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Dear Cusack

**Application for the Grant of a Packaged Liquor Licence
ALDI Vincentia**

I am writing to you about an application made by your client, ALDI Foods Pty Limited, to the Independent Liquor and Gaming Authority on 8 May 2015. The Application seeks the grant of a packaged liquor licence in respect of premises to be located at Vincentia Marketplace, the corner of The Wool Road and Jervis Bay Road, Vincentia that will trade as "ALDI Vincentia".

The Application was considered by the Authority at its meeting on 28 October 2015. After careful consideration of the Application and further submissions provided in relation to the Application, the Authority decided pursuant to section 45 of the *Liquor Act 2007* to approve the Application and *grant* a new packaged liquor licence. This decision was advised to you informally in an email from Authority staff dated 2 November 2015.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the Gaming and Liquor Administration Regulation 2008. This letter attaches the statement of reasons for the Authority's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

The detailed conditions subject to which the licence is granted will be set out in the OneGov record of the liquor licence, to be provided separately by staff assisting the Authority.

Please contact case manager, Ms Santina Causa at [e] santina.causa@ilga.nsw.gov.au if you have any enquires about this letter.

Yours faithfully

Micheil Brodie
Chief Executive

- 4 APR 2016

STATEMENT OF REASONS

INTRODUCTION

1. On 8 May 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) lodged by Mr Grant Cusack of Hatzis Cusack Lawyers on behalf of ALDI Foods Pty Limited (Applicant). The Application seeks the grant of a new packaged liquor licence, within the meaning of section 29 of the *Liquor Act 2007* (Act), for premises located at Vincentia Marketplace, the corner of The Wool Road and Jervis Bay Road, Vincentia known as "ALDI Vincentia."
2. The Application concerns a proposed new ALDI supermarket with a licensed area within that supermarket of 45 square metres (Premises).
3. The Application proposes that the new packaged liquor business be licensed to sell or supply liquor for consumption off the Premises during the trading hours of:

Monday to Wednesday	8:30am – 8:30pm
Thursday	8:30am – 9:00pm
Friday	8:30am – 8:30pm
Saturday	8:30am – 7:30pm
Sunday	10:00am – 7:30pm.
4. The Application is accompanied by a submission seeking to vary the 6-hour daily closure period required by section 11A of the Act from the usual period of 4:00am and 10:00am to instead be fixed at between 2:30am and 8:30am to accommodate the proposed licensed trading hours of the Premises.
5. The Authority notes that Authority policy is for the 6-hour closure period to usually be fixed at between 4:00am and 10:00am unless an applicant provides a case that it is in the public interest for another period to be specified.

MATERIAL BEFORE THE AUTHORITY

6. Application Form for a New Packaged Liquor Licence and Community Impact Statement (CIS) filed with the Authority on 8 May 2015: In the Application form, the Applicant sets out the ALDI *House Policy and Management Policies and Strategies* to be implemented in respect of the licence to ensure the responsible service of liquor at the Premises.
7. The Application submits that development consent has "previously been issued by the Minister for Planning in respect of the Supermarket".
8. The Application specifies the above mentioned proposed trading hours and is accompanied by a submission seeking the fixing of a daily 6-hour closure period under section 11A of the Act that will accommodate those hours. The various contentions and submissions made by the Applicant in the CIS document regarding the overall social impact of granting the Application are discussed in further detail below.
9. Notification Map: identifying the neighbouring premises that were provided with notification of the Application.
10. List of Stakeholders: identifying the nearby stakeholders that were notified of the Application.
11. List of Special Interest Groups: that the Applicant has notified of the Application.

12. Copies of stakeholder notices: notifying the Application to certain stakeholders as required by the liquor legislation - including Police, Council and the site notice placed on the Premises.
13. Plan of the Premises: This 1-page document shows a zoom-detailed map of the layout of the proposed liquor store and an image of the overall floor plan of the Premises. The licensed area of the Premises has been clearly highlighted in yellow and shows, for the purposes of section 30 of the Act, how the licensed area is to be separated from the remaining supermarket by an entry barrier, dividing screens that are 1800mm high, an exit gate and a separate point of sale.
14. ASIC (Australian Securities and Investments Commission) Current Organisation Extracts: These documents provide the company details as at 10 April 2015 for "VINCENTIA NOMINEES PTY LIMITED" (the Premises Owner) and as at 27 April 2015 for "ALDI FOODS PTY LIMITED" (the Applicant) and "ALDI PTY LIMITED".
15. ALDI Liquor NSW *House Policy*: This 2-page business policy document sets out the "practices to be implemented" by the Applicant at the Premises so as to "minimise the likelihood of negative impacts and ensure compliance with the liquor laws". The House Policy deals with the prevention of sale to persons under 18, prevention of sale to intoxicated persons, prevention of consumption on the licensed premises, responsible service of alcohol training, mandatory signage and use of CCTV.
16. This document states that the licensed business will comply with this policy and ensure that "persons under the age of 18 years do not purchase liquor"; that intoxicated persons will be refused service; that liquor is not to be consumed on the licensed Premises; that all required signage is displayed within the licensed area; that all staff involved in the sale and supply of liquor "receive training in the responsible service of alcohol"; and that "only persons over the age of 18 years sell or supply liquor".
17. The *House Policy* states that any person who appears to be under the age of 25 will be asked to produce identification before being supplied with liquor; that a CCTV system will be installed; that staff will be trained "as to what features to check when presented with proof of age identification"; and that staff will be provided with any intoxication guidelines released by the Authority.
18. ALDI Liquor NSW *Management Policies and Strategies*: The Applicant, in this 2-page document, states its commitment to ensuring that there are "adequate management practices and policies in place to minimise and reduce the likelihood of any alcohol related harms" in the local community.
19. ALDI contends in this document that it is "committed to working in collaboration with the relevant liquor authorities, Police, Local Government and other related bodies" and discusses inter alia "operation within approved trading hours", "staffing levels", "staff training", "co-operation with various interested persons", "development of other strategies to assist in the minimisation of harm relating to the consumption of Liquor" and "CCTV".
20. ALDI further contends in this document that the licensed business will only trade within the hours specified on the licence; that adequate staff are to be in attendance; that staff "undergo an induction course and receive adequate training"; that management will "develop links with the local community so that management is aware of relevant events and issues"; and that a CCTV surveillance system is installed covering the licensed area.
21. Additional information about the Application and Statement attached to the CIS dated 8 May 2015: In this 14-page document the Applicant provides information about ALDI

