



Attachment 5

Section 36B(4) Assessment

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1 The Statutory Provisions

Section 36B of the Liquor Control Act 1988

- 1.1 Section 36B(4) states that the licensing authority must not grant an application to which the section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated. Section 36B(1) states that local packaged liquor requirements, in relation to an application to which the section applies, means the requirements of consumers for packaged liquor in the locality in which the proposed licensed premises are, or are to be, situated. Section 36B operates by reference to a prescribed area and a prescribed distance, each of which is prescribed for the purposes of the section by the Liquor Control Regulations 1989 and is set out at the regulations addressed below.
- 1.2 Section 36B(4) does not require the Applicant to prove that consumers cannot obtain packaged liquor at all within the locality. What the subsection requires is that the licensing authority be satisfied, before the licence may be conditionally granted, of the specific matter the subsection identifies, namely that the requirements of consumers for packaged liquor in the locality cannot reasonably be met by the packaged liquor premises already existing there. The enquiry is accordingly directed at what the existing premises provide, measured against what consumers in that locality require, and not at whether packaged liquor is obtainable somewhere within the locality. The construction of the phrase "requirements of consumers" and of the words "cannot reasonably be met", as settled by the authorities, is addressed in the following part of this assessment.

Section 47 and the Licence Sought

- 1.3 The licence sought is a Liquor Store Licence under section 47 of the Act, on a conditional grant. Subject to the Act, that licence authorises the licensee during permitted hours to keep the licensed premises open and to sell packaged liquor on and from those premises.¹ Section 47(2) additionally authorises the licensee to supply liquor by way of free sample, either for consumption on a part of the licensed premises approved for that purpose by the Director, or for consumption off the premises.² Those two statements are statements of the effect of section 47 and are not quotations of the Act.
- 1.4 The proposed premises is a walk-in packaged liquor store. There will be no consumption on the premises other than sampling permitted under section 47(2) and conducted in the part of the premises approved by the Director for that purpose.

¹ Liquor Control Act 1988 (WA), s 47(1).

² Liquor Control Act 1988 (WA), s 47(2).

Section 38(2) and the Onus

- 1.5 The onus is on the Applicant. Section 38(2) of the Act requires the Applicant to satisfy the licensing authority that granting the application is in the public interest, and the Applicant must provide the prescribed documents and information and any further document or information the licensing authority reasonably requires for that purpose.³

2 The Construction of Section 36B(4)

- 2.1 The construction of section 36B(4) is governed by two decisions of the Supreme Court of Western Australia. In *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366, Archer J determined the meaning of the phrase 'requirements of consumers' and the meaning of the phrase 'cannot reasonably be met'. In *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2024] WASC 128, Lemonis J identified the constituent matters the licensing authority must address, the nature of the comparison the subsection requires, and the scope of the enquiry. Each decision is reproduced at Attachment 4 - Case Precedent.

Judge Archer on the Requirements of Consumers

- 2.2 The controlling authority on the construction of section 36B is the decision of Archer J in *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366.⁴
- 2.3 Her Honour began from the ordinary principle that the purpose of a provision is derived from the statutory text:

"The purpose of legislation must be derived from the statutory text and not from any assumption about the desired or desirable reach or operation of the relevant provisions. The intended reach of a legislative provision is to be discerned from the words of the provision and not by making an a priori assumption about its purpose.

A section in a statute which specifically states the purposes or objects of the statute is relevant to the proper construction of the statute. It is necessary to consider the method by which Parliament has implemented the specified purposes or objects. The purposes or objects must be read and understood in the context of the statute as a whole."

- 2.4 Her Honour then applied the presumption of consistent meaning:

"The task of statutory construction in this case involves, among other things, construing the phrase 'requirements of consumers' in s 36B of the Act. This phrase also appears in s 5(1)(c).

³ Liquor Control Act 1988 (WA), ss 38(2) and 38(3).

⁴ *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366 (Archer J). Attachment 4 - Case Precedent, item 02.

There is ordinarily a presumption that the same word will bear the same meaning wherever it appears throughout an Act."

- 2.5 The conclusion follows from those two steps. The phrase "requirements of consumers" in section 36B bears the meaning it bears in section 5(1)(c), which states the primary object of catering for the requirements of consumers for liquor and related services with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State. Her Honour held:

"In my view, the words 'requirements of consumers' mean the same in s 36B(1) and s5(1)(c) and, subject to the facts and issues of a particular case, may involve consideration of the same types of matters."

- 2.6 Her Honour answered the question of law in the negative, holding that the phrase "requirements of consumers for packaged liquor" in the definition of "local packaged liquor requirements" in section 36B(1) of the Act "is not limited in its scope to the physical item or product of packaged liquor". As to what the phrase does comprehend, her Honour held that there is no reason why matters such as convenience, product range, service and efficiency would not, or should not, be relevant to both conditions, and observed that the requirements of consumers in section 5(1)(c) had been interpreted to include shopper convenience and preferences, including the convenience of one-stop shopping.
- 2.7 The scope of that enquiry has since been addressed by Lemonis J. His Honour held that the analysis required by section 36B(4) is not an analysis at large, by reference to all consumer requirements for packaged liquor in the locality irrespective of whether they have any correlation to the application. It is directed to the substance of the application itself, and so to the products and services which the new premises is intended to provide. His Honour further held that the comparison requires at least a broad assessment of the nature, scope and extent of the requirements relied on.⁵

Judge Archer on 'Cannot Reasonably be Met'

- 2.8 The operative words of section 36B(4) are "cannot reasonably be met". The word "reasonably" imports an objective standard rather than a threshold of hardship.
- 2.9 In *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366, Archer J adopted the established meaning of the word 'reasonable':⁶

"The word 'reasonable' imports a degree of objectivity in that the word reasonable means... sensible, ...not irrational, absurd or ridiculous, not going beyond the limit assigned by reason, not extravagant or excessive, moderate: Shorter Oxford Dictionary at 1667."

⁵ *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2024] WASC 128 (Lemonis J). Attachment 4 - Case Precedent, item 03. at [58] and [59].

⁶ *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366 (Archer J). Attachment 4 - Case Precedent, item 02. The passage adopted is drawn from *Charlie Carter Pty Ltd v Streeter & Male Pty Ltd* (1991) 4 WAR 1, 10 (Malcolm CJ), cited by her Honour at [130].

