

Liquor Commission of Western Australia
(Liquor Control Act 1988)

- Complainant:** Liquorland (Australia) Pty Ltd
(represented by Mr Steven Standing Barrister under instructions from Ms Triska Di Cicco of Herbert Smith Freehills)
- Respondent** Commissioner of Police
(represented by Ms Meagan Hemsley of State Solicitor's Office)
- Commission:** Mr Eddie Watling (Deputy Chairperson)
Ms Sarah Oliver (Member)
Ms Kirsty Stynes (Member)
- Matter:** Application pursuant to section 25 of the *Liquor Control Act 1988* for a review of the decision of the delegate of the Director of Liquor Licensing to refuse an application for a conditional grant of a liquor store licence.
- Premises:** Liquorland Midland, 274 Great Eastern Highway, Midland
- Date of Hearing:** 15 October 2018
- Date of Determination:** 6 December 2018
- Determination:** The application for a conditional grant of a liquor store licence is approved subject to conditions.

Authorities referred to in the determination

- *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208
- *Hancock v Executive Director of Public Health* [2008] WASC 224
- *Woolworths v Director of Liquor Licensing* [2013] WASC 227

Background

- 1 On the 12 October 2017, Liquorland (Australia) Pty Ltd (“the Applicant”) applied for the conditional grant of a liquor store licence at premises within the Midland Gate Shopping Centre (“the Centre”) located at 274 Great Eastern Highway, Midland and to be known as Liquorland Midland. The application was supported by a Public Interest Assessment (“PIA”) and the following evidence:
 - a. report prepared by Data Analysis Australia (“DAA report”);
 - b. report prepared by MGA Town Planners (“MGA report”);
 - c. report prepared by Bodhi Alliance (“Bodhi report”); and
 - d. statement by Mr Carl Cockerham State Manager-Operations, Coles Liquor in Western Australia.
- 2 On 11 December 2017, the Commissioner of Police (“the Police”) lodged a Notice of Intervention on the grounds that:
 - a. if a particular application was granted, public disorder or disturbance would be likely to result section 69(6)(c)(ii) of the *Liquor Control Act 1988* (“the Act”); and
 - b. any other matter relevant to the public interest (section 69(6)(c)(iv) of the Act)
- 3 On 5 February 2018, the Applicant lodged further submissions incorporating:
 - a. supplementary DAA report;
 - b. supplementary Bodhi report;
 - c. supplementary statement of Mr Carl Cockerham; and
 - d. updated plans reflecting the electronic sliding doors and Ready to Drink (“RTD”) cage.
- 4 Closing submissions by the Applicant and the Police were lodged on 12 February 2018.
- 5 On 21 May 2018, the Delegate of the Director of Liquor Licensing (“the Director”) determined that the Applicant had failed to discharge its onus under section 38(2) of the Act to satisfy the Director that the grant of the application is in the public interest.
- 6 Accordingly, the application was refused.
- 7 On 21 June 2018, the Applicant lodged an Application for Review of the Decision of the Director pursuant to section 25 of the Act.
- 8 Submissions by the Applicant and the Police were lodged on 1 October 2018 with a further responsive submission lodged by the Applicant on 8 October 2018.
- 9 A hearing of the Liquor Commission of Western Australia (“the Commission”) was held on 15 October 2018.