stores, the role of the "corporate licensee, approved manager and staff", the "position with Council", section 30 of the Act, "nearby community buildings, facilities and places", "notification of stakeholders and issues raised during consultation" and the contended "benefits" of granting the Application.

22. The Applicant also makes submissions on the overall social impact of granting the Application by addressing the section 48(5) test and discussing (by apparent reference to the social impact factors identified in Authority *Guideline 6*) addressing the type of licensed business proposed, scale of the business, licensed trading hours sought, location of the Premises, licence density and measures that will be implemented on the Premises "to reduce the potential for alcohol-related harms".
23. Additional information about the 6-hour closure period attached to the CIS dated 8 May 2015: In this 5-page document the Applicant discusses (relevantly) the proposed 6-hour closure period, the "proposed mode of operation of the liquor store", the "demonstrated or likely needs of patrons", the "interests of the local community towards the proposal", the "need to minimise harm associated with misuse and abuse of liquor", the "need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor", the "need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life" and "granting of previous similar applications by the Authority".
24. This submission explains why the Applicant has sought the varied 6-hour shut down period and the Applicant's submission as to why it is the public interest to facilitate the opening hours proposed, including the following contentions: that the majority of customers will be "persons attending the ALDI Supermarket"; that the Premises will provide ALDI customers with the "added convenience of being able to purchase liquor when purchasing their grocery needs"; that the general public expect that the licenced Premises "be open from the same time that the Supermarket opens"; that approving this closure period "is not likely to result in any increase in alcohol-related violence prior to 10.00am"; that "many people attend to do their grocery shopping early in the morning" and these hours will provide them with "the added convenience of being able to purchase their liquor needs"; and that "adequate responsible service of alcohol and other security measures will be in place at the proposed licensed Premises" to mitigate the additional hours.
25. Submission from NSW Roads and Maritime Services (RMS) dated 19 March 2015: RMS does not object to the Application but recommends, that the Applicant "join the appropriate Liquor Accord".
26. Submission from local resident, Mr D Ohlston, of Dinghy Street, Vincentia dated 13 May 2015: In this official Authority submission form, Mr Ohlston makes a 1-paragraph submission supporting the granting of the Application. The writer states that as "a current customer of ALDI Nowra", the writer welcomes the opening of ALDI Vincentia "especially if it contains a liquor licence". Mr Ohlston contends that "the convenience of being able to shop for all your food items, household necessities and any alcohol requirements all at the one location is in today's environment something that most people expect" and that the "competitive pricing" is "much appreciated" by ALDI customers.
27. Submission from local resident, Mr R Thornton, of Anson Street, St Georges Basin dated 12 June 2015: In this official Authority submission form, Mr Thornton makes a 5-page submission objecting to the Application. The writer contends that the Premises is in close proximity to a major high school and leisure centre which have not been addressed by the Applicant. The writer raises concerns around the impact this liquor store and the advertising will have on youth in the local community.