2.10 Applying that meaning to section 36B(4), her Honour held:

"In my view, the word 'reasonably' in s 36B(4) is intended to bear the same meaning. Accordingly, the phrase 'cannot reasonably be met' means cannot sensibly or rationally be met, having regard to contemporary standards and expectations."

2.11 It was common ground in that appeal that the licensing authority should have regard to contemporary standards and expectations for the requirements of packaged liquor in determining whether the requirements of consumers could not reasonably be met, and the Liquor Commission has since applied that standard.⁷

2.12 The same approach has been taken at Commission level. In a decision concerning a liquor store licence for an IGA supermarket, the Liquor Commission considered the determination of the Director in the Cunderdin IGA decision, in which the Director held that the licensing authority is to have regard to the expectations and contemporary standards of consumer requirements for packaged liquor and related services, and that consumers have a requirement for a range of licence types. The Commission recorded that it concurred with the approach taken in that decision.⁸

Judge Lemonis on the Four Matters Arising Under Section 36B(4)

2.13 The constituent parts of the enquiry required by section 36B(4) have been identified by the Supreme Court. In *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2024] WASC 128, Lemonis J held that, broken down into its constituent parts, section 36B(4) requires the licensing authority to address the following four matters:⁹

- what is the relevant locality;
- what are the requirements of consumers for packaged liquor in the relevant locality;
- what packaged liquor services are provided by existing packaged liquor premises in the relevant locality; and
- whether the local packaged liquor requirements cannot reasonably be met by those existing packaged liquor premises.

2.14 His Honour held that, logically, those matters should be addressed in the order set out, and that each step leads to the next. The nature of the comparison required at the fourth matter, and the scope of the enquiry, are addressed above.

2.15 This submission is structured to address those four matters in that order. The relevant locality is identified in the section that follows. The packaged liquor services provided by the existing premises in that locality are identified in the section after it. The

⁷ *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366, [133] (Archer J). Attachment 4 - Case Precedent, item 02.

⁸ *Cunderdin IGA* (Decision A206551, 11 May 2010), as considered in LC 24/2015 at [34] and [35]. Attachment 4 - Case Precedent, item 05.

⁹ *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2024] WASC 128, [55] to [59] (Lemonis J). Attachment 4 - Case Precedent, item 03.

requirements of consumers for packaged liquor in the locality, and the comparison required by the fourth matter, are addressed in the final section of this Attachment.

3 The Defined Locality

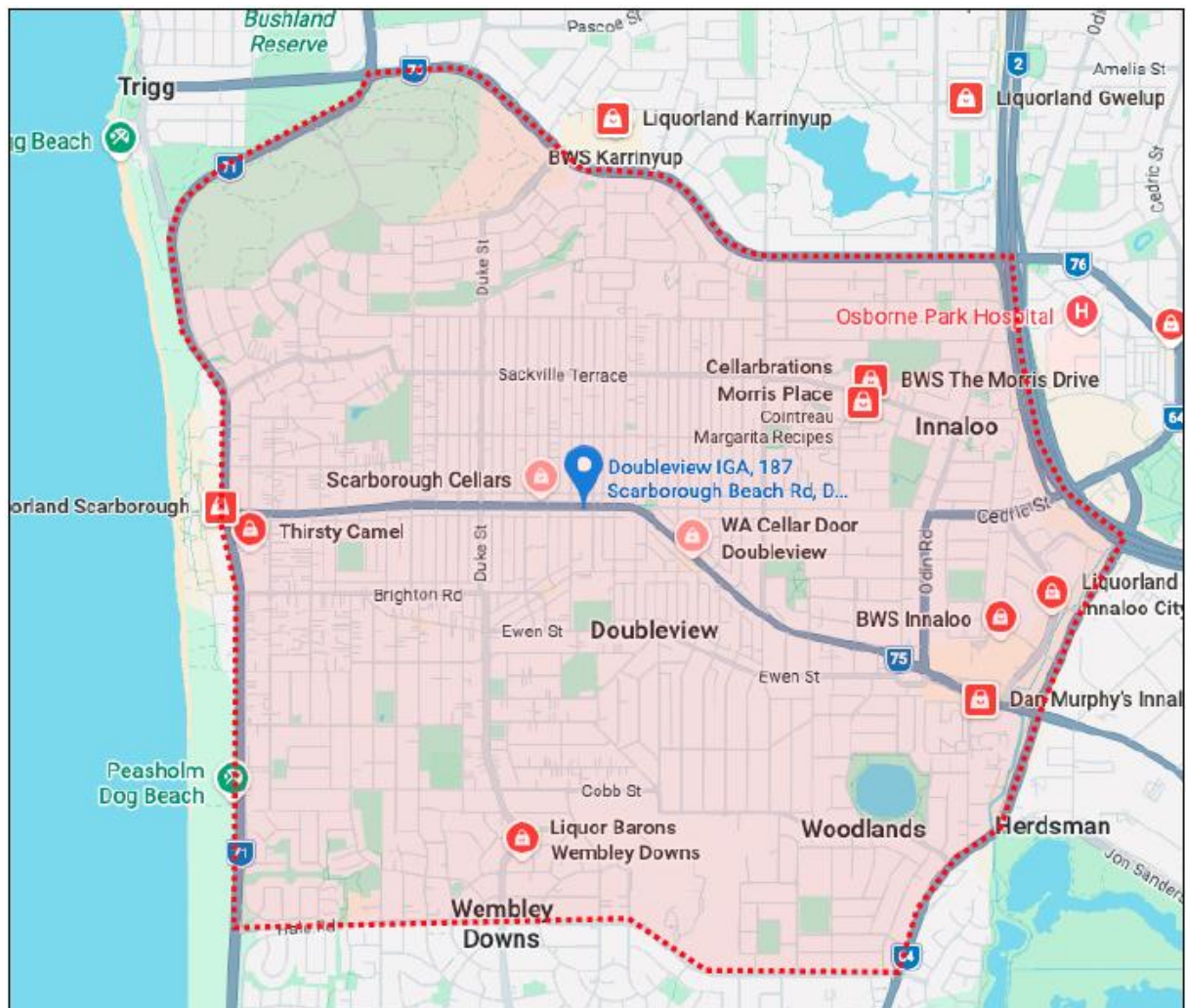


Figure 1: Packaged Liquor Outlets

- 3.1 The locality has been defined with the guidance of the Premises Manager at Racing, Gaming and Liquor on 15 June 2026, and has been defined according to the following man-made boundaries:
- North – Karrinyup Road
 - South – Hale Road
 - West – West Coast Highway
 - East – Odin Road | Pearson Street | Jackadder Way
- 3.2 Scarborough Beach Road is a primary east-west movement corridor through this part of the City of Stirling. It links the Mitchell Freeway and the Innaloo commercial precinct at its eastern end to the Scarborough coast at its western end, and it passes the Doubleview retail address at 187 Scarborough Beach Road, where the Good Grocer supermarket trades next to the proposed premises. The corridor is the movement spine

