

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store)

TRIM REFERENCE: DA/733/2011 - D02755092

AUTHOR/ MANAGER: Peter Fryar, Manager Development Assessment

SUMMARY

An application has been received for the demolition of existing structures, remediation of land and erection of a large scale retail establishment (BWS liquor store) at No. 447 – 449 The Entrance Road, Long Jetty. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Mr W T Hunter C/- Trehy Ingold Neate
Owner	Mr W T Hunter
Application No	DA/733/2011
Description of Land	Lot 340 DP 712201, No. 447 – 449 The Entrance Road, Long Jetty
Proposed Development	Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store)
Site Area	881m ²
Zoning	3 (b) (Centre Support Zone)
Existing Use	Service Station
Employment Generation	Three (3) permanent employees and three (3) - five (5) part time employees
Estimated Value	\$440,000

RECOMMENDATION

- 1 ***That Council refuse development application DA/733/2011, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other relevant issues, for the following reasons:***
 - a ***Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979 the Statement of Impact submitted with the application has not adequately demonstrated that any of the “at risk” groups in the Local and Broader Community would not be impacted adversely by the establishment of the proposed liquor outlet.***
 - b ***Pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979 the proposal will result in an increase in the density of liquor outlets in the locality. The Statement of Impact submitted with the application has not demonstrated that the increase in liquor outlet density will not contribute to an increased risk of social harm to the Local Community across a range of variables.***

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- c Pursuant to the provisions of Section 79C (1)(b) and (c) of the Environmental Planning and Assessment Act 1979 there is an indication that there may be an increased risk of social harm as a consequence of the proposal and accordingly, the 'precautionary principle' should be applied consistent with the objects of the Act.*
- d Pursuant to the provisions of Section 79C (1)(d) of the Environmental Planning and Assessment Act 1979 the submissions made in objection to the proposal and the information provided in the applicant's Statement of Impact has not provided sufficient evidence to demonstrate that approval of the application will provide a net public benefit to the Local Community.*
- e Pursuant to the provisions of Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to be in the public interest given it is located adjacent to a sensitive landuse namely a childcare centre.*

2 That Council advise those who made written submissions of its decision.

PRECIS

- The application is for the demolition of existing structures, remediation of land and the erection of a large scale retail establishment trading as a Beer Wine and Spirits (BWS) Liquor Store.
- The proposed use is permissible with Council's consent.
- The NSW Police Force and NSW Health do not support the proposal.
- Application was advertised to 156 adjoining and nearby landowners. 15 submissions including 2 petitions containing a total of 142 signatures were received objecting to the proposal.
- The application does not provide sufficient information to permit a complete assessment of the social impacts arising from the proposal.
- The application is recommended for refusal.

INTRODUCTION

The Site

The site is known as Lot 340 DP 712201, No. 447 – 449 The Entrance Road, Long Jetty. The site has an area of 881m² is zoned 3(b) Centre Support and is currently occupied by a Metro service station.

Immediately to the north of the site is a child care centre known as 'Little Souls Early Learning Centre'. Land to the east and west is predominantly occupied by low – medium density residential development. The land on the corner of Gladstan Avenue and The Entrance Road (immediately south of the proposal) has the benefit of development consent for a new commercial development.

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The site is located within Precinct 11 of The Entrance Peninsula Planning Strategy (TEPPS).



Figure 1 – Subject Site and Surrounds

The Proposed Development

The proposal seeks Council's consent for the demolition of the existing service station, remediation of the land and construction and use of a large scale retail establishment being a BWS liquor store.

The development will comprise a single storey building, seven (7) car parking spaces, designated loading dock and a drive through facility with an awning over.

Proposed trading hours are:

Monday to Wednesday – 8am to 8pm

Thursday to Saturday – 9am to 9pm

Sunday - 10am to 7pm

The store will employ three (3) permanent employees and three (3) – five (5) parttime employees.

Advertising signage is proposed in the following form:

- 3 x fascia signs each measuring 800mm x 4560mm LED illuminated located on the northern, eastern and southern elevations of the drive through awning.
- 4 x flush wall signs (specials posters) A0 size attached to the building facade.
- 1 x flush wall sign measuring 600mm x 3000mm non-illuminated over the principal building entry.

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Summary

The main issue associated with proposed development relates to a lack of sufficient information to permit a complete assessment of the social impacts attributable to the development.

The subject site is located in a local community that suffers from higher than average alcohol-related hospitalisations, assaults (domestic violence), anti-social behaviour and a culture of high risk drinking.

The weight of the academic research both local and international confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.

There are already a total of nine (9) licensed premises offering 'take-away alcohol' within a 2 kilometre radius of the proposed BWS liquor store.

In the absence of evidence to the contrary, the precautionary principle should be applied where it could be concluded that the proposal will result in an increase in social harm in the locality.

VARIATIONS TO POLICIES

Nil

HISTORY

7 January 2011 - DA/11/2011 was lodged for the Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) at 447 – 449 The Entrance Road, Long Jetty.

2 March 2011 - Following conclusion of the advertising period and receipt of comments from the NSW Police Force and NSW Roads and Maritime Services (RMS), Council staff wrote to the Applicant raising numerous concerns with the application including:

- Impacts on The Entrance Road and need for a traffic report and traffic management plan,
- Possible increase in anti-social behaviour, proximity to a child care centre and proliferation of liquor stores in the area,
- Layout and design of car parking area,
- Lack of a stormwater management plan,
- Non Compliance with Safer by Design Guidelines,
- Inadequate loading/unloading area,
- No dedicated bin storage area,
- Noise Impacts upon adjoining residential properties; and
- Matters raised in public submissions.

13 May 2011 -The applicant withdrew DA/11/2011.

22 August 2011 – Current development application lodged.

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PERMISSIBILITY

The subject site is zoned 3(b) (Centre Support Zone) under the Wyong Local Environmental Plan (WLEP) 1991 and the development is permissible with development consent.

The proposed use is considered to comply with the objectives of the 3(b) zone, in particular:

- “(a) to provide opportunities for development having relatively low traffic-generating characteristics but not high turnover shops and offices that might more properly be located in the Business Centre Zone, and*

Comment

The proposed development is not considered to be a “traffic generating development” as defined under SEPP (Infrastructure) 2007. The traffic volumes associated with the use are considered to be relatively low and therefore consistent with the above objectives of the zone.

- (b) to provide for relatively low intensity commercial and retail uses with extensive floor space requirements, but not including supermarkets or other food or produce markets, and*

Comment

The proposed Retail Liquor Outlet is not characterised as a supermarket or food or produce market referred to above. The proposal is defined as a “Large Scale Retail Establishment” under the provisions of WLEP 1991. Such retail establishments are permissible within the 3(b) Centre Support Zone and as such are the type of retail activity (by definition) permitted within the zone under the planning instrument.

- (c) to provide for development which does not have the potential to result in a detrimental impact on uses in the Business Centre Zone, and*

Comment

The ‘design’ of the proposed establishment appears to be focused upon passing trade by persons travelling in motor vehicles whereas retail liquor premises established in nearby commercial centres appear more dependant on trade associated with persons shopping elsewhere in the commercial centre. The proposal is considered to be consistent with objective (c) above.