Submissions on behalf of the Applicant

- 10 It was submitted that the key aspects of the application are:
- a. the Centre is one of the most important regional retail centres in Western Australia, and is undergoing a significant \$100 million expansion which will result in the Centre being home to 215 retail tenancies, which will expand its consumer base;
 - b. there is only one other liquor store at the Centre, which is a BWS. It is now a notorious fact that shopping centres like Midland Gate can sustain multiple liquor stores and that this is consistent with the proper development of the liquor industry in the State. This is particularly the case in this application, as the Centre will be redeveloped to include 69,000 square feet of retail space;
 - c. Midland has seen a significant increase in the number of affluent residents looking to take advantage of the proximity of the suburb to the train line, and therefore, Perth. Additionally, available evidence suggests the City of Swan currently experiences less alcohol-related harm than the rest of the State; and
 - d. based on the findings of the Applicant's experts, it is unlikely the operation of the store will have an adverse impact on the harm levels being suffered by the locality. However, to the extent harm does arise, the Applicant has store specific operational and harm minimisation policies and measures to mitigate against the risks associated with the store.
- 11 It was further submitted that as part of the Centre, the store will provide the following public interest benefits:
- a. provide for one-stop shopping for consumers;
 - b. provide choice and competition for consumers using the Centre;
 - c. greatly contribute to the amenity of the area, particularly by providing a focal retail point for the local community;
 - d. enable residents to shop locally, preventing economic leakage; and
 - e. provide employment opportunities for local residents.
- 12 The results of the surveys commissioned as part of the DAA Report show that a majority of residents in the locality support the store and would use the store and the Centre regularly. A large proportion of the survey respondents indicated that they saw benefits arising from the store, mainly relating to convenience.
- 13 The Centre is a Strategic Metropolitan Activity Centre, which is the highest order of retail activity centre. Strategic Centres are intended to contain a full range of speciality shops along with a full range of economic and community services necessary for the communities within their catchments. In the case of the Centre, that catchment is extremely broad and includes both metropolitan Midland as well as the nearby rural districts.
- 14 The locality partially or wholly includes the suburbs of Midland, Midvale, Viveash, Woodbridge, Hazelmere, Middle Swan and Bellevue.

- 15 It was submitted that the store will have a small footprint, with a selling area of 153m², cool room area of 31m², and stock area of 18m², for a total licensed area of 202m².
- 16 The store will have one entrance from the mall area of the Centre and a de-wall entrance to the supermarket. For security reasons, the service counter will be in a position to allow team members to have a direct line of sight and observe customers using either entrance.
- 17 It was submitted that the Applicant is aware that there is some anti-social behaviour occurring in Midland and at the Centre and will have comprehensive security measures in place to minimise and deter such activities. These measures include:
- a. all spirits will be located behind locked glass;
 - b. anti-theft film will be placed on all external glass;
 - c. no external entrance to the store;
 - d. a locked cage in the cool room containing RTD cartons;
 - e. an automatic electronic door at the mall entrance;
 - f. at least two team members on duty at all times;
 - g. the installation of windows to allow team members to have a clear line of sight to the Coles supermarket service desk;
 - h. bright lighting will be located around the store;
 - i. an alarm system which is monitored off site; and
 - j. CCTV cameras covering the store, in compliance with the Director's policy.
- 18 The store's operational activities will be integrated with the Coles supermarket located in the Centre; will not offer onsite liquor consumption (other than tastings); and does not engage in offensive noisy or intrusive promotions.
- 19 Accordingly, the Applicant does not expect that any offence, annoyance, disturbance or inconvenience will be caused to people who live and work in the vicinity of the Centre from the operation of the store, beyond what otherwise would be expected (and is currently occurring) from operation of the Centre.
- 20 It was submitted that the proposed manner of trade will be mostly aligned with the adjacent Coles supermarket which will trade as follows:
- Monday to Friday 9am – 9pm
 - Saturday 9am – 5pm
 - Sunday 11am – 5pm
- 21 With regard to evidence of consumer requirement, Data Analysis Australia ("DAA") was engaged by the Applicant to design and analyse surveys of residents in the locality. The surveys were aimed at assessing public support for the grant of the application. DAA engaged Thinkfield, an ISO 20252 accredited survey services company, to conduct the surveys on its behalf.