of the locality, and the retail nodes located north and south of the arterial Scarborough Beach Road are the destinations to which consumers in this part of the City of Stirling travel for grocery and packaged liquor shopping.

- 3.3 For statistical purposes, the defined locality is bounded by the Australian Bureau of Statistics State Suburb Area of Doubleview and parts of Scarborough, Innaloo and Wembley Downs.¹⁰

1 Existing Packaged Liquor Outlets in the Defined Locality

- 1.1 The proposed premises will be located at 181 Scarborough Beach Road, Doubleview, and at each of the existing packaged liquor outlets identified in the defined locality in figure 1, eight of which are located around the periphery of the defined locality.

Existing Packaged Liquor Outlets in the Defined Locality

#	Outlet	Address	Road distance	Ownership
1	Scarborough Cellars	166A Scarborough Beach Road, Scarborough	240m	Independent
2	WA Cellar Door Doubleview	257 Scarborough Beach Road, Doubleview	650m	Independent franchise
3	Cellarbrations at Morris Place	Shop 7/27 Morris Place, Innaloo	1. 9 km	Metcash banner
4	BWS The Morris Drive	2 Morris Road, Innaloo	2.0 km	Endeavour Group
5	ALDI Innaloo	Ellen Stirling Boulevard, Innaloo	2.5 km	ALDI Stores
6	Liquor Barons Wembley Downs	Shop 1, 11-15 Bournemouth Crescent, Wembley Downs	2.3km	WA co-operative
7	Liquorland Innaloo City	Ellen Stirling Boulevard, Innaloo	2.5 km	Coles Liquor
8	BWS Innaloo	384 Scarborough Beach Road, Innaloo	2.4km	Endeavour Group
9	Thirsty Camel Scarborough	240 West Coast Highway, Scarborough	1.9 km (approximate)	LMG banner
10	Dan Murphy's Innaloo	401 Scarborough Beach Road, Innaloo	2.5 km	Endeavour Group

¹⁰ Australian Bureau of Statistics, State Suburb Areas (SAL), Australian Statistical Geography Standard (ASGS) Edition 3, 2021. <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026>

- 1.2 One of the ten existing outlets appears on the register of packaged liquor premises with a retail area exceeding 400 square metres published by the Department of Local Government, Sport and Cultural Industries, being Dan Murphy's Innaloo, licence reference 603212722319, licensee Endeavour Group Limited.¹¹ None of the remaining nine appears on that register. The proposed premises does not exceed 400 square metres of retail area, and regulation 9AAA is accordingly not engaged by this application.
- 1.3 The distances stated in the table above are road distances, being the distance by the shortest route by road from the proposed premises to each existing premises. Regulation 9AAB of the Liquor Control Regulations 1989 prescribes a distance calculated by the shortest route by road, and the distances are stated on that basis.¹²

Profile of Each Existing Outlet

- 1.4 Each of the existing packaged liquor premises identified in this section was inspected by the Applicant's representative on 18 August 2026. The photographs reproduced in the profiles below were taken during that inspection. They are reproduced as a record of the trading format, layout and retail offering observed at each premises on that date, and the observations drawn from them are observations of what was displayed during the premises inspection.

1. Scarborough Cellars

166A Scarborough Beach Road, Scarborough.

- 1.5 Scarborough Cellars is the existing packaged liquor outlet located closest to the proposed premises albeit located north of the arterial Scarborough Beach road. It holds liquor store licence 60300032850 and trades from 9.00 am or 10.00 am to 8.00 pm on most days and to 9.00 pm on Friday and Saturday.¹³
- 1.6 It is a standalone shop, and it is not co-located with a supermarket.¹⁴ It comprises a cellar directed at wine for cellaring, with tastings each Friday afternoon, together with a taproom offering six taps and growler fills.¹⁵
- 1.7 Its published material describes no gluten-free, organic, biodynamic, preservative-free, low-alcohol, non-alcoholic, or vegan range. The entire published site was examined for this purpose.¹⁶ Its published material records no commitment to sourcing from Western Australian producers, the local reference in its published material being to pouring releases from craft breweries on its taps.¹⁷

¹¹ Department of Local Government, Sport and Cultural Industries, Packaged liquor premises over 400m². <https://www.dlgsc.wa.gov.au/racing-gaming-and-liquor/liquor/packaged-liquor-premises-over-400m2>

¹² Liquor Control Regulations 1989 (WA), reg 9AAB.

¹³ Scarborough Cellars, Location. <https://www.scarboroughcellars.com.au/location>

¹⁴ Scarborough Cellars, Location. <https://www.scarboroughcellars.com.au/location>

¹⁵ Scarborough Cellars, Cellar and Tap Room. <https://www.scarboroughcellars.com.au/cellar-t>

¹⁶ Scarborough Cellars, site index. <https://www.scarboroughcellars.com.au/sitemap.xml>

¹⁷ Scarborough Cellars, Cellar and Tap Room. <https://www.scarboroughcellars.com.au/cellar-t>

- 1.8 It appears to cater to a select consumer base predominantly interested in high-end wines and the craft beer market.
- 1.9 On inspection the wine shelving was arranged by varietal and by origin, including bays marked Pinot Noir and Red Imports, and case pricing was displayed at six bottles for \$120 and twelve bottles for \$180. A tap room operates from the premises, offering growler and squeealer fills of freshly canned beer.