- (d) to create opportunities for development within district and regional business centres which support and enhance the range of retail opportunities within those centres”*

Comment

As mentioned above, the proposal is considered unlikely to detrimentally impact on similar established objectives within the nearby commercial centres due to its apparent reliance on passing vehicular trade. As such, the proposal should not detract from existing commercial opportunities within nearby district and regional business centres.

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RELEVANT STATE/COUNCIL POLICIES AND PLANS

The application has been assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 64 –Advertising Signage
- State Environmental Planning Policy No 71 – Coastal Protection
- Environmental Planning and Assessment Act, 1979
- Wyong DCP 2005 Chapter 50 – Advertising Signs
- Wyong DCP 2005 Chapter 61 – Parking
- Wyong DCP 2005 Chapter 69 – Waste Management
- Wyong DCP 2005 Chapter 81 – Retail Centres
- Wyong DCP 2005 Chapter 99 – Building Lines
- The Entrance Peninsula Planning Strategy
- Wyong Shire Council Policy P1 – Potentially Contaminated Land
- The Entrance District Development Contributions Plan

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles.

A Waste Management Plan (WMP) has been prepared which identifies the extent of re-use of materials as a consequence of the demolition of the existing premises. The WMP also identifies the continual re-use of waste generated by the proposed facility when operational and has demonstrated good sustainable practices in the re-use of waste materials.

As discussed further in the report, the Statement of Impact submitted with the application dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a wide range of variables.

The objects of the Environmental Planning and Assessment Act 1979 are, amongst others, “to encourage ecologically sustainable development”. Ecologically sustainable development (ESD) involves a cluster of elements or principles. One principle particularly worth highlighting is the precautionary principle. The precautionary principle should not be viewed in isolation, but rather as a package of principles of ESD. In particular, ESD involves principles of inter-generational and intra-generational equity.

When applying the precautionary principle in consideration of the proposed retail liquor shop and in particular, whether there is an indication that there is likely to be an increased risk of social harm as a consequence of the proposed facility, the onus is on the proponent to prove that this is not the case. There is no evidence in the Statement of Impact to demonstrate that no harm will occur to the local and broader community as a consequence of the proposed liquor outlet. Accordingly, it is appropriate to apply the precautionary principle and not approve the proposal based on the information currently supporting the application. Reasons why the precautionary principle should be applied in the circumstances are discussed further in this report.

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ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's consideration.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

State Environmental Planning Policy 55 – Remediation of Land

The Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clauses 7, 8 and 9 are applicable to the development. The clauses relevantly provide:

- 7 *“Contamination and remediation to be considered in determining development application. Council is required to consider whether the land is contaminated and whether the site will be suitable for development after remediation of the land.”*

Comment

The site contains a development identified in Table 1 under the SEPP (i.e. a service station).

In accordance with the requirements of Clause 7(2), a report titled *Targeted Contamination Assessment Proposed Redevelopment of Service Station Site 447 – 449 The Entrance Road, Long Jetty* prepared by Douglas Partners and dated November 2010 accompanies the application.

Council's Environmental Health Officer has reviewed the report and is satisfied that the land will be suitable for the development after remediation.

- “8 *Remediation work permissible – permits site remediation works to be undertaken with the consent of Council.*
- 9 *Category 1 remediation work: work needing consent – remediation work to be undertaken in a ‘coastal protection’ area (as the subject site is deemed) requires development consent)”.*

Comment:

The remediation proposed is a category 1 remediation work and the subject development application seeks consent for the same.

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State Environmental Planning Policy No 64 –Advertising Signage

The Policy requires that a consent authority (Council) obtain the concurrence of the NSW RMS when considering approval for advertising signage which is within 250 metres and visible from a classified road.

Correspondence received from the NSW RMS dated 17 October 2011 provides concurrence subject to recommended conditions relating to the location and internal illumination of the signage proposed.

State Environmental Planning Policy 71 – Coastal Protection

SEPP 71 – Coastal Protection applies to the development. In accordance with SEPP 71, the proposal has been assessed against the matters for consideration outlined under Clause 8 and found to be satisfactory. A copy of the assessment table is included as an attachment.

Crime Prevention Through Environmental Design (CPTED)

In April 2007, the NSW Minister for Planning introduced Crime Prevention Guidelines to Section 79C of the EP&A Act 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. If a development presents a crime risk, the guidelines can be used to justify modification of the development to minimise crime risk or refusal of the development on the grounds this crime risk cannot be appropriately minimised.

Crime Prevention through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of neighbourhoods. It aims to reduce opportunities for crime by using design and place management principles.

The Crime Prevention Officer of the Tuggerah Lakes LAC (NSW Police Force) has undertaken a detailed assessment of the proposal under the CPTED guidelines and has provided a report outlining the relevant findings. The report identifies that during the 12 month period (1.7.10 – 30.6.11) there were a total of 44,429 reported crime (incidents) types for the Tuggerah Lakes LAC encompassing the Wyong Shire. The suburb of Long Jetty equates to 3.3% of the total reported incidents which is a relatively low rate compared to the areas of the Tuggerah Lakes LAC.

However, Police responded to a total of 551 anti-social incidents in Long Jetty which equate to 38% of the total incidents. It is also noted that Tuggerah Lakes LAC is currently recorded second highest in the State out of 80 LAC's for domestic violence incidents. The Police reported that during the summer months, domestic violence and personal assaults increase with over 44% on average being alcohol related.

In correspondence dated 1 March 2011, the Crime Prevention Officer of Tuggerah Lakes LAC states:

“After reading through the plans of the DA application there is no real mention of CPTED principles. The only mention of the CPTED is mentioned on a page of the site plan (southern elevation) where there is only mention of, “new frosted vinyl film to glazing upto 1200mm to obscure view of (cash) register “. As mentioned there is no CPTED principles mentioned or taken into consideration throughout the DA application.

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The surrounding area of the proposed site is high residential and this would be of concern to local residents in relation to a possible increase in anti-social behaviour and possible increase in high vehicular traffic around the proposed site on a already high volume roadway. Hours of operation would have to be closely considered and restrictions in place.

I have liaised with S/C Matt Dyer, Licensing Police, Tuggerah Lakes LAC in relation to this DA application.

The following has been discussed and agreed. The first issue noted was the absolute close proximity to the "Little Souls Early Learning Centre". This premises is a day care centre, centred around looking after young children, from babies to six years. I am reliably informed that this day care centre has been established for six years.

Alcohol consumption or supply can lend itself to anti-social behaviour and the proposal of a bottle shop adjoining a day care centre does not appear appropriate.

A recent download of bottle shops/hotels or Registered Clubs in the near vicinity of the proposed site indicate there are already three established bottle shops in the Bateau Bay area. One in the Long Jetty area and one in the Toowoan Bay area. There is also a Hotel (pub) in Long Jetty some 400 metres from the proposed site. Also at Bateau Bay where they both provide already 'take away' alcohol services. There is also Registered Clubs within the area that provide similar services.