28. The writer further raises concerns around liquor licence density and contends that the "local area" (which the writer considers to include the suburbs of Vincentia, Old Ewrol Bay, Ewrol Bay, Sanctuary Point, Huskisson, Jervis Bay and Wreck Bay) is over provisioned with a population of "11434 residents (807 Indigenous) being serviced by six off-licences as well as numerous clubs and on premises licence doing take away". The writer submits that the indigenous population for this "local area" is almost 7.1%, in comparison to NSW at 2.5%".
29. The writer contends that granting this Application would increase licence density numbers in the suburb of Vincentia, making them "very similar numbers to the town of Young NSW where an ALDI licence was recently refused based on density". The writer submits that "Vincentia and surrounds are adequately serviced by two bottle shops" with the closest being the "BWS at Sanctuary Point".
30. The writer submits that that "there is a much higher than average indigenous population in the local area"; that "crime in the area has increased substantially"; that there has been an "armed hold up at the Liquor Legends" outlet in Vincentia and "numerous hold ups in surrounding suburbs". The writer submits that the following suburbs - Vincentia, Old Ewrol Bay, Ewrol Bay, Sanctuary Point, Huskisson, Jervis Bay and Wreck Bay are "all low scoring suburbs with higher propensity for alcohol related issues"; that the large car parks provided allow for "undesirables to congregate, drink and potentially drive or race through" the car park; that the "jobs created will be far outweighed by the jobs lost due to alcohol related issues"; and that resulting liquor licence density "will be at two time the state average".
31. Email submission from local resident, Mr B Pullinger on behalf of himself and Mrs J Pullinger, of Elizabeth Drive, Vincentia dated 16 April 2015: The writer supports the Application and contends that "it will provide the community with the opportunity to provide ALDI's goods and services closer to our local residents' homes".
32. However the writer submits *inter alia* that the following five issues should be given some consideration – whether the community or ALDI consider the new store will bring an oversupply of liquor outlets into the Bay & Basin market?; will the new store "encourage competition and meet the demand of a low socio economy?"; the "ways and means of supporting current Vincentia retail outlets"; whether "ALDI have experiences to share with the community to demonstrate the commitment to participate in efforts by community groups to tackle problem drinking"; and the possibility of ALDI sharing updates "on the progress being made towards the opening of the ALDI store".
33. Email submission from Senior Constable Garry Hayden of the Nowra Local Area Command (LAC) of NSW Police to the Applicant's representative Mr G Cusack of Hatzis Cusack Lawyers dated 26 March 2015: Police submit that although the Premises within a "newish subdivision, it is still well within the vicinity of areas such as Old Ewrol Bay, Vincentia, Sanctuary Point, St Georges Basin, Tomerong" and that this area "has a diverse demographic range, which encompasses both affluent to economically depressed".
34. Police submit that there is a "largish Aboriginal population, which could be described as vulnerable" and that the local community also includes Wreck Bay, which is a "designated ACT Aboriginal housing area".
35. Police also submit that the "entire area, including the ACT [a reference to aboriginal housing project], Wreck Bay area has a high proportion of domestic violence". Police submit the Aboriginal population in the "Shoalhaven LAC (local area command of NSW Police)" is "approximately four times the national average"; that "the area has a largish

population of youth, this includes estimates of youth unemployment above the 30% rates"; and that the Shoalhaven LAC has "high rates of domestic and personal violence" and that alcohol is a contributing factor in "40% of reported violence in the Shoalhaven LAC".

36. Police acknowledge that Woolworths Liquor has applied to install a BWS (Beer Wine Spirits) within the same building and that the Premises will be located "within close proximity to two schools", the Vincentia Shopping Centre that has two liquor outlets and Sanctuary Point, which has three defined liquor outlets and one licensed club, the St Georges Basin Country Club. Police submit that granting this Application would raise the number of bottle shops to four that are located either side of two schools.
37. Report to the Authority dated 10 July 2015 from a delegate of the (then) Secretary of NSW Trade and Investment (now the jurisdiction of the Department of Justice) via the Compliance and Enforcement Division of the Office of Liquor Gaming and Racing (OLGR): This document states that the Application was assessed using the Automated Liquor Application Risk Matrix (ALARM) by reason that the Application was "categorised as lower risk". The Authority notes that this means that OLGR have not performed a specific assessment of the Application. The document notes that OLGR "does not intend to carry out any further assessment".
38. Submission from Hatzis Cusack Lawyers, on behalf of the Applicant dated 14 May 2015: The Applicant responds to a request from Authority staff of a signed copy of the Certificate of Advertising, local council development consent and a Notice form appointing a manager. The Applicant also submits a signed copy of the Certificate of Advertising dated 14 May 2015.
39. The Applicant provides a copy of the Modification of Ministers Approval being the relevant development consent for the proposed business. The Applicant submits that "no further approval is required from the Minister in relation to the proposed licensed premises" as "the proposed licensed area will be located entirely within the supermarket" and will be "ancillary to the dominant use of the Supermarket".
40. Development Approval (DA) - Modification of Minister's Approval: this document, provided with the Hatzis Cusack submission of 14 May 2015 evidences the grant of development consent for construction of the Vincentia District Centre with stage 1 comprising the ALDI Supermarket of 1,396 metres square.
41. List of Conditions to which the Applicant has consented to being endorsed on the Licence: In this 1-page list provided with the Hatzis Cusack submission dated 14 May 2015 the Applicant consents to the licence being subject to the following conditions:
 - a) that the business must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the CIS, Application and other submitted information
 - b) that the licence cannot be exercised unless and until the Authority "has been notified of the appointment of a manager to the licence"
 - c) that the licensee will ensure compliance with the Management Policies and Strategies and House Policy Documents lodged with the Authority
 - d) that the licensee will ensure that "the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier"
 - e) that the licence cannot be exercised until the Authority "has been provided with evidence that the Premises are complete and ready to trade"