- 22 It was submitted that the results presented in the DAA Report show that the residents of the locality support the grant of the application and believe that it would be of benefit to themselves and the local community. The key survey results being:
- a. of those who had purchase packaged liquor in the past twelve months, 74% of door-to-door and 83% of intercept respondents stated they would use the store;
 - b. the number of respondents who support the store (56%) outweigh those who oppose the store (28%) by a factor of two to one;
 - c. over 80% of door-to-door respondents (and 88% of intercept respondents) thought the proposed responsible service of alcohol practices (including CCTV security and locking spirits behind glass doors) was important to them;
 - d. 60% or more of door-to-door respondents (more than 70% for the intercept) thought that:
 - i. the proposed store would provide convenience and value for money to purchase alcohol in small quantities;
 - ii. the Coles supermarket with a Liquorland store would provide good competition with the existing BWS;
 - iii. the simple layout and minimal shelves will make it easy to find what they want; and
 - iv. it would increase the choice of liquor stores available to use.
 - e. 50% or more of door-to-door respondents (more than 60% for the intercept) thought that:
 - i. it would be beneficial to have Liquorland situated next to Coles even with the BWS at the other end of the shopping centre;
 - ii. it would be convenient to shop there at the same time as using other stores in the Centre; and
 - iii. it would be good to be able to compare prices and products with nearby liquor stores.
 - f. 49% of door-to-door respondents (and 63% of intercept respondents) thought that it would be good to have Liquorland situated next to Coles even when there is a Dan Murphy's and a First Choice nearby.
- 23 The respondents to the surveys did express some concerns with the store, predominately relating to anti-social behaviour and easy access for liquor and/or encouraging drinking. However, it was submitted by the Applicant that the tight security measures to be implemented at the store, in addition to the Applicant's harm minimisation policies, should ensure that anti-social behaviour is mitigated.
- 24 It was submitted that the Applicant does not believe that the store will encourage drinking as it will have very minimal advertising, and only in a small area of the Centre, not visible to the general public outside the Centre. Additionally, the security measures will ensure that the

store does not contribute to increased access to packaged liquor by vulnerable members of the community.

25 With regard to harm and ill-health the Applicant acknowledges that the locality had a poor socio-economic profile, however, it is believed that the available data from the 2016 census shows that the locality is improving. The Applicant has relied on the MGA and Bodhi reports, the SEIFA index and Police crime statistics to determine that it is extremely unlikely that the operation of the store would have an adverse impact on the health and well-being of the local community.

26 The Applicant commissioned Bodhi to conduct an audit of the sensitive premises located within the locality, as well as to perform community engagement with the key stakeholders in the community, with the Bodhi Report noting that:

“All but one stakeholder thought that the store would not adversely impact the community and that those with alcohol related problems would have access to it from other stores. They thought it would be convenient to have a liquor store near to Coles and some thought it would bring economic benefits to the traders of the Centre by preventing some leakage that occurred to the large format stores.”

27 In summary and based on the objective evidence in support of the application, it was submitted that the store will cater for the packaged liquor requirements of consumers of the local catchment, and the broader locality, in an appropriate and responsible manner consistent with the objects of the Act.

28 The Applicant submits that the grant of the application, which will also be subject to percentage rent approval under section 104 of the Act, would be in the public interest.

Submissions on behalf of the Commissioner of Police

29 The Police representations are as follows:

- a. there is an elevated level of alcohol related harm occurring in the locality; and
- b. if the Commission is minded to grant the application, it may impose a number of conditions upon the licence in order to minimise the risk of harm, public disorder or disturbance arising by virtue of the grant of the licence.

30 A range of statistical data was provided in relation to reported alcohol related offences in Midland as well as other suburbs in the locality. This statistical data for the locality indicates that:

- a. alcohol-related domestic assaults for the suburb of Midland for the 2016 calendar year, when calculated per 1,000 persons, were three times higher than the corresponding Midland sub-district rate;
- b. the rate of alcohol-related domestic assaults for the suburb of Midland was five times higher than the metropolitan rate and three times higher than the State rate for 2016;