Information supplied by S/C Dyer is that the Supt. Swilks, Commander, Tuggerah Lakes LAC is against any further licensed premises applications and this strongly supported by the Licensing Unit, Tuggerah Lakes LAC. If S/C Dyer sights an application through the Officer of Liquor and Gaming, he will forward an objection on behalf of the Commander, Tuggerah Lakes LAC. This objection will relate to and will include alcohol related crimes and statistics in the vicinity of the proposed DA site."

The applicant in the Statement of Environmental Effects submitted with the development application has provided an assessment of the proposal under the CPTED principles.

Contrary to the criticisms raised by NSW Police, a review of the CPTED assessment indicates that the applicant has adequately incorporated the design principles into the proposed development. Should development consent be granted, appropriate conditions should be imposed requiring the implementation of the applicant's proposed CPTED design principles.

A copy of the applicants CPTED assessment is attached to this report.

Wyong Local Environmental Plan 1991

Clause 15 – Development on land containing acid sulfate soils

The clause relevantly provides:

- "(1) The objective of this clause is to require special assessment of certain development on land identified as being subject to actual acid sulfate soils or potential acid sulfate soils.*
- (2) A person must not, without the consent of the Council, carry out works described in the following Table on land of the class or classes specified for those works in that Table and shown on the Acid Sulfate Soils Planning Map, except as provided by subclause (4).*

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Class of land shown on Acid Sulfate Soils Planning Map	Works
1	Any works
2	Works below the natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below the natural ground surface Works by which the watertable is likely to be lowered to any point beyond 1 metre below the natural ground surface
4	Works beyond 2 metres below the natural ground surface Works by which the watertable is likely to be lowered to any point beyond 2 metres below the natural ground surface
5	Works which are likely to lower the watertable in adjacent Class 1, 2, 3 or 4 land to any point below 1 metre AHD

(3) For the purposes of subclause (2), works includes:

- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, agricultural-related works, the construction or maintenance of drains, engineering works, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations, or flood mitigation works), or
- (b) any other works that are likely to lower the watertable.

(5) The Council must not grant a consent required by this clause unless it has considered:

- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the Acid Sulfate Soils Assessment Guidelines, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and
- (c) (Repealed)"

Comment

The land contains Class 3 acid sulfate soil. The development is likely to disturb more than 1 tonne of soil, includes works beyond 1 metre below the natural ground surface and is likely to temporarily lower the water to a level beyond 1 metre below the natural ground surface.

Accordingly Council must not grant consent to the proposed development unless it has considered the matters identified in sub clause (5) above.

The *Targeted Contamination Assessment Proposed Redevelopment of Service Station Site 447 – 449 The Entrance Road, Long Jetty* prepared by Douglas Partners satisfactorily addresses the requirements of sub clause (5). Should consent be granted, appropriate conditions of consent would be recommended.

Clause 29 – Services

Adequate water supply and facilities for the removal or disposal of sewage and drainage are available to the land.

Wyong DCP 2005 Chapter 50 – Advertising Signs

The advertising signage proposed comprises:

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- 3 x fascia signs each measuring 800mm x 4560mm LED illuminated located on the northern, eastern and southern elevations of the drive through awning.
- 4 x flush wall signs (Specials Posters) A0 size attached to the building facade.
- 1 x flush wall sign measuring 600mm x 3000mm non-illuminated over the principal building entry

The signage proposed complies with the maximum area, design and location requirements under DCP 2005 – Chapter 50.

Wyong DCP 2005 Chapter 61 – Parking

The Chapter requires that car parking be provided at a rate of 1 space per 30m² of gross floor area for shops. The gross floor area of the building is 220m² and accordingly eight (8) onsite carparking spaces are required to be provided one (1) of which is to be disabled.

The proposal complies with the above providing thirteen (13) spaces as follows:

- 2 staff spaces
- 5 customer spaces including 1 disabled space
- 6 spaces in the drive through facility

A designated loading area is also provided.

Wyong DCP 2005 Chapter 69 – Waste Management

A WMP has been submitted in accordance with DCP Chapter 69.

The submitted waste management plan provides that 2 x 1100 litre bulk bins will be for ongoing waste management, one for waste and the other for glass and paper. A designated bin storage area for the bulk bins is provided. The bin storage area is appropriately located away from the adjoining residential premises and can be accessed by service vehicles.

Wyong DCP 2005 Chapter 81 – Retail Centres

The Chapter provides that Long Jetty has the potential to expand into a Village Centre in the future and include a small supermarket and specialty floorspace of up to 5,000m². The objective of Village Centres is to provide centres which allow for access to daily shopping needs. In the event that Long Jetty becomes a Village Centre, the proposed liquor store would be consistent with this objective. Issues relating to the likely requirements of the proposed retail outlet on similar businesses in existing commercial centres is discussed previously in this report.

Wyong DCP 2005 Chapter 99 – Building Lines

The chapter provides that development may be built to the front, side and rear boundaries subject to satisfactory design. No objection is raised to the proposed building, footprint or its setbacks to adjoining roadways or surrounding properties. The proposed building wall to adjoining properties is “similar” to the wall/elevations of the existing service station building, will be single storey in height and is not considered to have any detrimental visual impact upon those adjoining properties.

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The Entrance Peninsula Planning Strategy

It is considered that the proposed development generally complies with the Strategy and is in accordance with the objectives/desired character of Precinct 11 of TEPPS.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The relationship to the regional and local context and setting

The proposal is considered to be consistent with the established retail hierarchy in the locality as discussed previously in this report.

The access, transport and traffic management measures

The NSW RMS and relevant Council officers have reviewed the application. The assessments revealed that the development is satisfactory from an access / egress, traffic management and traffic generation viewpoint subject to conditions including:-

- Reconfiguration of the existing access driveway,
- Provision of a concrete median in The Entrance Road to restrict access to left in/ left out,
- The car parking area complying with AS/NZS 2890.1:2004 Part 1 and AS/NZS 2890.2:2004 Part 2,
- Signage being wholly located within the site and complying with illumination criteria, and
- Deliveries and garbage collection being conducted outside normal operational hours.

The impact on the public domain (recreation, public open space, pedestrian links)

The NSW Police Service advise that a problem currently exists with alcohol related anti-social behaviour on the Tuggerah Lake foreshore that regularly culminates in bad language, fights and broken glass on the roadway and cycleway / footpaths. These impacts may be exacerbated in the immediate foreshore area if the availability of liquor is increased.

The impact on utilities supply

The proposal is able to be serviced via connection to Council water and sewer services. The site can be serviced for water supply from Council's system located in The Entrance Road.

The effect on heritage significance.

There are no listed heritage items in the vicinity of the site.

Any effect on other land resources.

The site is not known to contain any valuable land resources such as agricultural land, minerals or other extractive resources

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Any impact on the conservation of water.

If the application were to be approved then a condition would be recommended requiring low water usage dual flush toilets and tapware with WELS rated 3 stars or more, in keeping with Council's standard practice for reducing potable water consumption.

