

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: LIQUORLAND (AUSTRALIA) PTY LTD

PREMISES: LIQUORLAND SOUTH BUNBURY

PREMISES ADDRESS: SHOP 12, PARKS SHOPPING CENTRE, 1 BRITAIN RD,
CAREY PARK

LICENCE NO: 15099

NATURE OF MATTER: CONDITIONAL GRANT OF A LIQUOR STORE LICENCE

Introduction

- 1 On 24 June 2014 an application was lodged by Liquorland (Australia) Pty Ltd (the applicant) for the conditional grant of a liquor store licence in respect of premises to be known as Liquorland South Bunbury and located in the Parks Shopping Centre, 22 Hamersley Drive, South Bunbury. The application is made pursuant to ss 47 and 62 of the *Liquor Control Act 1988* (the Act).
- 2 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. Objections, pursuant to ss 73 and 74 of the Act, were lodged by Marion Edith Prowse, Jennifer Mary O'Byrne, Bonnie Knop, Jon Abbs, Gregory Edward Mason, Robert Geoffrey Perks, Darren Lee Wright, Kenneth John Noble (referred to collectively as the resident objectors) and Gremis Pty Ltd and N-Style Pty Ltd (licensee objectors). The Commissioner of Police, by his delegate (the Commissioner), lodged a notice of intervention pursuant to s 69 of the Act.
- 3 Pursuant to ss 13 and 16 of the Act the application will be determined on the papers. The submissions and evidence of the parties are briefly summarised as follows.

Submissions by the applicant

- 4 The Parks Shopping Centre (the Centre) is located 3 kilometres south of the Bunbury CBD in the suburb of Carey Park. The Centre contains a Coles supermarket, a K-Mart discount store and 20 specialty shops. Other convenience retail shops, including a petrol station, fast food outlets and a tavern are located adjacent to the Centre and front Bussell Highway. The proposed liquor store will have a selling area of

approximately 107m² and be located adjacent to the Coles supermarket, with internal mall access and an external entrance from the car park.

- 5 In support of its application, the applicant submitted a Public Interest Assessment (PIA) together with a report from MGA Town Planners (MGA Report), a report from Data Analysis Australia Pty Ltd (DAA Report) and a report from Bodhi Alliance (Bodhi Report).
- 6 The MGA Report considered the application from a town planning perspective and included information on the demographics of the locality, traffic and travel patterns, at-risk groups in the area and other licensed premises in the vicinity of the proposed liquor store. Some of the key information to emerge from the MGA report includes:
 - the locality surrounding the proposed liquor store includes all or parts of the suburbs of South Bunbury, Carey Park, East Bunbury, Withers, Usher, Bunbury, Glen Iris, Davenport and College Grove. The suburb of South Bunbury makes up the greatest proportion of all residents in the locality (35.1%), followed by Carey Park (21.9%), Withers (13.5%), Usher (9.53%) and College Grove (6.4%);
 - the proposed liquor store may be accessed from one of six full-movement points of access, with the Centre situated in a desirable position immediately adjacent to the Bussell Highway, which is the Primary Regional Road connecting the Bunbury City Centre and other regional towns such as Busselton and Margaret River;
 - the average population growth in the locality for the period 2006 to 2011 was 210 persons per annum;
 - the proposed liquor store will provide a local convenience service for residents, complementing weekly grocery shopping at the Coles supermarket and also operate after hours in conjunction with the tavern, petrol station and fast food outlets;
 - there are six existing packaged liquor outlets in the area; and
 - the demographic and socio-economic data for the locality indicates that:
 - there is a higher proportion of those aged 15-24 (13.5%) than throughout country WA (11.8%), but less than the State rate (13.75);

