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26 October 2020

Dear Mr Cusack

Application No.	APP-0006098759
Applicant	ALDI FOODS PTY LIMITED
Application for	Packaged liquor licence
Licence name	ALDI Katoomba
Trading hours	Monday to Saturday 8:30 am – 8:00 pm Sunday 10:00 am – 8:00 pm
Premises	201-205 Katoomba Street Katoomba NSW 2780
Legislation	Sections 3, 11A, 12, 29, 30, 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 Katoomba**

The Independent Liquor & Gaming Authority considered the application above, and decided on 13 May 2020 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 AM. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 8:30 AM.

Approved manager or individual licensee

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

Mixed-use checkouts must be closed outside licensed hours

Pursuant to section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

Statement of reasons

A statement of reasons for this decision is attached at the end of this letter.

If you have any questions, please contact the case manager, Mr Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

Philip Crawford

Chairperson

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

STATEMENT OF REASONS

DECISION

1. On 12 October 2019, ALDI FOODS PTY LIMITED (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at 201-205 Katoomba Street, Katoomba (“Premises”).
2. The Authority first considered the Application at its meeting on 11 March 2020 and, following the receipt and consideration of further requested information, decided on 13 May 2020 to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
4. A preliminary notification of this decision was sent to the Applicant on 4 June 2020, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with its Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

9. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 14, 15, 15A and 17: Specific provisions in respect of a hotel licence.
 - d) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - e) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - f) Section 44: Submissions to Authority in relation to licence applications.
 - g) Section 45: Criteria for granting a liquor licence.
 - h) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
10. An extract of these sections is set out in Schedule 3.

KEY FINDINGS

11. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

12. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act.
 - b) the Authority is satisfied that it has, pursuant to section 44 of the Act, considered all of the submissions made to it in relation to the Application.
 - c) if the Licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act.
 - d) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.
13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

Fit and proper person, responsible service of alcohol, and development consent requirements

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies.
 - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence.
 - c) the requisite development consent is in force, based on the notice of modification of development consent no. X/134/2008 in respect of the Premises, issued by Blue Mountains City Council on 12 April 2013.

Community impact

Local and broader communities

15. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Katoomba, and the relevant "broader community" comprises the Local Government Area ("LGA") of Blue Mountains.

Licence density

16. The Authority notes that Katoomba has a significantly higher density of packaged liquor licences; a higher density of full hotel licences; and a lower density of club licences (all of which are authorised to sell packaged liquor), compared to the state average.
17. The Authority notes that Blue Mountains LGA has a lower density of packaged, full hotel and club licences.

Crime data

18. The relevant BOCSAR data indicates that, for the year to September 2019 the Premises was located within a large high-density hotspot for incidents of malicious damage to property; and near hotspots for alcohol related assault, domestic and non-domestic assault, in areas that are likely to be serviced by the Licence.

19. Furthermore, for the year to December 2019:

- a) Katoomba recorded significantly higher rates of alcohol-related non-domestic assault and malicious damage to property; and lower rates of alcohol-related domestic assault and alcohol-related disorderly conduct (offensive conduct).
- b) Blue Mountains LGA recorded higher rates of malicious damage to property; and lower rates of alcohol-related assault (domestic and non-domestic), and alcohol-related disorderly conduct, compared to the NSW state average.

20. The Authority has also had regard to the five-year crime data for the local and broader communities. Whilst the Authority notes that the recent crime trend is improving, the Authority is concerned that the effects of the COVID-19 pandemic might see crime rates spike again locally. In late-April 2020 the Authority sought more recent localised data and information in relation to domestic violence in the local community from local licensing police, and was advised that, at that point in time, COVID-19 had not had any noticeable impact on the rate of domestic violence incidents.

Alcohol-related health data

21. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Blue Mountains LGA recorded a higher than average level of alcohol attributable deaths for the period 2016-2017; and a significantly higher than average level of alcohol attributable hospitalisations for the period 2016-2018.

SEIFA

22. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Katoomba was relatively disadvantaged, and Blue Mountains LGA was relatively advantaged, compared to other suburbs and LGAs in NSW.