Any effect on the conservation of soils or acid sulphate soils.

This matter is addressed previously in the report under the separate heading relating to Clause 15 - . Development on land containing acid sulphate soils.

Any effect on quality of air and microclimate conditions.

No detrimental impacts on air quality or microclimate conditions are anticipated.

Any effect on the flora and fauna.

No issues to report.

The provision of waste facilities.

The submitted waste management plan provides that 2 x 1100 litre bulk bins will be required for the development. A designated bin storage area for the bulk bins is provided. The bin storage area is appropriately located and can be accessed by service vehicles.

Whether the development will be energy efficient.

The proposed building is subject to Part J – Energy Efficiency, of the Building Code of Australia (BCA). Should the development be approved, compliance with the relevant provisions of the BCA would be required.

Whether the development will cause noise and vibration.

Construction noise and vibration are likely to be issues particularly during the demolition, remediation and construction phase of the development. These impacts could be satisfactorily mitigated through appropriate conditions of consent should the development be approved.

Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).

The land is affected by sea level rise. If the development were approved, a condition should be imposed requiring the floor level be at an appropriate height recognising the same.

Any risks from technological hazards.

There are no known technological hazards that would impact the development.

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Whether the development provides safety, security and crime prevention.

The Crime Prevention Through Environmental Design (CPTED) Report accompanying the development application addresses the four CPTED principles and demonstrates how the development can incorporate the CPTED principles in the final design.

Any social impact in the locality.

The Index of Relative Socio-economic Disadvantage (SIEFA Index of Disadvantage) developed from the 2006 ABS Census Data identifies Long Jetty (including the Toowoona Bay sub area) as being ranked 8th disadvantage from 28 areas considered in the Wyong Local Government Area. The NSW Police have also identified the locality as comprising a high proportion of vulnerable families and consider it is not appropriate to have a business of the nature proposed situated adjacent to an early childcare centre and within the locality.

The development application was accompanied by a Statement of Impact (Sol) dated 16 May 2011. Council engaged the services of an independent Social Planner to review the Sol.

The main points raised by the Council's independent consultant are summarised below:-

- The proposed BWS development is within a relatively disadvantaged community. All available data indicates that this is an "at risk" community.
- The proposed BWS development adjoins a sensitive use; namely an early childhood learning centre.
- There has been inadequate community consultation on this proposal and no attempt to engage with significant objectors to the development. Significant objectors include the Little Souls Early Learning Centre, The Entrance Community Precinct Committee, NSW Police Force and NSW Health.
- There are a total of 9 licensed premises offering take-away alcohol within a 2 kilometre radius of the proposed BWS development. The weight of the academic research both local and international confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.

Note: An approval exists for a tenth liquor store (in Killarney Vale) which is approved but yet to open.

- The Sol dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a range of variables. Even if one were to accept that the literature is inconclusive, the precautionary principle should be applied. If there is some indication that there will be harm then the onus is on the proponent to prove that this is not the case. There is no evidence in the Sol to prove that no harm will occur despite the arguments it makes to the contrary.
- The major concerns of objectors are proximity to a sensitive use and the already high incidence of domestic violence and other alcohol related crime and anti-social behaviour. These concerns are backed up by data presented by NSW Health and the NSW Police Force.

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- The Sol has not provided sufficient evidence to demonstrate that approval of the application will provide a net public benefit to the local community of Long Jetty.
- There may be positive social impacts associated with this development, particularly employment impacts during construction and operation. These are not adequately detailed in the Sol and the significance given to them in the Sol is questionable.
- BWS is an experienced and successful operator of 108 BWS stores in NSW and has well developed Responsible Service of Alcohol policies. It is highly likely that if approved this will be a well managed operation. However, the actions of individuals beyond the premises cannot be managed by the operator.

In summary, Council's Independent Social Planning Consultant following a review of the applicants Statement of Impact has concluded as follows:

- "The proponent has not adequately engaged with key stakeholders within the community to identify, analyse and/or mitigate potential impacts of the proposed development.
- The proposed BWS store is within disadvantaged community. A substantial body of academic research literature exists that links liquor outlet density to increased risk of social harm across a range of variable and that more disadvantaged communities are more vulnerable to alcohol related crime.
- The proponent states that *"there is no potentially sensitive facilities or services near the proposed premises which could otherwise place the identifiable "at risk" groups at a heightened risk of alcohol harm."* The proposed facility adjoins a sensitive use namely the "Little Souls Early Learning Centre". The Centre reports that they cater for a number of vulnerable families. This view is supported by the NSW Police.
- On the balance, the reviewer believes that the Statement of Impact has not proven that the proposal will be in the public interest. "

A recent decision of the Land & Environment Court (Motto Farm Pty Limited v Port Stephens Council [2011] NSWLEC 1293) examined similar issues to those present in the subject application namely a disadvantaged community and local opposition to a hotel with take-away service. The appeal by the proponent against Council's refusal of the DA was dismissed, largely on social impact grounds. A key issue to the case was a difference in the academic arguments presented on the social impact evidence. At paragraph 64, Commissioner Brown states:

"64. The potential risk of alcohol-related harm raises a number of separate issues that lead to the different conclusions of Dr Stubbs and Mr Smith. These can be generally be grouped into the following:

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

The academic literature

65. *The weight to be given to the academic literature was a major difference between Dr Stubbs and Mr Smith and significantly influenced their evidence. I propose to address this in the first instance. I find that the academic literature referred to by Dr Stubbs is, in general terms, a useful and valuable means of addressing the requirement in S79C (1)(b) relating to the social impact of the development in the locality. Like most evidence, it should not be accepted blindly but considered in light of its relevance to the application in question. In this case, I accept that it is relevant and should be given weight in the consideration of those matters relating to social impact. In coming to this conclusion, care needs to be taken in the provision of such evidence so that the research and surveys do not go beyond what is appropriate and necessary in order to consider the social impacts in the locality.*

66. *I am not satisfied that the principal concepts promoted by the academic literature, such as the link between alcohol and violent crime and identification of specific demographic groups who are more likely to be at risk of alcohol-related harm can be dismissed as easily and for the reasons suggested by Mr Smith. These concepts are undisputed in the range of academic literature and have been used regularly by the Court in other appeals in addressing social impact (for example, see *Waugh Hotel Management v Marrickville Council* [2007] 156 LGERA 414 and *WWL Consulting Pty Ltd v at Marrickville Council* [2011] NSWLEC 1161)."*

The proponent is required beyond the planning approval process, to obtain a liquor licence from the Casino, Liquor and Gaming Control Authority (CLGCA). Recently, the head of the State's Liquor Licensing Authority has declared that parts of NSW are saturated with bottle shops and any increase would cause social harm after recently ruling on 20 applications by the supermarket chains Coles, Woolworths and Aldi. While eleven (11) of the applications were approved, eight (8) were deferred until crime statistics were updated or to allow for more community consultation.

One application, for a licence for an Aldi supermarket at Katoomba, was refused because of the risk that it could be "detrimental to the wellbeing of the local or broader community".