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- there is a much higher proportion of those aged 65+ (15.8%) compared to country WA (12.3%) and the State (11.5%);
 - the indigenous population is 3.48%, which is greater than the State rate (3.1%) but lower than the average for country WA (8.3%);
 - there is a significantly higher proportion of single parent families (20.3%) compared to country WA (14.3%) and the State rate (14.5%);
 - the median weekly individual income (\$552) is significantly lower than country WA (\$669) and the State rate (\$662);
 - the median weekly household income (\$1,083) is significantly lower than country WA (\$1459) and the State rate (\$1415);
 - unemployment is significantly higher (6.3%) than country WA (4.8%) and the State rate (4.7%); and
 - the suburbs of Carey Park, South Bunbury, Withers, Usher, College Grove, Davenport, East Bunbury and Bunbury all share a postcode of 6230 with an Australian Bureau of Statistics Socio-Economic Index for Areas (SEIFA) decile of 6 compared to all postcodes nationally and a decile of 5 in comparison to postcodes throughout WA.
- 7 The MGA report concluded that the population of the locality may be considered a relatively low-moderate risk community.
- 8 The DAA report, which contains the results of telephone and intercept surveys, indicates that:
- 41% of respondents to the telephone survey and 54% of respondents to the intercept survey indicated their support for the proposal, but when only respondents who purchase takeaway liquor are considered these proportions rise to 46% for telephone respondents and 65% for the intercept. These levels of support are at the lower end of the range commonly observed in similar surveys;
 - there is a strong geographical component to whether or not residents use the Centre, with purchases of liquor from Carey Park giving 53% support in the telephone survey while those from South Bunbury gave 38% support;

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- for those respondents who supported the application, convenient location was the major reason given, followed by being able to use it when doing other shopping at the Centre;
 - the reasons for not supporting the application were dominated by the belief that there were already sufficient takeaway liquor outlets in the area (48%) and there is no need for a second outlet in the Centre because of the tavern with its drive through facility (45% in the telephone survey and 54% in the intercept survey).
- 9 The DAA report concluded that the survey results demonstrate strong support for the proposed liquor store from those shoppers who currently use the Centre and particularly those from Carey Park, the suburb in which the store will be located. The survey also highlighted that the Parks Shopping Centre has a poor reputation amongst some people (particularly those in the adjacent suburb of South Bunbury), with comments referring to congestion and inconvenient car parking and, for a small number, a perception of a crime problem.
- 10 Bodhi Alliance was engaged by the applicant to undertake an audit of sensitive premises within the locality and undertake community consultation. According to the Bodhi report:
- most of the risk indicators for the locality are low with the exception of the number of single parent families and the socio-economic status of the area; and
 - the area is relatively economically disadvantaged with a high percentage of homes rented, lower household incomes and higher unemployment rates.
- 11 Interviews with stakeholders on how alcohol consumption is affecting the community revealed that:
- people felt unsafe when encountering people who were intoxicated;
 - the association between social housing and anti-social behaviour including alcohol abuse was impacting those living in social housing as the focus of reducing numbers and concentration of social housing was resulting in people feeling displaced and pushed out of the community;
 - alcohol consumption in the locality was thought to be influenced by low socio-economic factors resulting in lack of self esteem, lack of opportunities in employment and education and lack of personal empowerment;

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- the cultural acceptance of alcohol and its perceived role in enabling social interaction and lack of ability to have fun without it was thought to contribute to the over use of alcohol across the community; and
 - there are numerous programs and support agencies focused on addressing alcohol-related problems in the locality.
- 12 The Bodhi Report concluded that there is a varied demographic in the locality with some advantage as well as disadvantage. It was generally considered that the problems in the locality were due to unemployment and social disadvantage and that there are many agencies and programs working with the community. The majority of sensitive premises and other stakeholders interviewed were not opposed to the granting of the application and were of the belief that the proposed liquor store would not impact the community or their agencies' operations.
- 13 According to the applicant, the key benefits for the community to flow from the grant of the application include:
- the convenience of one-stop shopping particularly for those shopping at the Coles supermarket;
 - the proposed liquor store will complement other existing and proposed uses within the Centre; and
 - the store will have comprehensive security measures in place to minimise and deter crime and anti-social behaviour.
- 14 Consequently, it was submitted by the applicant that the proposed liquor store will cater for the packaged liquor requirements of consumers in the locality in an appropriate and responsible manner and in all the circumstances outlined in the applicant's evidence, the grant of the application is in the public interest.

Submissions by the objectors

Resident objectors

- 15 The resident objectors raise similar concerns relating to existing alcohol-related problems in the area which, according to some, are getting worse. The park opposite the site of the proposed liquor store is used as a place of resort for the consumption of

liquor causing concern for parents whose children use the park for sport and recreation activities.

