



Mr Grant Cusack  
Hatzis Cusack Pty Ltd  
[gc@hatziscusack.com.au](mailto:gc@hatziscusack.com.au)

12 July 2018

Dear Mr Cusack

<b>Application No.</b>	APP-0003699417
<b>Applicant</b>	ALDI Foods Pty Limited
<b>Application for</b>	Packaged Liquor Licence
<b>Licence name</b>	ALDI Casula
<b>Trading hours</b>	8:30 AM to 8:00 PM Monday to Wednesday, Friday and Saturday 8:30 AM to 9:00 PM Thursday 10:00 AM to 8:00 PM Sunday
<b>Premises</b>	Casula Mall Shopping Centre, 1 Ingham Drive Casula, NSW, 2170
<b>Legislation</b>	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 Casula**

The Independent Liquor and Gaming Authority considered, at its meeting on 16 May 2018, the Applicant's application for a packaged liquor licence and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **grant** the licence subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:30 am and 8:30 am during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading and NYE (std)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being 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.
5. 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.
6. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,

- (b) recordings must be in digital format and at a minimum of six (6) frames per second,
- (c) any recorded image must specify the time and date of the recorded image,
- (d) the system's cameras must cover the following areas:
  - (i) all entry and exit points to the supermarket/general store, and
  - (ii) all publicly accessible areas (other than toilets) within the 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.

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.

### **Trading on a Sunday that falls on 24 December**

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

### **Approved manager or individual licensee**

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

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

If you have any questions, please contact the case manager at [andrew.whitehead@liquorandgaming.nsw.gov.au](mailto:andrew.whitehead@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 19 December 2017, ALDI Foods Pty Limited (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (‘Application’) for a packaged liquor licence for the premises at Casula Mall Shopping Centre, 1 Ingham Drive Casula (‘Premises’).
2. The Authority considered the Application at its meeting on 16 May 2018 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 relevant material before it, the legislative requirements under sections 3, 11A, 12, 29-31, 40, 45 and 48 of the Act, and the 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 the 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) if the Licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, 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 would 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 for the Premises and the conditions to be imposed on the licence, and

- c) the requisite development consent is in force, based on the Notice of Determination of Development Application no. DA-634/2016 in respect of the Premises, issued by Liverpool City Council on 9 August 2016.

#### 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 Casula, and the relevant “broader community” comprises Liverpool Local Government Area (“the LGA”).

#### Positive social impacts

- 25. The Authority is satisfied, on the basis of the Application, CIS and additional material provided by the Applicant that granting the licence will provide some reasonable public benefit by way of increased convenience for members of the local and broader communities who wish to engage in “one-stop” shopping by purchasing packaged liquor products in conjunction with grocery and other items.
- 26. The Authority notes that the additional convenience of a one-stop shop as described in the Application is, however, somewhat reduced by the fact that shoppers can already access this convenience at the existing Liquorland outlet and adjoining Coles Supermarket located within the same shopping centre as the Premises (notwithstanding the fact that the purchase of packaged liquor at this facility requires a further transaction in addition to the purchase of groceries).
- 27. 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 Casula, but notes that the range of additional products to be offered is limited, due to the small size of the licensed area.
- 28. The Authority accepts the Applicant’s contention that ALDI is an experienced operator of many packaged liquor licences, each of which conforms to the business model outlined in the Application.
- 29. The Authority notes the petition in support that has been provided by the Applicant. The petition comprises more than 450 signatures of persons residing in the local and broader communities and surrounding areas.
- 30. On this basis, the Authority accepts the Applicant’s claim that there is support for the Application within the local and broader communities, notwithstanding the objection received from Liverpool City Council. The Authority notes that there were no objections to the Application received from any other legislated stakeholders or members of the public.
- 31. The Authority notes that NSW Police has advised that it has no objection to the granting of the licence.
- 32. The Authority has considered the purported positive community benefits posited by the Applicant including, community “need” for the new licence, a reduction in escaped expenditure from customers shopping locally for liquor, increasing customers at the local shopping centre, a reduction in traffic, an increase in public safety, an increase in employment, economic spin-offs and contributing to initiatives to moderate the drinking culture.

33. The Authority notes, however, that on the limited supporting evidence and material before the Authority as to the nature and extent of those benefits, these contentions from the Applicant have been given little weight.

