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Dear Mr Cusack

**Application for Packaged Liquor Licence  
ALDI Armidale**

I am writing to you about an application made by your client, ALDI Foods Pty Limited, to the Independent Liquor and Gaming Authority on 14 April 2015, for a proposed new packaged liquor licence for premises to be located at 93, 95 and 99 Barney Street, Armidale for a licensed business to be known as "ALDI Armidale".

The Application was considered by the Authority at its meeting on 13 April 2016 and after careful consideration of the Application and *all* further submissions provided in relation to the Application, the Authority decided pursuant to section 45 of the Act to *refuse* the Application. This decision was advised to you informally in an email from licensing staff dated 15 April 2016.

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

If you have any enquiries about this letter, please contact case manager, Mr Darren Kavanagh via email at [darren.kavanagh@ilga.nsw.gov.au](mailto:darren.kavanagh@ilga.nsw.gov.au) .

Yours faithfully

**DB Armati  
Deputy Chairperson**

24 May 2016

## STATEMENT OF REASONS

### INTRODUCTION

1. On 14 April 2015, the Independent Liquor and Gaming Authority (Authority) received an application (Application) lodged by Hatzis Cusack Lawyers on behalf of ALDI Foods Pty Limited (Applicant).
2. 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 93. 95 and 99 Barney Street, Armidale (Premises) in respect of a licensed business that is proposed to trade under the name "ALDI Armidale".
3. The Application concerns a proposed new ALDI supermarket to operate within a licensed area within that supermarket approximately 33 square metres.
4. The Applicant proposes that the business will be licensed to sell or supply liquor for consumption off the Premises during the trading hours of:  
Monday to Friday 8:00am – 9:00pm  
Saturday 8:00am – 6:00pm  
Sunday 10:00am – 6:00pm.
5. The Application is accompanied by a separate document entitled "Additional Information – 6-hour closure period", that seeks 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 2:00am and 8:00am, in order to accommodate the proposed commencement of supermarket trading hours.

### MATERIAL BEFORE THE AUTHORITY

6. Application Form for a New Packaged Liquor Licence and Community Impact Statement (CIS) filed with the Authority on 14 April 2015: In the Application Form, the proposed licensed trading hours and daily closure period are specified as above.
7. The various contentions and submissions made by the Applicant in the CIS document with regard to the overall social impact of granting the Application are discussed in further detail below.
8. Additional information about the Application and Community Impact Statement attached to the CIS dated 14 April 2015: In this twelve-page document the Applicant provides information about ALDI stores generally, the role of the corporate licensee, approved manager and staff, the position of Council on the proposed licence, the plans for completion of the Premises, the Applicant's identification of the local and broader community, how the liquor business will ensure compliance with section 30 of the Act, the location of "nearby" community buildings, facilities and places, the Applicant's notification of stakeholders of the Application and issues raised by stakeholders during consultation (from NSW Roads and Maritime Services (RMS) and NSW Police). The Applicant also sets out the contended community "benefits" of granting this Application.
9. The Applicant also makes submissions what it considers will be the overall social impact of granting the Application for the purposes of section 48(5) of the Act and discusses (by apparent reference to the social impact factors identified in *Authority Guideline 6*) the type of licensed business proposed, scale of the business, the licensed trading hours sought, location of the Premises, licence density, Socio Economic Index for Areas

(SEIFA) data published by the Australian Bureau of Statistics (ABS) for the relevant communities and those additional measures that will be implemented on the Premises "to reduce the potential for alcohol-related harms".

10. Additional information about the proposed 6-hour closure period attached to the CIS dated 14 April 2015: In this six-page document the Applicant make submissions on the proposed variation of the usual 6-hour daily closure period, the proposed mode of operation of the liquor store within the supermarket, what the Applicant contends are the "demonstrated or likely needs of patrons" and the "interests of the local community towards the proposal", the Applicant's submissions on how the proposal addresses section 3 objects and considerations such as 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" and the "need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life". The Applicant also makes submissions on the granting of previous "similar applications by the Authority".
11. This submission provides the Applicant's opinion on why it is in the public interest to facilitate the earlier licensed trading hours proposed by this business. The Applicant submits that:
  - the Premises "will only be very small", sell a "limited range of liquor" and have "less" trading hours than the standard hours permitted by the Act
  - adequate responsible service of alcohol (RSA) and other security measures will be in place at the Premises
  - the ability to open prior to 10:00am is required to "meet the needs, demands and expectations" of those members of the local community who attend at the Supermarket earlier in the morning to purchase their grocery needs and will also provide these customers with the "added convenience" of being able to purchase their liquor needs
  - many persons "attend to do their grocery shopping early in the morning"
  - the 6-hour closure period in the legislation was intended to "reduce alcohol-related violence in NSW, particularly during the early hours of the morning" and "was not" intended to prevent liquor stores from opening prior to 10am
  - the Authority has granted "a number of applications relating to packaged liquor licences where the sale of liquor was permitted prior to 10.00am"
  - ALDI operates over "110 licensed Supermarkets in Victoria and nine licensed Supermarkets in the ACT" and the Authority has granted "numerous packaged liquor licences for ALDI Supermarkets in NSW" with "similar" shut down periods as the one being sought in this Application
  - ALDI was the "first retailer in Australia" to commit to a long term funding partnership with DrinkWise Australia and will "continue to consider such initiatives".
12. In this document the Applicant makes the following further contentions or submissions pertaining to overall social impact:
  - the supermarket "is not located" within a shopping centre and will be situated in Barney Street, "some distance from the main shopping precinct of Armidale which is centred around Beardy and Dumaresq Streets"
  - the majority of customers purchasing liquor from the new licensed business will be "persons attending the ALDI Supermarket"
  - the new business on the Premises will provide ALDI customers with the "added convenience of being able to purchase liquor when purchasing their grocery needs"
  - the general public "expect" that the licenced business will "be open from the same time that the Supermarket opens"
  - approving the proposed opening period "is not likely to result in any increase in alcohol-related violence prior to 10.00am"

- "various measures": will be in place to ensure that liquor is sold responsibly, to "prevent intoxication and to ensure that minors to not gain access to liquor".
13. ALDI Liquor NSW *Management Policies and Strategies*: In this 2-page internal business planning document the Applicant 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.
  14. The Applicant states that it is "committed to working in collaboration with the relevant liquor authorities, Police, Local Government and other related bodies". The Applicant sets out various aspects of the proposed new liquor business including "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".
  15. The Applicant states in this document that:
    - the licensed business will only trade within the hours specified on the licence
    - adequate staff are to be in attendance
    - staff "undergo an induction course and receive adequate training"
    - there is no sale of alcohol to persons under the age of 18 years
    - where a customer is suspected of being under the age of 25 years, proof of age will be requested
    - liquor is not to be consumed on the licensed Premises other than by way of tastings authorised by the liquor laws
    - management will "develop links with the local community so that management is aware of relevant events and issues"
    - management will establish a "close working relationship with Local Police"
    - ALDI will "continue to consider and actively promote" such initiatives as DrinkWise
    - a CCTV surveillance system is installed covering the licensed area.
  16. ALDI Liquor NSW *House Policy*: This 2-page internal business policy document sets out the practices to be implemented on Aldi licensed premises so as to "minimise the likelihood of negative impacts and ensure compliance with the liquor laws". The *House Policy* deals with the measures to address the prevention of liquor sales to persons under 18, prevention of liquor sales to intoxicated persons, prevention of consumption of liquor on the Premises, responsible service of alcohol training for staff, mandatory signage on the Premises and use of CCTV to minimise the potential for theft of liquor products and the likelihood of minors gaining access to liquor.
  17. In this document the Applicant states that the proposed new 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".
  18. The *House Policy* provides 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.
  19. Development Application (DA) DA-351-2009/B modifying DA-351-2009/A and DA-351-2009 issued by Armidale Dumaresq Council (Council): this document, which refers to

development application determinations notified on 10 November 2011 and 22 December 2014 record that Council has granted development consent with respect to the proposed use of the Premises for "demolition and removal of existing structures and site vegetation and the erection of a retail supermarket and associated car parking facilities (Consent modification)".

20. Consent is granted subject to the hours of operation being limited to between 8:00am and 9:00pm Monday to Sunday.
21. Report to the Authority dated 18 June 2015 from a delegate of the (then) Secretary of NSW Trade and Investment (now the jurisdiction of the Department of Justice) via the Compliance Division of the then Office of Liquor Gaming and Racing (OLGR) now known as Liquor and Gaming NSW (LGNSW): In this document, LGNSW reports that the Director of Compliance "does not object" to this Application *provided that* the seven conditions to which the Applicant has consented and included as part of the Application are "endorsed on the liquor licence".
22. LGNSW notes that the proposed licensed trading hours sought for the Premises are from Monday to Friday 8:00am to 9:00pm, Saturday 8:00am to 6:00pm and Sunday 10:00am to 6:00pm.
23. LGNSW note that Hunter New England Local Health District (HNELHD) opposes the Application and expresses concern about the "impact of additional liquor retail outlets". LGNSW observe that HNELHD stated that the Application is "likely to contribute to further alcohol-related harm and negative health outcomes for the local community".
24. LGNSW note that NSW Police oppose the Application on the basis that Armidale Dumaresq Local Government Area (Armidale LGA) is "over supplied by liquor outlets" and has "above average levels of alcohol related crime when compared to the rest of NSW".
25. LGNSW observe that the "primary purpose" of this type of licensed business is the sale and supply of packaged liquor, meaning that the consumption of liquor cannot occur on the relevant licensed Premises.
26. However, with regard to the proposed opening times of the new liquor business, LGNSW advise that it "does not find any compelling evidence" to support the sale of liquor prior to 10am and contends that the sale of liquor prior to this time "may have an adverse impact upon the local and broader community".
27. LGNSW note that section 11A of the Act will apply, which stipulates (sic) that liquor must not be sold by retail on the licensed premises for a continuous period of six hours between 4:00am and 10:00am during each consecutive twenty-four hour period. (The Authority notes that while this is the default position provided by section 11A, the Authority has a discretion to fix an alternative closure period).
28. LGNSW further submit that:
  - the existing radial density of liquor licensed premises in the suburb of Armidale is "above the State average"
  - NSW Bureau of Crime Statistics and Research (BOCSAR) data shows that the Premises is located in a "combined low, medium and high density crime hotspots" in relation to the occurrence of *alcohol related assaults*
  - BOCSAR data from January 2014 to December 2014 indicates that:

- the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the state suburb of Armidale was 628 per 100,000 population compared to 311 per 100,000 persons for New South Wales as a whole
  - the rate of *alcohol-related disorderly conduct* offences in the state suburb of Armidale for the same period was 272 per 100,000 population compared to 100 per 100,000 persons for New South Wales as a whole.
29. LGNSW submit that the crime data indicates that Armidale "appears to have a concentration of alcohol-related anti-social behaviour".
  30. LGNSW note that Senior Constable Chris Borger from New England Local Area Command (LAC) of NSW Police has advised that Police object to the Application on the grounds of density, alcohol related crime statistics, population statistics and inaccuracies in the CIS information.
  31. LGNSW advise that there "did not appear" to be a submission from Council and as a result the position of Council on this Application is "not known". LGNSW note that the Applicant has provided development consent (DA-351-2009) for the proposed activity to be conducted on the Premises is in place.
  32. LGNSW observe that Ms Karen Gillham, Service Director at HNELHD has provided a detailed submission opposing the Application. LGNSW then provided a list of the ten issues "cited" by HNELHD in their submission. [The Authority notes HNELHD's submissions are discussed below].
  33. LGNSW further note that Ms Penny Sutton, Road User Safety Officer from RMS has provided a submission on behalf of RMS indicating the crash statistics for the Armidale LGA for the previous ten years. LGNSW observe that this RMS submission "does not indicate" if RMS support or oppose the Application but that RMS "requests the consideration of two initiatives the application be granted".
  34. LGNSW advise that a review of LGNSW Compliance Branch records did not disclose any adverse information regarding the Applicant "who has held licences since May 2011".
  35. Submission from Senior Constable Chris Borger and A/Commander Ann Joy at New England LAC of the NSW Police dated 7 May 2015: In this 22-page submission attached to the Authority's official submission form, Police object to the Application on the basis that Armidale LGA "is over supplied by liquor outlets compared to the rest of NSW and over represented with above average alcohol related crime".
  36. After noting a slight difference between the packaged liquor licence density statistics provided by the Applicant in the document entitled *Information – Application and Community Impact Statement* dated 8 April 2015 and the CIS provided by the Applicant dated 4 February 2015, Police refer to information contained in the Armidale LGA "Social Profile Report produced by OLGR in April 2015" which is Annexure 1 to the Police submission.
  37. (The Authority notes that LGNSW has not published a *Social Profile Report* since 2008, although up to date *liquor licence density* information is available from LGNSW).
  38. Annexure 1 to the Police Submission comprises a Table depicting the number of liquor licences per 100,000 person of population the Armidale LGA and NSW in 2008 and 2015.