Purported benefits

23. The Authority considers that there is some level of community support for the proposed liquor facility, as evidenced by the two public submissions and the petition with over 600 signatures in support of the Application.
24. The Authority notes that ALDI is an experienced operator of many packaged liquor licences, each of which conforms to the business model outlined in the Application.
25. The Authority notes the Applicant's contention that granting the Licence would provide a measure of convenience to customers of the ALDI supermarket who wish to engage in "one stop shopping" by purchasing liquor items together with grocery and other items.
26. Notwithstanding the above, the Authority notes that the proposed benefit of additional liquor access, choice and convenience is reduced by the small size of the Premises. A small packaged liquor facility is less likely to carry a comprehensive range of liquor products, meaning that customers of the ALDI supermarket might still prefer to shop at an alternative packaged liquor facility.
27. The Authority notes the Applicant's contention that the Premises will offer increased choice and convenience to local residents of Katoomba, who will be able to purchase ALDI branded liquor products without requiring special trips further afield, particularly as the nearest licensed ALDI supermarket is located more than 30 kilometres away.
28. The Authority has had regard to the two expert reports commissioned by the Applicant, which submit that:
 - a) packaged liquor sales at the Premises are likely to be redrawn from other liquor outlets, with only a "very small contribution to "supply induced growth"".

- b) the majority of liquor stores in Katoomba are “inconveniently located” for shoppers of the ALDI supermarket.
- c) “there is little or no risk of alcohol-related crime or anti-social behaviour increasing in the suburb of Katoomba or the broader community if this application were to be approved”.

The Authority, however, gives little weight to these contentions, noting that they are predominately based on the anecdotal evidence of the two experts and speculative in nature.

Stakeholder submissions

29. The Authority has had regard to the submissions from:

- a) NSW Police, which raised no objections to the the Application provided that certain licence conditions are imposed; which were duly considered by the Authority and imposed to the extent they were considered appropriate.
- b) Blue Mountains City Council, which raised no objections to the Application.
- c) L&GNSW Compliance branch, which noted that a warning notice had been issued to the Applicant in 2013 for the ‘breach of sale/supply alcohol-based food essence contrary to authority’, but otherwise raised no objections to the Application.
- d) NSW Aboriginal Affairs, which raised no objections to the Application.
- e) NSW Roads and Maritime Services, which raised no objections to the Application, however recommended that the Applicant participates in the Local Liquor Accord and displays public education material to assist with responsible supply of alcohol and help reduce alcohol-related road incidents.
- f) Katoomba Baptist Church (‘KBC’), which is situated adjacent to the Premises. KBC is “opposed to the over-imbibing of alcoholic beverages”, noting that there are six other packaged liquor outlets situated within a “short walking distance” from the Premises. KBC also submits that there is a “staggering alcohol abuse problem in Australia, in New South Wales and in the upper Blue Mountains, in and around Katoomba.”
- g) Katoomba Gospel Church, which does not support the application, noting that “there are more than enough liquor outlets already in Katoomba.”
- h) two members of the public who are supportive of the Application, one of whom utilises ALDI in Katoomba as their primary supermarket and would appreciate being able to purchase ALDI liquor without having to make a 60 km round trip to the closest licensed ALDI store.

30. The Authority has also had regard to the petition with over 600 signatures in support of the Application, as provided by the Applicant, and to the Applicant’s submissions in response. The Applicant notes that KBC has not referred to any existing liquor-related issues being experienced by KBC, and submits that the opposition by KBC “is principally a philosophical one.” The Applicant also states that various practices will be implemented at the Premises to ensure that the operation of the Premises does not result in any adverse impacts to neighbouring premises.

Mitigating factors

31. Having regard to the relevant statistics and the submissions received, including the Applicant’s reply submissions, the Authority finds that Katoomba has a licence density that is above state average and is subject to a relatively high level of alcohol-related non-domestic assault and malicious damage to property, and that there are some alcohol related health issues in the broader community.

32. The Authority notes that a previous application for a packaged liquor licence for ALDI Katoomba was refused in 2012, however, that domestic violence rates have improved significantly since then, and that there were no institutional stakeholder objections to the current Application.
33. The Authority considers that, if the Licence is granted, there is a risk that the liquor sold at 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.
34. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) relatively small size of the area in which liquor will be sold or supplied
 - b) relatively moderate licensed trading hours
 - c) absence of any objections from agency stakeholders
 - d) experience of the applicant as an operator of multiple licensed premises with sound compliance records
 - e) harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

CONCLUSION

35. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
36. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
37. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford

Chairperson

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

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the Liquor & Gaming NSW website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule 1 – Licence conditions to be imposed ALDI Katoomba