- 16 It was submitted that Carey Park in particular experiences a high rate of crime and violence, with theft and home invasions common.
- 17 Ms O'Byrne, a resident of Carey Park and a Hospital Coordinator at the Bunbury Regional Hospital, experiences first-hand the impact of alcohol of the local community. Through her work at the hospital, Ms O'Byrne experiences the abusive and anti-social behaviour of people affected by alcohol who require treatment. As a resident of Carey Park, Ms O'Byrne has seen the empty alcohol containers littering Hay Park and Hamersley Park areas, creating a danger for children using the parks for recreational purposes. Her son and his friends were approached by three drunken men in the park at 4.45 p.m. one afternoon. The men had to be ushered away by an adult coach.
- 18 It was submitted by the resident objectors that the area surrounding the proposed liquor store is already well serviced for liquor outlets and the grant of the application will only add to the existing problems in the area.

Licensee objectors

- 19 N-Style Pty Ltd is the licensee of the Frankel Street Liquor & Fine Wines store while Gremis Pty Ltd is the landlord of the premises.
- 20 According to the licensee objectors the proposed liquor store will offer no new service and bring no additional material convenience to residents of the locality as there are a large number of quality packaged liquor outlets already operating in the area. The range of liquor proposed by the applicant's premises will be limited because of the small nature of the store with a focus on the cheap brands that Liquorland is known for to suit the social dynamics of the locality. A large number of respondents to the applicant's telephone survey did not support the application (47%).
- 21 It was submitted that Liquorland stores are not known for premium brands and is the applicant's "budget" brand. If the applicant intended to sell premium brands at the proposed liquor store, it would have been branded as a Vintage Cellars store. Consequently, the intent is to sell cheaper brands of liquor, which according to the licensee objectors will lead to an undue increase in harm and ill-health in the locality. Two of the suburbs surrounding the proposed liquor store, Carey Park and Withers,

have an above average indigenous population and a low SEIFA index (2 and 1 respectively), which indicates that these suburbs are relatively disadvantaged.

- 22 The licensee objectors also submitted that the grant of the application may negatively impact on young people engaged in sporting activities in the parks located opposite the proposed liquor store.

Submissions by the Commissioner of Police

- 23 According to the Commissioner the area surrounding the proposed liquor store has a high level of state housing occupied by unemployed, non-retiree residents. This is reflected in the high unemployment rate for the area of 6.3%. Also, the area has an above average indigenous population and the applicant's PIA evidences the concerns of local health and social workers regarding high levels of domestic violence, poor parenting skills and poor nutrition within this community.

- 24 The Commissioner provided data on the existing level of alcohol-related harm and offences in the locality. This data indicates that from 1 January 2013 to 1 August 2014 there were:

- for south Bunbury, 305 offences of which 53 were alcohol-related and 43 breaches of Violence Restraining Orders of which 9 included an element of alcohol;
- for Withers, 560 offences of which 100 were alcohol-related and 41 breaches of Violence Restraining Orders of which 14 included an element of alcohol; and
- for Carey Park, 415 offences of which 46 were alcohol-related and 52 breaches of Violence Restraining Orders of which 6 included an element of alcohol.

- 25 Whilst acknowledging that the recorded offences are below the State average, it was submitted by the Commissioner that the current level of offending is still of concern and any increase in offending would be unacceptable and would impact on the provision of services including hospital, police resources, ambulance resources, family counselling and government agencies like the Department of Child Protection.

- 26 It was submitted by the Commissioner that the area is presently well serviced by packaged liquor outlets and the Parks Tavern, which has a drive-through facility and located in the same shopping centre as the proposed premises, is approximately 300 metres from the proposed liquor store.

- 27 The Commissioner submitted that if the application is granted, conditions should be imposed on the licence to mitigate the risks to the local community associated with the operation of an additional liquor store in the area.