39. Police submit that in April 2015 the number of liquor licences for this LGA is 289 outlets per 100,000 persons of population which is described by Police as "far higher" than the state average of 258 outlets per 100,000 of population.
40. Police contend that there are "seven" relevant packaged liquor licensed outlets in the Armadale LGA which equates to 28 outlets per 100,000 of population in the Armadale LGA compared to the state average of 34 outlets per 100,000 of population.
41. Police submit that within the Armidale LGA there are currently the following licensed premises:
  - four registered clubs
  - nine hotels (three of these have dedicated packaged liquor outlets)
  - seven packaged liquor licensed premises
  - six producers wholesaler licensed premises that can sell liquor as takeaway sales.
42. Police submit that the three drive through bottle shops that are attached to *hotel* licensed premises in Armidale (Whitebull Hotel, Royal Hotel and Railway Hotel) should be "factored highly" in a consideration of takeaway liquor sales in the communities and that that these drive through bottle shops should be added to the seven devoted packaged liquor licensed outlets that are noted above - bringing the total number of "takeaway" liquor outlets in the LGA to 10.
43. Police further contend that on the basis of a current population of 25,278 there are "39.956 packaged liquor outlets per 100,000 of population" which Police submit is "well above" the New South Wales average of 34 per 100,000 persons.
44. Police submit that the state suburb of Armidale is "further disadvantaged" by "being over represented in alcohol related crime".
45. Police refer to local data retrieved from the NSW Police *Alcohol Related Crime Information Exchange* (ARCIE) database on 4 May 2015 in respect of the alcohol related crime as recorded by the Local Area Command in the previous twelve months.
46. Police attach this data to their submission and make the following contentions:
  - *Alcohol Linking Monthly Report* for the Armidale Sector of the Local Area Command between May 2014 and April 2015 shows that:
    - 12 per cent of all crime for Armidale was related to alcohol
    - 40 per cent of all recorded assaults in Armidale involved alcohol
    - 30 per cent of domestic violence incidents in Armidale involved alcohol
47. By contrast, Police refer to and provide the *Alcohol Linking Monthly Report* for the State of NSW between May 2014 and April 2015 recorded that:
  - 10 per cent of all Police recorded crime in NSW was alcohol related
  - 33 per cent of all recorded assaults involved alcohol
  - 24 per cent of all recorded domestic violence incidents involved alcohol.
48. Police also refer to and provide a report on the *Number of People Linked to Last Place of Consumption Report* for the Armidale Sector of the LAC between May 2014 to April 2015 for incidents of Assault/Police. Police submit that this data discloses that:
  - 54 per cent of *assault Police events* involved persons who consumed their last drink in a location recorded as "home or at a private residence". Last drink was recorded as having occurred in a public place 5 per cent matters, while 30 per cent of events recorded that the person had their last drink at a licensed premises".

49. By contrast, Police refer to and provide a report on *Number of People Linked to Last Place of Consumption Report* for the State of New South Wales between May 2014 to April 2015 for incidents of Assault/ Police. Police submit that this data discloses that:
  - 51 per cent of Assault Police events involved persons who were recorded to have consumed their last drink at "home or at a private residence". 5 per cent of those events recorded the last drink as consumed in a public place while 29 per cent recorded the last drink consumed at a licensed premises.
  
50. Police then refer to and provide a *Last Place of Alcohol Consumption Report* for (what the Authority assumes is all alcohol related events involving Police engagement) in the Armidale Sector of the LAC between May 2014 to April 2015 and submit that this data discloses that:
  - 46 per cent of those events occurred in a location that was recorded as "home/private residence", 8 per cent in a "public place" and 31 per cent in a "licensed premises".
  
51. By contrast, Police refer to and provide a *Last Place of Alcohol Consumption Report* for the State of New South Wales between May 2014 to April 2015 and submit that this data indicates that:
  - 40 per cent of events were recorded to have occurred in home/private residence, 18 per cent in a public place and 23 per cent in a licensed premises.
  
52. Police also refer to and provide a *PCA Last Place of Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015. Police submit that this data indicates that 54 per cent of prescribed concentration of alcohol (PCA) offences involved alcohol that was last consumed in a private residence, with 38 per cent of PCA events involved alcohol that was last consumed in a licensed premises"
  
53. By contrast, Police a *Prescribed Concentration of Alcohol Last Place of Consumption Report* for the State of New South Wales between May 2014 to April 2015 discloses that:
  - 47 per cent of those events involved persons who last consumed liquor in a location recorded as "home/private residence" while 38 per cent recorded the liquor as having last been consumed in "licensed premises".
  
54. Police refer to and provide a *Intoxication Level by Last Place of Consumption Report* for the Armidale Sector of the LAC between May 2014 to April 2015. Police contend that this report is of concern to Police by reason that in the three categories of intoxication events that were recorded as involving persons who were *Moderately Affected*, *Well Affected* and *Seriously Affected* by alcohol, the location category of "home or private residence" records a higher reading in all three of those higher intoxication level categories.
  
55. Police submit that this data for the LAC indicates that:
  - Persons were in the "moderately affected" category in the location of "home/private residence" in 213 incidents by comparison to 162 incidents for the location category of "licensed premises"
  - Persons were in the "well affected" category in the "home/private residence" location category in 150 incidents by comparison to 107 incidents for "licensed premises"
  - Persons in the "seriously affected" category were recorded in the location category of "home/private residence" in 27 incidents compared to 10 incidents for the "licensed premises" location category.
  
56. By contrast, Police refer to and provide an *Intoxication Level by Last Place of Consumption Report* for the State of NSW between May 2014 to April 2015.



57. Police submit that that this report is of concern to Police by reason that in the three categories of *Moderately Affected*, *Well Affected* and *Seriously Affected* by alcohol, the location category of "home or private residence" for intoxication events records a higher reading in all categories for events across New South Wales. Police submit that this data indicates that:
- Persons were "moderately affected" in the location category of "home/private residence" in 37269 incidents across New South Wales compared to 22787 incidents for persons on "licensed premises"
  - Persons were "well affected" in the location category of "home/private residence" in 26521 incidents across New South Wales compared to 17062 incidents for persons on "licensed premises"
  - Persons were "seriously affected" in the location category of "home/private residence" in 3297 incidents compared to 1375 incidents for "licensed premises".
58. Police also refer to and provide an *Under Age - Last Place of Consumption Report* for the Armidale Sector of the LAC between May 2014 to April 2015. Police submit that this data indicates that:
- The location categories of "home/private residence" and "public place" together account for 66 per cent of all recorded under age liquor consumption events as the last place of alcohol consumption.
59. By contrast, Police refer to and provide an *Under Age - Last Place of Consumption Report* for the State of New South Wales as a whole between May 2014 to April 2015. Police submit that this data indicates that:
- The location categories of "home/private residence" and "public place" together account for 52 per cent of all Police recorded under age liquor consumption events during that period.
60. Police then refer to the population information provided by the Applicant. After examining the *Armidale Industrial Land Study* conducted by consultants AEC Group on behalf of Council dated May 2013, to which the Applicant also makes reference, Police observe that the figures in this study forecasting a population growth between 1.3 per cent and 2,5 per cent per annum between 2010 and 2036 are described as "scenarios".
61. Police submit by contrast that the forecasts for the Armidale LGA population produced by the NSW Department of Planning through to 2036 "forecast a decline in population to 22,300".
62. Police then refer to the points made by the Applicant in the CIS dated 8 April 2015 and refer to a research report, *Understanding and Responding to Alcohol-Related Social Harms in Australia. Options for policing* written by Roger Nicholas on behalf of the National Drug Law Enforcement Research Fund in March 2008 which cites Griggs, W., Caldicott, D., Pfeiffer, J., Edwards, N., Pearce, A., Davey, M. (2007). "The Impact of Drugs on Road Crashes, Assaults and other Trauma – A Prospective Trauma Toxicology Study". *NDLERF Monograph Series No. 20*. Payneham SA. National Drug Law Enforcement Research Fund - which reported that:
- ...patients attending the Royal Hospital Trauma Service or Emergency Department who were affected by interpersonal violence, almost 48 per cent tested positive to alcohol. Of all the assaults, the most common place of assault was at home, followed by the street, then within a trade or service area (generally a hotel)*
63. Police also refer to the research of Chikritzhs, Catalano, Pascal and Henrickson (2007) which Police contend pointed out that "most alcohol-related assaults occur in private premises".

64. Police make the general submission that "increasing the availability of alcohol in a given area increases assaults in private premises (which are more likely to be family–violence related) to a substantially greater level than it increases assaults in licensed premises" and for this reason it is "important to consider not only the impact of alcohol sales on assaults in public settings, but also in private settings".
65. Police conclude by making the following contentions about the circumstances of the local and broader communities at issue in this case:
- Armidale LGA is "well above the state average for Licensed Premises per head of capita of population" and would "remain above the state average on the current statistics for more than twenty years through to 2036"
  - This contention is "derived from" a population of 22,300 that is estimated by the NSW Department of Planning for 2036 and on the basis that "74 Licensed Premises including the proposed ALDI site would result in an above state average of 331 premises per 100,000 of population"
  - Police submit that this "over representation" of "high numbers" of liquor outlets in the Armidale LGA is a factor that "cannot be discounted" and should be considered by decision makers as a "contributing factor" in the "higher than state average Alcohol Related Crime" for the LGA
  - Police further submit that the Armadale LGA is "over the state average by 2 per cent" for *all* "alcohol linking" incidents, "7 per cent for assaults and 6 per cent for domestic assaults"
  - Police submit that the *Last Place of Consumption Reports* provided by Police at the level of the LAC show that the "vast majority" of incidents "occurred in the home or private residence" and for this reason it would be "reasonable to assume" that this alcohol was "sourced from packaged liquor outlets or other takeaway liquor outlets"
  - Police further submit that the *Intoxication Level by Last Place of Consumption* reports derived from Police data show that *intoxication levels* in incidents recorded by Police as having occurred in the home or in a private place were far higher than other locations and it would be "reasonable to assume" that this alcohol was sourced from packaged liquor outlets or other takeaway liquor outlets
  - Police submit that the *Under Age - Last Place of Consumption* reports show that the Armidale LGA "exceeds the state average for youths who are detected consuming alcohol in places other than a licensed venue"
  - Police submit that the Authority has "previously refused" a packaged liquor licence for an IGA Supermarket in Armidale during 2012. Police submit that decision was made on the basis of "similar figures produced by a police submission at the time".
66. Police attach the following evidence or other material in support of their submission:
- Number of liquor licences per 100,000 population for Armidale LGA compared to NSW in 2008 and 2015: this is indicated to be derived from the OLGR *Social Profile Report* from 2008 and LGNSW data
  - NSW Police *Alcohol Linking Monthly Report* for the Armidale Sector of the LAC between May 2014 and April 2015
  - NSW Police *Alcohol Linking Monthly Report* for the state of NSW between May 2014 and April 2015
  - NSW Police *Number of People Linked to Last Place of Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015 for incidents of Assault
  - NSW Police *Number of People Linked to Last Place of Consumption Report* for the State of NSW between May 2014 to April 2015 for incidents of Assault
  - NSW Police *Last Place of Alcohol Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015
  - NSW Police *Last Place of Alcohol Consumption Report* for the State of NSW between May 2014 to April 2015

- NSW Police Prescribed Concentration of Alcohol (*PCA*) *Last Place of Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015
  - NSW Police *PCA Last Place of Consumption Report* for the State of NSW between May 2014 to April 2015
  - NSW Police *Intoxication Level by Last Place of Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015
  - NSW Police *Intoxication Level by Last Place of Consumption Report* for the State of NSW between May 2014 to April 2015
  - NSW Police *Under Age - Last Place of Consumption Report* for the Armidale sector of the LAC between May 2014 to April 2015
  - NSW Police *Under Age - Last Place of Consumption Report* for the State of NSW between May 2014 to April 2015
  - *Armidale Industrial Land Study* conducted by consultants AEC Group on behalf of Council dated May 2013: containing pages 4-6 of this study
  - Armidale LGA population projections from 2006-2036 produced by the NSW Department of Planning dated 2011.
67. Letter from Senior Constable Chris Borger at New England LAC of the NSW Police dated 21 May 2015: In this two-page submission letter, Police note that Police submitted an objection on 8 May 2015 after been supplied with various documents. [The Authority notes that Police provide a list of these documents in this submission].
68. Police contend that on 20 May 2015, Police were provided with the "full" Category B CIS Form. Police contend that they were also informed that Council "had not been supplied" with this full CIS form.
69. Police note that in this CIS Form the Applicant has responded "No" to a question asking whether "any area that has been identified by the police as being a problem area in relation to public drinking".
70. On this matter Police contend that the location of the Premises is "situated between MacDonald Park and Central Park" and that "both these parks have been the subject of numerous occasions where police have had to deal with persons engaged in public drinking".
71. Police contend that five of the fifteen organisations nominated by the Applicant in the list of stakeholders who the Applicant is said to have consulted on the Application "no longer exist" and that after consulting with the Aboriginal Community Liaison Officer, Mr Wil Green and after conducting further enquiries Police submit that "there appears to be little knowledge in the Aboriginal community" in relation to the proposed new liquor business.
72. Police submit that the *Site Plan* provided by the Applicant showing the location of other premises located within 100 metres of the Premises appears to Police to not be a correct representation of nearby premises by reason that the Plan "appears to be situated further to the east which takes out a number of businesses to be notified".
73. Police contend that those businesses who were not apparently included in this 100 metre radius for consultation include "Liquor Land on Marsh Street, St Kilda Hotel on Rusden Street, KFC and PJ Thai on Marsh Street".
74. Police further contend that there is a "block of community housing consisting of 12 units situated approximately 50 metres to the west on Barney Street". Police contend that they "regularly attend" these premises for "alcohol issues".