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:30 am and 8:30 am during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. The premises is to be operated at all times in accordance with the ALDI Management Policies and Strategies and House Policy documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system’s cameras must cover the following areas:
 - (i) all entry and exit points to the supermarket/general store, and
 - (ii) all publicly accessible areas (other than toilets) within the liquor sales area.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7. The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 13 May 2020 or any premises plan subsequently approved by the Authority.
8. The licensee must not sell refrigerated liquor products from the licensed premises.
9. There is to be no display of liquor in the second checkout area included within the liquor sales area (Checkout 4).
10. Incident register
 - 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - a) any incident involving violence or anti-social behaviour occurring on the premises,

- b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
 - d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
- a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

Schedule 2 – Material considered by the Authority ALDI Katoomba

Application material

1. Completed Category B Community Impact Statement dated 3 October 2019, including the following attachments:
 - a) List of stakeholders
 - b) List of special interest groups
 - c) Proposed Katoomba Alcohol Free Zone from 20 December 2017 to 20 December 2021
 - d) Additional information – Application and Community Impact Statement
 - e) Additional information – 6-hour closure period
2. Completed application form and application notices, dated 11 October 2019.
3. Completed certifications of Advertising dated 5 February 2020.
4. ALDI Management Policies and Strategies and House Policy documents.
5. ASIC business records in relation to the Applicant.
6. Floor plan for the Premises indicating the proposed liquor sales area.
7. Undated document provided by the Applicant titled “ALDI’s award winning liquor”.

Development consent

8. Notice of determination issued by Blue Mountains City Council on 12 April 2013, approving the modification of development consent X/134/2008 for the Premises.

L&GNSW records

9. L&GNSW liquor licensing records as at 14 January 2020 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Katoomba, Blue Mountains LGA and NSW. The density of packaged liquor licences is 35.03 in NSW, 33.81 in Blue Mountains LGA, and 75.34 in Katoomba.
10. L&GNSW liquor licensing records as at 14 January 2020 listing all liquor licences in Katoomba.

Crime data

11. NSW Recorded Crime Statistics 2018 comparing the number and proportion of selected offences flagged alcohol related by NSW Police in Blue Mountains LGA and NSW.
12. NSW Recorded Crime Statistics October 2018 to September 2019 comparing certain offences by day of week and time of day in Katoomba, Blue Mountains LGA and NSW.
13. BOCSAR crime hotspot maps for the year to September 2019, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
14. NSW crime statistics published by BOCSAR indicating that:
 - a) for the year to December 2015, the rates of:
 - i. alcohol-related domestic assault in Blue Mountains LGA and Katoomba were 84.9 and 242.0 respectively, compared to the NSW average of 118.3
 - ii. alcohol-related non-domestic assault in Blue Mountains LGA and Katoomba were 86.2 and 290.4 respectively, compared to the NSW average of 137.1
 - iii. malicious damage to property in Blue Mountains LGA and Katoomba were 1,068.6 and 1,996.6 respectively, compared to the NSW average of 840.8
 - iv. alcohol-related offensive conduct in Blue Mountains LGA and Katoomba were 21.5 and 96.8 respectively, compared to the NSW average of 54.1.
 - b) for the year to December 2016, the rates of:

- i. alcohol-related domestic assault in Blue Mountains LGA and Katoomba were 109.1 and 330.4 respectively, compared to the NSW average of 114.0
 - ii. alcohol-related non-domestic assault in Blue Mountains LGA and Katoomba were 91.3 and 367.1 respectively, compared to the NSW average of 133.8
 - iii. malicious damage to property in Blue Mountains LGA and Katoomba were 750.9 and 1,639.5 respectively, compared to the NSW average of 812.4
 - iv. alcohol-related offensive conduct in Blue Mountains LGA and Katoomba were 24.1 and 122.4 respectively, compared to the NSW average of 47.4.
- c) for the year to December 2017, the rates of:
 - i. alcohol-related domestic assault in Blue Mountains LGA and Katoomba were 130.4 and 400.7 respectively, compared to the NSW average of 113.0
 - ii. alcohol-related non-domestic assault in Blue Mountains LGA and Katoomba were 93.7 and 522.2 respectively, compared to the NSW average of 129.5
 - iii. malicious damage to property in Blue Mountains LGA and Katoomba were 761.9 and 1,748.6 respectively, compared to the NSW average of 777.7
 - iv. alcohol-related offensive conduct in Blue Mountains LGA and Katoomba were 17.7 and 85.0 respectively, compared to the NSW average of 42.4.
- d) for the year to December 2018, the rates of:
 - i. alcohol-related domestic assault in Blue Mountains LGA and Katoomba were 95.9 and 144.2 respectively, compared to the NSW average of 113.5
 - ii. alcohol-related non-domestic assault in Blue Mountains LGA and Katoomba were 79.5 and 384.7 respectively, compared to the NSW average of 121.0
 - iii. malicious damage to property in Blue Mountains LGA and Katoomba were 914.7 and 2,079.6 respectively, compared to the NSW average of 735.5
 - iv. alcohol-related offensive conduct in Blue Mountains LGA and Katoomba were 16.4 and 72.1 respectively, compared to the NSW average of 37.0.
- e) for the year to December 2019, the rates of:
 - i. alcohol-related domestic assault in Blue Mountains LGA and Katoomba were 61.8 and 48.1 respectively, compared to the NSW average of 116.2
 - ii. alcohol-related non-domestic assault in Blue Mountains LGA and Katoomba were 78.2 and 336.6 respectively, compared to the NSW average of 115.3
 - iii. malicious damage to property in Blue Mountains LGA and Katoomba were 881.9 and 2,295.9 respectively, compared to the NSW average of 713.9
 - iv. alcohol-related offensive conduct in Blue Mountains LGA and Katoomba were 6.3 and 12.0 respectively, compared to the NSW average of 34.2.

