



Mr Grant Cusack
Hatzis Cusack Lawyers
gc@hatziscusack.com.au

22 February 2018

Dear Mr Cusack

Application No.	APP-0003382592
Applicant	ALDI Foods Pty Limited
Application for	Packaged Liquor Licence
Licence name	ALDI Riverwood
Trading hours	Monday to Wednesday 8:30 am – 8:30 pm Thursday 8:30 am – 9:00 pm Friday to Saturday 8:30 am – 8:30 pm Sunday 10:00 am – 8:00 pm
Licensed Premises	Riverwood Plaza Shopping Centre, 247-263 Belmore Road RIVERWOOD NSW 2210
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

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

The Independent Liquor and Gaming Authority considered application number APP-0003382592 at its meeting on 13 December 2017 and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **approve** the application subject to the following conditions:

1. The premises can only trade until 8:00 pm on public holidays.
2. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:30 am and 8:30 am during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
3. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st Normal trading
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
6. The premises is to be operated at all times in accordance with the ALDI Management Policies and Strategies and House Policy documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Authority.
7. The licensee will not sell refrigerated liquor products from the licensed premises.

8. The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.
9. Closed-circuit television system
- 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points to the supermarket/general store, and
 - (ii) all publicly accessible areas (other than toilets) within the licensed premises.
- 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

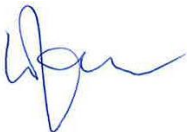
A statement of reasons for this decision is attached at the end of this letter.

Trading on a Sunday that falls on 24 December

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

If you have any enquiries about this letter, please contact the case manager via email to wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 15 September 2017, ALDI Foods Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor and Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a packaged liquor licence (“Licence”) for the premises at 247-263 Belmore Road, Riverwood (“Premises”).
2. The Authority considered the Application at its meeting on 13 December 2017 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29- 31, 40, 45 and 48 of the Act, and relevant provisions of the Liquor Regulation 2008.

Material considered by the Authority

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

Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its powers under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for various types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

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

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
 - a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,

- b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

- 14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
- 15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter before it.

Provisions specific to a packaged liquor licence

- 16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
- 17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.
- 18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.
- 19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

Key findings

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

Validity, procedural and trading hour requirements

- 21. The Authority is satisfied on the material before it that:
 - a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
 - b) the proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,
 - c) liquor will be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence as required by sections 29 and 30 of the Act, and
 - d) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.

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

- 22. Pursuant to section 45 of the Act, the Authority is also satisfied that:
 - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Applicant's "Management Policies and Strategies" and "House Policy" documents, and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the Complying Development Certificate issued by Concise Certification on 8 August 2017.

Community impact statement

23. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
24. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the suburb of Riverwood, and the relevant “broader community” comprises Georges River Local Government Area (“LGA”).

Positive social impacts

25. The Authority has had regard to the Applicant’s contention and evidence that the Premises is a small scale packaged liquor facility that will be wholly located within an ALDI Supermarket, is only accessible by customers of the supermarket and will operate during reduced trading hours which are less than the standard hours permitted under the Act.
26. The Authority accepts the Applicant’s submission that the Premises will sell a range of principally ALDI-branded liquor products which are not currently available elsewhere in Riverwood, however notes that the range of additional products to be offered is limited.
27. The Authority also accepts the Applicant’s claim that the granting of the licence would provide an additional measure of convenience to customers of the ALDI Supermarket who wish to purchase liquor items along with their grocery items.
28. The Authority considers that the benefit of convenience is somewhat reduced by the fact that visitors to the Riverwood Plaza Shopping Centre can already access grocery and liquor products together at the existing Woolworths Supermarket and nearby BWS outlet.
29. The benefit of convenience is further reduced by the small size of the Premises. A small packaged liquor facility is less likely to carry a comprehensive range of liquor products, meaning that customers of the ALDI Supermarket might still prefer to shop at an alternative packaged liquor facility.
30. The Authority accepts that ALDI is an experienced operator of many packaged liquor licences, each of which conforms to the business model outlined in the Application.
31. The Authority is satisfied that there were no objections to the Application received from any stakeholders, special interest groups, occupiers of neighbouring premises or any other member of the public. Furthermore, NSW Police made a submission in response to the Application which advised that it does not object to the Application provided that the Applicant consented to the proposed conditions.
32. The Authority notes the petition signed by 860 people and accepts the Applicant’s claim that there is support for the granting of the Licence from the community.
33. The Authority notes that there is currently one packaged liquor licence in Riverwood suburb and the density of packaged liquor licences per 100,000 of population in the LGA and Riverwood is lower in comparison to the NSW state average. Respectively, outlet density figures reported for the LGA are 23.84 and 8.26 for the suburb of Riverwood
34. Accordingly, the Authority is satisfied that granting the Licence will be in line with the expectations and needs of the local and broader communities, and will contribute to the balanced and responsible development of the liquor industry.

Negative social impact

35. The Authority has had regard to the ABS SEIFA data indicating that, as at 2011, Riverwood was among the most disadvantaged suburbs, while the former LGAs of Hurstville and Kogarah were among the most advantaged Local Government Areas, in NSW on the Index of Relative

Socio-economic Advantage and Disadvantage. The Authority notes that this data is now seven years old and accepts that it may not reflect the current demographics of Riverwood and the LGA, however is nonetheless concerned by the suburb level data.