- f) that the "licensee or its representative must join and be an active participant in the local liquor accord"
 - g) the "licensee will not sell refrigerated liquor products from the licensed premises".
42. Certification of Advertising: signed by Mr Peter Green (Property Manager of ALDI Stores) and the Applicant's representative Mr G Cusack of Hatzis Cusack Lawyers on 14 May 2015.
43. Email from Authority Staff dated 3 August 2015 at 10:06am: in this communication Authority staff request that the Applicant "advise how the DA complies with the proposed use as a packaged liquor licence". Authority staff also invite the Applicant to make comment on submissions received by the Authority from NSW Police, OLGR, RMS and the public.
44. Authority staff further invite the Applicant's consent to the following standard conditions:
- a) that for the purpose of section 11A of the Act, the 6-hour closure period will be between 2:30am to 8:30am; that the Premises "must not operate with greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected"
 - b) that the licensee will "ensure compliance with the Management Plan and House Policy documents" and will provide the Authority with updated copies from time to time
 - c) that the Applicant "join and be an active participant in the local liquor accord";
 - d) that the "liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier"
 - e) that the Premises will "not sell refrigerated liquor products from the licensed Premises"
 - f) that the licence cannot operate until the Authority "has been notified of the appointment of a manager to the licence"
 - g) that the licence cannot be exercised until the Authority has been provided with "evidence that the Premises are complete and ready to trade".
45. Authority staff informed the Applicant that an application has been lodged for a new packaged liquor licence known as *BWS – Beer Wine Spirits* to be located within the same shopping centre and that this Application will be "considered and determined together with the BWS Application once responses have been provided".
46. Submission from Hatzis Cusack Lawyers, on behalf of the Applicant dated 31 August 2015: The Applicant informs Authority staff that a response to the assessment will be provided mid to late September as a consultant has been instructed to prepare a report in relation to certain issues. The Applicant requests that the Woolworths Limited application not be determined until the Applicant has provided its response next month in relation to the ALDI Application so that both can be determined together.
47. Submission from Hatzis Cusack Lawyers, on behalf of the Applicant dated 14 October 2015: The Applicant consents to each of the conditions being imposed and attaches the below submission.
48. Response to Assessment of Application prepared by Hatzis Cusack Lawyers dated 14 October 2015: In this 35-page document the Applicant discusses aspects of the Application in relation to social impact including the location, the shopping centre and the adjoining "Bayswood estate residential development", the issue of development/ /growth/tourism, the Applicant's submissions on the "local community and broader

community", the proposed ALDI Liquor department and its manner of operation, measures to be implemented "to reduce the potential for alcohol-related harms", the licence conditions consented to by the Applicant, contended "positive benefits" of granting the Application, the competing BWS Application and "why the ALDI Application should be preferred", issues of licence density and existing packaged liquor facilities in Vincentia, crime data, health data, Socio Economic Index for Areas and demographic profile data, the A&M consultant's report on the Application, and the "position of stakeholders".

49. The Applicant has attached the following further documents accompanying this submission:
 - a) Leasing information
 - b) Demographics of the new Vincentia Marketplace Shopping Centre
 - c) Maps showing the location of the Shopping centre and its customer base
 - d) An update on the latest news for Vincentia Marketplace dated 2 June 2015
 - e) A list of facts including the number of car parking spaces and the trade area population
 - f) Information on the land for sale in Bayswood
 - g) Information on the retirement village Coastal Waters
 - h) NSW Bureau of Crime Statistics and Research (BOSCAR) showing alcohol-related assaults in Vincentia.

50. The Applicant has also attached a report by Mr A Purcell from A&M Consultants on behalf of the Applicant dated 22 September 2015. In this 5-page report Mr Purcell discusses *inter alia* the proposed ALDI Supermarket site, the existing packaged liquor facilities, the proximity of schools to the proposed ALDI site, and the risk of underage drinking and anti-social behaviour. Mr Purcell contends that "it is generally accepted that embers of our community prefer to undertake one-stop shopping while on their regular shopping journeys rather than having to take special trips for items such as liquor"; that this Application should be chosen over the BWS application if the Authority is minded to only grant one licence; that crime statistics for the communities are well below NSW State averages; and that there is "no evidence of any underage drinking or anti-social behaviour in the immediate area".

51. NSW BOCSAR Crime Maps based upon data from July 2014 to June 2015 detailing hotspots of offences for the location of the Premises: This data, obtained by the Authority from published BOCSAR sources, shows the immediate location surrounding the Premises at the corner of The Wool Road and Jervis Bay Road, Vincentia, is not within any hotspots for incidents of domestic assault, non-domestic assault and malicious damage to property.