Figure 2: Scarborough Cellars, 166A Scarborough Beach Road, Scarborough. Street frontage, and wine shelving arranged by varietal and origin. Site inspection, 18 August 2026.

2. WA Cellar Door Doubleview

257 Scarborough Beach Road, Doubleview.

- 1.10 WA Cellar Door Doubleview is located within the Scarborough Beach Road corridor, east of the proposed premises, within the Hilltop Shopping Centre, and it trades from 10.00 am to 7.00 pm or 8.00 pm depending on the day.¹⁸ It is a franchise store of WA Cleanskin Cellars Pty Ltd trading as WA Cellars, a family business founded in 2004, and is owned and operated by an individual franchisee.¹⁹
- 1.11 It is not co-located with a full line supermarket. The adjoining food retailers at and beside that address are Dunn & Walton, which describes itself as an organic wholefoods store and café,²⁰ and The Healthy Bunch at 259 Scarborough Beach Road, which is a fresh food market.²¹ Neither is a full-line grocery operation at which a consumer can complete a weekly household grocery shop.
- 1.12 Its published material describes no gluten-free, low-alcohol, non-alcoholic, or vegan range.
- 1.13 The store caters to consumers interested in clean-skin wines.
- 1.14 On inspection the premises is of the order of approx.. 40 square metres. The wines observed carried the store's own labels, including Back Beach, The Point and a Mount

¹⁸ WA Cellars, Doubleview Store. <https://wacellars.com.au/doubleview-store/>

¹⁹ WA Cellars, About. <https://wacellars.com.au/about/>

²⁰ Dunn & Walton, Contact Us. <https://dunnandwalton.com.au/pages/contact-us>

²¹ The Healthy Bunch, Contact. <https://www.thehealthybunch.com.au/contact>

Barker natural cabernet merlot, priced between \$13 and \$26 with a multiple purchase price across any six bottles.



Figure 3: WA Cellar Door Doubleview, 257 Scarborough Beach Road, Doubleview. Street frontage, and own-label Western Australian wine shelving. Site inspection, 18 August 2026.

3. Cellarbrations at Morris Place

Shop 7/27 Morris Place, Morris Place Shopping Centre, Innaloo.

- 1.15 Cellarbrations at Morris Place is located within the Morris Place Shopping Centre in Innaloo. Cellarbrations is a banner of Australian Liquor Marketers, the liquor arm of Metcash.²²
- 1.16 It is co-located with a full line supermarket. The IGA supermarket in the same centre trades from Shop 1 of the same street address, from 7.00 am to 9.00 pm seven days a week.²³
- 1.17 The store caters predominantly to patrons of the Morris Place Shopping Centre.
- 1.18 On inspection the outlet shares a continuous shopfront with IGA Morris and Tucker Fresh, trading from 7.00 am to 9.00 pm seven days. Two bays of refrigeration were marked Craft Beer. No dietary or organic bay signage was observed.



Figure 4: Cellarbrations at Morris Place, Innaloo. Continuous shopfront shared with IGA Morris and Tucker Fresh, and craft beer refrigeration. Site inspection, 18 August 2026.

²² Metcash, Liquor. <https://www.metcash.com/our-businesses/liquor/>

²³ Tucker Fresh IGA Morris, store information. <https://morris.shop.tuckerfresh.com.au/pages>

4. BWS The Morris Drive

2 Morris Road, Innaloo.

- 1.19 BWS The Morris Drive is located in Innaloo. It trades from 10.00 am to 10.00 pm on most days and to 11.00 pm on Friday and Saturday.²⁴ BWS is a retail brand of Endeavour Group Limited.²⁵
- 1.20 It is not co-located with a supermarket. It is located at the address of The Morris, a hotel formerly trading as The Saint George Hotel, under licence number 6020129578.²⁶ The outlet is understood to trade in a drive-through format. Its published material describes no gluten-free, organic, biodynamic, or preservative-free range at the store level.²⁷
- 1.21 The premises predominantly cater to consumers seeking drive-through convenience.
- 1.22 On inspection, the browse range was approximately half the size of that held at BWS Innaloo, and the refrigeration bays were marked by product format, including Chilled Sparkling, Premix Spirits, Cider, Craft Beer and Cold Beer. No dietary or organic bay signage was observed.



Figure 5: BWS The Morris Drive, 2 Morris Road, Innaloo. Contactless drive-through canopy at The Morris, and refrigeration bays marked by product format. Site inspection, 18 August 2026.

5. ALDI Innaloo

Westfield Innaloo, corner Scarborough Beach Road and Ellen Stirling Boulevard, Innaloo.

- 1.23 ALDI Innaloo is a full line supermarket trading within the Westfield Innaloo shopping centre, from which packaged liquor is sold. It is the only premises in the defined locality at which packaged liquor is sold from within a supermarket rather than from a separate licensed tenancy. ALDI Stores has previously been the subject of a decision of the Liquor Commission concerning the grant of liquor store licences in Western Australia.²⁸

²⁴ BWS, The Morris Drive store information. <https://bws.com.au/storelocator/wa-innaloo-4146>

²⁵ Endeavour Group Limited, 2025 Annual Report. <https://www.endeavourgroup.com.au/investors>

²⁶ BWS, The Morris Drive store information. <https://bws.com.au/storelocator/wa-innaloo-4146>

²⁷ BWS, The Morris Drive store information. <https://bws.com.au/storelocator/wa-innaloo-4146>

²⁸ ALDI Foods Pty Ltd v Director of Liquor Licensing, LC 09/2017. Attachment 4 - Case Precedent, item 06.

- 1.24 On inspection the packaged liquor offer was presented in a single aisle beneath bay signage reading Local and imported Beer, Local and imported Wine and Quality Spirits, and a bulkhead reading Stock up on savings. The range observed was predominantly own label and exclusive import product at a single price point, and included Storm Brewing Co and Leo Lager. No specialty or dietary range was observed.
- 1.25 The premises predominantly caters to consumers completing a grocery shop at that supermarket.