Responsive submissions by the parties

Applicant

- 28 Whilst the applicant acknowledges that the unemployment rate in the locality (6.3%) is higher than Country WA (4.8%) and the State (4.7%) it was submitted that there is no comparative data to substantiate the assertion by the Commissioner that this is one of the State's highest rates of unemployment. Similarly, the Commissioner's assertion that there is a high level of public housing occupied by unemployed, no-retiree residents in the locality is not substantiated. It was also submitted by the applicant that the indigenous population within the locality varies within each suburb, ranging from nil in Davenport to 5.9% in College Grove. However, the suburb which makes up the largest percentage of the population of the locality (South Bunbury) has an indigenous population of only 1.4%.
- 29 Although there are some at-risk groups present in the locality, there is no evidence from which it can be concluded that the level of alcohol-related harm and ill-health experienced by these groups is unacceptably high. It was also noteworthy, according to the applicant, that none of the local community service providers to these groups, or the Executive Director Public Health, objected to, or intervened in, the application.
- 30 Consequently, it was submitted by the applicant that there is no evidence before the licensing authority that the potential alcohol-related harm that may result if the application were to be granted outweighs the public interest established by the applicant's evidence.
- 31 In respect of the matters raised by the resident objectors, while the applicant accepts that their concerns are genuinely held, the particulars provided largely comprise matters of personal opinion and speculation, without any real supporting evidence. Therefore, the resident objectors have failed to establish the validity of their objection as required under the Act.
- 32 It was submitted by the applicant that the licensee objectors appear to be motivated by private, commercial interests which are not relevant to the public interest test. Overall, the particulars submitted by the licensee objectors simply critique selective aspects of

the applicant's submissions and evidence, and do not provide any objective evidence to substantiate the licensee objectors' grounds of objection.

Licensee objectors

33 It was submitted by the licensee objectors that the area surrounding the proposed liquor store is relatively disadvantaged and the demographic data indicates an over representation of many at-risk groups, including young adults and Aboriginal people. The applicant's survey data indicates many respondents believe that there are already sufficient takeaway liquor outlets in the area and there was no need for another outlet.

Determination

34 Section 38(2) of the Act establishes an onus on the applicant for the grant of a liquor store licence to satisfy the licensing authority that granting the application is in the public interest. There is no presumption in favour of a grant of a licence under the Act, rather the reverse, where the applicant must demonstrate that it is in the public interest that the application should succeed (refer *Woolworths Ltd –v- Director of Liquor Licensing [2012] WASC 384*).

35 The burden of establishing the validity of any objection lies on the objector (refer section 73(10) of the Act) while an intervener carries no onus to establish their assertions of fact or opinion (refer *Re Gull Liquor (1999) 20 SR (WA) 321*).

36 In determining whether the grant of an application is "in the public interest" I am required to exercise a discretionary value judgment confined only by the scope and purpose of the Act (refer *Water Conservation and Irrigation Commission (NSW) v Browning (1947) 74 CLR 492*; *O'Sullivan v Farrer (1989) 168 CLR 210*; *Palace Securities Pty Ltd v Director of Liquor Licensing [1992] 7WAR 241*; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd (2007) WASCA 175*).

37 In *McKinnon v Secretary, Department of Treasury [2005] FCAFC 142* Tamberlin J said:

"The reference to "the public interest" appears in an extensive range of legislative provisions upon which tribunals and courts are required to make determinations as to what decision will be in the public interest. This expression is, on the authorities, one that does not have any fixed meaning. It is of the widest import and is generally not defined or

described in the legislative framework, nor, generally speaking, can it be defined. It is not desirable that the courts or tribunals, in an attempt to prescribe some generally applicable rule, should give a description of the public interest that confines this expression.

The expression “in the public interest” directs attention to that conclusion or determination which best serves the advancement of the interest or welfare of the public, society or the nation and its content will depend on each particular set of circumstances.”

38 In carrying out its functions, the licensing authority must, by virtue of section 5(2) of the Act, have regard to the objects of the Act. The primary objects of the Act are:

- to regulate the sale, supply and consumption of liquor;
- to minimise harm caused to people, or any group of people, due to the use of liquor; and
- to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

39 Pursuant to section 33 of the Act, the licensing authority must deal with each application on its merits but has an absolute discretion to grant or refuse an application for any reason that the licensing authority considers in the public interest (refer *Woolworths Ltd v Director of liquor Licensing* [2012] WASC; *Palace Securities v Director of liquor Licensing* (1992) 7 WAR).

40 The applicant seeks to establish a convenience style liquor store adjacent to the Coles supermarket in the Parks Shopping Centre, which is located in the suburb of Carey Park, South Bunbury. The Centre provides weekly grocery and other ‘staples’ for residents in the area.