75. Police attach the following further material in support of this submission:
- A geographical aerial map depicting Barney Street and Rusden Street
  - A geographical aerial map depicting the 100-metre notification radius provided by the Applicant and the notification radius that Police describe as the "true radius" for consultation on the Application.
76. Email from Town Planner Ms Linda Graham on behalf of Council to the Applicant dated 9 April 2015 at 2:43pm: advising that Council "offers no objection to the grant of a packaged liquor licence" at the address of the Premises "providing all alcohol sales occur within the opening hours stipulated on DA-351-2009/A (ie, 8:00am to 9:00pm, Monday to Sunday)".
77. Email from Town Planner Ms Linda Graham on behalf of Council to the Authority dated 15 May 2015 at 5:28pm: requesting an extension to the period within which to provide comment as Council's *Community Safety Committee* has raised concern regarding the Application and that Council require an extension of time to formulate an organisational position on the liquor licence Application.
78. Email from Authority Staff to Council dated 26 May 2015 at 5:03pm: advising that the Authority is unable to hold up the processing of the Application and that any submission from Council should be lodged as soon as possible.
79. Letter from Mr Rob Richardson, Chair of Armidale Dumaresq *Community Safety Committee* (ADCSC) of Council to the Applicant dated 29 May 2015:
80. Mr Richardson advises that the extension of time requested will allow Council to "complete its internal process" which includes consultation with the ADCSC and that the consultation with the ADCSC relates to "the social impacts, if any, a new or amended liquor licence has on the community".
81. Mr Richardson contends that:
- ADCSC "works closely with the Armidale Police on a range of local community safety initiatives"
  - ADCSC "believes the Armidale Police has lodged an objection" to the Application
  - Council "has no objections to the physical layout of the facility to house liquor"
  - ADCSC "agrees with the opinion of the Armidale Police" which is that "Armidale does not need another liquor sales outlet" based on "local police high crime statistics where alcohol is a contributing factor" and that Armidale is "above the state average with the number of current liquor licences operating per head of population in Armidale"
  - ADCSC understands that ALDI is a "discount supermarket providing customers with a wide range of high quality items at the lowest possible prices" and that ADCSC "feels strongly" that liquor "does not need" to be sold alongside of food items.
82. Submission from RMS dated 13 February 2015: RMS provide a graph which compares alcohol crash involvement for the Armidale LGA area, the Northern NSW region and the State of NSW between 2004 and 2013.
83. RMS submits on the basis of this data that:

*...on average 6.3 per cent of casualty crashes in the Armidale LGA were alcohol related which, although less than the proportion for Northern NSW (9.3 per cent) is above the figure recorded for New South Wales as a whole (5.2 per cent).*

84. RMS advise that there were "39 alcohol related casualty crashes in the Armidale LGA between 2004 and 2013" and that additional RMS information shows the following about the driver/rider of the "key vehicle" in these crashes:
- 74 per cent are male
  - 26 per cent were aged between 26-39
  - 51 per cent were aged between 17-25
  - 46 per cent recorded a high-range blood alcohol level
  - 31 per cent recorded a mid-range blood alcohol level
  - 85 per cent were residents of Armidale LGA
85. RMS provide the following additional information on these casualty crashes:
- 56 per cent of crashes occurred on a Friday, Saturday or Sunday
  - one person was killed and 50 people were injured
  - 31 per cent occurred during the 8:00pm to 12:00 midnight time period
  - 23 per cent occurred during the 12:00 midnight to 4:00am time period.
86. RMS recommends that if the Application is approved that the licensee "join and actively participate in the local Liquor Accord" and that the Licensee draw the staff's attention to the RMS brochure *Drinking and Driving: The Facts*.
87. RMS has attached to this submission *Alcohol Related Casualty Statistics* for the Armidale LGA between 2004 and 2013.
88. Submission from Ms Karen Gillham, Service Director at Hunter New England Local Health District (HNELHD) of Hunter New England Population Health (HNEPH) dated 5 May 2015: In this ten-page submission, HNEPH advise that they do not support the Application on the basis that granting the proposed new licence is "likely to contribute to further alcohol-related harm and negative health outcomes for the local community".
89. HNEPH makes the general contentions that the local community of Armidale LGA "already experiences high levels of alcohol-related harm due to both acute and chronic excessive consumption of alcohol "that alcohol-related harm places "significant strain on the health system with increasing number of people in NSW being admitted to hospital, requiring ambulance services and visiting emergency departments "that Hospitals and other front-line health services in Armidale LGA "already bear a substantial burden associated with treating disease and injury associated with excessive alcohol consumption" and that granting this additional licence is "likely to add to that burden and detract from the health system's overall ability to provide care and treatment to the entire community".
90. More specifically, HNEPH contends that the state suburb of Armidale has "higher proportions of demographics known to increase the risk of alcohol-related harm" including the following demographic data taken from the ABS 2011 census snapshot for Armidale:
- Indigenous population (6.5 per cent compared to 2.5 per cent for NSW)
  - Young people aged between 15 and 29 years (26.7 per cent compared to 19.7 per cent for NSW)
  - People over the age of 15 years who have never been married (42 per cent compared to 33.5 per cent for NSW)
  - Unemployed people over the age of 15 years (7.7 per cent compared to 5.9 per cent for NSW)
  - People who only speak English at home (87.7 per cent compared to 72.5 per cent for NSW).

91. HNEPH submits that ABS Census data further indicates that households living in the state suburb of Armidale have a lower median income (\$986 per week) compared to NSW (\$1237 per week) and that Armidale is also "highly populated" with University students in that 30.3 per cent of the population are either currently attending University or another tertiary institution (compared to 14.2 per cent for New South Wales as a whole).
92. HNEPH refers to research on the impacts of discounted alcohol prices and submits that:
- A 10 per cent increase in price results in a 4-5 per cent reduction in alcohol consumption –
    - Craig A. Gallet (2007). "The demand for alcohol: a meta-analysis of elasticities". *The Australian Journal of Agricultural and Resource Economics*, vol. 51(2):12M35
    - Wagenaar AC, Salois MJ, Komro KA (2009). "Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies". *Addiction*, vol. 104(2):179-90, 2009 Feb
  - Younger people (aged 15 to 29 years) are more affected by price than their older counterparts and are more likely to consume relatively cheap/low quality drinks:
    - Kuo M, Wechsler H, Greenberg P, Lee H (2003). "The marketing of alcohol to college students: the role of low prices and special promotions". *American Journal of Preventive Medicine* vol. 25(3)
    - Wechsler H, Kuo M, Lee H, Dowdall GW (2000). "Environmental Correlates of Underage Alcohol Use and Related Problems of College Students". *American Journal of Preventive Medicine*. 2000;19(1): 24-29
  - the effect of a change in the price of alcohol is greatest for high-frequency and heavy drinkers:
    - Grossman M, Coate, D & Arluck, GM (1987). "Price sensitivity of alcoholic beverages in the United States". In: Moore, M.H. & Gerstein, D.R., eds. "Control Issues in Alcohol Abuse Prevention Strategies for States and Communities". *Greenwich, CT: JAI Press*: 169-198
    - Coate D & Grossman M (1988). "Effects of Alcoholic Beverage Prices and Legal Drinking Ages on Youth Alcohol Use". *Journal of Law & Economics*, vol. 31(1):145-71
    - Laixuthai A &, Chaloupka FJ (1993). "Youth, Alcohol and Public Policy". *NBER Working Paper No. 4278*
    - Grossman M, Chaloupka F.J. & Sirtalan I. (1998). "An empirical analysis of alcohol addiction: Results from the Monitoring the Future panels". *Economic Inquiry*. 36(1):39-48.
  - When the price of alcohol is increased there is a reduction in alcohol-dependence, liver cirrhosis, drink-driving, work place accidents and lost productivity, child abuse and domestic violence and alcohol-related diseases and injuries:
    - S. Farrell, W. G. Manning and M. D. Finch. 2003. "Alcohol Dependence and the Price of Alcoholic Beverages". *Journal of Health Economics* 22:1117-47
    - Cook, P.J., and Moore, M.J. (2002). "The economics of alcohol abuse and alcohol-control policies. Price levels, including excise taxes, are effective at controlling alcohol consumption: Raising excise taxes would be in the public interest". *Health Affairs*, 21(2), 120-133
    - Cook, P.J., and Tauchen, G. (1982). "The effect of liquor taxes on heavy drinking". *Bell Journal of Economics*, 13(2), 37930
    - Babor T, Caetano R, Casswell S, Edwards G, Geisbrecht N, Graham K, Grube J, Gruenewald, P, Hill L, Holder H, Homel R, Osterberg E, Rehm J, Room R, Rossow I. (2003) "Alcohol: No Ordinary Commodity". *New York: Oxford University Press*, pp. 101-2,105-6, 235-6,264,270,278
    - Kenkel DS (1993). "Drinking, Driving, and Deterrence: The Effectiveness and Social Costs of Alternative Policies," *Journal of Law & Economics*, *University of Chicago Press*, vol. 36(2), pages 877-913, October

- Chaloupka F.J, Saffer H, and Grossman M. (1993). "Alcohol control policies and motor vehicle fatalities". *Journal of Legal Studies*, 22,161-186
  - Ohsfeld T, R L, Morrissey M A. "Beer taxes, workers' compensation and industrial injury". *The Review of Economics and statistics* 199779(1): 155-160
  - Markowitz S & Grossman M (1999). "Alcohol regulation and violence towards children". *NBER Working Paper No. W63S9*
  - Chaloupka FJ, Grossman M, Saffer H (2002). "The effects of price on alcohol consumption and alcohol-related problems". *Alcohol Res Health*. 200226(1):22-34
  - Sloan FA, Reilly BA, and Schenzler C. (1994) "Effects of prices, civil and criminal sanctions, and law enforcement on alcohol-related mortality". *Journal of Studies on Alcohol*, 55,454-465
  - Chikritzhs T, Stockwell T, Pascal R. (2005). "Alcohol Taxes Saves Lives: Response To Holder. Letters To The Editor:" *Addiction*. 100(12):1885-1886, December 2005.
93. HNEPH further submit that the suburb of Armidale currently hosts the following registered club and hotel licensed premises, most of which hold an extended trading authorisation:
- four registered clubs (The Armidale Club, Armidale City Bowling Club, Armidale Ex-Services Memorial Club and Armidale Golf Club)
  - eight hotels (White Bull, Grand, Imperial, New England, Railway, Royal, St Kilda and Wicklow).
94. HNEPH refers to research on the relationship between alcohol outlet density and social impact, submitting that:
- granting this Application "may" increase competition and reduce prices
  - there is a "clear link between increasing density and alcohol-related harms"
    - Tatlow, JR, Clapp, JD & Hohman MM (2000). "The relationship between the geographic density of alcohol outlets and alcohol-related hospital admissions in San Diego Count". *Journal of Community Health*, vol. 25, pp. 79-88
    - Freisthler, B, Midanik, LT & Gruenewald, PJ (2004). "Alcohol outlets and child physical abuse and neglect: Applying routine activities theory to the study of child maltreatment", *Journal of Studies on Alcohol*, vol. 66, pp. 586-592
    - Jewell, RT & Brown, RW (1995). "Alcohol availability and alcohol-related motor vehicle accidents", *Applied Economics*, vol. 27, pp. 759-765
    - LaScala, EA, Gerber, D & Gruenewald, PJ (2000). "Demographic and environmental correlates of pedestrian injury collisions: a spatial analysis", *Accident Analysis and Prevention*, vol. 32, pp. 651-658
    - Gruenewald, PJ, Johnson, FW & Treno, AJ (2002). "Outlets, drinking and driving: A multilevel analysis of availability", *Addiction*, vol. 63, pp. 460-468
    - Escobedo, LG & Ortiz, M (2002). "The relationship between liquor outlet density and injury and violence in New Mexico", *Accident Analysis and Prevention*, vol. 34, pp. 689-694
    - Livingston M (2008). "A longitudinal analysis of alcohol outlet density and assault". *Alcoholism: Clinical and Experimental Research*. Vol 32No 6. June 2008
    - Cameron MP, Cochrane W, McNeill K, Melbourne P, Morrison S and Robertson N (2012). "Alcohol outlet density is related to police events and motor vehicle accidents in Manukau City, New Zealand". *Aust NZ J Public Health*. 36(6):237-542.
95. HNEPH submits on that there is an "association between the number of standard drinks per drinking day and the number of liquor outlets within the service area (within 1600m of residence), however a stronger association was found for an association with harmful

consumption in the past four weeks, with harmful consumption increasing by 6 per cent for every outlet in the area":