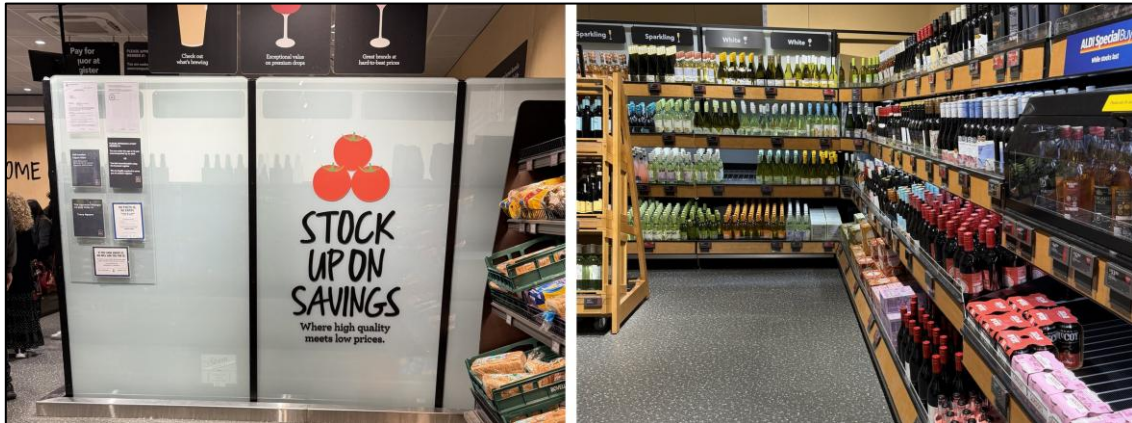


Figure 6: ALDI Innaloo, Westfield Innaloo. Packaged liquor bay signage reading Local and imported Beer, Local and imported Wine and Quality Spirits, and the liquor aisle. Site inspection, 18 August 2026.

6. Liquor Barons Wembley Downs

Shop 1, 11-15 Bournemouth Crescent, Wembley Downs.

- 1.26 Liquor Barons Wembley Downs is located in Wembley Downs, south of the corridor. It trades from 9.00 am to between 7.30 pm and 9.00 pm depending on the day.²⁹ Liquor Barons is a Western Australian retail liquor co-operative of independent owner-operators.³⁰
- 1.27 It is located within The Downs Shopping Centre, a neighbourhood centre whose key tenants include an independently operated IGA supermarket trading from 7.00 am to 9.00 pm, seven days a week.³¹
- 1.28 Its own published description describes an eclectic mix of wines, with a focus on independent brands, as well as organic, biodynamic, and preservative-free products.³² It publishes no gluten-free, low alcohol, non-alcoholic or vegan range.³³
- 1.29 The liquor store predominantly caters to the patrons of Wembley Downs Shopping Centre.
- 1.30 On inspection, the refrigeration bays were marked Australian Beer, Imported Beer, Craft Beer, and Cider. Of the premises inspected it was the only one at which organic and

²⁹ Liquor Barons, Wembley Downs store. <https://www.liquorbarons.com.au/baron/wembley-downs/>

³⁰ Liquor Barons, About Us. <https://www.liquorbarons.com.au/about-us/>

³¹ IGA, The Downs IGA store information. <https://www.iga.com.au/stores/the-downs-iga/>

³² Liquor Barons, Wembley Downs store. <https://www.liquorbarons.com.au/baron/wembley-downs/>

³³ Liquor Barons, site index. <https://www.liquorbarons.com.au/sitemap.xml>

biodynamic wine could be identified visually, the labelled organic product observed being Angove.



Figure 7: Liquor Barons Wembley Downs, The Downs Shopping Centre, Bournemouth Crescent. Store entrance, and refrigeration bays marked Australian Beer and Imported Beer. Site inspection, 18 August 2026.

7. Liquorland Innaloo City

Ellen Stirling Boulevard, Innaloo.

- 1.31 Liquorland Innaloo City is located at the eastern end of the corridor within the Innaloo commercial precinct, in the Westfield Innaloo shopping centre at the corner of Scarborough Beach Road and Ellen Stirling Boulevard. It holds liquor store licence 6030002873, the licensee being Liquorland (Australia) Pty Ltd.³⁴
- 1.32 The centre publishes the outlet as located next to Coles, on the basement level off Ellen Stirling Boulevard 51, and the Coles supermarket at that centre is listed at 384 Scarborough Beach Road, Innaloo.³⁵
- 1.33 The store caters to patrons of the Westfield Shopping Centre.
- 1.34 On inspection the footprint was smaller and less densely stocked than the BWS in the same centre. Refrigeration bays were marked Classic Beer, Longneck Beer and Cool Room. Organic product was dispersed through the general range rather than held together, so that it was not readily located without assistance.

³⁴ Liquorland, Innaloo City store. https://www.liquorland.com.au/stores/wa/innaloo_city

³⁵ Coles, Coles Innaloo Westfield store. <https://www.coles.com.au/find-stores/coles/wa/innaloo-298>



Figure 8: Liquorland Innaloo City, Ellen Stirling Boulevard, Innaloo. Shopfront within Westfield Innaloo, and refrigeration bays marked Classic Beer, Longneck Beer and Cool Room. Site inspection, 18 August 2026.

8. BWS Innaloo

384 Scarborough Beach Road, Innaloo.

- 1.35 BWS Innaloo is also located within the Westfield Innaloo shopping centre at the eastern end of the corridor. It holds liquor store licence 6030004333 and trades from 9.00 am to 9.00 pm on weekdays, to 5.00 pm on Saturday and from 11.00 am to 5.00 pm on Sunday.³⁶
- 1.36 It is co-located with a Woolworths supermarket and caters to patrons of the Westfield Shopping Centre.³⁷
- 1.37 On inspection the shelving bays were marked by varietal and by format, including Cask Wine, Chilled Whites, Cabernet Blends, Gin, Liqueurs, Vodka and Pre-Mix Spirits. Zero alcohol product was carried, including Heineken 0.0 and Heaps Normal, and it was distributed within the beer refrigeration and not presented as a section. No dietary or organic bay signage was observed.

