

Our ref: DOC23/141547

Mr Grant Cusack  
Hatzis Cusack Lawyers  
By email to: [gc@hatziscusack.com.au](mailto:gc@hatziscusack.com.au)

29 June 2023

Dear Mr Cusack

<b>Application No.</b>	APP-0009955897
<b>Applicant</b>	ALDI Foods Pty Limited
<b>Application for</b>	New packaged liquor licence
<b>Licence name</b>	ALDI Warrawong
<b>Trading hours</b>	Monday, Tuesday, Wednesday and Friday 08:30 AM to 08:30 PM Thursday 08:30 AM to 09:00 PM Saturday - Sunday 08:30 AM to 08:00 PM
<b>Premises</b>	Level 1, Warrawong Plaza Shopping Centre, 43-65 Cowper Street, Warrawong NSW 2502
<b>Legislation</b>	Sections 3, 11A, 12, 29-31 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority  
Application for a packaged liquor licence – ALDI Warrawong**

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 23 November 2022 to **refuse** the application under section 45 of the *Liquor Act 2007*.

**Statement of reasons**

The statement of reasons will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

**If you're not happy with this decision**

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

**If you have any questions**

Please contact the case manager, Max Costa, at [max.costa@liquorandgaming.nsw.gov.au](mailto:max.costa@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely



Sarah Dinning  
**Deputy Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**

## STATEMENT OF REASONS

### Our decision

We **refuse** the application under section 45 of the *Liquor Act 2007* (NSW) (the Act).

Overall, we are concerned that the social impact of approving the application may be detrimental to the well-being of the local or broader community.

### Our findings

#### Procedural and trading hour requirements

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness and trading period
- liquor would be sold and supplied in a separate liquor sales area at the premises, and
- the Community Impact Statement (CIS) meets the relevant requirements.

#### 'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

#### Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

#### Development consent requirements

The necessary development consent is in force. Wollongong Council approved the development consent DA-2012/857 for the premises on 4 September 2012.

#### Community impact

##### *Local and broader communities*

The Authority is concerned that the statistics for the community in which the premises are located suggest increased potential for liquor related harm.

The relevant 'local community' is the community in the suburb of Warrawong, and the relevant 'broader community' comprises the Local Government Area (LGA) of Wollongong.

##### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming LiveData Report for Warrawong shows:

- there are 10 authorised liquor licenses in Warrawong. Of these, 2 are authorised to sell packaged liquor. This includes 1 registered club licence, 1 hotel licence and 6 on-premises licences
- the saturation of packaged liquor licences in Warrawong is high compared to both Wollongong LGA and NSW generally.

##### *Crime data (annual rate per 100,000 residents)*

BOCSAR data shows that, in the year to March 2022:

- the premises are located in hotspots for alcohol-related assault, domestic and non-domestic assault and malicious damage to property

- alcohol-related domestic and non-domestic assault and offensive conduct rates in Warrawong were higher compared to both Wollongong LGA and all NSW, although
- alcohol-related malicious damage rates were lower in both Warrawong and Wollongong LGA compared to all NSW.

#### *Alcohol-related health data (per 100,000 residents)*

The most recent HealthStats NSW data available show that between 2018-2020:

- alcohol-related death and alcohol-related hospitalisation rates in Wollongong LGA were higher compared to the NSW average.

#### *ABS Socio-Economic Index for Areas (SEIFA) SEIFA*

Data as at 2016 shows that Warrawong and Wollongong LGA had a below average level and average level of socio-economic advantage and disadvantage respectively in skilled occupations compared to other Wollongong suburbs and LGAs in NSW.

#### **Business model**

We note that the proposed business model involves the sales of alcohol from a dedicated liquor sales area located in a supermarket, for consumption away from the premises.

#### **Proposed benefits**

The applicant proposes that there would be these benefits:

- customers have the convenience and choice of shopping for products noting the supermarket is located within the local shopping centre which is one of the larger commercial centres.