- Pereira G, Wood L, Foster S, Haggard F (2013). "Access to alcohol outlets, alcohol consumption and mental health". *PLoS ONE* 8(1): e53461. Doi:10.1371/journal.pone.0053461.
96. HNEPH submits that contact with hospitals, outpatient services or emergency departments for stress, anxiety or depression was "significantly increase when there was at least one outlet in the area compare to no outlet":
- Pereira G, Wood L, Foster S, Haggard F (2013). "Access to alcohol outlets, alcohol consumption and mental health". *PLoS ONE* 8(1): e53461. Doi:10.1371/journal.pone.0053461.
97. HNEPH then refers to the regulatory scheme maintained by the Secretary of the Department of Justice for the classification of licensed premises in New South Wales pursuant to schedule 4 to the Act.
98. HNEPH contends that that Armidale HQ (a hotel) was listed as a Level 2 declared venue in Round 12 December 2014, while the New England Hotel was listed as a declared venue in rounds two, three, four and nine. The White Bull Hotel was listed in rounds two, three and five of that scheme. HNEPH submits that consideration should be given to the addition of a new liquor licence in an area that has "problematic venues".
99. HNEPH then discusses the BOCSAR crime data for the communities and submits that:
- The rate for *domestic-related assaults* in Armidale (661.9 per 100,000) was higher than NSW in the year to December 2014 (398.2 per 100,000)
  - The town of Armidale and nearby suburbs "has some hotspots for domestic-related assaults"
  - The rate for *non-domestic assaults* recorded in Armidale (844.4 per 100,000) was higher than NSW in the year to December 2014 (431.8 per 100,000)
  - The rate of *non-domestic assault* in the suburb of Armidale "remained stable" in the 5 years prior to December 2014 while New South Wales experienced a decrease of 6.2 per cent per year
  - The town of Armidale has a hotspot for *non-domestic assaults*
  - The rate of *malicious damage to property* events in Armidale (1493.6 per 100,000) was higher than the rate recorded for New South Wales as a whole the year to December 2014 (931.7 per 100,000)
  - Some areas of Armidale have "high levels of malicious damage to property".
100. HNEPH then discuss the issue of alcohol consumption in adults aged 16 years and over in Hunter New England Health District by reference to NSW Health data regarding:
- *Alcohol Consumption at Levels Posing Lifetime Risk to Health by Local Health District, Persons Aged 16 Years and Over, NSW 2013*
  - *Alcohol Consumption at Levels Posing Lifetime Risk to Health by Remoteness from Service Centres and Sex, Persons Aged 16 Years and Over, NSW 2013.*
101. HNEPH submits on the basis of this data that:
- The "proportion of adults consuming alcohol at a level that poses an increased risk over their lifetime was 31.5 per cent for the HNELHD compared to 26.6 per cent for all of NSW"
  - Males "residing in 'inner regional' areas of New South Wales (including Armidale) are consuming at risky levels at a higher proportion than NSW (42.6 per cent compared to 36.4 per cent for NSW), and their major city-residing counterparts (34.4 per cent)" and that females residing in such areas are "also consuming alcohol at higher rates than NSW overall".



102. HNEPH then discusses the issue of alcohol consumption in school students aged 12 to 17 years by reference to NSW Health data on *Alcohol Drinking by Local Health District Group in NSW, Secondary School Students Aged 12-17 Years, Drank Alcohol in the Past 4 weeks, 2011*.
103. HNEPH submits that this data indicates that the HNELHD has a "higher proportion of students drinking alcohol in the past 4 weeks (35.1 per cent) compared to all of NSW (26.9 per cent)" and that students residing in regional/rural areas are consuming alcohol at "higher rates than their metropolitan counterparts (33.7 per cent compared to 23.5 per cent)".
104. HNEPH then discuss the issue of university students and alcohol consumption and submit that this cohort of the population are at "high risk of excessive consumption and alcohol related harm". HNEPH submit that:
- Excessive alcohol consumption by university students "has been well established"
  - The (US) *National Institute on Alcohol Abuse and Alcoholism* reported that "80 per cent of college students drink alcohol" and "almost half reported binge drinking in the past two weeks"
    - National Institute on Alcohol Abuse and Alcoholism. "College Drinking". July 2013. Available at: <http://pubs.niaaa.nih.gov/publications/CollegeFactSheet/CollegeFactSheet.pdf> (Accessed on 26/8/14)
  - Each year "1825 students between the ages of 18 and 24 die from alcohol-related unintentional injuries, and almost 600,000 are intentionally injured whilst under the influence of alcohol"
    - National Institute on Alcohol Abuse and Alcoholism. "College Drinking". July 2013. Available at: <http://pubs.niaaa.nih.gov/publications/CollegeFactSheet/CollegeFactSheet.pdf> (Accessed on 26/8/14)
  - An Australian online survey of over 7,000 students reported that 34 per cent were drinking alcohol at a hazardous level, with males and Australian/New Zealand residents having significantly increased odds of being categorised a alcohol dependent. This survey further identified that "4 weeks prior to the survey, 13 per cent had been insulted or humiliated and 6 per cent had been pushed, hit or otherwise assaulted by other who were drinking".
    - Reavley NJ, Jorm AF, McCann T, Lubman DI. "Alcohol consumption in tertiary education students". *BMC Public Health* 2011;11:545
  - A survey of 774 tertiary students in Melbourne found that "33 per cent were drinking 6 or more standard drinks in one session at least monthly":
    - Hallte J, Howat PM, Maycock BR, McManus A, Kypri K, Dhaliwal SS. "Undergraduate student drinking and related harms at an Australian university: web-based survey of a large random sample". *BMC Public Health* 2012;12:37. doi:10.1186/1471-2458-12-37.
105. On the extent of consultation conducted by the Applicant HNEPH submit that "at a minimum" the location of "all community buildings, facilities and places located in the Armidale suburb should be considered" due to their "close proximity to the proposed outlet, and potential increased access to risk".
106. HNEPH has provided a list of community buildings, facilities and places omitted from the CIS in Armidale that should be considered when deciding whether this licence should be granted.

107. Email from Authority Staff to the Applicant dated 19 June 2015 at 3:29pm: informing the Applicant of the submissions from NSW Police, Council and Health and inviting the Applicant's consent to a condition requiring compliance with the "Management Plan, House Policy documents" provided by the Applicant to the Authority. The email also invites consent to the to the imposition of the following "standard" conditions imposed upon new packaged liquor licences:
- that for the purpose of section 11A of the Act, the 6-hour closure period will be between 2:00am and 8:00am
  - 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"
  - that the licensee "join and be an active participant in the local liquor accord"
  - that the "liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier"
  - that the licensee will "not sell refrigerated liquor products from the licensed premises"
  - that the licence cannot be exercised until the Authority "has been notified of the appointment of a manager to the licence"
  - that the licence cannot operate until the Authority has been provided with "evidence that the premises are complete and ready to trade".
108. Letter from Hatzis Cusack Lawyers on behalf of the Applicant to the Authority dated 27 January 2016: In this twenty-five page document the Applicant discusses aspects of the Application in relation to social impact including the business proposed by ALDI, the location of the Premises being outside the main CBD precinct, the grant of planning approval for the proposed use of the Premises, the issue of population growth / tourism / education / infrastructure / retail / in the city of Armidale, licence density and existing packaged liquor facilities, clubs and hotels in Armidale, SEIFA and demographic profile data for the communities, the A&M consultant's report on the Application, contended "positive benefits" of granting the Application and the Applicant's response to submissions received during the Application stage and the "position of various stakeholders".
109. The Applicant consents to the imposition of eight conditions listed at points two and three of the email from Authority staff dated 19 June 2015.
110. On the potential for the grant of this Application to have an adverse social impact upon the communities, the Applicant submits that the Premises will be "wholly located within an ALDI supermarket", will trade "less" hours than the standard hours and those typically traded by major licensed supermarkets, will provide "approximately 100 lines of liquor" compared to a typical BWS store that carries around 2,000 lines. The business will not sell refrigerated liquor products.
111. The Applicant further submits that the ALDI Supermarket will comprise a "standalone supermarket" that is not located within a shopping centre the Premises will be located "some distance from and on the edge of the main commercial precinct of Armidale" customers will have access to a "large car park" customers will attend the supermarket "by car and park in the adjoining ALDI car park" and that Council "previously granted development consent in respect of the ALDI Supermarket including the packaged liquor facility".
112. The Applicant contends *inter alia* that:
- The City of Armidale is "recognised as the commercial, cultural and administrative centre of not only the LGA but also, along with Tamworth, the wider New England region"

- In 2011 population of the "region" was 144,887
- The local Council, in a submission to the current Senate inquiry into the future role and contribution of regional capitals to Australia, defined regional capitals as serving "a population who reside across a hinterland on properties, in villages, towns and cities" and who attend the regional centre for access to health services, education, transport, community services, aged care, disability, youth facilities, unemployment services, Aboriginal and Torres Strait Islander (ATSI) services, performing arts and commerce
- Armidale's education and training industry is its "largest industry" due to the presence of a number of major educational facilities and schools
- University of New England is Australia's oldest regional university with "more than 20,000 current students and 1,200 members of staff" in 2012
- The planned upgrades at the Armidale Airport are "in response to a steady increase in passenger numbers at the Airport
- The *Armidale Regional Airport Master Plan* (May 2014) forecasts an annual passenger traffic growth rate of "3 per cent up to 2023"
- Armidale Railway Station has a daily service to and from Sydney
- There are major coach services operating to and from Sydney, Brisbane and Melbourne
- Armidale is traversed by the New England Highway which is a "major inland transportation route between Brisbane and Sydney"
- Armidale features two hospitals with planning for redevelopment of the Armidale Public Hospital been underway since 2014
- Armidale houses "four shopping centres"
- In September 2010 Armidale was "identified as an Evocity" with the Evocities Campaign showcasing opportunities available in regional cities for persons wishing to move away from Sydney"
- The population of the LGA has been "steadily increasing since 2004"
- The *Armidale Industrial Land Study* undertaken by the AEC Group on behalf of Council in May 2013 posits a population growth of between "1.3 per cent and 2.5 per cent per annum between 2010 and 2036"
- The *New England Development Strategy* (April 2010) estimated that the LGA would "need to accommodate an estimated 3,680 new dwellings up to 2021"
- The latest statistics published by NSW Planning and Environment predict that the LGA's population will increase by 6,500 persons by 2031, or 25.8 per cent, at an annual rate of 1.1 per cent" and this will make it the "fifth fastest growing regional LGA in NSW"
- Armidale and the LGA is a "tourist destination" located within the "heart of the New England wine region" encompassing 27,000 square kilometres making it "one of the largest wine regions in Australia"
- In the year ending September 2014, "a total of 444,000 persons visited the LGA, spending a total of \$103 million".