- c. alcohol-related domestic violence for the suburb of Midland has risen by 77% from 2014 to 2016. For the same period the metropolitan region only recorded a 7% increase while the State increased by 11%;
 - d. alcohol-related domestic assaults in the suburb of Midland for the 2016 calendar year were four times higher than the Midland sub-district rate, 4.5 times higher than the metropolitan rate and 3.5 times higher than the State rate;
 - e. from January 2014 to December 2016, police received 1,095 calls for assistance for domestic related matters for the suburb of Midland, while there were a further 1,027 calls for the remainder of the locality;
 - f. calls for assistance with regard to domestic related incidents for the 2016 calendar year for the suburb of Midland, when calculated per 1,000 persons, was 3.7 times higher than the corresponding metropolitan rate and three times higher than the State rate;
 - g. there has been a 38% increase from 2014 to 2016 for call for assistance for domestic violence in the suburb of Midland and a 52% increase in the suburb of Midvale. The Midland/Midvale border is situated approximately 500 metres from the propose liquor store; and
 - h. from 2014 to 2016, there was a 115% increase in drivers stopped and charged with drink driving in the suburb of Midland.
- 31 It was submitted that there is compelling research showing a link between the increased availability of discount liquor and increased levels of alcohol related harm and the most frequent place of purchase for alcohol consumed in a family violence incident was at a supermarket liquor store.
- 32 Incident Management System (IMS) data for the locality further shows:
- a. there were 284 reported stealing offences, specifically committed on liquor stores within the locality from January 2014 to December 2016;
 - b. 91, or 32% of these thefts were from the suburb of Midland and 35% of these stealing offences occurred at the liquor store already situated in the Midland Gate Shopping Centre; and
 - c. there has also been an 81% increase in stealing offences from packaged liquor outlets in Midland from 2014 to 2016.
- 33 Evidence demonstrates that the locality, with the exception of the suburbs of Woodbridge and Viveash, is substantially socio-economically, educationally and occupationally disadvantaged.
- 34 It was submitted that the introduction of a new liquor store will inevitably increase the consumption of liquor and create a real risk that the current levels of disorder and disturbance linked to alcohol will increase.

35 In the light of this and given that two of the objects of the Act include regulating the sale, supply and consumption of liquor, and minimising the harm and ill-health caused due to the use of liquor, the Police submit that should the Commission be satisfied that the granting of the licence would be in the public interest, it would be open for the Commission to impose trading conditions upon the licence in order to regulate the sale and supply of liquor so that the risk of increased harm is minimised. The conditions sought being:

- 1 Trading Hours
 - As per the permitted trading hours prescribed in section 98D of the Act.
- 2 Close Circuit Television (CCTV)
 - A CCTV system in compliance with the Director's policy to be installed and operating from the commencement of trade until one hour after trading ceases.
- 3 Lockable Glass Cabinets
 - All spirits and alcohol equal to or higher than 19 percent (19%) alcohol per volume be displayed behind lockable glass cabinets and accessible only by authorised staff.
- 4 Lockable Cage
 - A locked cage in the cool room containing RTD cartons and accessible only by authorised staff.
- 5 Advertising
 - No external promotions, advertising or incentives which encourage the sale of cheap or discounted liquor or which encourage excessive consumption.
- 6 Security Requirements
 - Crowd controllers, licensed under the *Securities and Related Activities (Control) Act 1996* are to be employed at a ratio of two personnel for the first 100 patrons, and one crowd controller for each 100 patrons or part thereof from 6:00pm until 30 minutes after the close of trade or as directed by the Director.
- 7 Dress Standards
 - Jackets or any other clothing or accessory, or any clearly visible body markings, bearing patches or insignia of any Outlaw Motor Cycle Gangs are not permitted to be worn or to be visible on the licensed premises.

Responsive submissions on behalf of the Applicant

36 It was submitted that the Police do not object to the grant of the application. Rather, the Police have intervened to make representations:

- a. that the grant of the application would result in public disorder or disturbance; and
- b. on other matters relevant to the public interest.

37 The principal basis on which the Police have made such representations is that:

- a. there is existing alcohol related harm occurring in the locality;
- b. the operation of the store would result in a greater availability of alcohol; and
- c. there is clear research stating that the availability of alcohol leads to harm, including domestic violence.

- 38 However, the Police have failed to apply the accepted test from the decision in *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208 (“the Carnegies decision”) and in doing so, has failed to address the fundamental question: would this store, the subject of this application, result in an unacceptable increase in alcohol-related harm.
- 39 It was submitted that while the Police intervention acknowledges that the Applicant has specifically designed the store to mitigate and minimise its impact, the Police fail to consider the measures in any detail despite some of them being introduced after consultation with Police in Midland.
- 40 With regard to the conditions proposed by the Police, many do not have any relevance to the particular circumstances of the application and are covered by the Director’s policies with which the Applicant will comply in addition to its own harm minimisation policies and practices. In particular:
- a. the proposed advertising condition is unnecessary as it aligns with the Applicant’s responsible advertising policy;
 - b. the requirement to refuse entry to any person wearing the colours of an Outlaw Motor Cycle Gang is not a condition usually imposed on liquor stores and would be difficult for store team members to enforce, as they are not always familiar with the various insignia; and
 - c. a crowd controller is not necessary and will not be effective in deterring theft from the store. The Applicant considers its proposed security measures at the Store negate the need for a security guard and therefore opposes this condition.