52. Data on Crime by LGA and Alcohol Related Status obtained from published BOCSAR sources for calendar year 2013. This document indicates that:
 - a) the rate of domestic violence related assault incidents that were also recorded by reporting Police as alcohol related occurring across the Shoalhaven LGA, was 182 per 100,000 persons, moderately above the NSW average of 145 per 100,000 persons
 - b) the rate of non-domestic violence related assault incidents flagged by reporting Police as alcohol related in the Shoalhaven LGA for 2013 was 179, slightly below the State wide rate of 191
 - c) the rate of offensive conduct offences flagged by reporting Police as alcohol related in this LGA was only 43 per 100,000 persons, well below the State wide rate of 83

- d) the rate of assault police incidents flagged by reporting Police as alcohol related in this LGA was 39, above the NSW rate of 24
 - e) the statistics also indicate that the rate of alcohol related malicious damage to property in the Shoalhaven LGA is 169, which is well above the State wide rate of 122.
53. Authority licensing records indicating the addresses of other liquor licenced premises within the suburb of Vincentia and the neighbouring suburbs of Callala Beach, Huskisson, Sanctuary Point, Sussex Inlet, Currarong, Greenwell Point, Worrige, St Georges Basin, Pyree, Hyams Beach, Orient Point, Erowal Bay, Culburra Beach, Callala Bay, Basin View, Nowra and Tomerong.
54. Authority liquor license density data: This data indicates that the Shoalhaven LGA as a whole recorded a rate of 14.01 packaged liquor licences per 100,000 persons, comfortably below the NSW state average of 32.85.
55. Authority licensing data indicates that the Shoalhaven LGA also has significantly lower rates of full hotel licences, club licences, per 100,000 people compared to rates for NSW as a whole – all of which are licence types that may potentially sell takeaway liquor.
56. Authority licensing data indicates that in the state suburb of Vincentia there is:
- a) 1 club licence
 - b) 1 liquor limited licence
 - c) 1 on-premises licence
 - d) 2 packaged liquor licences.
57. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS): ABS data prepared on the basis of the 2011 census indicates that the suburb of Vincentia ranked in the sixth decile, compared to other suburbs in the State (with a decile ranking of 10 being the most advantaged).
58. The ABS data also indicated that the Shoalhaven LGA ranked in the fifth decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD).

LEGISLATION

59. Division 5 of the Act addresses packaged liquor licences and includes the following provisions:

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).*

60. The power to grant a new liquor licence is provided by section 45 of the Act, which states, relevantly:

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) *...*
- (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.*
- (4) *...*
- (5) *...*
- (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.*

61. Under section 48(5) of the Act, the Authority must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.

62. Section 48(5) of the Act states:

48 Community impact

(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.

63. An application for a packaged liquor licence is a type of licence prescribed by section 48(2).

64. In determining the Application, the Authority has also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

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.*

SUMMARY OF APPLICANT CASE ON OVERALL SOCIAL IMPACT

65. The Applicant contends that the licensed Premises will be located within an ALDI supermarket and that the licensed liquor sales area "will occupy a small section" comprising of an area "approximately 45 square metres".

66. The Applicant submits that of all the neighbouring occupiers, stakeholders and special interest groups that were notified, only three responses were received in respect of the Application. Of these three submissions received, the Applicant notes that two are in support of granting the Application and only one opposes it.

67. The Applicant also notes that submissions were received from OLGR and RMS and contained no objections to the Application.

68. The Applicant acknowledges that Police "requested that certain matters be noted in the Application" and contends that SEIFA scores for the suburbs comprising the local community (which the Applicant considers to include Vincentia, Callala Bay, Callala Beach, Erowal Bay, Huskisson, Hyams Beach, St Georges Basin) demonstrate "that the local community could predominantly be described as an advantaged one, with some areas slightly less advantaged".
69. The Applicant submits that section 30(1) of the Act will be satisfied, as the licensed area will be "adequately separated from the Supermarket". The Applicant submits that the liquor sales area within the supermarket will be "clearly defined including by way of partitioning" and that liquor "will be displayed on shelving and display units within the liquor sales area". The Applicant states that the partitioning will comprise of "a fixed, solid and permanent screen all approximately 1.8 metres high which will comprise of timber and acrylic panels".
70. The Applicant contends that the Premises will primarily sell a "limited range of ALDI branded products" and on occasion a "small selection of non-ALDI branded products" for a set time until sold out. The Applicant contends that "no more than 100 types/lines of liquor will be sold" at the Premises and submits that this is "substantially less" than a typical liquor store. The Applicant also states that the Premises will not sell refrigerated liquor products. [The Authority notes that ALDI routinely agrees to a licence condition to this effect].
71. The Applicant submits that the proposed licensed trading hours sought will be "less than the standard hours permitted" by the Act, that the liquor trading area will only be open for trade during hours that the Supermarket is also trading, and that no customers will be able to enter the licensed are outside of the hours specified in the licence.
72. The Applicant contends that "members of the general public attending the Supermarket would expect, particularly on Mondays to Saturdays" that the licensed Premises will be open "from the same time that the Supermarket opens" and that "it is also common" for mothers "to do their grocery shopping early in the morning after dropping their children off at school".
73. The Applicant contends, as a result of these reasons, that the 6-hour closure period between 2:30am and 8:30am is sought "so as to better meet the needs, demands and expectations of customers" and that granting the Application "is not likely to result in any problems such as alcohol-related violence, drinking on the streets, rubbish etc or detract from the amenity of community life".
74. The Applicant contends that the majority of customers purchasing liquor will be customers from the ALDI Supermarket who "will have the added convenience of also being able to purchase liquor". The Applicant contends that these customers will arrive and depart by car and will park in the Shopping Centre car park making the granting of the Application "unlikely to result in any adverse impact on the amenity of the area such as by way of noise, litter, traffic congestion".
75. The Applicant submits that the Premises will have a detailed *House Policy* and that all staff involved in the sale and supply of liquor will complete an Approved Responsible Service of Alcohol (RSA) course and will undertake "a special induction course which will include detailed training in respect of the liquor operations, legal requirements and practices and procedures". The Applicant contends that only staff with an approved RSA will be permitted to attend to the sale and supply of liquor within the proposed licensed Premises.