113. On the issue of prevailing liquor outlet density in the communities the Applicant contends that:

- There five packaged liquor licences located within the suburb of Armidale
- None of the four registered clubs in Armidale provide a "separate dedicated packaged liquor facility"
- One of the ten hotel licensed premises in Armidale holds a general bar licence which does not permit packaged liquor sales
- Of the remaining nine hotels, only three (White Bull Hotel, Railway Hotel Tavern and Royal Hotel) provide a "separate dedicated packaged liquor facility"
- Nine of the ten hotel licences were granted between 1956 and 1960 with the remaining hotel licence being granted last year (being the hotel the subject of a general bar licence)

- The *Liquorland* outlet at Rusden Street, being the closest packaged liquor facility to the Premises, has "ceased trading"
  - There are only "4 operating packaged liquor licences and 3 (small) packaged liquor facilities associated with a hotel"
  - There is "more than ample room for a small packaged liquor facility such as that proposed".
114. The Applicant provides a table of ABS SEIFA scores and deciles for the Armidale LGA and the state suburb of Armidale, contending that a number of "small areas" within the LGA "had higher IRSEAD scores in 2011".
115. The Applicant contends that both the LGA and Armidale suburb have a "high proportion of professionals", that Council indicate that this figure is the "highest amongst all inland regional NSW LGAs" and that the LGA's median weekly household income, whilst lower than the corresponding NSW figure, "is higher than that of Regional NSW".
116. The Applicant submits, on the basis of the findings made in a report from a consultant engaged by the Applicant Mr A Purcell from A & M Consultants (Consultant) dated 11 October 2015:
- There are no other "major retail outlets in the vicinity" of the Premises
  - Coles supermarket (which has a packaged liquor facility attached) is located "more than 500m away on the northern edge of the CBD"
  - Woolworths (which has a packaged liquor facility attached) is located "approximately 800m away on the north-western edge of the CBD"
  - The only packaged liquor outlet within walking distance of the Premises is the Liquorland situated on Rusden Street which has "since ceased to trade" and the walk involves a distance of "300m, which would be highly inconvenient for customers transporting heavy items of liquor and prohibitive for many"
  - Most customers attending the ALDI Supermarket "would travel by vehicle and would then undertake a special trip with their vehicle from the ALDI Supermarket to the existing liquor outlets"
  - The car park adjoining the Rusden Street Liquorland which is no longer trading would be "extremely busy during peak shopping periods"
  - The range of packaged liquor available at the White Bull Hotel is "extremely small" and this liquor outlet is intended for hotel patrons leaving the venue rather than customers "wishing to purchase their weekly alcohol requirements"
  - The Royal Hotel's packaged liquor outlet "has no dedicated off-street parking" and on-street parking was "very limited" during the Consultant's site assessment
  - The Royal Hotel's range of packaged liquor on offer is "small and limited"
  - The journey by car from the Premises to the Liquorland outlet attached to the Coles Supermarket on Marsh Street took "approximately six minutes"
  - The journey from the Premises to the Railway Hotel Tavern is "approximately 1.2km in length" and this hotel only has a "limited range and quantity of liquor on offer"
  - The distance from the Premises to either Dan Murphy's or BWS is "approximately 1km"
  - The journey to Freddy's Liquor took "approximately five minutes and spanned a journey of approximately 2km" and this store carries a "relatively small range"
  - The already "steady to heavy traffic on Marsh Street" would be "considerably heavier during peak trade periods"
  - The site of the proposed business is "somewhat isolated"
  - Customers who patronise the ALDI Supermarket "will expect" to be able to "conveniently" purchase liquor while they undertake their shopping

- If the Application is not granted ALDI customers will have to undertake a "time consuming, inconvenient and potentially hazardous vehicular trip" to purchase packaged liquor elsewhere
- Freddy's Liquor, White Bull Hotel, Railway Hotel Tavern and Royal Hotel are "extremely small in physical size and very limited in terms of range and quantity of alcohol available", these premises "appear to only service patrons who are already attending the relevant Hotel or who are customers of the Girraween Shopping Centre" and it is not a "reasonable proposition that patrons will be drawn to any of these locations solely to purchase liquor"
- Numerous liquor products are "already offered" in Armidale at a "similar price to that currently offered by ALDI Supermarkets throughout NSW"
- ALDI operates a "uniform pricing model" such that liquor prices are the same at all of the ALDI's Stores
- The Consultant observed, at the Rusden Street Liquorland and the BWS, "extended periods of time during which the sole store attendant was either completely absent from the retail floor or well away from the entrances, exist and the counter" and this is in "contrast to the various measures employed at ALDI Supermarkets, which include state-of-the-art CCTV monitoring and the location of the licensed area in close proximity to the checkouts".

117. [The Authority notes that the public interest benefits identified by the Applicant in this document are discussed in further detail below under the Applicant's case on overall social impact].
118. The Applicant acknowledges the submission received from LGNSW and notes that this agency does not object to the Application and that LGNSW have rated the location risk as "moderate", include the input figure in respect of alcohol-related assaults as 8.01 which is on the "lower end of the range of values classified as moderate and assessed the venue risk as "low".
119. In response to LGNSW not supporting the sale of liquor prior to 10am, the Applicant refers to its submission "Additional Information – 6-hour Closure Period" which accompanied the Application. The Applicant submits that it has provided detailed evidence in respect of the "need" for the proposed 6-hour closure period and why this would "not likely result in any liquor-related harms". The Applicant contends that "all licensed ALDI Supermarkets are the subject of a varied 6-hour closure period which permits the relevant supermarket to commence selling liquor prior to 10.00am", that the proposed 6-hour closure period "will allow customers of the Supermarket the convenience of attending to their grocery and liquor needs simultaneously and prior to 10.00am" and the approval of this closure period is "most unlikely to result in any increase in alcohol-related violence occurring prior to 10.0am".
120. The Applicant submits that "no neighbouring occupiers nor any of the 31 special interest groups notified raised any concerns" with the Application and Family and Community Services "did not raise any concerns".
121. The Applicant notes the letter from RMS and advises that a response was sent to RMS in which the Applicant agreed to implement the measures proposed by RMS, where relevant, agreed to join and be an active participant in the Local Liquor Accord.
122. The Applicant submits that the data provided by RMS demonstrates that:
- the "percentage of casualty crashes that were alcohol-related in 2013 was on par with the NSW figure, at 4.7 per cent compared to 4.6 per cent, and lower than the Northern Region RMS figure of 7.2 per cent"

- During the period 2004-2013 the percentage of casualty crashes that were alcohol-related in the LGA was "slightly higher than the State percentage, at 6.3 per cent as opposed to 5.2 per cent, but was again lower than the Northern Region RMS figure of 9.3 per cent".
123. On the submissions made by Police on prevailing licence density in the communities, the Applicant submits that:
- The numerous liquor licences in Armidale "relate to restaurants or wineries" which is to be "expected" seeing that Armidale "functions as a regional centre, is known for its provision of high quality food and is located within the New England wine region"
  - On-premises licences for restaurants and producer wholesaler licences are "typically low impact licences"
  - Police adopted a "double-counting technique" by suggesting that the three drive-thru bottle shops that are attached to hotels in Armidale be added to the list of packaged liquor licences in the LGA. The Applicant submits that this approach "confuses statistical comparisons" and is "simply incorrect to alter the density calculations in this way"
  - The "actual" density of *packaged liquor licenced premises* in the LGA is at "29.03" which the Applicant submits is "lower than the NSW density of 35.48" and which has been reduced further by the closure of the Liquorland business in Rusden Street
  - The Applicant submits that although the density of *hotel licenses* in the suburb and the LGA is higher than the NSW average, only 3 of the 10 hotel licences in the Armidale suburb have "separate bottle shops".
124. On the Police use of crime data, the Applicant submits that rather than relying upon BOCSAR data, Police relied upon various Police linking and alcohol consumption reports.
125. The Applicant's Consultant submits that these reports rely on alcohol linking data which is based on "untested information provided by the people arrested or involved in incidents when questioned by Police at the time of the offence" and this means that the accuracy of the information obtained "depends upon the integrity of the individual who has supplied the information, along with the circumstances in which that information was provided".
126. The Applicant further submits that the *Intoxication Level by Last Place of Consumption Report* relies upon an "individual police officer's subjective assessment of the intoxication level of a person of interest" and there is "no means available by which such an assessment, purely based on observation, can be verified".
127. The Applicant makes the following further submissions:
- Notwithstanding the "inherent unreliability" of the reports quoted by Police, the comparisons made between Armidale and NSW "are not especially concerning"
  - BOCSAR data "indicates that rates of various alcohol-related assault in Armidale suburb and the LGA are higher than NSW rates" however, this data also indicates that the rates of alcohol-related assaults in Armidale suburb "have been very rapidly declining since 2012"
  - The rapidly declining rates of alcohol-related assaults "may be attributable to the LGA's increasingly advantaged and stable population"
  - A comparison of the 2006 and 2011 ABS Census data demonstrates that:
    - The LGA's unemployment rate "dropped from 8.3 per cent to 7.4 per cent" while the Australian rate increased

- The most common occupation in the LGA was "professional" for both 2006 and 2011 and the proportion of employed persons providing this response has "increased from 24.4 per cent to 24.8 per cent"
- The proportion of private occupied dwellings owned with a mortgage has "increased from 25.3 per cent to 27.0 per cent"
- The proportion of family households has increased (from 62.9 per cent to 66.3 per cent) and group households has decreased (from 5.7 per cent to 5.0 per cent)
- The higher than average rate of alcohol-related non-domestic violence assault "can be attributed to the conglomeration of late-night trading venues in Armidale"
- Of the 4 clubs in Armidale "three are endorsed with unrestricted trading hours"
- Of the 10 hotels in Armidale "eight are endorsed with an extended trading authorisation"
- 58.6 per cent of all non-domestic violence assault incidents in Armidale occurred at night according to BOCSAR figures and the NSW comparable figure is 49.2 per cent
- BOCSAR data for the year ending September 2015 "17.6 per cent" of all no-domestic violence assault in Armidale occurred on licensed premises whereas the figure for NSW was 11.4 per cent
- Granting this Application will "significantly convenience grocery shoppers" whilst creating "little or no potential for any increase" in alcohol-related non-domestic violence assault rates"
- The liquor department of the Premises will "generally be shut" during the night-time period or periods which have been "generally highlighted" as being problematic for pre-loading
- BOCSAR data shows "higher-than-average, but rapidly declining", rates of domestic violence assault".

128. On the reference by Police to crime research demonstrating an association between licensed outlet density and social harms, the Applicant submits that:

- Most "recent" research suggests that there is "no such association" between rates of domestic violence assault and packaged liquor licence densities such that "any increase in alcohol outlet density will not exacerbate" domestic violence assault rates". The Authority notes that the Applicant discusses the following research:
  - Waller MW & Ors – "Relationships Among Alcohol Outlet Density, Alcohol Use and Intimate Partner Violence Victimization Among Young Women in the United States" – *Journal of Inter-Personal Violence*, (2012) Volume 27(10). Pp 2062-2086
  - Gorman DM Labouvie & Ors – "Alcohol Availability and Domestic Violence", *American Journal of Drug and Alcohol Abuse*, Volume 24, Pages 661, 673 (1998)
  - Cunradi CB & Ors – "Alcohol Outlet Density and Intimate Partner Violence – Related Emergency Department Visits", *Alcoholism: Clinical and Experimental Research*, Volume 36, No. 5, May 2012
- The significance of this research is that whilst the rate of alcohol-related domestic violence assault in Armidale LGA is above State averages, "the research does not provide a foundation for apprehending that rates of domestic violence will increase due to the grant of a small licence within the footprint of the ALDI Supermarket".

129. On the nature of the licensed business proposed by ALDI, the Applicant submits that the proposed outlet will be a "small one" and that its sales are "likely drawn from other incumbent operators" as ALDI customers are "spared the necessity to make a separate trip to acquire packaged liquor".

