on the Proposed Premises are effective and have developed over many decades of trading. The Applicant contends that it would respond effectively and quickly if any issues were to arise.

REASONS

80. The Delegate is satisfied, on the basis of the Application material before the Authority and the absence of any submissions to the contrary that, for the purposes of section 59 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
81. The Delegate is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. The Delegate is satisfied on the basis that the Applicant is the current holder of a dormant packaged liquor licence and that no issues of concern were raised with regard to the Applicant's probity by Police, who have apparently considered the Application. No concerns as to probity were raised by OLGR, albeit that the Application only received automated assessment by reason of the licence type.
82. The Delegate is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service practices will be in place with the commencement of licensed trading. This is on the basis of Woolworths' *Liquor Store House Policy* and *Best Practice Policies and interventions* submitted as part of the Application. The Applicant has demonstrated that Woolworths other locations that sell packaged liquor are adequately maintained by these policies and therefore form an adequate outline of the Applicants Responsible Service Practices that will be in place at the Proposed Premises. No adverse submissions have been made by Police or OLGR in this regard.
83. The Delegate is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for use of a packaged liquor licence at the Proposed Premises, on the basis of the CDC provided by the Applicant acknowledging the change of use and new tenancy fit-out.

Overall Social Impact Test

84. The Delegate is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will *not* be detrimental to the wellbeing of the local or broader community.
85. Applying the social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local or broader community.
86. For the purposes of the overall social impact test prescribed by section 48(5) of the Act, the Delegate is satisfied that the local community comprises the state suburb of Parramatta while the relevant broader community comprises the Parramatta LGA.

Positive benefits

87. The Delegate is satisfied, on the basis of the Application and CIS and submissions from the Applicant that granting the licence will provide some benefits to members of the local and broader community who visit the Westfield Shopping Centre and wish to have easy and convenient access to purchasing packaged liquor.
88. The Delegate notes that there has been little by way of objection to the Application – in the form of one concise submission provided by a local retailer. There have been no objections from Council or local stakeholder agencies. The one contrary submission from

the local florist raise legitimate concerns with the proximity of the liquor store to the transport interchange but does not, in its terms, provide sufficient evidence or analysis for the Delegate to be concerned that this Application is inconsistent to the expectations needs and aspirations of the local or broader community within the meaning of section 3(1)(a) of the Act. The benefits of convenience to workers and residents of the local and broader community from having a further option in this very large Westfield Shopping centre have been established, albeit to a modest extent given the availability of other liquor stores in Parramatta and in this shopping centre.

89. The Delegate is satisfied that the proposal will, albeit to a modest extent also contribute to the development of the liquor industry for the purposes of section 3(1)(b) of the Act – albeit to a modest extent in light of the number and variety of incumbent licensees in the local and broader community and noting the Applicants submissions that BWS pricing policies are consistent across BWS stores.
90. The Delegate notes the Applicant's submission that granting the Application will provide employment opportunities for the local or broader community. While the new store may well do this, in the absence of a clear commitment from the Applicant as to the hiring policy of the Proposed Premises it is difficult to give this submission much weight. Staff may well be recruited from any part of Sydney.

Negative impacts

91. The Delegate accepts that over time there will likely be some contribution from the liquor sold at the Proposed Premises to alcohol related crime, disturbances or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Proposed Premises.
92. The Delegate also notes that there is some cause for concern arising from the BOCSAR crime data. The location of the Proposed Premises is within a high density hotspot for the occurrence of *domestic assault*, *non-domestic assault* and *malicious damage to property*.
93. The Delegate acknowledges that alcohol related domestic violence data is of particular interest when assessing a packaged liquor application given that packaged liquor tends to be consumed in the home, where most domestic violence occurs.
94. Some concern was raised by a local submitter, the proprietor of a nearby florist, as to the potential for packaged liquor purchased at the Proposed Premises to contribute to alcohol related disturbance at the nearby transport interchange.
95. While that local submission is generally credible, it would have assisted the Delegate for that submission to provide some greater sense of the extent and scope or frequency of problems with this location, and specifically alcohol related problems in this location which may have resulted in the submission being granted greater weight.
96. The Delegate notes that the Proposed Premises will be situated within a major shopping centre providing considerable scope for surveillance from other patrons and staff of the shopping centre. The Delegate accepts that the Premises will have a quality CCTV system for the Premises itself. A submission from Police on any problems associated with the abuse of packaged liquor at this transport interchange may have been of assistance, but Police have decided not to make a submission in this instance, notwithstanding that they are aware of it.

97. While the crime data and adverse submission provide some cause for concern, the *BOCSAR Report on Crime by LGA and Alcohol Related Status* satisfies the Delegate that such hotspots occur in the context of a broader community where the rate of *alcohol related domestic violence related assault* incidents across the Parramatta LGA was **104** per 100,000 persons, which is significantly below the NSW state average rate of **145** per 100,000 persons. The Delegate also notes that the rates of *non-domestic assault*, *offensive conduct* and *malicious damage to property* in the Parramatta LGA are all considerably lower than the NSW averages.
98. The Delegate is satisfied on the basis of the Authority's licensing data that the Parramatta LGA had a rate of **7.79 packaged liquor licences** per 100,000 persons and the postcode 2150 had a rate of **16.10**. Those rates are lower than the NSW state average of **32.85**.
99. Another important mitigating factor arises from the fact that granting this Application would not alter the density of liquor licences in the local community or the Parramatta LGA, as the Proposed Premises is within easy walking distance from the Current Premises and falls within the same suburb and LGA.
100. The Delegate is satisfied on the basis of the document submitted by the Applicant titled "operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at BWS-Beer Wine Spirits stores in NSW" that the Applicant has implemented comprehensive and well developed harm minimisation measures that work effectively at other locations.
101. The processes outlined in this document satisfy the Delegate that the Applicant is well placed to ensure that staff members will be adequately trained and will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the Proposed Premises is constrained.
102. The Delegate is further satisfied that the implementation of *inter alia* the CCTV monitoring systems, back to base security alarm systems, entry buzzers, electronic article surveillance and a central monitoring station will work towards mitigating any negative factors.
103. In terms of the scale of the Premises, the Delegate is satisfied that the size of the Proposed Premises in square metres is somewhat smaller than many packaged liquor stores.
104. Importantly, the business does not propose to trade to the full extent of trading hours permissible for the supply of packaged liquor. The Proposed Premises will trade until 9.00pm on Thursday evening, in line with late night trading, but closes at 8:00pm on the higher risk evenings of Friday and Saturday and closing at 5:00pm on Sunday. Trading hours provide an objective constraint on the capacity of this business to contribute to such adverse impacts as public drinking, secondary supply to minors or pre-fuelling by adults proposing to attend licensed premises after drinking packaged liquor.
105. On the material before it, the Delegate is satisfied that the overall social impact of granting the Application and approving the removal of the licence a distance of 500 metres within the suburb of Parramatta to a location within the Westfield Shopping Centre will not be detrimental to the wellbeing of the local or broader community.

CONCLUSION

106. Considering together the found positive benefits and taking into account the factors which are likely to objectively constrain or minimise the extent of negative impacts arising from the operation of this business in this community, the Delegate is satisfied that the overall social impact of granting this Application for a packaged liquor licence will not be detrimental to the well-being of the local or broader community.
107. The Delegate has approved the application subject to a 6-hour closure period, for the purpose of section 11A of the Act, from between 3:00am to 9:00am.

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



Micheil Brodie
Chief Executive

DATED 4 / 8 / 2015