76. The Applicant acknowledges that currently there are two packaged liquor facilities located in Vincentia - Cellarbrations and Vincentia Cellars. However the Applicant contends that neither of those liquor outlets are associated with a supermarket and that the proposed new Premises will "be located in a substantial new shopping centre which will have a primary trade area of more than 19,000 persons".
77. The Applicant contends that ALDI is a "preferred choice" to the BWS application in respect of the same supermarket for the following reasons:
- "a much smaller footprint"
 - "a far more modest span of trading hours"
 - "a much lesser range of products"
 - "enhance choice in the local community"
 - "no sale of refrigerated liquor products"
 - "catering to the needs of the large number of ALDI shoppers".
78. The Applicant submits, with respect to overall social impact, that the new liquor business will be "small in size", have "fewer trading hours than most traditional retail liquor stores" and a supply a "modest range of liquor" making it "unlikely to cause an overall social impact which is detrimental to the well-being of the local or broader communities". In addition, the Applicant contends that granting the Application "will bring about significant public interest benefits" that are "likely to be beneficial to the well-being of the local and broader communities".
79. The Applicant further submits that ALDI is "a experienced operator of Supermarkets" in that ALDI operates over "110 licensed Supermarkets in Victoria", "nine licensed Supermarkets" in the Australian Capital Territory and "numerous" packaged liquor licences in NSW.
80. The Applicant contends that any negative impacts that granting the Application may have through crime or other anti-social behaviour will be mitigated through ALDI's RSA practices, installation of CCTV surveillance, the fact that the majority of customers will arrive and depart by car and park in the car parking facility provided and the operation of a licence condition that liquor products will not be sold refrigerated.
81. The Applicant contends that granting the Application will provide substantial public interest community benefits relating to:
- "convenience"
 - "avoidance of special trips"
 - "choice"
 - "facilitating social/recreational opportunities"
 - "strengthening the viability of other nearby businesses"
 - "economic spin-offs"
 - "contributing to initiatives to moderate the drinking culture" and "outlet for local producers".
82. The Applicant further contends *inter alia* that customers of the ALDI supermarket will have the "convenience of being able to do their grocery and liquor shopping under the one roof" and that the public "expects" to be able to buy liquor in conjunction with grocery shopping.
83. The Applicant contends that if the Application is granted ALDI's customers will not be required to make special trips to acquire liquor; that customers will "gain access to a wider range of alcohol at competitive prices"; that "legitimate community demands for

alcohol in conjunction with social and recreational opportunities will be services by the grant of the Application"; that granting the Application will "strengthen the viability of nearby local businesses" and increase employment opportunities; and that local producers will be provided with an alternative outlet to sell products.

84. On the extent of negative impacts likely to flow to the community from granting this Application, the Applicant has extracted data for Shoalhaven LGA regarding prevailing licence density as of March 2015, SEIFA deciles and scores for 2011 and rates of alcohol-attributable hospitalisations for the past 12 months.
85. The Applicant has also extracted BOCSAR crime statistics for the 12 months ended June 2015 for the suburb of Vincentia and contends that this data does not reveal "any particular issues as a result of alcohol-related crime within the suburb of Vincentia.
86. The Applicant submits that the licence density and crime data can give the Authority "comfort that the granting of this modest Application is inherently unlikely to add appreciably to existing rates of alcohol-related crime/anti-social behaviour".
87. The Applicant concludes that "the Authority can be satisfied that the overall social impact in granting the Application will not be detrimental to the well-being of the local community and broader community and that the Application meets all the other requirements of the Act".

REASONS

88. The Authority is satisfied, on the basis of the Application material before the Authority and the absence of any submissions to the contrary that, for the purposes of Section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied. This finding is made on the basis of the Application and CIS material and certification of advertising provided by the Applicant and its solicitors.
89. The Authority is satisfied, on the basis of the Application material, plans and conditions consented to by the Applicant in further submissions, that additional requirements as to packaged liquor businesses required by section 30 and 31 of the Act have also been satisfied.
90. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. The Authority notes the Applicant's ASIC Current Extract and is satisfied on the basis that no issues of concern were raised with regard to the Applicant company or its directors' probity following consultation with relevant law enforcement agencies including Police and OLGR.
91. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service practices will be in place with the commencement of licensed trading, on the basis of the *House Policy*, the *Management Policies and Strategies* and submissions provided by the Applicant. The Authority also noted an absence of any adverse submission in this regard from OLGR or Police.
92. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place for use of a packaged liquor licence at the Premises, on the basis of the Modification of Minister's Approval provided by the Applicant.