#### Negative social impact

34. The Authority has considered the BOCSAR crime maps for the year ending December 2017, which show that the Premises is not located within or near crime hotspots for alcohol-related assault, non-domestic assault or malicious damage to property. However, these maps do indicate that the Premises is located in a low density hotspot for domestic assault, which forms the fringe of a larger hotspot for this category of offence.
35. The Authority also notes from the BOCSAR data that the incident rates for alcohol-related domestic assault, alcohol-related non-domestic assault, malicious damage to property and alcohol-related offensive conduct are all significantly lower in Casula and Liverpool LGA than the NSW average over the same reporting period.
36. The Authority notes from the 2016 Index of Relative Socio-economic Advantage and Disadvantage that Casula suburb is neither particularly advantaged or disadvantaged in relation to all suburbs across the state, whereas the LGA is relatively advantaged in comparison to other LGAs in NSW.
37. The Authority notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA reported a lower rate of alcohol attributable deaths and hospitalisations in comparison to the state average.
38. The Authority has considered the submission from Liverpool City Council objecting to the grant of the licence on the basis of the increasing number of packaged liquor distributors establishing within Liverpool LGA; especially in areas of higher socio-economic disadvantage. Council submits that another such outlet will lead to an oversupply of alcohol and has the potential to exacerbate existing levels of alcohol-related issues.
39. The Authority accepts that the issues raised by Council are of considerable concern in terms of the potential social impact of granting a new licence. However, the Authority notes that the objective liquor licence density data, BOCSAR alcohol-related crime data, and SEIFA data, as outlined above, do not support Council's contentions.
40. The Authority also notes Council's concerns regarding the location of several schools within the vicinity of the Premises, however is satisfied that the Premises will be operated in adherence with legislated responsible service of alcohol measures and its own Management Policies and Strategies and House Policy, which will reduce any risk associated with the presence of school children in the immediate vicinity of the Premises.
41. The Authority accepts that there may be a risk that if the licence were to be granted, 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.
42. The Authority is, however, satisfied that the risks identified above are adequately mitigated by:
- a) The prevailing low level of alcohol-related crime and health issues in the community is relatively low;
  - b) The absence of objections from the majority of the key stakeholders consulted, such as NSW Police and NSW Health, or members of the public, in relation to the Application;
  - c) The relatively small licensed area, which will help to further reduce any adverse impact its operation may have on the amenity of the community; and

- d) The fact that 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

43. 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.
44. The Authority is also satisfied that a decision to grant the Licence would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.
45. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



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. HealthStats NSW data showing alcohol-attributable deaths in the LGA for the period 2012-13; with a Smoothed Estimate of Standardised Mortality Ratio of 96.4, and alcohol-attributable hospitalisations in the LGA for the period 2013-15; with a Smoothed Estimate of Standardised Separation Ratio of 85.0.
2. ABS SEIFA data based on the 2016 Census for Casula and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage. The data shows that Casula, with a score of 991, ranks within the fifth decile in NSW, and the LGA, with a score of 972, ranks within the seventh decile in NSW.
3. NSW Recorded Crime Statistics 2016 outlining the proportion of offences in the LGA by day of week and time of day.
4. Premises plan indicating the proposed licensed area dated April 2016.
5. Notice of determination issued by Liverpool City Council on 9 August 2016 approving the development application/modification of development consent no. DA-634/2016 in relation to the Premises.
6. Submission from Transport Roads & Maritime Services dated 23 August 2017 in relation to the Application.
7. BOCSAR crime maps for the year to December 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
8. NSW crime statistics for the two years to December 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Casula and the LGA. The data for 2017 indicates that:
  - o Casula has an alcohol-related domestic assault incident rate of 49.3 offences per 100,000 of population; compared with an LGA incident rate of 73 and a NSW incident rate of 114.4.
  - o Casula has an alcohol-related non-domestic assault incident rate of 37; compared with an LGA incident rate of 55.6 and a NSW incident rate of 130.7.
  - o Casula has an alcohol-related offensive conduct incident rate of 0; compared with an LGA incident rate of 5.7 and a NSW incident rate of 42.8 for 2017.
  - o Casula has an incident rate of malicious damage to property offences for Casula was 382.3; compared with an LGA incident rate of 657.3 and a NSW incident rate of 788.7.
9. Completed Category B Community Impact Statement dated 12 December 2017.
10. ASIC business records company extract in relation to the Applicant extracted on 13 December 2017.
11. Additional Information prepared by the Applicant's representative in support of the Application and Community Impact Statement dated 18 December 2017.
12. Completed application dated 18 December 2017.



13. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 18 December 2017.
14. Submission from NSW Police Force on 17 January 2018 in relation to the Application.
15. Certification of Advertising signed and dated 5 April 2018.
16. Submission prepared by the Applicant's representative, in response to the submissions received in relation to the Application and supporting information dated 5 April 2018.
17. Google map images extracted from the Google website on 23 April 2018, showing the location and photos of the Premises in map view, earth view and street view.
18. L&GNSW liquor licensing records as at 25 April 2018, outlining the density of all types of liquor licences in Casula, the LGA and NSW, and listing all packaged liquor licences in Casula and the LGA.
19. Submission from Liverpool Council (undated) in relation to the Application.
20. Petition from members of the public indicating support for opening a packaged liquor outlet at ALDI Casula in relation to the Application (undated).
21. ALDI Liquor Management Policy and Strategies document and House Policy for the responsible service of liquor (undated).
22. Submission from Secretary (L&GNSW Compliance) (undated) in relation to the Application.