Responsive submissions on behalf of the Commissioner of Police

- 41 It was submitted that should the Commission be satisfied that granting the licence would be in the public interest, it would be open for the Commission to impose trading conditions upon the licence in order to regulate the sale and supply of liquor so that the risk of increased harm is minimised.
- 42 Although the Applicant has previously indicated an intention to implement many of the security measures contemplated by the proposed trading conditions, it is submitted that it is still open to the Commission to impose the conditions on the licence to ensure the Applicant’s compliance. Of the conditions originally sought by the Police, the following two continue to be pressed:
- 1 Advertising
 - i. It was submitted that this proposed trading condition is further supported by the new secondary object of the Act, namely to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor.
 - ii. By allowing promotions and advertising which encourages the sale of cheap or discounted liquor or excessive consumption of liquor, the Licensing Authority would be undermining the secondary object of the Act, the purpose of which is directed at “encouraging cultural change and responsible attitudes... towards the sale and consumption of liquor”.

- iii. In order to drive cultural change and attitudes, it is necessary that irresponsible practices, such as excessive consumption of liquor, not be promoted within the industry.
 - iv. The Police acknowledge the Applicant intends to implement a responsible advertising policy.
- 2 Security Guard
- i. The presence of a security guard provides a 'real time' physical deterrent dedicated to the monitoring of patrons at all times.
 - ii. The Police submit that it is open to the Commission to impose a condition on the licence requiring a qualified security guard be present.

Determination

- 43 Section 25(2c) of the Act provides that when considering a review of a decision made by the Director, the Commission may have regard only to the material that was before the Director when making the decision.
- 44 On a review under section 25 of the Act, the Commission may -
- a. affirm, vary or quash the decision subject to the review; and
 - b. make a decision in relation to any application or matter that should, in the opinion of the Commission, have been made in the first instance; and
 - c. give directions –
 - i. as to any question of law, reviewed; or
 - ii. to the Director, to which effect shall be given; and
 - iii. make any incidental or ancillary order.
- 45 In conducting a review under section 25, the Commission is not constrained by a finding of error on the part of the Director, but is to undertake a full review of the material before the Director and make its own decision on the basis of those materials (refer *Hancock v Executive Director of Public Health* [2008] WASC 224).
- 46 The Applicant is seeking to establish a new Liquorland store immediately adjacent to the Coles supermarket in the Midland Gate Shopping Centre.
- 47 The Applicant must demonstrate the conditional grant of the liquor store licence for the proposed store is in the public interest.
- 48 In determining whether the Applicant has discharged that onus, the Commission must have regard to, and must exercise its judgement in accordance with, the objects and provisions of the Act.
- 49 The objects and provisions of the Act that are of most relevance to this application are the primary objects set out in sections 5(1)(b) and 5(1)(c), the secondary object set out in section 5(2)(a), and section 38 of the Act.

Harm and Ill-health – section 5(1)(b) and section 38(4)

- 50 In considering and determining the impact the grant of an application may have on the levels of harm and ill-health in a locality and more broadly in the community, and whether the grant of an application is in the public interest, Allanson J in *Carnegies* (supra) has provided the Commission with guidance, specifically, that the Commission must:
- a. make findings that specifically identify the existing level of harm and ill-health in the relevant area due to the use of liquor;
 - b. make findings about the likely degree of harm and ill-health to result from the grant of the application;
 - c. assess the likely degree of harm and ill-health to result from the grant of the application against the existing degree of harm; and
 - d. weigh the likely degree of harm and ill-health, so assessed, together with any other relevant factors to determine whether the Applicant has satisfied the Commission that it is in the public interest to grant the application.