41 The applicant submitted a PIA and various expert reports to support its application and discharge its onus under s 38 of the Act. According to the applicant the key benefits for the community from the grant of the application include:

- the convenience of one-stop shopping particularly for those shopping at the Coles supermarket;

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- the proposed liquor store will complement other existing and proposed uses within the Centre; and
 - the store will have comprehensive security measures in place to minimise and deter crime and anti-social behaviour.
- 42 The DAA Report contained the results of telephone and intercept surveys, and concluded that there was strong support for the proposed liquor store from shoppers who currently use the Centre and in particular, those from Carey Park. The three main reasons given by respondents to both surveys for their choice of outlet were “convenient location”, “close to home”, and “price or value for money”. Of those respondents to the telephone survey who support the application, 23% indicated that the reason for their support was combining their grocery shopping with the purchase of liquor while in the intercept survey only 10.8% stated this as a reason for their support. According to the DAA report, the overall levels of support for the application are at the lower end of the range commonly observed in similar surveys.
- 43 The MGA report considered the application from a town planning perspective, and included demographic and socio-economic data for the locality, which included:
- there is a higher proportion of those aged 15-24 (13.5%) than throughout country WA (11.8%), but less than the State rate (13.75);
 - there is a much higher proportion of those aged 65+ (15.8%) compared to country WA (12.3%) and the State (11.5%);
 - the indigenous population is 3.48%, which is greater than the State rate (3.1%) but lower than the average for country WA (8.3%);
 - there is a significantly higher proportion of single parent families (20.3%) compared to country WA (14.3%) and the State rate (14.5%);
 - the median weekly individual income (\$552) is significantly lower than country WA (\$669) and the State rate (\$662);
 - the median weekly household income (\$1,083) is significantly lower than country WA (\$1459) and the State rate (\$1415);
 - unemployment is significantly higher (6.3%) than country WA (4.8%) and the State rate (4.7%).

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- 44 It was submitted by the applicant that the suburbs which make up the locality surrounding the proposed liquor store (Carey Park, South Bunbury, Withers, Usher, College Grove, Davenport, East Bunbury and Bunbury) all share a postcode of 6230, and the SEIFA index for this postcode is a decile of 6 compared to all postcodes nationally and a decile of 5 in comparison to postcodes throughout WA. Consequently the applicant asserts that the locality is not disadvantaged.
- 45 However, the Bodhi Report found that there is a varied demographic in the locality with some advantage as well as disadvantage. This finding is consistent with the evidence, which indicates that the two suburbs in immediate proximity to the proposed liquor store, being Carey Park and Withers, are both highly disadvantaged. The SEIFA decile for Carey Park is 2 while Withers has an decile of 1. The lower the decile, the greater the level of disadvantage.
- 46 The applicant's evidence, from the MGA report, further supports the conclusion that the area surrounding the proposed liquor store is disadvantaged, with the presence of at-risk groups (i.e. high number of single parent families and above average indigenous population, with over half of the indigenous population of the locality being located in the suburbs of Carey Park and Withers); low median weekly individual incomes; low median weekly household incomes; and high unemployment. The Bodhi report stated that there are numerous programs and support agencies required to address alcohol-related problems in the community.
- 47 As indicated at [38], the licensing authority is obligated to consider the objects of the Act when determining applications. The applicant's evidence is that there is support for the grant of the licence and that some members of the public will find it convenient to purchase liquor from the proposed liquor store when shopping at the Centre. Catering for the requirements of consumers for liquor and related services is one of the objects of the Act.
- 48 However, another object of the Act is to minimise harm caused to people, or any group of people, due to the use of liquor. The evidence indicates that the area immediately surrounding the proposed liquor store is highly disadvantaged (the suburbs of Carey Park and Withers).
- 49 Where conflict arises in promoting the objects of the Act, the licensing authority must weigh and balance the competing interests in each case (refer *Executive director of Health v Lily Creek International Pty Ltd & Ors* [2000] WASCA 258).

- 50 Wheeler J in *Executive Director of Public Health v Lily Creek International & Ors* [2001] WASCA 410 said:

“The Act directs attention to the minimisation of alcohol related harm generally (s 5(1)(b)). The relevant question for the Court, in that case, is the level of alcohol related harm, due to the use of liquor, which is likely to result from the grant of an application. This does not mean that only the increased harm which may result from the specific premises in question is to be considered; rather it seems to me that must necessarily be assessed against any existing harm or ill health so as to assess the overall level which is likely to result if a particular application is granted. Where, as occurs in probably the majority of cases, the existing level of alcohol related harm is no greater than that which appears to be commonly accepted in the community, the distinction is probably not significant. However, where there is already a very high and serious level of alcohol related harm in a community, it may be that the Court would find a relatively small risk of increase in that level of harm to be unacceptable. In other words, it is not the “risk” of harm in some abstract sense which is relevant, but rather the risk having regard to the proved circumstances of the particular area in relation to which the application is made.”