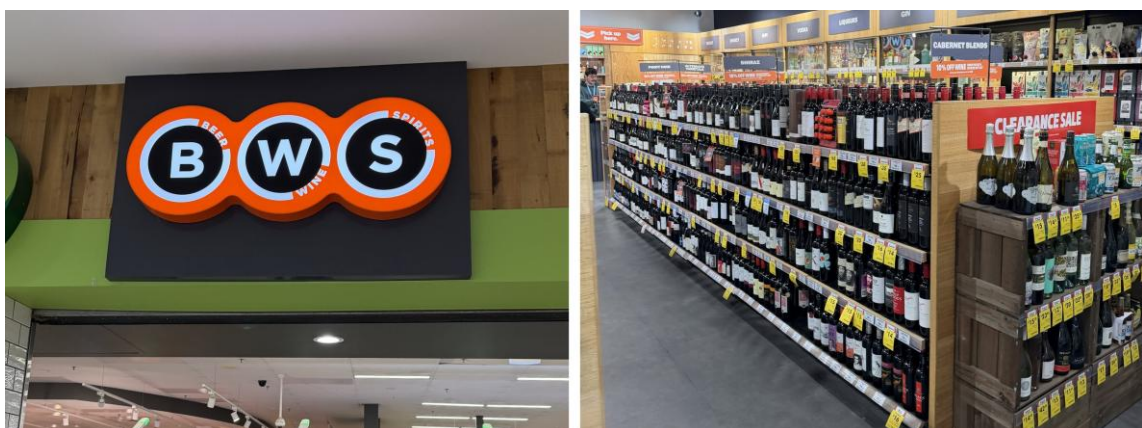


Figure 9: BWS Innaloo, 384 Scarborough Beach Road, Innaloo. Store fascia within the Woolworths mall, and shelving bays marked by varietal and format. Site inspection, 18 August 2026.

³⁶ BWS, Innaloo store information. <https://bws.com.au/storelocator/wa-innaloo-4262>

³⁷ Westfield Innaloo, BWS store directory entry.

<https://www.westfield.com.au/innaloo/store/3VL2aONukON4vPaXmNE2XC/bws>

9. Thirsty Camel Scarborough

240 West Coast Highway, Scarborough.

- 1.38 Thirsty Camel Scarborough is located on West Coast Highway at Scarborough. In Western Australia, the Thirsty Camel banner is supported by Liquor Marketing Group.³⁸
- 1.39 It is not co-located with a supermarket. It is a drive-through bottle shop attached to the former White Sands Tavern.³⁹
- 1.40 The premises was observed trading on 18 August 2026. The on-premises tavern above it was not trading at that time. On inspection, the browse area was on the order of 25 square metres and was accessed by walking through the drive-through lane. The range observed was mainstream beer, ready-to-drink products and a limited wine offer held in refrigeration.
- 1.41 The premises predominantly caters to drive-through purchase of mainstream beer and ready-to-drink products to passing trade and to patrons of the adjoining wagering facility.



Figure 10: Thirsty Camel Scarborough, 240 West Coast Highway, Scarborough. Drive-through entry and exit lanes beneath the White Sands Tavern, and interior refrigeration. Site inspection, 18 August 2026.

10. Dan Murphy's Innaloo

401 Scarborough Beach Road, Innaloo.

- 1.42 Dan Murphy's Innaloo is located at the eastern end of the corridor within the Innaloo commercial precinct. It holds liquor store licence 603212722319, the Licensee being Endeavour Group Limited, and it is the only one of the ten outlets appearing on the departmental register of packaged liquor premises with a retail area exceeding 400 square metres.⁴⁰ It trades from 9.00 am to between 7.00 pm and 9.00 pm depending on the day.⁴¹

³⁸ Liquor Marketing Group, brands. <https://www.lmg.com.au/>

³⁹ Commercial Real Estate, White Sands Tavern site in Scarborough is for sale, 16 April 2019. <https://www.commercialrealestate.com.au/news/white-sands-tavern-site-in-scarborough-is-for-sale-10217/>

⁴⁰ Department of Local Government, Sport and Cultural Industries, Packaged liquor premises over 400m². <https://www.dlgsc.wa.gov.au/racing-gaming-and-liquor/liquor/packaged-liquor-premises-over-400m2>

⁴¹ Dan Murphy's, Innaloo store. <https://www.danmurphys.com.au/stores/wa-innaloo-4432>

- 1.43 It is a large format standalone destination store and is not co-located with a supermarket. It is located on the opposite side of Scarborough Beach Road from the Westfield Innaloo centre. A consumer completing a weekly grocery shop in the locality does not pass it in the course of that shop.
- 1.44 On inspection, the store was organised by varietal and by region, with bays including a Cellar Release fixture, The World of Penfolds, Grenache & Co and Australian & New Zealand.
- 1.45 The premises predominantly cater to consumers making a dedicated trip to a destination store with a drive-through facility.



Figure 11: Dan Murphy's Innaloo, 401 Scarborough Beach Road, Innaloo. Store entrance and drive-through, and the Cellar Release fixture. Site inspection, 18 August 2026.

Distribution across the locality

- 1.46 By State Suburb Area the distribution is markedly uneven. Five of the ten are located in Innaloo, four of those five within or immediately adjacent to the Innaloo commercial precinct at the eastern end of the corridor. Three are located in Scarborough. One is located in Wembley Downs. One is located in Doubleview.
- 1.47 That single Doubleview outlet is WA Cellar Door Doubleview at 257 Scarborough Beach Road. It is a specialist Western Australian wine merchant and is not co-located with a full line supermarket.

Co-location with full line grocery

- 1.48 Four of the ten outlets are published by their operator or by the centre in which they trade as immediately adjoining or attached to a full line supermarket:
- BWS Innaloo, published by its operator as attached to a Woolworths supermarket.⁴²
 - Liquorland Innaloo City, published by the centre as located next to Coles.⁴³

⁴² BWS, Innaloo store information. <https://bws.com.au/storelocator/wa-innaloo-4262>

⁴³ Westfield Innaloo, Liquorland store directory entry.
<https://www.westfield.com.au/innaloo/store/1XdMVYnkM8YgOaMqGW0kUO/liquorland>

- Cellarbrations at Morris Place, within the same neighbourhood centre as an IGA supermarket trading from Shop 1 of the same street address.⁴⁴
- Liquor Barons Wembley Downs, within the same neighbourhood centre as an IGA supermarket.⁴⁵