In a statement on bottle shops and Alcohol pricing issued by the CLGCA on 26 January 2012, it was stated that:

"The Casino, Liquor and Gaming Control Authority will continue to assess the potential social impact of alcohol pricing on a case by case basis when considering bottleshop applications, with greater scrutiny of the issue in relation to groups at greater risk of alcohol-related harm.

In November and December the Authority deferred bottleshop applications by three large supermarket chains following concerns about the potential social impact of heavily discounted alcohol.

The Authority invited submissions from Woolworths, Coles and Aldi addressing issues relating to their discounting policies, the potential impact of cheap alcohol and the weighting the issue should be given when assessing bottleshop applications.

After considering submissions from the three supermarket chains and reviewing research into the issue, the Authority found no conclusive evidence of harm on a general, Statewide basis. It resolved at its meeting yesterday (January 25) to continue to investigate the relationship between alcohol abuse and liquor pricing as the evidence is inconclusive.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

“The evidence gathered to date does not clearly establish that current pricing levels lead to increased harm from alcohol”, Authority chairman Chris Sidoti said.

“This is a complex issue and we have heard many arguments for and against the proposition that current alcohol pricing increases consumption and associated community impacts. In the absence of conclusive evidence at this stage, we will continue to investigate the matter and gather research.”

“What is obvious now is that a ‘one size fits all’ approach cannot be adopted and applied to all liquor licensing applications”.

“The Authority will consider every application on a case by case basis, paying attention to the potential social impact of alcohol pricing, among other issues. It invites applicants for bottleshop licences and all those interested in those applications to provide it with evidence on this issue, among others”.

“Greater weight will be given to the potential social impact of alcohol pricing on groups vulnerable to alcohol-related harm, taking into account density of licensed venues, alcohol-related crime statistics and socio-economic factors”.

“The Authority is particularly concerned about the potential social impact of alcohol pricing on groups at greater risk of harm stemming from violence and anti-social behaviour, public drinking and underage drinking”.

“We are equally concerned about introducing new outlets offering heavily discounted liquor in local communities where there are significant numbers of people in groups vulnerable to alcohol-related harm”.

The Authority yesterday (January 25) considered 20 deferred bottleshop applications by Woolworths (2), Coles (4) and Aldi (14):

- One was refused as the Authority was not satisfied that the overall social impact of the proposed outlet would not be detrimental to the well-being of the local or broader community (Aldi Katoomba);
- Four were deferred so up to date alcohol-related crime statistics could be obtained and submissions received on alcohol-related crime and density of licensed venues (Aldi Hamilton, Aldi Newcastle, Aldi Mudgee, Aldi Orange)
- Four were deferred to allow conferences to be held with applicants and/or objectors including local police, local councils and NSW Health (Aldi Muswellbrook, Aldi Cessnock, Aldi Quakers Hill, BWS Quakers Hill); &
- Eleven were approved of which one had its trading hours reduced and six had a condition imposed requiring the non-refrigeration of products (Aldi Greenhills, Aldi Rutherford, Aldi Cardiff, Aldi Raymond Terrace, Aldi Green Point, Aldi Wyoming, Dan Murphy’s Wolli Creek, Liquorland Coffs Harbour, Liquorland Shellharbour, Liquorland Umina Beach, Liquorland West Ryde).

The Authority will also request the Office of Liquor, Gaming and Racing to review its guidelines on undesirable liquor promotion to ensure the pricing of takeaway alcohol is not promoted in harmful or undesirable ways.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

The matters raised above are considered to be of relevance for Council in its consideration of the subject proposal. It is interesting to note that the CLGCA has applied the precautionary principle in its recent consideration of a number of liquor licence applications. Of particular note is the fact that the Authority has refused an application where it was not satisfied that the overall social impact of the proposed outlet would not be detrimental on the well-being of the local and trader community. This factor, for reasons stated previously in this report, is considered to be of relevance to the subject proposal and on that basis, amongst others, the development application is not supported on planning grounds.

Any economic impact in the locality.

There will be positive economic impacts associated with the development, particularly employment impacts during construction and operation.

Any impact of site design and internal design.

The proposal has been designed to minimise its impact upon the amenity of the adjoining landuses. The building, car parking, loading docks and illuminated signage are all orientated towards The Entrance Road where possible. It is noted that the drawings are internally inconsistent insofar as the signage drawings show a slightly different car parking arrangement to those prepared by Trehy Ingold Neate. The applicant has advised that the Trehy Ingold Neate drawings take precedence.

Any impacts of construction activities (construction site management, protection measures).

If the application were to be approved then conditions would be recommended in relation to hours of construction, the preparation and approval of a traffic management plan and protection of existing services.

Any cumulative impacts.

The ABS data for the Wyong LGA indicates that there is a significant proportion of disadvantaged households within the Long Jetty area. This data indicates that there is significant disadvantage within the Long Jetty area. The area already suffers from higher than average alcohol-related hospitalisations, alcohol-related assaults (domestic violence) and a culture of high risk drinking.

In the absence of evidence to the contrary, the precautionary principle should be applied, i.e. it should be concluded that the proposal may result in an increase in social harm in the locality. The applicant has not demonstrated the contrary.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

Whether the proposal fits in the locality.

Existing data points to the fact that there is significant social disadvantage within the Long Jetty area. It is vulnerable communities that are likely to be disproportionately affected by the problems associated with alcohol.

The weight of the academic research both local and international, confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

There are a total of 9 licensed premises offering take away alcohol within a 2 kilometre radius of the proposed BWS.

In the absence of evidence to the contrary, introducing another licensed premises into the locality is considered unacceptable based on an assessment of the facts provided in the application and the conclusions needed by the independent Social Assessment.

For this reason, it is considered that the proposal does not fit in the locality.

Whether the site attributes are conducive to development.

Following remediation, the site's attributes will be conducive to the development as:-

- The property is zoned 3 (b) (Centre Support) Zone.
- All required utility services are available.
- Vehicular access is available from The Entrance Road.
- It is regular in shape and sufficiently large to accommodate the proposal.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals and SEPP 55 – Remediation of Land with 15 submissions including 2 petitions containing a total of 142 signatures being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

Doc. No	Summary of Issues	Response
<p>D02765355 D02770710 D02769981 D02776311 D02772958 D02774294 D02794055 D02787412 D02801042 D02826090 D02828778</p>	<p>Number of Liquor Outlets in Area</p> <p>The area does not need another liquor outlet. There are a sufficient number of liquor outlets in the area.</p> <p>Is there the need for another venue where alcohol can be purchased?</p> <p>There has been an increase in anti-social behaviour over the last few years. Another liquor outlet will only exacerbate this problem.</p> <p>There are too many liquor outlets on the coast already. Why make access to alcohol even easier when as a society we know of the dire problems associated with alcohol.</p> <p>The report by BSV Sol states that Long Jetty is underserviced in the area of alcohol supply and that another liquor outlet will attract residents to Long Jetty. These claims are plainly not true.</p>	<p>The Sol dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a range of variables.</p> <p>It is likely that the development has the potential to cause harm in the community.</p> <p>The onus is on the proponent to prove that this is not the case. There is no evidence in the Sol to prove that no harm will occur despite the arguments it makes to the contrary.</p> <p>This matter warrants refusal of the development application.</p>
<p>D02765355 D02787412 D02826090</p>	<p>The Entrance Peninsula Planning Strategy (TEPPS)</p> <p>The proposal is inconsistent with The Entrance Peninsula Planning Strategy.</p>	<p>It is considered that the proposed development generally complies with the Strategy and is in accordance with the objectives/desired character of Precinct 11 of TEPPS.</p>