#### **Stakeholder submissions**

We considered the submissions from:

- **NSW Police Force** dated 13 July, 22 July and 4 November 2022, which notes objections to the grant of the liquor licence citing issues with the proximity of the proposed premises to nearby schools, other educational facilities and three other existing packaged liquor outlets in the broader area and further noting the premises is located in an alcohol-free zone.

Police provided data indicating the relationship between the high levels of the consumption of take-away alcohol at home and the increased rate of Police incidents, noting the rates of alcohol-related crime in the Warrawong were very high compared to the state average and that the premises are located in high density hotspots for all crime categories the Authority considers.

Police raised concerns that there is a significant risk the introduction of a new take-away liquor store in the area may increase the current levels of alcohol related crime and have adverse impacts upon the amenity of the Warrawong community. Police submit the introduction of an additional packaged liquor licence may also attract patrons from surrounding suburbs and may increase the prevalence of incidents relating to under-age drinking and the high rates of alcohol-related crime.

- **L&GNSW Compliance** dated 2 June and 3 November 2022 , which noted no objections.
- **Local Council** dated 18 July 2022, which notes no objections to the grant of the liquor licence.

We also considered the Applicant's submission in response, to these submissions, which notes that in relation to the:

Police submission –

- each of the closest educational facilities were notified at both stages of the licence process, and no such facility raised any concern in relation to the proposal
- the density of packaged liquor licences is below the state average
- the rate of liquor-related crime in Wollongong LGA for the past 3 years has mostly been below or around the state average
- neither NSW Health nor any of the local health providers notified at both stages of the process have expressed any concern in relation to the proposal, and
- if the application were to be granted the density of packaged liquor licences in both the LGA and Warrawong, will fall short of the problematic densities.

The Authority also notes a petition from approximately 240 members of the public in support of the business proposal.

### **Findings of concern**

Having regard to the relevant statistics and the submissions received, including the applicant's reply submissions, the Authority finds that Wollongong has a liquor licence density that is above state average and is subject to a relatively high level of alcohol-related domestic assault. There are also alcohol related health issues in the broader community such as higher than average rates of alcohol-related hospitalisations and deaths. The Authority considers that, if the licence is granted, there is a risk that the liquor sold from the premises would exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

The Authority also considered the submission by NSW Police regarding the concerns of alcohol consumption by minors and high crimes rates in the suburb, including the high rates of alcohol-related domestic violence.

#### *Factors that may reduce this risk*

The Authority notes the risks may be reduced by the:

- proposed liquor sales area sits wholly within an ALDI Supermarket and will operate under reduced hours, and
- the harm minimisation measures outlined in the plan of management.

### **The material we considered**

We considered all the material we received about the application, including:

#### **Application Material**

- Plan of management documents for the premises, titled Management Policies and Strategies Aldi Liquor – NSW.
- Completed Category B Community Impact Statement dated 4 May 2022.
- Completed application dated 18 May 2022.

- ASIC business records in relation to the applicant dated 9 August 2021.
- Floor plan for the premises, issued 10 February 2022, indicating the proposed liquor sales area will apply.
- Completed certification of advertising dated 27 September 2022.
- Notice of determination issued by Wollongong Council on 4 September 2012 approving the development consent DA-2012/857 for the premises.

Under [Guideline 6](#), we also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

#### Submissions

- Submissions from L&GNSW Compliance, dated 2 June and 3 November 2022.
- Submissions from NSW Police, dated 13 July, 22 July and 4 November 2022.
- Submission from Wollongong Council, dated 18 July 2022.

#### Other relevant material

- Additional information from the applicant titled 6-hour closure period, lodged with the application.
- Petition from approximately 240 members of the public in support of the business proposal.
- List Australian winning wines and awards.
- Additional Police data analysis.
- Correspondence between L&GNSW staff and the applicant between 21 June 2022 and 27 September 2022 in relation to the assessment of the application.
- Liquor Compliance specialist report dated 28 August 2022.
- Google map images extracted from the Google website on November 2022, showing the location and photos of the premises in map view.

### The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and other relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 29-31: Specific provisions about a packaged liquor licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sarah Dinning'.

Sarah Dinning

**Deputy Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**