- 1.49 None of the five outlets identified above is located in Doubleview. Four of the five are located in Innaloo or Wembley Downs, and the fifth is located at the Scarborough coast at the far western end of the corridor. The consumer who does a weekly household grocery shop in Doubleview, including but not limited to the Good Grocer supermarket trading at 187 Scarborough Beach Road, Doubleview, is a consumer for whom no combined trip is presently available at the place at which that grocery shop is done. That consumer has to make a second and separate trip to a packaged liquor outlet.
- 1.50 There is a second feature of the existing pattern which is relevant to the diversity object in section 5(2)(a) of the Act. Of the four published co-locations, two pair a corporately owned packaged liquor chain with the supermarket of the same corporate group, being BWS with Woolworths at Westfield Innaloo and Liquorland with Coles at that same centre.⁴⁶ The remaining two pair an independently owned packaged liquor outlet with an independently owned IGA supermarket, being Cellarbrations at Morris Place and Liquor Barons Wembley Downs. Both of those independent pairings are located outside Doubleview. This application would establish only one such pairing in Doubleview.

Published product range

- 1.51 The published range of the existing outlets is set out below. The purpose of this analysis is to identify, on the operators' own published material, what a consumer in this locality who requires a particular category of product can presently find and how that consumer would find it.

Specialty and Dietary Ranges Published by Existing Outlets in the Defined Locality

Outlet	Gluten free	Organic	Biodynamic	Preservative free	Low and no alcohol
Scarborough Cellars	Not published	Not published	Not published	Not published	Not published
WA Cellar Door Doubleview	Not published	Published at group level	Published at group level	Not published	Not published
Cellarbrations at Morris Place	Not published	Not published	Not published	Not published	Not published

⁴⁴ Tucker Fresh IGA Morris, store information. <https://morris.shop.tuckerfresh.com.au/pages>

⁴⁵ IGA, The Downs IGA store information. <https://www.iga.com.au/stores/the-downs-iga/>

⁴⁶ National Liquor News, Brand unity and ease of shopping shape Coles Liquor strategy, 12 March 2026. <https://theshout.com.au/national-liquor-news/brand-unity-and-ease-of-shopping-shape-coles-liquor-strategy/>

Outlet	Gluten free	Organic	Biodynamic	Preservative free	Low and no alcohol
BWS The Morris Drive	Not published	Network category, wine only	Not published	Not published	Network categories
ALDI Innaloo	Not published	Not published	Not published	Not published	Not published
Liquor Barons Wembley Downs	Not published	Published	Published	Published	Not published
Liquorland Innaloo City	Not published	Not established	Not published	Not published	Network categories
BWS Innaloo	Not published	Network category, wine only	Not published	Not published	Network categories
Thirsty Camel Scarborough	Not established	Not established	Not established	Not established	Not established
Dan Murphy's Innaloo	Network filter only	Network filter only	Not published	Not published	Network categories

Summary of the structural findings

- 1.52 The findings of this section, stated compendiously, are as follows.
- 1.53 The locality contains ten existing packaged liquor outlets, of which half are located in Innaloo and one is located in Doubleview. Combined grocery and packaged liquor shopping is available in this locality at four or five locations, none of which is in Doubleview, and two of which pair a national packaged liquor chain with the supermarket of the same corporate group. Gluten free product is published by one outlet only and is reachable there by online filter rather than by browsing a shelf. Preservative free and biodynamic product is published by one outlet only, located in Wembley Downs. No outlet in the locality presently combines a dietary and lifestyle specialty range with co-location at a full line supermarket, and no outlet in Doubleview is co-located with a full line supermarket at all.
- 1.54 Those are the facts of existing supply as published. The consequences of these facts for the question arising under section 36B(4) of the Act, being whether the local packaged liquor requirements of consumers in this locality can reasonably be met by these existing premises, are addressed in the section that follows.

2 Application of Section 36B(4) to this Application

- 2.1 The statutory provisions are set out at the start of this submission, the construction of section 36B(4) on the authorities is set out in the construction section of this assessment, and the defined locality, together with the ten existing packaged liquor

premises within it, is established in the locality section of this Attachment. This section applies that construction to those facts. It identifies the requirements of consumers the Applicant relies on and the evidence for each, addresses the statutory question whether those requirements can reasonably be met by the existing premises in the locality, and states the conclusion to which the Applicant submits the material leads.

First Matter: The Relevant Locality

- 2.2 The relevant locality is the defined locality identified earlier in this Attachment, being the area bounded by Karrinyup Road to the north, Hale Road to the south, West Coast Highway to the west and the Odin Road, Pearson Street and Jackadder Way alignment to the east, defined with the guidance of the Premises Manager at Racing, Gaming and Liquor. That is the single locality by reference to which the comparison required by section 36B(4) is made.

Second Matter: The Requirements of Consumers for Packaged Liquor in the Locality

- 2.3 On the construction adopted earlier in this Attachment, "local packaged liquor requirements" means the requirements of consumers for packaged liquor in the defined locality, and that expression is not confined to the physical availability of the product.⁴⁷ The Applicant identifies below the requirements it relies on, and the evidence directed to each.
- 2.4 The requirements relied on are:
- Convenience and accessibility, and in particular the completion of a packaged liquor purchase within a full-line grocery trip already being undertaken, at the address at which that grocery trip occurs;
 - A curated Western Australian focused range, with an emphasis on small and regional producers;
 - Specialty and dietary-specific products, including organic, biodynamic and preservative-free products, gluten free product, and low alcohol and no-alcohol products;
 - The ability to request a specific product not readily available in the locality and to have it ranged; and
 - Knowledgeable service, product information and supervised tasting at the point of purchase.
 - Competitive pricing.
 - One-stop shopping and trolley access.
- 2.5 The evidence directed to those requirements is of three strands: the consumer survey deployed for this application, the demography of the resident population of the defined

⁴⁷ Liquor Control Act 1988 (WA) s 36B(1); Liquorland (Australia) Pty Ltd v Director of Liquor Licensing [2021] WASC 366. Attachment 4 - Case Precedent, item 02.

locality predominantly time poor, white collar and professional, and the retail character of the proposed site. Each is addressed in turn.