Existing level of harm and ill-health

- 51 Both CAD and IMS data submitted by the Police confirm an existing high level of harm and ill-health in the locality, with the overall evidence submitted establishing the following significant factors, as listed in the Director's determination, being:
- a. the suburb of Midland, which takes in most of the residential population of the locality, currently experiences high rates of alcohol-related harm;
 - b. alcohol-related domestic violence in the suburb of Midland has increased significantly in recent years;
 - c. the locality immediately surrounding the proposed liquor store experiences a high degree of social disadvantage, with:
 - i. significantly high unemployment rates (7.9% compared to Greater Perth 4.8%);
 - ii. below average individual, household and family income levels;
 - iii. significantly more lone person households (32.7% compared to Greater Perth 23%);
 - iv. significantly more single parent families (25.9% compared to Greater Perth 14.5%); and
 - v. significantly more rented homes (48% compared to Greater Perth 26.7%).
 - d. the proportion of indigenous persons in the locality is significantly higher (5.9% in the Bodhi Report and 4.9% in the MGA Report) than the greater Perth area (1.6%) and the State (3.1%); and
 - e. residents from the suburbs immediately surrounding the proposed liquor store are heavy users of the Centre.

52 All parties have acknowledged that there is an existing high level of harm and ill-health in the locality.

Likely degree of harm to result from the grant of the application

53 Having assessed the existing level of alcohol-related harm and ill-health in the locality, the Commission must turn its mind to the likely degree of harm and ill-health that may result if the application is granted.

54 The Police have submitted that the introduction of a new liquor store in this locality will inevitably increase the consumption of liquor and create a real risk that the current levels of disorder and disturbance linked to alcohol will increase.

55 The Police further submit that there is compelling research showing a link between the increased availability of discount liquor and increase levels of alcohol-related harm and the most frequent place of purchase for alcohol in a family violence incident was at a supermarket liquor store.

56 The Applicant contends that the Police rely upon generalised research, which has nothing to do with the particular circumstances of the application and is incapable of supporting any inference that the grant of the licence would be likely to contribute to or increase the risk of alcohol-related harm in the circumstances of the application.

57 The Commission has considered all of the factors of the application and is of the view that it is unlikely, on the balance of probabilities, that the granting of this licence will contribute to an unacceptable increase in alcohol-related harm and ill-health in the locality. The factors upon which this supposition is based are:

- a. The small size and nature of the store being consistent with liquor stores associated with supermarkets;
- b. The security measures to be applied to the store:
 - i. all spirits to be located behind locked glass;
 - ii. anti-theft film to be placed on all external glass;
 - iii. no external entrance to the store;
 - iv. a locked cage in the cool room containing RTD cartons;
 - v. an automatic electronic door at the mall entrance;
 - vi. at least two team members to be on duty at all times;
 - vii. the installation of windows to all team members to have a clear line of site to the Coles supermarket service desk;
 - viii. bright lighting located around the store;
 - ix. an alarm system which is monitored offsite; and
 - x. CCTV cameras covering the store, in compliance with the director's policy.

Harm and ill-health likely to result from the grant of application assessed against the existing level of harm and ill-health.

- 58 There is a BWS liquor store, of a similar size as being applied for, associated with a Woolworths supermarket situated approximately 400 metres away at the other end of the Centre. There are also two large destination stores (First Choice and Dan Murphy's) within one kilometre of the proposed store. Therefore, it is considered by the Commission that the impact of an additional convenience store, as per the application, will not be significant in regard to any potential increase in alcohol-related harm and ill-health.
- 59 The security measures to be taken by the Applicant further contribute to a minimisation of any additional adverse impacts on the community.

Likely degree of harm assessed against other relevant factors to determine if the grant of the application is in the public interest

- 60 The Act does not envisage or require that the grant of an application should not result in any increase in harm or ill-health in a locality or community, but recognises that whilst an application might result in some harm and ill-health, the benefits to consumers and the liquor, tourism and hospitality industries, and hence the community, of granting the application may outweigh the potential for such an increase in harm and ill-health.
- 61 The Commission recognises there are a number of benefits associated with the grant of this application and must, as best it can, endeavour to balance those benefits against what the Commission views as the likely increase in harm and ill-health over and above that already occurring in the locality and community, due to the use of liquor.
- 62 The Commission has already expressed the view above that it is unlikely, on the balance of probabilities, that the granting of this licence will contribute to an unacceptable increase in alcohol-related harm and ill-health in the locality.