130. On the demographic data for the communities, the Applicant submits that demographic indicators pertaining to both Armidale and the Armidale LGA are "suggestive of a socially cohesive population".
- On the identification by Police of local sites of concern to Police, and Police submissions with regard to public consumption of alcohol, the Applicant submits that Police were contacted in respect of the Applicant's Notice of Intention to make this Application and "did not, at that stage" advise of the existence of the problem areas later identified by Police, MacDonald Park and Central Park
  - BOCSAR data for the year ending June 2015 for incidents of liquor offences, indicate that 85.1 per cent of offences against the Liquor Act were recorded to have occurred on licensed premises, 6.8 per cent occurred on a road/street/footpath while "none occurred in a park or in bushland/a garden"
  - The Applicant submits that the BOCSAR figures for the year ending June 2015 for incidents of Liquor Act offences indicate that Armidale "does not currently experience public drinking in parks to any significant degree"
  - ALDI's liquor products are to be sold unrefrigerated which means they are "less likely to be consumed immediately or impulsively"
  - MacDonald Park is located "approximately 300m" from the Premises and this distance makes it "unlikely that persons purchasing liquor will engage in public drinking to any significant degree", Central park is "approximately 450m" from the Premises and both of these locations are "closer to, or as close to, existing packaged liquor facilities"
  - The Applicant notified an "extensive list of stakeholders" and ATSI representatives of the Application (which the Authority notes have been listed by the Applicant) and "no responses" were received from any of these organisations which suggest that the recognised community leaders of the ATSI community "do not hold concerns that the grant of this modest application might adversely affect their communities"
  - The 100 metre notification radius was calculated from the boundary of the proposed ALDI Supermarket building which is "all that is required by the Regulation"
  - The notification area depicted on the map which accompanied the Application was "in accordance with" and was "much larger" than that required by the Regulation.
131. The Applicant notes that Council has "previously issued development consent" in respect of the Supermarket and the proposed packaged liquor facility, that on 9 April 2015 after lodging the Application an email was received from Council offering "no objection" to the Application providing all alcohol sales occur within the hours specified in the development consent and that Council then provided a submission "primarily informed" by the contents of the Police objection in which Council does not object to the "proposed layout of the ALDI Supermarket's proposed licensed area" but assert that Armidale "does not need another liquor sales outlet" and "liquor does not need to [be] sold alongside food items".
132. In response to the submissions from Council, the Applicant contends that there are "numerous supermarkets, including many ALDI Supermarkets, located throughout NSW that are the subject of a packaged liquor licence", sections 30 and 31 of the Act "specifically" permit the "provision of liquor departments in supermarkets, subject to certain controls" and the public "has in fact come to expect a supermarket will offer a conveniently located liquor facility, to allow for the convenience of a one-stop shopping".
133. The Applicant responds to the submission from NSW Health with the following contentions or submissions:
- The rates of alcohol-related hospitalisations for the LGA between 2001 and 2014 as recorded by Health Statistics NSW indicate that the LGA rates have been "below" State averages for the past "eight periods and very significantly below



State averages for the last four periods" and that these figures "do not suggest" that the LGA currently experiences high levels of alcohol-related health harms"

- Relatively high SEIFA scored for the LGA and suburb suggest a "relatively stable and advantaged population"
- It is true that there is a significant student population, however the University of New England's students tend to be "relatively mature" with the university's website stating that the average age of its students was 34 years in 2011. The Applicant contends that this suggests that the student cohort is "less likely to engage in reckless behaviour, such as excessive alcohol consumption"
- There are already "low priced liquor products" presently available in Armidale
- The existence of such "highly competitive supermarket-based liquor pricing at present in Armidale makes it unlikely that the presence of a small ALDI liquor department would drive down prices in Armidale"
- The density of packaged liquor outlets in Armidale was "well below the NSW average", according to data released by LGNSW in March 2015
- Although hotel licence density is higher than the State average "only three of the 10 hotels provide a separate packaged liquor department"
- The proposed business is "unlikely to contribute to any violent behaviour occurring at any of the hotels in Armidale"
- The HNELHD "spans a very large geographical area" and comprises a "number of remote areas" such that the figures for that area may bear "little relation to rates of alcohol consumption in Armidale" and may be "significantly skewed"
- Alcohol-related health data that pertains specifically to the LGA is "actually very favourable". The Authority notes that the Applicant includes a table of alcohol-related hospitalisations for the LGA as reported by Health Statistics NSW from 2001 to 2012 which shows that between 2012-2014 the standard separation ratio was 69.1 when the state average equals 100
- The list of buildings facilities and localities claimed to have been erroneously omitted from the CIS are premises that are "located between 200m and 4km away" from the Premises and are not required to be disclosed as "near" as per the requirements of part 2 of the CIS.

134. The Applicant attaches the following further material with this submission:

- Two plans for the Premises approved by Council depicting the extent of the site and the proposed location of the Supermarket and associated car parking area at the site
- Five photographs taken from Google of the proposed site (which is under construction), as well as certain views up and down Barney Street depicting the location
- A copy of recent modification of development approval DA-351-2009/B modifying DA-351-2009/A and DA-351-2009 issued by Council on 4 March 2010, notified on 10 November 2011 and 22 December 2014 together with the plan of the Premises
- Report by Mr A Purcell from A & M Consultants dated 11 October 2015
- A copy of the email from Council dated 9 April 2015 at 2:43pm in which Council advise "no objection" to the Application.

135. Report by Mr A Purcell from A & M Consultants on behalf of the Applicant dated 11 October 2015: In this 8-page report Mr Purcell discusses *inter alia* the proposed ALDI packaged liquor outlet, the existing liquor outlet options, alcohol availability in Armidale and alcohol-related crime.

136. Mr Purcell makes the following submissions and contentions going to the overall social impact of granting the Application:

- it is "generally accepted" that members of our community prefer to undertake one-stop shopping while on their regular shopping journeys rather than having to

- undertake "special trips for items such as liquor" [The Authority notes that the Consultant has not provided evidence in support of this proposition]
- it is "reasonable to accept" that a "significant proportion" of ALDI customers attending the site would "expect to purchase their alcohol requirements at the same time"
  - a "significant proportion of the recorded population" within Armidale LGA "would reside outside the CBD area of Armidale" meaning that this proportion of the population would "travel into the Armidale CBD to conduct their weekly or monthly shopping specifically on one trip"
  - there is only "one nearby existing packaged liquor outlet that being the Liquorland at 102 Rusden Street Armidale within the vicinity of this location"
  - it is "highly unlikely that ALDI customers would take their household grocery purchase and place in the car and then attend the Liquorland outlet on foot due to the distance of several hundred metres there and back to the ALDI car park"
  - it is "highly undesirable to have pedestrians leaving this car park on foot to attend this Liquorland and purchase heavy liquor products"
  - anything designed to "more evenly distribute the traffic" would be a relief to the local community and "reduce associated traffic noise"
  - half the existing packaged liquor outlets within the Armidale area "currently offer a significantly reduced range and quantity of liquor to residents"
  - the availability of alcohol within the Armidale area is not currently excessive or not in line with market requirements
  - the proposed licensed business would not add any further risk to the population of the LGA in either terms of quantity or range of alcohol
  - the prices of ALDI liquor products will be "commensurate with the current prices on offer at existing Armidale liquor outlets" [The Authority notes that the Consultant has documented alcohol prices at the alternative existing liquor outlets – Royal Hotel, Liquorland Coles Supermarket, Dan Murphy's, BWS Woolworths Supermarket, Railway Hotel, Freddy's Bottle Shop]
  - there will be "no inducement to potential patrons to only shop for liquor at ALDI based solely on price".
137. In Mr Purcell's opinion, granting the Application would not provide "any real risk" of "increased" underage drinking or anti-social behaviour but it would instead:
- be expected by many ALDI shoppers
  - alleviate "very significant inconvenience" to shoppers who wish to purchase alcohol
  - reduce traffic congestion and hazards in the CBD area
  - be in the wider public interest.
138. Attached to this Consultant's report is the following material:
- one photograph: depicting the car park for Liquorland at Rusden Street with only one vacancy
  - two photographs: depicting that the sole attendant of the Liquorland at the Coles Supermarket in Marsh Street and the BWS operating in the Shopping Plaza in Beardy Street were not present near the entrance/exist and the sales counter
  - Adam Purcell Curriculum Vitae: discussing Mr Purcell's functional areas of expertise, relevant qualifications, and employment history.
139. Plan of the Premises: This 3-page document clearly highlights the licensed area of the Premises in orange and the location of the licensed area within the Premises. This plan depicts for the purposes of section 30 of the Act, how the licensed area will be separated from the remaining supermarket by an entry gate, barrier and exit gate.

140. ASIC Current Organisation Extracts: These documents provide relevant company details as at 9 December 2014 in respect of "ALDI FOODS PTY LIMITED" (the Applicant) and "ALDI PTY LIMITED" (the parent company of the Applicant).
141. List of Conditions to which the Applicant consents be imposed upon the licence should the Application be granted: In this one-page list the Applicant consents to the imposition of the following licence conditions:
- 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
  - that the licence cannot be exercised unless and until the Authority "has been notified of the appointment of a manager to the licence"
  - that the licensee will ensure compliance with the *Management Policies and Strategies* and *House Policy* documents lodged with the Authority
  - 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"
  - that the licence cannot be exercised until the Authority "has been provided with evidence that the premises are complete and ready to trade"
  - that the "licensee or its representative must join and be an active participant in the local liquor accord"
  - the "licensee will not sell refrigerated liquor products from the licensed premises".
142. Copies of stakeholder notices: notifying the Application to various stakeholders as required by the liquor legislation - including Police, Council and the site notice placed on the Premises.
143. Notification Map: identifying the location of neighbouring premises that were provided with notice of the Application.
144. List of Stakeholders and Special Interest Groups: identifying the nearby stakeholders and special interest groups notified of the Application.
145. Letter from the Applicant to the Authority dated 23 April 2015: The Applicant submits via its solicitors a signed copy of the Certificate of Advertising, signed by the Applicant's representative Mr G Cusack, dated 17 April 2015 and by Ms Catherine Blackman property manager for ALDI stores on 17 April 2015.
146. The Applicant also encloses a list of conditions that accompanied the Application and refers to a specific condition which provided that the licence will not be exercised unless and until the Authority has been notified of the appointment of a manager to the licence.
147. Email from Authority Staff to the Applicant dated 7 August 2015 at 10:17am: informing the Applicant of the submissions from LGNSW and inviting the Applicant to provide comment.
148. Google Geographical map: These depicting an aerial view of the location of the Premises.
149. News Article: "Aldi Not Yet Granted Armidale Liquor Licence", *Namoi Valley Independent*, Gunnedah NSW dated 27 August 2015 (The Authority notes that the writer of the article is not indicated): reporting that the Applicant has not yet been granted a liquor licence by the Authority even though ALDI had issued a statement on 13 August which said it had been granted approval.

150. News Article: "Community Concern Over ALDI Alcohol", by Michael Fairbairn, *Northern Daily Leader*, Tamworth dated 25 August 2015: stating that "some communities aren't happy that the stores bring low-cost alcohol to their towns", that Senior Constable Chris Borger stated that Armidale "doesn't need another alcohol outlet" as there is an "over-representation of liquor outlets in Armidale" and there are concerns over the "high incidence of alcohol-related crime".
151. This article provides a brief account of the submission made by the Applicant and statements made by Council's Community Safety Committee Chairman Mr Rob Richardson. The article then discusses the statement of the ALDI spokesman who confirmed that ALDI "can confirm it has been successful in obtaining a liquor licence for a new store in Armidale".
152. News Article: "ALDI Errs Over Licence Consent", by Dannielle Maguire, *Armidale Express*, Armidale dated 21 August 2015: stating that ALDI had been "rebuked for saying it had been granted a liquor licence for its new Armidale store when in fact it had not" as the Authority confirmed that the Application remains under consideration. The article notes that Police oppose the Application and their position is "backed-up" by Council's Community Safety Committee, that an ALDI spokeswoman said the Application would "simply allow the store to meet customer expectations", that the "debacle" has sparked a "big" online debate with Express readers "raising concern on Facebook". The article states that "dozens of people commented on the issue, with most agreeing Aldi should be able to sell liquor, along with Coles and Woolworths" and "only a few suggested the city had too many liquor outlets, with one resident commenting the grocery store was "an excuse" to have a liquor outlet".
153. News Article: "Supermarket To Sell Alcohol", by Dannielle Maguire, *Northern Daily Leader*, Tamworth dated 20 August 2015: stating that Police opposition "failed to block a bid to prevent an Aldi supermarket from being granted approval to sell alcohol". The article notes a few submissions made by the Applicant in the Application and the opposing opinions expressed by Senior Constable Chris Borger. The article also mentions the statistics expressed by RMS in their submission in relation to serious crashes in the Armidale area.
154. BOCSAR Crime Maps based upon data from October 2014 to September 2015 detailing hotspots for the concentration of offences near the location of the Premises: This data, obtained by the Authority from published BOCSAR sources, indicates the following in respect of the location and areas surrounding the site of the Premises at 93, 95 and 99 Barney Street, Armidale:
- The Premises is not located *within* a hotspot for incidents of *domestic assault*
  - there are, however, an extensive low, medium and high density hotspots for the concentration of domestic assault to the West of the Premises, commencing a short distance away, with further hotspots to the North and South East, all within the state suburb of Armidale
  - The Premises *is* located within on the edge of a *high density hotspot* for the concentration of *non-domestic assault*
  - The Premises *is* located within a *high density hotspot* for incidents of *malicious damage to property*.
155. Licensed premises records: recording the address and type of other liquor licenced premises within the suburb of Armidale, indicating that there are:
- three registered club licenced premises
  - seven hotel licenced premises (The Authority notes that all seven of these hotels have an extended trading authorisation)

- five packaged liquor licenced premises (The Authority accepts the Applicant's advice that the *Liquorland* on Rusden Street is no longer trading).
156. Liquor license density data: This data, obtained by the Authority from licensing records that are publically available from LGNSW, indicates that the Armidale LGA as a whole recorded:
- a rate of 53.89 *packaged liquor licences* per 100,000 persons, which is well above the NSW state wide rate of 32.85
  - a rate of 20.73 *registered club licences* per 100,000 persons, above the NSW state wide rate of 20.48
  - a rate of 41.46 *full hotel licences* per 100,000 persons, well above the NSW state wide rate of 30.36
  - a rate of 45.60 *on-premises licences* per 100,000 persons, below the NSW state wide rate of 121.31.
157. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for July 2014 to June 2015. This data indicates that:
- the rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Armidale LGA was 252.7 per 100,000 persons, significantly above the New South Wales wide rate of 122.6 per 100,000 persons
  - the rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Armidale LGA for this period was 292.2, substantially above the State wide rate of 144.0
  - the rate of *offensive behaviour* offences flagged by reporting Police as *alcohol related* across this LGA was 240.8 per 100,000 persons, well above the State wide rate of 88.2
  - the rate of *assault police* incidents flagged by reporting Police as alcohol related across the Armidale LGA was 7.9, below the rate of 18.2 per 100,000 for New South Wales as a whole.
158. Australian Bureau of Statistics SEIFA data: prepared on the basis of the 2011 census, indicates that:
- The Armidale LGA ranked in the 7<sup>th</sup> decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged)
  - The state suburb of Armidale ranked in the 5<sup>th</sup> decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.