Overall Social Impact Test

93. With regard to the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the local community comprises the suburb of Vincentia and the broader community comprises the Shoalhaven LGA.
94. Applying the social impact test requires a degree of speculation, albeit speculation informed by the particular proposal and the prevailing circumstances in the relevant local or broader community.

Local and Broader Community

95. As noted in Authority *Guideline 6: 'Consideration of Social Impact'*, the Authority will identify the relevant "local" community by reference to the locality in which the licensee premises is situated, while the "broader" community will usually be the local government area in which the licensed premises is situated.
96. For the purposes of the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the "local" community comprises the state suburb of Vincentia while the relevant "broader community" comprises the Shoalhaven LGA.
97. The Applicant has posited a local community that extends beyond the suburb of Vincentia by reason that the expected catchment area of the new store includes "people who live and work in the area", "persons or groups who may utilise the services and facilities of the proposed licence" and "persons who may benefit or suffer harm as a consequence of the application being approved".
98. The Authority accepts that the supermarket may well have a trade catchment area that extends beyond the suburb in which it is located, but in the absence of a statutory definition of "local community" and for the sake of administrative consistency with its longstanding practice, communicated in many published decisions, the Authority finds the relevant local community to comprise the State suburb in which the actual premises is situated.
99. The Authority is satisfied that this is a preferable formulation to the Applicant's alternative formulation of local community which encompasses several suburbs and is cast so broadly as to lose a genuinely "local" focus or character, noting that the Authority will take into account surrounding areas when considering the broader community.

Positive benefits

100. The Authority is satisfied, on the basis of the Application, CIS and submissions from the Applicant, that granting the licence will primarily add some additional measure of convenience to members of the local and broader community who wish to conveniently purchase packaged liquor whilst grocery shopping at ALDI at this substantial new shopping centre.
101. The extent of those convenience benefits are in a practical sense constrained by the recently granted application by Woolworths Limited in regards to a BWS packaged liquor store adjacent to a Woolworths Supermarket within the same Shopping Centre. Nevertheless, some additional convenience and choice benefit arises from the availability of ALDI branded products to be supplied by this store to ALDI shoppers.
102. The Authority notes the material provided by the Applicant as the nature and scale of the Shopping Centre and the scale of residential development in the local and broader

community that it will serve. Those factors support the Applicant's case that increasing convenience and choice at this substantial shopping centre will be consistent with the "expectations, needs and aspirations of the community" in respect of the local community of Vincentia, an object of section 3(1)(a) of the Act.

103. The Authority is satisfied a packaged liquor licence within an ALDI grocery shop, would diversify (through the availability of ALDI branded liquor products) the range of options available to the local community seeking to purchase packaged liquor within the local community of Vincentia.
104. Noting the application by Woolworths Limited for a BWS packaged liquor store adjacent to a Woolworths in the same large Shopping Centre, the Authority is satisfied that the proposed new business will develop, albeit to a modest extent, in the public interest, the liquor industry that serves the local and broader community, for the purposes of section 3(1)(b) of the Act.

Negative impacts

105. The Authority is satisfied that over time there will likely be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact upon amenity in the local and broader community from a minority of customers who abuse packaged liquor purchased from the Premises.
106. The Authority acknowledges that the BOCSAR crime data from July 2014 to June 2015 indicates that the Premises is not located within a high-density area for incidents of domestic assault, non-domestic assault and malicious damage to property.
107. The Authority is satisfied that the rate of recorded alcohol related domestic violence related assault incidents across the broader Shoalhaven LGA, was 182 per 100,000 persons, which is moderately above the NSW average of 145 per 100,000 persons.
108. The rate of assault police incidents flagged by reporting Police as alcohol related in this LGA was 39, which is higher than the NSW rate of 24. The statistics also indicate that the rate of alcohol related malicious damage to property in the Shoalhaven LGA is 169, which is above the state wide rate of 122.
109. The rate of non-domestic violence related assault incidents flagged by reporting Police as alcohol related in the Shoalhaven LGA for 2013 was 179, lower than the rate for NSW of 191. The rate of offensive conduct offences flagged by reporting Police as alcohol related in this LGA was 43 per 100,000 persons, which is pointedly lower than the NSW rate of 83.
110. The Authority is satisfied from the research (including that listed in Authority *Guideline 6* – Livingston, M: "A longitudinal analysis of alcohol outlet density and domestic violence" Addiction (2011) Society for the Study of Addiction) that there is an association between liquor outlet density and domestic violence. Liquor sold from packaged liquor stores will tend to be of concern to the Authority as a driver of alcohol related domestic violence incidents as the liquor is by definition consumed in the home, where most domestic violence occurs.
111. However, the Authority is reassured by the BOCSAR crime data that indicates that the Premises is not located within any hotspots for incidents of domestic assault, non-domestic assault and malicious damage to property.