Health data

15. HealthStats NSW data showing that Blue Mountains LGA recorded a spatially adjusted rate of:
- a) 18.4 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016-17
 - b) 753.2 for alcohol attributable hospitalisation per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

Socio-economic data

16. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, Katoomba ranked in the 4th decile and Blue Mountains LGA ranked in the 9th decile.

Stakeholder submissions

- 17. Submission from NSW Roads & Maritime Services dated 2 July 2019.
- 18. Submission from Katoomba Gospel Church dated 3 July 2019.

19. Submissions from NSW Police dated 8 July 2019 and 20 December 2019.
20. Submissions from Katoomba Baptist Church dated 16 July 2019 and 6 November 2019.
21. Submission from NSW Aboriginal Affairs dated 17 July 2019.
22. Submission from a member of the public dated 30 August 2019.
23. Submission from a member of the public dated 31 August 2019.
24. Submission from L&GNSW Compliance dated 18 October 2019.
25. Submission from Blue Mountains City Council dated 12 December 2019.

Other relevant information

26. Statement of reasons for the Authority's decision to refuse an application for a packaged liquor licence for the Premises, dated 19 June 2012.
27. Correspondence between L&GNSW staff and the Applicant between 15 October 2019 and 5 February 2020 in relation to the assessment of the Application.
28. Submission in response to the assessment of the Application, dated 5 February 2020, including the following attachments:
 - a) Customer counts – ALDI Katoomba
 - b) Report prepared by P. Paroz APM, dated 17 January 2020
 - c) Individual Statement of Evidence by Gavin Duane, Location IQ, dated 22 January 2020
 - d) Destination NSW data on travel to Blue Mountains Tourism Region for the year ending December 2010 to the year ending December 2018
 - e) Destination NSW data on travel to Blue Mountains Tourism Region for the year ending June 2010 to the year ending June 2019
 - f) Fifty-two page petition for liquor licence – ALDI Katoomba
29. Google map images extracted from the Google website on 7 February 2020, showing the location and photos of the Premises in map view, earth view and street view.
30. BOCSAR report titled 'Monitoring changes in domestic violence in the wake of COVID-19 social isolation measures', dated April 2020.
31. Correspondence between L&GNSW staff and NSW Police between 21 April 2020 and 30 April 2020.

Schedule 3 – Relevant extracts from the *Liquor Act 2007*

ALDI Katoomba

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
 - (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

(1) Retail sales

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.

(2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

(3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

(4) Tastings

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (**the liquor sales area**) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section:

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

Note. Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note. See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
 - (a) that the person:

- (i) is a member of, or
- (ii) is a close associate of, or
- (iii) regularly associates with one or more members of,

a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and

(b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.

- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
- (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

48 Community impact

(1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:

- (a) the views of the local community, and
- (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.

(2) In this section:

relevant application means any of the following:

- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
- (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
- (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
- (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
- (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
- (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
- (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).

(3) A relevant application must be accompanied by a community impact statement.

(3A) However, a small bar application is not required to be accompanied by a community impact statement if:

- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
- (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.

(3B) For the purposes of subsection (3A), a **small bar application** means any of the following:

- (a) an application for a small bar licence,
- (b) an application for approval to remove a small bar licence to other premises,
- (c) an application for an extended trading authorisation for a small bar,
- (d) an application to vary an extended trading authorisation for a small bar.

(3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:

- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
- (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.

(3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:

- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or

- (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
 - (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
 - (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
 - (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.