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

<p>D02770710 D02770710 D02794055</p>	<p>Parking, Traffic, Safety and Amenity in Gladstan Avenue</p> <p>The development could result in customers parking in Gladstan Avenue and blocking driveways.</p> <p>Gladstan Avenue may be used by drink drivers to access the bottle shop via a means of a back way and keeping off the policed roads, i.e. The Entrance Road.</p> <p>Patrons of the bottle shop will start and stop their vehicles in Gladstan Avenue increasing noise and pollution which will impact on the residential character of the area.</p> <p>The McLachlan project is accessed via Gladstan Avenue, the traffic and noise which will occur from this development needs to be considered.</p>	<p>It is unreasonable to assume that customers of a shop will commit drink driving offences and then base a refusal on this assumption.</p> <p>Drink driving is a matter for the Police.</p> <p>The proposal is unlikely to result in a significant number of bottle shop customers using and parking in Gladstan Avenue. The majority of customers will access the site via The Entrance Road and adequate parking is provided within the site.</p> <p>Gladstan Avenue is a public road and any customer of the bottle shop who wishes to park in Gladstan Avenue is entitled to do so.</p> <p>It is reasonable to expect some amenity impacts arising from traffic and parking given Gladstan Avenue is located immediately adjacent to commercial land.</p>
<p>D02770710 D02769981 D02772958 D02794055 D02777411 D02802567 D02826090</p>	<p>Proximity to the Little Souls Early Learning Centre</p> <p>The Little Souls Child Early Learning Centre is adjacent to the proposal.</p> <p>Little Souls is open until 6:00pm which would mean that in winter the business would be closing in the dark. This would put the children and their parents at risk from alcohol affected persons.</p> <p>It is inappropriate to build a bottle shop beside a pre school.</p> <p>There will be undesirable patrons hanging about the bottle shop which is not conducive to the well being of small children.</p> <p>The safety of children is of great concern given the possible types of people that would frequent the bottle shop.</p>	<p>No evidence has been submitted to support the claim that the customers of a bottle shop would pose a threat to the parents and children of the adjoining child care centre. The NSW Police have advised that a liquor shop should not be situated adjacent to a sensitive land use such as a child care centre.</p> <p>It is understood that Little Souls have a lot of vulnerable families who use their service. This is reflective of the local population.</p> <p>Childcare and early learning are essential components of a support system for at risk families. Concern is raised that these vulnerable families will have easy access to purchasing alcohol when dropping off and picking up their children.</p> <p>This matter warrants refusal of the development application.</p>

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

<p>D02769981 D02774294 D02826090</p>	<p>Parking, Traffic, Safety and Amenity in Tuggerah Parade & Venice Street</p> <p>Traffic will increase along Tuggerah Parade and Venice Street because there is a median strip along the length of The Entrance Road and any southbound vehicles will have to turn right at Tuggerah Parade and access the bottle shop via Venice Street.</p> <p>More vehicles will mean more noise and will compromise the safety of children in the Tuggerah Parade and Venice Street.</p> <p>There are scores of holes in Tuggerah Parade, the road will further deteriorate with increased traffic.</p>	<p>It is agreed that some south bound customers may turn right at Tuggerah Parade and then turn into either Lake Street, Minto Avenue or Venice Street as a means to re-enter The Entrance Road and then the bottle shop. However this is more likely to be the exception rather than the norm.</p> <p>Any amenity impacts experienced by the residents in these streets would not be so great as to warrant refusal of the application.</p> <p>It is reasonable to expect some amenity impacts arising from traffic and parking given Lake Street, Minto Avenue and Venice Street are located immediately adjacent to commercial land.</p> <p>The development falls within the ambit of the Council's Section 94 Contributions Plan No. 3 – The Entrance District. The plan requires the developer to contribute financially to the maintenance of roads in the area.</p>
<p>D02765355 D02770710 D02794055 D02802567 D02826090</p>	<p>Traffic on The Entrance Road</p> <p>The proposal will attract more people than the existing service station exacerbating current traffic problems. At peak times The Entrance Road is often very slow or stopped.</p> <p>The Entrance Road already struggles to carry existing traffic and has very limited stopping/ parking spaces. More cars will mean more congestion.</p> <p>The development does not take into account the future road widening of The Entrance Road.</p> <p>The development does not provide sufficient car parking which could result in banking up of traffic onto The Entrance Road.</p>	<p>The NSW RMS has advised that they do not have any final plans to widen The Entrance Road and do not have any proposals that require any part of the subject site.</p> <p>The RMS has not raised any objection to the proposal subject to conditions including the provision of a concrete median in The Entrance Road to restrict access to left in/ left out.</p> <p>Adequate parking is provided on site in the form of seven car parking spaces and in the drive through facility. The number of car parking spaces complies with Council's Wyong DCP 2005 – Chapter 61 Parking.</p>

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

<p>D02765584 D02769981 D02776311 D02772958 D02774294 D02794055 D02787412 D02802567 D02826090</p>	<p>Anti-social Behaviour</p> <p>The Tuggerah Lakes Local Area Command is ranked number two in the state for domestic violence.</p> <p>We frequently see intoxicated people on the Tuggerah Lake foreshore and are subjected to unacceptable levels of bad language, fights and broken glass on the roadways and footpaths. This behaviour will increase with introduction of another bottle shop in the area.</p> <p>We frequently experience a significant amount of anti-social behaviour in Swadling Street. We are woken late at night when cans and bottles are thrown onto our property and regularly witness violent brawls and assaults.</p> <p>Alcohol related social issues are already problematic on the Central Coast culminating in increase police workloads and serious violence in the emergency departments of our hospitals.</p> <p>Many of the residents in the local community have a problem with excessive consumption of alcohol and their addictions. This is a well known fact, both to Police, health services and residents.</p>	<p>Advice received from NSW Health, the NSW Police Force and published data confirms that there is already a high incidence of alcohol related crime domestic violence and anti-social behaviour in the immediate area.</p> <p>Insufficient information has been provided with the development application to allow an assessment of whether the proposal is likely to contribute to further alcohol-related harm and negative health outcomes for the local community.</p> <p>This matter warrants refusal of the development application.</p>
<p>D02770710</p>	<p>Will Gladstan Avenue remain a cul-de-sac?</p>	<p>The application does not propose to connect Gladstan Avenue to The Entrance Road.</p>
<p>D02770710</p>	<p>The site falls just short of the 1:100 year flood level. Does the development take sea level rise into account?</p>	<p>If the development were to be approved a condition would be recommended requiring the floor level be at an appropriate height recognising sea level rise.</p>
<p>D02765584</p>	<p>Research conducted by the NRDI confirms that an increase in the number of liquor outlets (hotels and/or bottle shops) is associated with an increase in alcohol-related violence and assault in the surrounding area. Regardless of the type of new liquor outlet, most of this increased violence occurs in private homes rather than at licensed premises.</p>	<p>Noted.</p>