Is the grant of the application in the public interest?

- 63 The onus is on the Applicant to demonstrate that the grant of the application is in the public interest.
- 64 In essence, therefore, the task before the Commission is to balance the objectives of the Act set out in sections 5(1)(b) and 5(1)(c) and determine if the Applicant has discharged that onus.
- 65 The evidence before the Commission supports a finding that the proposed liquor store will cater for the requirements of consumers and contribute to the proper development of the liquor industry.

- 66 This is a small size liquor store associated with a major supermarket that will cater to consumer requirements by:
- a. providing one-stop shopping for consumers;
 - b. providing choice and competition;
 - c. generally contributing to the amenity of the area, particularly by providing a focal retail point;
 - d. enabling residents to shop locally, preventing economic leakage; and
 - e. providing employment opportunities for local residents.
- 67 The Centre is a Strategic Metropolitan Activity Centre servicing a large regional catchment area and population. The Centre will contain 215 retail outlets over 6,400 square metres of total floor space. The nearest liquor store in the Centre is a BWS Liquor Store adjacent to a Woolworths supermarket at the other end of the Centre and some 400 metres in distance away.
- 68 In *Woolworths v Director of Liquor Licensing* [2013] WASCA 227 Buss JA (as he then was) stated that it is a notorious fact that in contemporary Australian life one-stop shopping in large suburban shopping centres is of great importance, especially to working people, and that this social fact is reflected in the development of district and regional shopping centres.
- 69 Two supermarket related liquor stores in a centre of this nature are not unusual. In fact, there are many shopping complexes that contain three or four liquor stores adjacent to the main supermarket outlets, viz. Cole, Woolworths, IGA, and Aldi.
- 70 The Commission is of the view that the evidence submitted by the Applicant supports a finding that the grant of the application would promote object 5(1)(c) of the Act in that the grant of the application would be catering to 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.

Summary

- 71 In balancing the competing objectives of sections 5(1)(b) and 5(1)(c), and having regard to the other objects of the Act, and the matters specified in section 38(4), the Commission is of the view, on the evidence presented, that the benefits to be derived from the grant of the application do outweigh the potential for an increase in harm and ill-health due to the use of liquor, over and above that already occurring within the locality.
- 72 In particular, the security processes to be applied to the store are a major factor in limiting the potential for an increase in alcohol-related harm and ill-health, while at the same time allowing the Applicant to cater for the requirements for consumers in a way consistent with the operations of a large retail centre.

- 73 Given the circumstances of the locality, the Commission is satisfied that particular conditions ought to be applied to the licence. However, the Commission does not regard it necessary to:
- a. apply the requested advertising provisions that the Commission considers are accommodated in the Applicant's own advertising policies and are consistent with the Director's Responsible Promotion of Liquor policy;
 - b. require the presence of a security guard to be present at all times, nor the presence of crowd controllers. The Commission is not persuaded that that these are a necessary or even effective measure in view of the extensive security measures to be applied by the Applicant;
 - c. impose a condition on dress standard relevant to Outlaw Motor Cycle Gangs; and
 - d. require the CCTV to operate outside of the store opening times.

74 The application is approved subject to the following licence conditions:

1. Trading Hours

As per the permitted trading hours prescribed in section 98D of the Act.

2. Close Circuit Television (CCTV)

A CCTV system in compliance with the Director's policy to be installed.

3. Lockable Glass Cabinets

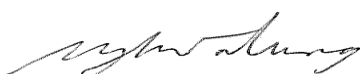
All spirits and alcohol equal to or higher than nineteen percent (19%) alcohol per volume be displayed behind lockable glass cabinets and accessible only by authorised staff.

4. Lockable Cage

A lockable cage in the cool room containing RTD cartons and accessible only by authorised staff.

5. Profit Sharing Authorised

Pursuant to section 104 of the Act, the turnover percentage rental arrangements entered into by the licensee, Liquorland (Australia) Pty Ltd and the lessors, Commonwealth Bank Officers Superannuation Corporation Pty Ltd and The Trust Company (PTAL) Limited, as contained in the lease agreement dated 6 October 2017 and lodged with the Director on 13 October 2017 are approved.



EDDIE WATLING
DEUPTY CHAIRPERSON