## LEGISLATION

159. 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).

160. 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.*

161. 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.

162. 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.*

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

164. 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 APPLICATION CASE ON OVERALL SOCIAL IMPACT**

165. In summary, the Applicant contends in the CIS that as a responsible operator, the Company and its staff will maintain an "ongoing and open dialogue" with customers, neighbours, the local consent authority, Police and any other relevant person should any issues be raised in the future.

166. The Applicant submits that the licensed business will be located within an ALDI supermarket and that the licensed liquor sales area "will occupy a small section" comprising of an area of "approximately 33 square metres".
167. The Applicant submits that section 30(1) of the Act will be satisfied by the licensed area being "adequately separated from the Supermarket". The liquor sales area will be "clearly defined including by way of partitioning" and liquor "will be displayed on shelving and display units within the liquor sales area". The partitioning will comprise "a fixed, solid and permanent screen wall approximately 1.8 metres high which will comprise of timber and acrylic panels".
168. The Applicant contends that the new liquor business will primarily sell a "limited range of ALDI branded products" and on occasion a "small selection of non-ALDI branded products" for a limited time until sold out.
169. The Applicant contends that "only approximately 100 types/lines of liquor will be sold" on the Premises and submits that this is "substantially less" than the products available at a "typical" liquor store.
170. The Applicant contends that the Premises will not sell refrigerated liquor products. (The Authority notes that ALDI routinely agrees to a licence condition to this effect).
171. The Applicant submits that the proposed liquor licensed trading hours are "less than the standard hours permitted" by the Act and the liquor sales area "will only be open for trade during those hours that the Supermarket is already trading" while customers "will not" be able to enter the liquor sales area outside of the hours specified in the licence.
172. The Applicant further submits in the CIS that "studies reveal that assaults on licensed premises principally occur at hotels and nightclubs and outside of the hours that the proposed packaged liquor licence will trade", citing the following studies in support of this proposition:
  - Nicholas R. *Identifying and Responding to Problematic Licensed Premises – A Guide for Police*. A Discussion Paper prepared for the Commissioners' Drugs Committee of the Conference of Police Commissioners of Australasia and the South West Pacific Region, Adelaide: Australasian Centre for Policing Research, 2006
  - Briscoe S. and Donnelly N. *Liquor Licensing Enforcement Activity in New South Wales*, Alcohol Studies Bulletin No. 1, Sydney: NSW Bureau of Crime Statistics and Research
  - *Understanding and Responding to Alcohol-Related Social Harms in Australia. Options for Policing*". A Discussion Paper prepared by NDLREF, esp at 4.1.6.
173. The Applicant notes that there is a "large car park" adjoining the Premises and contends that "the majority of customers of the liquor sales area will be customers of the supermarket, most of who arrive and depart by car and park in the adjoining car park".
174. The Applicant further contends that the majority of customers purchasing liquor will be customers of the ALDI Supermarket who "will have the added convenience of being able to purchase their liquor needs".
175. The Applicant contends that "the majority" of these liquor customers will arrive and depart by car and making it "not likely" that granting the Application will result in any "adverse impact by way of noise, litter, traffic congestion".



176. The Applicant refers to the detailed *House Policy* maintained by ALDI and contends that all staff involved in the sale and supply of liquor on the Premises will complete an Approved 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 products.
177. The Applicant more broadly submits that ALDI is "an 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 for ALDI supermarkets in NSW.
178. The Applicant contends that members of the general public attending the ALDI supermarket "would expect, particularly on Mondays to Saturdays" that the liquor business 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".
179. The Applicant submits, on the basis of these factors, that proposed 6-hour daily closure period between 2:00am and 8:00am will "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".
180. The Applicant reiterates in the CIS that the new liquor business will be "small in size", will "trade fewer hours than most traditional retail liquor stores" and a supply a "modest range of liquor" making it "less likely to result in any adverse/negative social impacts".
181. The Applicant contends that any negative impacts from granting the Application may that may otherwise arise from crime or other anti-social behaviour will be "mitigated" through ALDI's RSA practices, the 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.
182. The Applicant contends in the CIS and its further submission dated 27 January 2016, that granting this Application will provide "substantial public interest benefits" in respect of:
- Convenience/need/public expectation
  - Choice and introduction of new product lines- The Applicant contends that customers will gain access to a "wider range of alcohol at competitive prices"
  - Reduction in traffic – The Applicant contends that granting this Application "reduce traffic demands in the area, by reducing the need for people to make special trips into congested streets and parking areas"
  - Public safety –The Applicant contends that granting this Application will mean that customers of the ALDI Supermarket "will not place their safety at risk by having to make an inconvenient trip to other packaged liquor facilities in Armidale CBD"
  - Increase in employment through "staff servicing the liquor outlet"
  - Avoidance of special trips to other packaged liquor facilities
  - Facilitating social/recreational opportunities – The Applicant contends that "legitimate community demands for alcohol in conjunction with social and recreational opportunities will be serviced"
  - Strengthening the viability of other nearby businesses
  - Economic spin-offs

- Contributing to initiatives to moderate the drinking culture – The Applicant contends that the assistance to community organisations contributes "positively" to the social and economic health of communities
- Outlet for local producers such as those in McLaren Vale or Margaret River will be provided with an alternative outlet to sell products.

183. The Applicant further contends in the CIS, that customers of the ALDI supermarket will have the benefits of "one-stop shopping" by not having to make a "special trip" to buy liquor and the "convenience" of being able to do their grocery and liquor shopping under the same roof and that the public "expect" to be able to buy liquor in conjunction with grocery shopping.

184. In its submission dated 27 January 2016, the Applicant contends *inter alia* that:

- Armidale is a "regional capital that serves a commercial, cultural and administrative centre of not only the LGA but also the wider New England Region"
- 2011 ABS Census data and SEIFA scores indicates that the suburb and LGA has "relatively advantaged populations"
- state and municipal authorities expect "significant and sustained population growth well into the future" and the needs of that growing residential population are augmented by tourists, large numbers of whom visit the LGA each year"
- density figures show an "underprovisioning of packaged liquor facilities to service this population" which has been made "more acute" by the recent closure of one of the packaged liquor facilities (Liquorland at Rusden Street)
- the "significant and sustained growth of the area is recognised" in the construction of a new ALDI supermarket to service the Armidale population
- In August 2015, The Realise Group surveyed 1,000 ALDI customers at 20 ALDI store locations across NSW which currently sell liquor and found that:
  - "4 in 5 customers (83 per cent) stated they expect ALDI to sell liquor, with more than half (57 per cent) stating it would be inconvenient if ALDI did not have liquor for sale"
  - around a "third (32 per cent) of customers surveyed buy liquor 'always' or 'usually' when doing their grocery shopping with 69 per cent 'sometimes buy liquor while shopping"
- the nearest ALDI supermarket is situated in Tamworth "more than 110kms from Armidale"
- whilst rates of alcohol-related non domestic violence assault are "presently higher than State averages, they have been the subject of significant reductions in recent years" and to the extent that rates of non-domestic violence assault remain high, "they appear to be closely associated with late-trading entertainment venues, which are centred in the Armidale CBD"
- The location of the Premises being "geographically divorced from the CBD" and the fact the liquor department will be shut by 9pm during the week and 6pm on weekends will "significantly reduce the potential for the ALDI liquor department to add to instances of pre-loading, which might exacerbate rates of alcohol-related non-domestic violence assault"
- Whilst rates of alcohol-related domestic violence assault are "higher than average, they too have been the subject of very significant and rapid reductions in recent years"
- The demographic indicators for Armidale show an "advantaged population, including significantly declining levels of unemployment"
- Health indicators specific to the LGA show "low levels" of alcohol related hospitalisations
- Demographic indicators can give the Authority "confidence" that Armidale is comprised of a "stable and reasonably advantaged population, which is not

- particularly vulnerable" to domestic violence assault from the provision of this "modest liquor facility at the ALDI Supermarket"
- Armidale "presently has a very competitive incumbent liquor market" and the proposed store is "unlikely to drive down prices in Armidale or increase alcohol consumption".

185. The Applicant concludes the CIS with the submission 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 of the other requirements of the Act.*

## **REASONS**

186. The Authority is satisfied, on the basis of the Application material before the Authority 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 the Certification of Advertising provided by the Applicant.
187. 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 will also be satisfied.
188. 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 LGNSW.
189. 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. This finding is made on the basis of the *House Policy* and the *Management Policies and Strategies* and additional submissions provided by the Applicant.
190. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act that the required development consent is in place for the proposed use of Premises as a packaged liquor business, on the basis of DA-351-2009/B issued by Council dated 22 December 2014 which was issued for "demolition and removal of existing structures and site vegetation and the erection of a retail supermarket & associated car parking facilities (consent modification)".

## **Overall Social Impact Test**

191. With regard to the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the relevant local community comprises the state suburb of Armidale while the broader community comprises the Armidale LGA.
192. 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.

193. This is consistent with its previous practice and Authority *Guideline 6: Consideration of Social Impact*, the Authority will identify the relevant "local" community by reference to the State suburb or town in which the licensed Premises is to be situated, while the "broader" community will usually be the local government area in which the licensed business is to be situated.

### **Positive benefits**

194. The Authority accepts the Applicant's contention that granting this Application will provide some additional measure of convenience to those members of the local and broader community who wish to purchase liquor for consumption off the Premises at the same time as buying their groceries from the ALDI supermarket.

195. On the basis of the submissions made by the Applicant in the CIS and additional responses, the Authority is satisfied that some measure of additional convenience is established by the Applicant in respect of those ALDI shoppers who wish to engage in "one-stop" liquor shopping.

196. The Authority notes the Applicant's contention that granting the licence will provide customers with greater choice through access to a wider range of alcohol at competitive prices. The Authority accepts the Applicant's contentions that ALDI customers would gain the benefits of accessing, at a local level, a small range of competitively priced ALDI-branded liquor products at the supermarket and a small range of other mainstream brands.

197. That is, the Authority is satisfied that there will be some enhanced choice of liquor products in the local and broader communities from granting the Application, particularly with respect to ALDI branded products seeing as the closest ALDI Supermarket is some 110 kilometres away in Tamworth.

198. In this respect granting the Application may also be said to be consistent with promoting the "expectations, needs and aspirations" of the local and broader community within the meaning of section 3(1)(a) of the Act and may also, to a modest extent, develop the local liquor industry serving the local and broader community for the purposes of section 3(1)(b) of the Act.

199. The Authority is satisfied that there has been no opposition from local residents or businesses to the Application, indicating that the Application is at least not inconsistent with the expectations needs and aspirations of the communities.

200. However, the Application is not without local opposition. That opposition has taken the form of two organisations with important social responsibilities for the local and broader community (NSW Police and HNEPH) and with respect to which the Act provides a requirement to consult. Both of these bodies have local knowledge and expertise as to the prevailing social risks and challenges facing the local and broader community with respect to alcohol related social impacts. Their concerns are set out below

201. The Authority is satisfied, on the basis of licence density data that within the suburb of Armidale, there are:

- three registered club licenced premises
- seven hotel licenced premises (The Authority notes that all seven of these hotels have an extended trading authorisation, although packaged liquor may not be sold after 10:00pm across NSW)
- five packaged liquor licenced premises (The Authority accepts the Applicant's contention that the Liquorland premises on Rusden Street is no longer trading).