The Consumer Survey

- 2.6 A consumer survey was deployed to test and document consumers' requirements for packaged liquor in the defined locality. The survey instrument as deployed is scheduled to the Public Interest Assessment.⁴⁸
- 2.7 The instrument is directed to the statutory question. It identifies the respondent's relationship to the locality, being residence, employment, or travel to or through it, and the respondent's age band. It then asks the respondent to identify, from a defined list, what that respondent's reasonable requirements are when purchasing packaged liquor, the list comprising ease of access including parking, knowledge of staff, preference for an independent operator, local and international craft product, Western Australian focused product, small batch and premium product, competitive pricing, the convenience of completing packaged liquor and other shopping in the same location, the ability to request a product not readily available in the locality, the availability of specialty product, and a free text option. It asks where the respondent currently purchases packaged liquor, listing the existing outlets in the defined locality by name, providing an option for respondents who do not consume alcohol, and offering a free-text option to capture purchases made outside the locality. It asks which specialty products interest the respondent and are believed not to be readily available in the locality. It then asks, directly, whether the respondent believes the proposed premises would cater to that respondent's reasonable requirements for packaged liquor and related services that are not currently met by the existing outlets in the locality. It closes with questions directed to support or not support the application, intent to purchase, harm, amenity, disturbance and inconvenience, and the public interest, together with a free text comment field and a declaration that the respondent is 18 years of age or over.

The Retail Character of the Proposed Site

- 2.8 The Applicant's experience in the Western Australian licensed premises industry is directly relevant to the assessment of this application. As observed by the Court of Appeal in *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227, the popularity and track record of a business model in other localities is a relevant consideration in the context of a new application and may support an inference as to the existence of relevant consumer requirements. It is submitted that the establishment of the Good Grocer Cellar format at multiple Western Australian locations, each operating alongside a Good Grocer supermarket, provides the licensing authority with an evidentiary foundation for confidence in the capacity to operate Good Grocer Cellar Doubleview responsibly and in the public interest.

⁴⁸ Attachment 2 – Consumer Survey, Good Grocer Cellar Doubleview.

- 2.9 The proposed premises are a walk-in browse cellar to be located at 181 Scarborough Beach Road, Doubleview, adjoining the existing Good Grocer supermarket trading from that address, on the Scarborough Beach Road corridor described in the locality section of this Attachment. The consequence of that configuration is an established fact rather than a matter of debate. A consumer undertaking a grocery shop would be able to complete a packaged liquor purchase at the same address, at the same visit, on the same journey.
- 2.10 That is the one-stop shopping requirement recognised by the Court of Appeal in *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227, discussed in the construction section of this Attachment, in which the Court described one-stop shopping in contemporary Australian life as of great importance, particularly to working people.⁴⁹ It is a requirement of consumers within the meaning the authorities give that expression, and it is a requirement that the retail character of this site is directed at and capable of meeting.⁵⁰

Third Matter: The Packaged Liquor Services Provided by the Existing Premises

- 2.11 The packaged liquor services provided by the existing premises in the defined locality are identified in the preceding section of this Attachment, which records for each premises its location, its trading format, whether it is co-located with a full line supermarket, the consumers to which it predominantly caters, and the range observed on inspection on 18 August 2026.

Fourth Matter: Whether Those Requirements Cannot Reasonably be Met by Those Premises

- 2.12 This is the statutory question. The Applicant approaches it positively and on the facts of its own proposal. The question posed by section 36B(4) is whether the requirements identified above can be met, to a reasonable extent or degree, by those existing premises.⁵¹

The Requirement is Defined by the Trip and Not by the Product alone

- 2.13 The principal requirement is the completion of a packaged liquor purchase during a full-line grocery trip at the Doubleview retail address where that grocery trip occurs. That requirement is defined by the trip and not by the product only. It is met at the address where the grocery trip is undertaken, or it is not met at all.
- 2.14 It follows that the requirement is not answered by the availability of packaged liquor at some other address, however that other address trades and however well it trades. A

⁴⁹ *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227. Attachment 4 - Case Precedent, item 01.

⁵⁰ *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227 (Martin CJ). Attachment 4 - Case Precedent, item 01.

⁵¹ Liquor Control Act 1988 (WA) s 36B(4).

consumer who must complete the grocery shop, leave the supermarket, and go to a separate premises to purchase packaged liquor has not completed the purchase during the trip. On the facts established in the locality section of this Attachment, no existing packaged liquor premises in Doubleview is co-located with a full-line supermarket. The three premises in the locality recorded as co-located with a supermarket or grocery operation are in Innaloo, Wembley Downs, and Scarborough, and each requires a consumer making a grocery trip in Doubleview to leave the suburb to reach it.

The Character and Content of the Proposal

- 2.15 The proposal is an independently owned and operated Western Australian offer. Its range is to be built on a curated Western Australian focus with an emphasis on small producers, local and international craft product, small batch and premium product, and a substantive specialty range including organic, biodynamic and preservative free product, gluten free product, and low alcohol and no alcohol product. As an independent operator, the Applicant retains the ability to range to direct consumer request, so that a consumer may ask for a product not readily available in the locality and have it obtained, subject to the product ranging restrictions the Applicant offers and to responsible ranging considerations. Those matters are set out in full in the Venue and Operation section of the Public Interest Assessment.

Conclusion

- 2.16 The Applicant invites the Director to be satisfied beyond a reasonable doubt, for the purposes of section 36B(4) of the Act, that the local packaged liquor requirements of consumers in the defined locality, being the requirements of consumers for packaged liquor in that locality on the construction adopted earlier in this Attachment, cannot reasonably be met by the existing packaged liquor premises in that locality.
- 2.17 The material on which that satisfaction is invited is the defined locality and the existing packaged liquor premises unevenly distributed within it, established in the locality section of this Attachment; the construction of section 36B(4) on the authorities, set out in the construction section of this Attachment; the verified demography of the resident population of the locality; the retail character of the proposed site as a walk in browse cellar adjoining an operating supermarket on the Scarborough Beach Road corridor; and the consumer survey submitted with the application.
- 2.18 The matters arising under section 38(4) of the Act, being harm and ill-health, amenity, and offence, annoyance, disturbance and inconvenience, are addressed in the Public Interest Assessment to which this document is Attachment 5, together with the operational and harm minimisation controls the Applicant offers for the proposed premises.