112. The Authority also acknowledges the SEIFA data from ABS that the Suburb of Vincentia ranks in the sixth decile by comparison to other state suburbs in NSW on the IRSAD. The broader community in the Shoalhaven LGA is similar, ranking in the 5th decile compared to other local government areas in the state on the IRSAD (with a decile ranking of 10 being the most advantaged). The SEIFA data does not present as a compounding adverse factor for the local and broader community.
113. The Authority is satisfied on the basis of Authority licensing data that the Shoalhaven LGA has 14.01 packaged liquor licences per 100,000 people which is also significantly lower rates of full hotel licences and club licences.
114. The Authority is satisfied, on the basis of Authority licensing records that state suburb of Vincentia currently has two packaged liquor licences – Vincentia Cellars and Cellarbrations at Vincentia. The Authority is satisfied that prevailing licence density at the level of the local or broader community is not relatively high and does not, of itself present a cause for concern when increasing licence numbers to cater for this substantial shopping centre.
115. Submissions from Police, Council, OLGR and local submitters have not identified any specific causes for concern arising from the abuse of packaged liquor in the area of this shopping centre, through (for example) public drinking, secondary supply to minors, pre-fuelling by young adults using packaged liquor before attending on licensed premises or alcohol related litter.
116. Police have raised general concerns with the BOCSAR data on rates of domestic violence assault in the relevant communities, but have not objected to the Application nor have they (in this case) provided specific evidence nor a detailed breakdown of local crime data (and, for example, last place of alcohol consumption data) that would substantiate finding that there is a particular sensitivity with regard to the abuse of packaged liquor at the level of the local community. The Authority notes the Police submission as to the elevated proportion of persons of Aboriginal and Torres Strait Islander (ATSI) background in the broader community, which is a potential risk factor (given that while persons of ATSI background have higher rates of abstention from alcohol they also have higher rates of risky drinking than the non-ATSI community) but in the absence of adverse submissions from aboriginal groups nor police evidence or information identifying alcohol related impacts pertaining to the ATSI community in this suburb and location, those legitimate concerns have not been decisive in this case.
117. After taking all the submissions received into consideration, the Authority is satisfied that the following aspects of the proposal will objectively operate to constrain the extent of adverse social impact arising from the abuse of packaged liquor in the circumstances of the Application.
118. The Authority is satisfied on the basis of the documents submitted by the Applicant titled *House Policy* and the *Management Policies and Strategies* that the Applicant has implemented comprehensive and well developed harm minimisation measures. The responsible service of alcohol and responsible practices outlined in these documents satisfy the Authority that staff members will be adequately trained, that the Premises will not serve alcohol to intoxicated or underage persons and that the Premises will engage in steps that ensure the extent of adverse impact arising from the abuse of liquor sold at the Proposed Premises is constrained.
119. The small scale of the proposed licensed area is a mitigating factor. The Authority is satisfied that the size of the licensed area will constitute a relatively small scale licensed business of approximately 45 square metres and that the area in which the licence

covers will be adequately separated from the rest of the supermarket ensuring access to the licensed are can be easily monitored.

120. The trading hours are reasonably extensive, from between 8:30am to 8:30pm Monday through Wednesday, 8:30am to 9:00pm Thursday, 8:30am to 8:30pm Friday, 8:30am to 7:30pm Saturday and 10:00am to 7:30pm Sunday. The Authority notes that these hours will not extend to the 10:00pm limit of night time trading but the 7:30pm closing time on Saturday and Sunday provides some modest constraint on the capacity of liquor sold on traditionally higher risk evenings to contribute to potential problems such as "pre-fuelling" or public drinking on the weekend.
121. The Authority is satisfied that the Applicant has consented to a number of measures that go over and above the responsible service of alcohol practices and policies that are required by the legislation. ALDI's "no refrigeration" condition may work to reduce adverse social impacts from the impulse consumption of liquor purchased from the supermarket in public places or as "pre-fuelling" by young adults en route to licensed premises in the local or broader community. The location of the Premises within a large Shopping Centre may also assist in terms of security and passive surveillance.

CONCLUSION

122. Considering together the found positive benefits and taking into account the factors which are likely to objectively constrain or minimise the extent of negative impacts arising from the operation of this business in this community, the Authority is satisfied on the material before it that the overall social impact of granting this Application for a packaged liquor licence will not be detrimental to the well-being of the local or broader community. In making this decision the Authority has considered all of the statutory objects in section 3(1) of the Act and all of the statutory considerations in section 3(2) of the Act.
123. On the basis of the Applicant's submissions as to the proposed 6-hour closure period, the Authority is satisfied that it is consistent with the public interest informed by the statutory objects and considerations provided by section 3 of the Act for the closure period should be varied, in this case to between 2:00am and 8:00am daily.



Micheil Brodie
Chief Executive
for and on behalf of the Independent Liquor and Gaming Authority

DATED 4 APR 2016