- 51 Bell J in *Director of Liquor Licensing v Kordister Pty Ltd & Anor* [2011] VSC 207, having referred to the *Lily Creek* decision, went on to observe:

“..... by its very nature, much evidence about harm minimisation will be general and expert in nature. It may be epidemiological or sociological, to name just two of the different disciplines which may be involved. It will not necessarily be evidence relating directly to the particular premises, neighbourhood or locality concerned. It may nonetheless be relevant and admissible, for it may, depending on the circumstance, assist in determining the likelihood that harm is occurring or will occur, the nature of that harm and what contribution can be made to minimising it. Such evidence may be especially important where it is connected by other evidence with the ‘particular local, social, demographic and geographic circumstances’ of the given case.”

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- 52 Therefore, the risks associated with the grant of an application must be considered not in some abstract or theoretical sense, but with regard to the proved circumstances of the particular area in relation to which the application is made.
- 53 The applicant's stated benefit to the community of one-stop shopping; particularly for shoppers at the Coles supermarket is not supported by the survey evidence, where support for one-stop shopping is not particularly strong. I also note that the DAA Report indicates that the levels of support for the application are at the lower end of the range commonly observed in similar surveys.
- 54 Although the police data does not indicate that the locality is presently overburdened with alcohol-related crime, in comparison to the State average, nonetheless, there is evidence from the resident objectors that the park opposite the proposed liquor store is used as a place of resort for the consumption of liquor and existing alcohol-related problems in the area appear to be getting worse. There is also evidence that there are a range of programs and support agencies focused on addressing alcohol-related problems in the locality. The Commissioner submitted that any increase in offending would be unacceptable and would impact on the provision of social services in the area.
- 55 Ipp J in *Lily Creek* stated that the potential for harm to occur is an important public interest consideration.
- 56 The Liquor Commission, when considering an application by Forrest Road Liquor Pty Ltd for the grant of a liquor store licence in Armadale (LC 24/2012) refused the application because of the existing levels of alcohol-related harm and the potential for harm to vulnerable groups. The Commission stated that "it has no issue with the concept of providing a one stop shopping service for consumers, nor does it have any reason to question the ability of the applicant to apply management structures to minimize the potential for harm and ill-health through the sale of liquor." However, the Commission went on to refer to the passage from Wheeler J in *Lily Creek* (referenced in [49] above) and concluded that the potential for harm to vulnerable groups outweighed the benefits to consumers. Similarly, the Commission observed in LC 04/2012 (Dan Murphy's Cockburn) that harm can arise irrespective of the strength of management of licensed premises as a result of their location and nature.
- 57 Consequently, in weighing and balancing the competing interests in this case; namely the perceived benefit of one-stop shopping for, in the main, shoppers at the Coles

supermarket and the potential for increased alcohol-related harm in the area, I find that the perceived benefits to the local community are marginal and do not outweigh the potential risks associated with the grant of the application, particularly in view of the socio-economic status of the suburbs immediately surrounding the proposed liquor store.

58 The locality is presently well catered for in terms of access to packaged liquor with the Parks Tavern, which has a drive-through facility, located in the same shopping centre as the proposed liquor store, and five other liquor stores in the locality, including two large destination stores. Those persons located in the more densely populated northern part of the locality of the proposed liquor store would be able to conveniently utilise the BWS liquor store located in the Bunbury Forum for their one-stop shopping needs. The MGA Report stated that the Bunbury Forum is located at the northern edge of the locality (i.e. approximately 3 km from the proposed liquor store) and the BWS liquor store in the Bunbury Forum is located conveniently for those undertaking grocery shopping expeditions and that this store has a format, size and range of liquor products similar to that of the applicant's proposed store.

59 Accordingly, I am not satisfied that the applicant has discharged its onus under s 38 of the Act and the application is therefore refused.

60 Parties to this matter dissatisfied with the outcome may seek a review of the Decision under s 25 of the Act. The application for review must be lodged with the Liquor Commission within one month after the date upon which the parties receive notice of this Decision.

61 This matter has been determined by me under delegation pursuant to s 15 of the Act.

Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING
10 March 2015