202. The Authority is satisfied that there are four incumbent packaged liquor licensed premises currently operating in Armidale alone. There are a further seven hotels (all of which may sell takeaway liquor, although the Authority accepts the Applicant's submission that only three of them have dedicated bottle shops. The incumbent licensed premises in those categories alone (noting that clubs may also sell takeaway liquor) satisfy the Authority that the local community already has access to a number and variety of businesses capable of selling packaged liquor by retail. Their presence diminishes the *extent* of additional convenience benefits that may otherwise flow from granting this Application, while acknowledging the Authority's findings with regard to increased choice through Aldi branded products.
203. The Applicant also contends that granting the Application will support employment opportunities within the Premises. However, the Applicant has not provided clear or unequivocal commitments specifying that licensing the supermarket will result in increased new staff for the new liquor business, who will be sourced from within the relevant local or broader communities.
204. Furthermore, it is difficult to discern from the material before the Authority what additional staff the supermarket would require to stock and sell liquor products as distinct from its mainstream supermarket operations. On the material before the Authority little weight is given to that purported community benefit.
205. The Authority further notes the Applicant's submission that granting the Application will allow the proposed new business to service community demands for alcohol in conjunction with social and recreational opportunities. The Authority accepts that as a broad proposition alcohol consumption is associated with social and recreational activity but the nature and extent of this amorphous benefit not been substantiated nor specified with any great deal of certainty and it is difficult to give much weight to that broad assertion on the material before the Authority.
206. The Authority is not satisfied as to the contended community benefits that are said to flow by way of sales from the "local producers". The Applicant makes reference to producers from McLaren Vale (South Australia) and Margaret River (Western Australia), and the Authority accepts that products may well be sourced from those areas, but it is not clear how these submissions indicate a discernible cumulative benefit to producers in the relevant local or broader communities.
207. The Authority finds it generally credible for the Applicant to assert that the ALDI store may contribute to charitable or public education initiatives such as DrinkWise that help to moderate the negative impacts of alcohol and accepts that ALDI has done so in the past. However, this contended benefit also suffers from a lack of specificity or certainty. The nature, quantum or timing of any such support is not specified in respect of the local or broader community this contended benefit is given little weight.

### **Negative impacts**

208. The Authority accepts that over time there will more likely than not be some contribution made from the packaged liquor sold from this ALDI Supermarket to alcohol related crime, disturbance or adverse impact on amenity in the local and broader community from a minority of customers who abuse packaged liquor.
209. The Authority must be satisfied, on the evidence or material provided that the overall social impact of granting this Application will not be detrimental to the relevant local or broader community in question.

210. In a practical sense the obligation falls upon an applicant to provide sufficient evidence or material to assist the Authority to reach that state of satisfaction. Authority Guideline 6 places applicants on notice of the decision making factors and sources of information to which the Authority may usually have regard.
211. The Applicant has made detailed submissions directed to those factors and sources of information for the relevant communities with a considerable focus on the scope for negative social impacts should the Application be granted.
212. The test in section 48(5) of the Act requires a decision maker to make findings on the positive benefits and negative impacts that are considered likely to flow to the local and broader community from granting an application, and then make an overall assessment as to whether the result will be detrimental to either of those communities.
213. While the Authority will consider the question of whether granting one more liquor licence in the communities will increase liquor consumption, or increase alcohol related crime or misconduct, that is not the end of the matter. A decision maker must assess for itself the positive and negative impacts of granting the particular licence for the particular business proposed, based upon what is known about the prevailing circumstances in the local or broader communities in question.
214. If it is accepted that a new packaged licenced business will, for example, do no more than compete for local market share, the contribution that this business will make (along with the incumbent licensees) to a community that is already exposed to challenging circumstances with respect to adverse alcohol related social impacts will provide relatively greater cause for concern than a business competing for market share in a community with fewer alcohol related adverse social impacts or demonstrable risk factors for such impacts.
215. The Applicant submits that this new business will compete with the incumbent licensees for market share, but not necessarily increase liquor sales at the level of the local or broader community.
216. There is insufficient data before the Authority to discern whether the addition of this one new licence to the local or broader community will mean an overall increase, decrease or no change to the overall consumption of liquor or the incidents of alcohol related crime across the relevant local or broader community.
217. New South Wales does not mandate the collection of wholesale liquor sales data that has enabled researchers in other jurisdictions (see for example, as noted Authority Guideline 6 Liang W and Chikritzhs T: "Revealing the link between licensed outlets and violence: Counting venues versus measuring alcohol availability" (2011) *Drug and Alcohol Review* (September 2011)) the relationship between increasing volumes of liquor sold in a local government area and assault rates.
218. However, assuming that the business does no more than compete for market share, the scope for *this* business to *contribute* to prevailing negative social impacts in *these* local and broader communities is of elevated concern to the Authority, by reason of the circumstances of this local and broader community.
219. There is evidence or other material before the Authority indicating that the communities already exhibit certain adverse indicia including significantly higher rates of alcohol related crime.

220. The location of the Premises is objectively problematic given the likelihood that the new business will service areas of Armidale and the broader that are objectively exposed to concentrations of domestic violence – most of which (according to BOCSAR data for the Armidale LGA) occurs in the home where packaged liquor is primarily expected to be consumed.
221. The SEIFA data for the communities is not particularly troubling as a potential compounding factor of concern when assessing overall social impact. Armidale LGA ranked in the seventh decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged). The state suburb of Armidale itself ranked in the fifth decile, compared to other state suburbs in NSW.
222. The Authority does accept, however, that the high proportion of university students identified by the HNELHD is a demographic factor that is associated in the literature with risky drinking. This does provide a further cause of concern when assessing social impact in these local and broader communities, albeit this factor has not been decisive of itself.
223. The Authority notes and accepts the Applicant's submission that the BOCSAR data (included in the Applicant's submission dated 27 January 2016) reveals that the rates of alcohol-related assaults in Armidale suburb "have been very rapidly declining since 2012" and that the data also shows that the rates of domestic violence assault have been "rapidly declining".
224. However, the Authority is satisfied, on the basis of BOCSAR data on *Crime by LGA and Alcohol Related Status* from July 2014 to June 2015 that the broader community of Armidale LGA remains exposed to *significantly* elevated rates of alcohol related crime compared to NSW State averages in certain relevant crime categories.
225. This BOCSAR report indicates that:
- the rate of *alcohol related domestic violence related assault* incidents occurring across the Armidale LGA, was 252.7 per 100,000 persons, well above the New South Wales wide rate of 122.6 per 100,000 persons
  - the rate of *alcohol related non-domestic violence related assault* incidents in the Armidale LGA for this period of time was 292.2, well above the State wide rate of 144.0
  - the rate of *alcohol related offensive behaviour* offences across this LGA was 240.8 per 100,000 persons, well above the State wide rate of 88.2
  - the rate of *alcohol related assault police* incidents across the Armidale LGA was 7.9, well below the 18.2 per 100,000 for New South Wales as a whole.
226. The Authority is satisfied on the basis of licensing data that Armidale LGA has the following rates of liquor licence types for premises authorised to sell takeaway liquor:
- a rate of 53.89 *packaged liquor licenced premises* per 100,000 persons, well above the NSW state wide rate of 32.85
  - a rate of 20.73 *registered club licenced premises* per 100,000 persons, on par with the NSW state wide rate of 20.48
  - a rate of 41.46 *full hotel licences* per 100,000 persons, well above the NSW state wide rate of 30.36.
227. The Authority is satisfied from the research (albeit conducted in Melbourne rather than the communities currently under consideration) identified 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 rates.

228. The Authority is particularly concerned, in the context of assessing the overall social impact of granting a new packaged liquor licence, the high *local concentration* of domestic violence events, noting the alcohol related domestic violence data above.
229. The Authority is aware, through regular recourse to annual BOCSAR crime data (including the research identified in Authority Guideline 6, particularly the annual excel crime report for New South Wales as a whole) that the overwhelming majority of domestic assault events occurs in *private residences* where most packaged liquor is expected to be consumed.
230. On the basis of BOCSAR crime mapping data from October 2014 to September 2015, the Authority is satisfied that:
  - the Premises is not located *within* a hotspot for incidents of *domestic assault*
  - there are, however, an extensive low, medium and high density hotspots for the concentration of domestic assault to the West of the Premises, commencing a short distance away, with further hotspots to the North and South East, all within the state suburb of Armidale
  - The Premises *is* located within on the edge of a *high density hotspot* for the concentration of *non-domestic assault*
  - The Premises *is* located within a *high density* hotspot for incidents of *malicious damage to property*.
231. That is, while the BOCSAR data on *Crime by LGA and Alcohol Related Status* for calendar for July 2014 to June 2015 indicates that the rate of alcohol related incidents of domestic violence across the broader community of Armidale LGA is significantly above the rates for New South Wales as a whole, there also are troubling concentrations of domestic violence events recorded within the local community of the local and broader community in residential areas that are likely to be serviced by the new business.
232. The Authority is also satisfied that public drinking is an issue for the local community, on the basis that Police submission that the proposed packaged liquor outlet is "situated between MacDonald Park and Central Park" and that "both these parks have been the subject of numerous occasions where police have had to deal with persons engaged in public drinking".
233. The Authority is satisfied on the basis of the BOCSAR data and Local Area Command data outlined above with respect to last place of liquor consumption that the data provides objective support for Police observations that public drinking a problematic in the local community.
234. The Authority is satisfied, on the basis of the BOCSAR crime data, the submission from local Police and the Authority licence density data that there in an objective cause for concern as to the contribution that *packaged liquor* is making to alcohol related impacts in the local and broader communities.
235. The Authority is satisfied that the liquor sold from this new business may also make a contribution, along with the incumbent licensed premises, over time, to what is a relatively challenging environment for alcohol related crime and anti-social conduct particularly at the level of the local community.
236. The Authority accepts and has taken into account that the Applicant proposes a number of harm minimisation measures over and above the minimum requirements of the



legislation and these are factors which may be accepted as objectively reducing or minimising the scope or risk of alcohol related harm arising from the operation of this particular business.

237. The smaller scale of the Premises provides an objective mitigating factor, in that the licensed area of the Premises will constitute approximately only 33 square metres (as indicated by the Applicant in the CIS), accessible only through an existing ALDI Supermarket. This is considerably smaller than most packaged liquor licensed businesses.
238. The more limited range of products, by comparison to mainstream liquor stores, is also a factor that may reduce the popularity of this liquor business – although it is noted that ALDI indicates that it will sell both home brands and also run occasional special promotions on mainstream brands until sold out.
239. The trading hours sought by the Application are reasonably extensive, from between 8:00am to 9:00pm Monday through Friday, 8:00am to 6:00pm on Saturday and 10:00am to 6:00pm on Sunday.
240. Licensed trading from 8:00am until 9:00pm Monday through Friday increases the scope for liquor sold from this business to contribute to packaged liquor related social impacts in the home and in public places over time.
241. The Authority accepts that the 6:00pm closing time for the supermarket on Saturday and Sunday provides some constraint on the capacity for liquor sold on traditionally higher risk evenings to contribute to potential problems such as "pre-fuelling" or public drinking, although 9:00pm trading on Friday will be conducted at the commencement of the weekend.
242. The BOCSAR Crime Report for the Armidale LGA for 2015 indicates that the peak time for alcohol related assault is Saturday and Sunday mornings between 12:00 midnight and 6:00am, however, those assaults are elevated on Friday evening between 6:00pm and 12:00 midnight. The overwhelming majority of all domestic violence assaults occur in private residences.
243. The non-refrigeration condition agreed by ALDI (which is standard to ALDI packaged liquor applications) is another harm mitigation factor that is accepted by the Authority as assisting in discouraging the impulse consumption of liquor purchased from this Supermarket at or near the Premises. That is, some patrons may be less likely to drink in public those liquor products that are usually consumed cold and take it home instead.
244. The Authority has considered the operational measures that the Applicant proposes to implement on the Premises. Harm reduction measures are detailed in business planning documents, *House Policy* and the *Management Policies and Strategies*, which form part of the Application. The Authority also notes that the Applicant consented to the proposed imposition of certain standard conditions proposed by Authority staff in respect of new packaged liquor businesses and noted above.
245. The Authority notes the submissions from the Applicant as to its regulatory record and business policies for the sale of liquor. The Authority accepts that a measure of passive surveillance of patron conduct is provided by the operation of this liquor business within the confines of a supermarket.
246. The Authority is satisfied that the Applicant or its staff would not intentionally sell liquor in contravention of the legislation, but in practice the staff of a busy supermarket will only

be in a realistic position to monitor patron conduct at the point of sale or close to the Premises.

## **CONCLUSION**

247. In light of the local and broader community benefits established on the material before the Authority and the Authority's concerns arising in particular from the Police and BOCSAR crime data, the Authority *is not* satisfied, on the material before it, that granting the Application would *not be* detrimental to the well-being of the local or broader community, particularly the local community.
248. The Authority is not satisfied that the Application meets the requirements of section 48(5) of the Act and for this reason the Application is refused pursuant to section 45 of the Act.
249. In making this decision the Authority has considered all of the statutory objects provided by section 3(1) of the Act and has had regard to all of the considerations prescribed by section 3(2) of the Act.
250. The Authority has given weight to the consideration in section 3(2)(a) - the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) and the consideration in 3(2)(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.



**DB Armati**

**Deputy Chairperson**

for and on behalf of the **Independent Liquor and Gaming Authority**

**DATED** 24 May 2016