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

D02765584	In 2008 Dr Chikritzhs from the NRDI created a model that can predict the likely effect of granting a new liquor licence anywhere in Australia on alcohol-related assaults, hospitalisations, deaths and road crashes. Council should require the applicant to pay for a NRDI study to justify their proposal.	Page 18 of the Sol largely dismisses the research conducted by Dr Chikritzhs stating "Whilst popular and unsubstantiated assumptions might be held that increasing liquor outlet density automatically means a greater likelihood for alcohol related crimes and harm the relationship between outlet density and alcohol consumption is far from clear".
D02765079	Will the flood egress route from Gladstan Avenue to The Entrance Road be retained?	Yes.
D02765355	The proposed hours of operation are not in line with other liquor outlets in the area. To open at 8am on Mondays, Tuesdays and Wednesdays is inappropriate.	While the objection does not specify why opening at 8am is inappropriate it is likely that the concern relates to the increased availability of alcohol early in the morning. The local community is disadvantaged and this concern is considered valid.

Any submission from public authorities.

NSW Roads and Maritime Services

Correspondence received from the NSW RMS dated 17 October 2011 states that the RMS does not have any proposals that require any part of the subject site. Furthermore the RMS has no objection to the proposed development subject to the imposition of certain conditions on the development consent including:-

- Provision of a concrete median in The Entrance Road to restrict access to left in/ left out,
- Signage being wholly located within the site and complying with illumination limits,
- Deliveries being conducted outside normal operational hours and
- Stormwater disposal.

NSW Health

Correspondence received from NSW Health raises a number of concerns with the proposal including:-

"The development is likely to contribute to further alcohol-related harm and negative health outcomes for the local community.

The Wyong Shire Council LGA already experiences high levels of alcohol-related harm due to both acute and chronic excessive consumption of alcohol.

Alcohol-related harm places a significant strain on the health system with an increasing number of people in NSW being admitted to hospital, requiring ambulance services and visiting emergency departments. Hospitals and other front-line health services in Wyong LGA already bear a substantial burden associated with treating disease and injury associated with excessive alcohol consumption. The proposal is likely to add to that burden and detract from the health system's overall ability to provide care and treatment to the entire community.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

Of particular concern in Wyong LGA are the following matters:

- *Smoothed alcohol-related hospitalisations are 1.18 times that of the NSW state average.*
- *Smoothed alcohol-related acute Emergency Department presentations are 1.49 times that of the NSW state average.*
- *Smoothed alcohol-related assaults (domestic violence related) are 1.44 times that of the NSW state average.*
- *The prevalence of risk drinking behaviour, aged 16 years and above, is 1.36 percentage points higher than that of the NSW median level.*
- *The prevalence of high risk drinking behaviour, aged 16 years and above, is 2.89 percentage points higher than that of the NSW median level.”*

NSW Police Force Tuggerah Lakes Local Area Command – Crime Prevention Office

In correspondence received, the following concerns are raised:-

- The supply of alcohol can lend itself to anti-social behaviour. Locating a bottle shop adjoining a child care centre is not appropriate.
- There is the possibility of an increase in anti-social behaviour which will impact upon the surrounding residential area.
- There are sufficient licensed premises (bottle shops, hotels and registered clubs) in the near vicinity.

NSW Police Force Tuggerah Lakes Local Area Command (LAC) – Licensing Unit

In correspondence received, the following concerns are raised:-

- The area of Long Jetty has higher than average unemployment rates. A large portion of the community is from a low socio economic background.
- There is no suggestion that there is a projected population growth for the Long Jetty area in the future.
- There is a lack of resources in The Entrance Sector and the sector police are also required to provide assistance to fellow LAC police which means that officers have the entire northern half of the Central Coast to police.
- Intelligence suggests that there is widespread underage drinking in the Long Jetty area. There is council signage prohibiting alcohol consumption in the area generally however this has little effect because under recent changes, the consumption of alcohol in alcohol free zones does not attract a penalty notice.
- The proposed location of the BWS development is on The Entrance Road which is the main route into The Entrance CBD. The Entrance attracts a large number of visitors during the holiday period that leads to concerns of drink walking and drink driving in the area.
- There are already a number of licensed premises offering take away alcohol within a 2 kilometre radius of the proposed BWS.

2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

- Data indicates that between July 2010 – June 2011, 44% of those persons involved in alcohol related crime in Long Jetty had been drinking in the home. In comparison, persons linked to consumption on licensed premises amounts to less than 18% for the same period. These statistics indicate that a person who consumes “take away” alcohol is more likely to be a victim of crime than when consumed on licensed premises.
- The responsible service of alcohol and awareness of local issues has assisted in keeping down incidents in licensed premises; the likelihood of reducing incidents in residential homes however is low despite many education programs and campaigns that have been introduced by government bodies and Local Liquor Accords.
- The proposal shares a border with the Little Souls Early Learning Centre. Police believe that the location of a licensed premise in the immediate vicinity of a child care facility cannot be beneficial for the area or the centre.
- There are sufficient ‘take away’ alcohol providers within the Long Jetty area.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests.

Approval of a development application would not be in the public interest given there are already a sufficient number of liquor outlets in the local area and the proposed use is located immediately adjacent to a sensitive landuse frequented by vulnerable persons.

OTHER MATTERS FOR CONSIDERATION

Contributions

The proposal falls within the ambit of the Council’s Section 94 Contributions Plan No. 3 – The Entrance District.

Political Donations or Gifts

Any political donations or gifts disclosed? No

Conclusion

While the proposed use is a legitimate business and permissible in the zone, Council needs to be cautious about increasing liquor outlet density in an area of high risk and in close proximity to a sensitive use. The applicant has not undertaken comprehensive community consultation or proved beyond reasonable doubt that no adverse impacts will arise as a result of the development.

On balance the application has not proven that this proposal will be in the public interest.

Accordingly it is recommended that the application be refused.

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and
Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

ATTACHMENTS

1	SEPP 71 Compliance Table		D02858533
2	Applicant's Crime Prevention Through Environmental Design Report		D02929542
3	Development Plans	Enclosure	D02842100
4	Map of Licensed Premises within a 2km Radius Selling Take Away Alcohol	Enclosure	D02849532

ATTACHMENT 3 – SEPP 71 COMPLIANCE TABLE

CI 8	Matters for Consideration	Proposed
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal will not affect public access to nearby foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposal does not provide new public access to the foreshore as it is not located adjacent to the foreshore.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	A bottle shop in this location is not considered suitable, for reasons detailed in the report.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	A problem currently exists with individuals drinking alcohol on the Tuggerah Lake foreshore. Alcohol fuelled anti-social behaviour, bad language, fights and broken glass on the roadway and cycleway / footpaths frequently result. It is possible that locating a bottle shop close to the foreshore will increase these occurrences effectively reducing the amenity of the foreshore area.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will not have an adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or their habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation or their habitat.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed development will not be affected and will have no affect on coastal processes or hazards.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposal will not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The site does not contain any and will have no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.

p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	The application proposes compliance with Section J of the BCA for energy efficiency.