36. The Authority notes from the BOCSAR data that for the year ending June 2017:
- a) the Premises was not located within any hotspots for incidents of alcohol related assault or non-domestic assault, but was within high density hotspots for incidents of domestic assault and malicious damage to property,
 - b) Riverwood and the LGA both recorded lower rates of alcohol related assault (both domestic and non-domestic) than the NSW state average, and
 - c) Riverwood recorded a higher rate, and the LGA recorded a considerably lower rate, of malicious damage to property compared with the corresponding NSW figure.
37. The Authority also notes from the most recent Healthstats NSW data available at the time of its consideration that the LGA, as represented by the former LGAs of Hurstville and Kogarah, reported a considerably lower rate of alcohol attributable deaths and hospitalisations in comparison to the state average.
38. The Authority accepts that in granting the Licence there may be a risk that liquor sold or supplied at the Premises will, over time, contribute to an increase in alcohol related crime and health issues in the local and broader communities.
39. The Authority is nevertheless satisfied that the risk is adequately mitigated by the following:
- a) The prevailing level of alcohol related crime and health issues in the community is relatively low.
 - b) No objections were received from the key stakeholders consulted, such as NSW Police and NSW Health, or members of the public, in relation to the Application.
 - c) The small licensed area will help to further reduce any adverse impact its operation may have on the amenity of the community.
 - d) ALDI is an experienced operator of many packaged liquor licences, and that any risk associated with the granting of the licence will be further mitigated by the imposition of special licence conditions and by the Applicant's adherence to the "Management Policies and Strategies" and "House Policy" documents lodged with the Application.

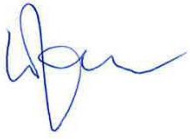
Overall social impact

40. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
41. Furthermore, the Authority is satisfied that a decision to grant the Licence would be consistent with the objects of the Act to regulate the supply of liquor and facilitate the responsible development of the liquor industry in line with community expectations and needs.
42. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.

Applicant's subsequent submission in respect of the public holiday trading hours condition

43. Following the Authority's decision on 13 December 2017 to grant the Licence, the Applicant made a further submission on 19 December 2017, at the Authority's invitation, in respect of the proposed conditions.
44. Specifically, the Authority sought the Applicant's consent and/or comment on its proposed action to impose a condition on the licence that restricted the Premises to trade until 8:00pm on public holidays in accordance with the Applicant's development consent.

45. The Authority notes that the Applicant has consented to the condition being imposed on the licence.



Philip Crawford
Chairperson

Important Information:

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

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

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

Schedule

Material considered by the Authority

1. ABS SEIFA data based on the 2011 Census ranking Riverwood and the former Local Government Areas of Hurstville and Kogarah on the Index of Relative Socio-economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths for the former Local Government Areas of Hurstville and Kogarah for the period between 2001-02 and 2012-13.
3. HealthStats NSW data showing alcohol attributable hospitalisations for the former Local Government Areas of Hurstville and Kogarah for the period between 2001-03 and 2013-15.
4. Premises plan dated 21 March 2017 indicating the proposed liquor sales area within the Premises.
5. ASIC Current Organisation Extracts for ALDI PTY LTD ACN 086 493 950, ALDI FOODS PTY LIMITED ACN 086 210 139 and SANWICK PTY LTD, dated 12 May and 24 August 2017.
6. BOCSAR crime maps for the year to June 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
7. NSW crime statistics for the two years to June 2017, published by BOCSAR, on incidents of alcohol related assault (domestic and non-domestic) and malicious damage to property in the LGA and Riverwood.
8. Letter from Department of Transport, Roads and Maritime Services, dated 7 July 2017, in relation to the Application.
9. Acknowledgement from Georges River Council, dated 18 September 2017, of the local consent authority notice in relation to the Application.
10. Complying Development Certificate No. 170266-01/A issued by Concise Certification, dated 8 August 2017, for Aldi Store fitout to existing shopping centre internal modifications including a liquor store.
11. Liquor licensing records from L&GNSW as at 28 August 2017 listing the details of all liquor licences in Riverwood and the LGA, and setting out the density of packaged liquor licences in Riverwood, the LGA and NSW.
12. Completed Category B CIS form, signed and dated 11 September 2017, and relevant additional information prepared by the Applicant's representative.
13. Email from Aboriginal Affairs, Department of Education NSW, dated 10 October 2017, in relation to the Application.
14. Completed application for a packaged liquor licence, lodged on 15 September 2017.
15. Local Consent Authority Notice and Public Consultation Site Notice, dated 15 September 2017.
16. Certification of Advertising Application signed by Mr Grant Cusack on 24 November 2017.
17. Submission from NSW Police, dated 16 October 2017, in relation to the Application.
18. Two submissions from members of the community, dated 9 and 11 November 2017, in relation to the Application.
19. Google map indicating the location of the Premises, dated 20 November 2017.
20. Submission prepared by the Applicant's representative including a signed petition, dated 24 November 2017, in response to the submissions received in relation to the Application and supporting information.
21. ALDI Liquor Management Policies and Strategies document and House Policy for the responsible service of liquor.