Attachment 3 to Statement of Impact – Crime Prevention through Environmental Design (CPTED)



Crime Prevention through Environmental Design (CPTED) focuses on the planning and design of developments to reduce opportunities for crime by using design and management principles to reduce the likelihood of crime. CPTED principles aim to create the reality (or perception) that the costs of committing crime are greater than the likely benefits.

BWS - Beer Wine Spirits stores achieve this by creating environmental and social conditions that:-

1. Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);
2. Maximise the effort required to commit crime (increasing the time, energy and resources required to commit a crime);
3. Minimise the actual and perceived benefits of a crime (removing, minimising or concealing crime attractors and rewards); and
4. Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisations of inappropriate behaviour).

CPTED principles employ four key strategies (**surveillance and lighting, territorial reinforcement, space/activity management and access control**). Each are discussed below:-

Surveillance and Lighting	
<p>Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design, landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space.</p>	<p>Careful consideration is given to the design and/or internal layout of <i>BWS - Beer Wine Spirits</i> stores to foster natural surveillance. It is recognised that by maximising surveillance there is an increase sense of safety which can deter criminal activity. Design features of <i>BWS - Beer Wine Spirits</i> stores include:-</p> <ul style="list-style-type: none"> • Clear sightlines are maintained through the sensitive location of the entranceway to the store relative to its position to the check-out counter and the remaining internal layout of the store; • Where possible, pathways to the <i>BWS - Beer Wine Spirits</i> store are designed to minimise sudden changes of grade and blind corners. Car parks and stairwells ensure pedestrian corridors and destination points are easily identifiable with generous sightlines and lighting. • Entry points to all <i>BWS - Beer Wine Spirits</i> stores are well defined. • Aisles are wide allowing customers to move about easily

	<p>and staff to effectively monitor customer movements.</p> <ul style="list-style-type: none"> • Landscaping is discrete and does not interfere with clear lines of sight. Further, it will not provide concealment or entrapment areas. • Natural surveillance of each store is high. The checkout area is always located to the front of the store and staff are trained and instructed to interact with customers.
<p>Technical/mechanical surveillance is achieved through mechanical/ electronic measures such as a closed circuit television ("CCTV") help points and mirrored building panels. Technical/mechanical surveillance is commonly used as a "patch" to supervise isolated, higher risk locations.</p>	<p>Each <i>BWS - Beer Wine Spirits</i> store has a high level of technical mechanical surveillance, with each store fitted with a sophisticated security system that provides for a minimum of 2 cameras and at least 1 monitor in-store. In addition, each store is fitted with a back to base security alarm system. Opportunities for unlawful access to liquor products are limited. Each <i>BWS - Beer Wine Spirits</i> Store is fitted with an electronic article surveillance (" EAS") system, which permits specific electronic bottle caps to be affixed to identified higher priced and (attractive to thief type products). When these products are presented at the counter the <i>BWS - Beer Wine Spirits</i> staff use a unique tool to remove the bottle cap. The product is then scanned through the cash register. Any product that has not had the bottle cap removed will trigger the alarm as the customer crosses the exit "checking" point.</p>
<p>Formal (or organised) surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors or security guards at higher risk locations.</p>	<p>All <i>BWS - Beer Wine Spirits</i> stores are branded through signage and colour, making each store instantly recognisable. Entrances are clearly defined with staff checkout areas located to the front of the store. Each store provides for a high level of formal (or organised) surveillance through its trained staff (who wear a uniform making them clearly recognisable) on the shop floor.</p>
<p>Lighting. There is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. Good lighting can assist in increasing the usage of an area.</p>	<p>Internally each <i>BWS - Beer Wine Spirits</i> store is brightly lit. Security lighting is available on external areas during non-trade hours. Light fixtures are high mounted, vandal resistant and deflect light downwards. Where possible, pathways and potential entrapment spaces are lit rather than windows and roads, with the lighting identifying 'safe routes'. The external lighting to all <i>BWS- Beer Wine Spirits</i> stores is positioned so that it will not be blocked by mature vegetation.</p>
<p>Territorial Re-enforcement</p>	
<p>Territorial Re-enforcement. Criminals rarely commit crime in areas where the risk of detection and challenge are high. People who have guardianship of areas are more likely to provide effective supervision and intervene in crime than passing strangers and communicate to people where they should not be and inappropriate activities.</p>	<p><i>BWS - Beer Wine Spirits</i> stores are the subject of corporate signage (subject to Council approval) on the external facade, as well as throughout the site, clearly identify the building and its use. <i>BWS - Beer Wine Spirits</i> stores provide for a high level of territorial re-enforcement measures through its trained staff who are instructed to interact with customers on the shop floor (as provided above). All staff wear a uniform which distinguishes staff from customers and therefore it is clear to any observer who has guardianship of the store.</p>

Space/Activity Management	
<p>Environmental Maintenance. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.</p>	<p>All internal areas of the <i>BWS - Beer Wine Spirits</i> store are effectively used and maintained. Effective internal design features limit opportunities for concealment.</p>
<p>Space/Activity management. Space/activity management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused</p>	<p>This has, to some extent, been addressed above. With respect to external areas, Woolworths Ltd ensures such areas are maintained and are clean and devoid of litter. The building frontage of all <i>BWS- Beer Wine Spirits</i> stores provides a sense of activity and by trading they increase activity on the site; thereby adding a sense of management of the overall site.</p> <p><i>BWS - Beer Wine Spirits</i> stores increase activity and natural surveillance of the area, thereby providing increased safety to users.</p>
Access Control	
<p>Access Control. Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire lines and formal/informal routes are important crime prevention considerations. Access control is used to increase the time and effort required to commit crime and to increase the risk to criminals. Natural access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. Technical/mechanical access control includes the employment of security hardware and formal (or organised) access control includes on-site guardians such as employed security officers.</p>	<p>Careful consideration is given to <i>Access Control</i> measures at each site. For instance:-</p> <ul style="list-style-type: none"> • There are clear routes for the use of vehicles and pedestrians in of and out of the site, which do not conflict which each other; • Vehicles enter and exit the site in a forward direction; • Consideration or special arrangements are made for deliveries; • Lighting is provided in the carpark and pedestrian areas (as above); • landscaping is low lying and does not provide screened areas or concealment sections (as above); • The entrance to the <i>BWS - Beer Wine Spirits</i> store is clearly defined (as above); • CCTV is extended to external areas (where necessary). • Each store is fitted with additional security such as the EAS system (as set out above); • Highly trained staff on duty at each <i>BWS - Beer Wine Spirits</i> store ensures customers have a sense of safety.