



Mr Grant Cusack  
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23 December 2016

Dear Mr Cusack,

**APPLICATION NO:** 1-4557301491  
**APPLICATION FOR:** Removal of a Hotel Licence  
**PROPOSED TRADING HOURS:** Monday to Friday 8:30AM – 8:00PM  
Saturday 8:30AM – 7:00PM  
Sunday 10:00AM – 7:00PM

**APPLICANT:** Trent Auld  
**LICENSED PREMISES NAME:** Mill Tavern

**CURRENT PREMISES:** Boorowa & Lynch Streets, Young NSW 2594

**PROPOSED PREMISES:** ALDI Young  
11 Zouch Street  
Young NSW 2594

**ISSUE:** Whether to grant or refuse an application to  
remove a hotel licence.

**LEGISLATION** Sections 3, 14, 15, 15A, 16, 17, 30, 40, 45,  
48 and 59 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR  
REMOVAL OF A HOTEL LICENCE – MILL TAVERN**

The Independent Liquor and Gaming Authority considered Application number 1-4557301491 and, pursuant to section 45 of the *Liquor Act 2007* (Act), decided to **refuse** the Application. If you have any enquiries about this letter, please contact the case manager via [santina.causa@justice.nsw.gov.au](mailto:santina.causa@justice.nsw.gov.au)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P Crawford', written in a cursive style.

Philip Crawford

**Chairperson**

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

## STATEMENT OF REASONS

### Material Before The Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high-volume jurisdiction.
2. In making this decision, the Authority has considered the removal application filed on 16 June 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.
3. The Authority notes, on the basis of the additional information provided with the CIS, that the Application seeks to remove hotel licence LIQH4001228796 (which has been held in a dormant capacity since 9 March 2016) a distance of 400 metres away by road (a 600m walk according to Google Maps) to the site of an existing ALDI supermarket, where the licence will be used to operate a small packaged liquor facility.
4. The Application Form states that the owner of the hotel licence on the Current Premises has entered into an agreement with ALDI for the sale of the hotel licence, with a view to removing it to the Proposed Premises to be utilised for the purpose of a liquor department for the ALDI supermarket. This agreement is conditional upon the grant of this Application, which, if granted, will result in the Application being transferred to ALDI Foods Pty Limited.

### Summary of Further Submissions

5. Report to the Authority dated 4 November 2016 from Compliance Branch of the Office of LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
6. Letter from the Applicant to licensing staff dated 1 December 2016 attaching a seven-page document containing an executive summary (which discusses the Application, the consultation process, the proposal, the local and broader community, facilities at the Proposed Premises, proposed conditions, positive benefits of granting the licence, potential negative impacts and factors referred to in Authority Guidelines 6) contending *inter alia* that: there is “overwhelming support” for granting the Application, evidenced by the petition in support signed by

“over 1980 persons”; that no stakeholder or other person has raised any concerns with the Authority in response to the Application; that granting the Application will significantly diminish the potential for adverse impacts/harms from the licence and that the public benefits in removing the licence “substantially outweigh” any potential social impact from its relocation.

7. Additional submission from the Applicant to licensing staff dated 1 December 2016. In this 27-page letter the Applicant consents to conditions being imposed upon the licence and provides background to the following matters: the ability to operate a liquor department in a supermarket pursuant to a hotel licence; location of the Proposed Premises; growth/tourism in the area; the objects of the Act (public interest and positive benefits); a petition in support of the Application signed by 1984 people; the report prepared by the Applicant’s consultant Mr Adam Purcell, A & M Consultants Pty Limited (Consultant) who was engaged to assess existing liquor outlet options, pricing and the potential for public drinking or anti-social behaviour; the positions of various stakeholders; whether granting the Application is likely to cause any increase in rates of domestic violence assault (by reference to various reports and studies); prevailing licence density for NSW, the Young Local Government Area (LGA) and the suburb of Young; Socio-Economic Indexes For Areas (SEIFA) scores for Young LGA and the suburb of Young; and merits of granting the Application in light of the objects of the Act.
8. The Applicant attaches the following documents to this additional submission:
  - (a) Consultant’s report dated 13 November 2016. In this six-page report the Consultant discusses the time this assessment was conducted, the proposed ALDI packaged liquor outlet, the existing liquor outlet options in Young, pricing and potential for public drinking or anti-social behaviour. Attached to the Consultant’s report are eight photographs depicting parking, existing outlets, traffic, lighting in the carpark of the Proposed Premises, the nearby skate park and parkland.
  - (b) Petition in support of the Application signed by 1984 persons.
  - (c) Transcript of Proceedings in the former New South Wales Licensing Court on 8 February 2008 in relation to Dan Murphy’s, Manly Vale.
  - (d) Licence records for Dan Murphy stores that operate pursuant to a hotel licence – Manly Vale, Burwood.
  - (e) News article from *The Young Witness* “Police Attributed Local Figures to High Reporting Rate” written by Ms Christine Speelman dated 14 August 2015.

## **Legislative Framework**

9. Legal requirements regarding the removal of a licence to another premises are provided by section 59 of the *Liquor Act 2007* and the *Liquor Regulation 2008* (Regulation).

10. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
- (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.*
11. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
12. An application for a removal of a hotel licence is a “relevant application” within the meaning of section 48(2) of the Act for which a Category B CIS is required.
13. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied 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”.
14. In the additional information document attached to the CIS, the Applicant has posited a “local community” that extends beyond the State suburb of Young to include the State suburbs of Bendick, Murrell, Monteagle, Maimuru, Kingsvale, Wombat, Murringo, Milvale, Wallendbeen and parts of Harden. The Applicant identifies these areas as comprising people who will likely use the services of the business and be affected by its operations. That is, the local community proposed by the Applicant is in line with the Applicant expected trade area.
15. In the absence of a statutory definition of “local community” and for the sake of regulatory certainty and consistency with the Authority’s long established practice, as disclosed in Authority Guideline 6, the Authority finds that the local community comprises the State suburb of Young in which the Proposed Premises is located. While the Authority accepts the Applicant’s advice that the business (particularly

one forming part of a supermarket) is likely to receive patronage from beyond the suburb in which it is situated, the Authority's approach is preferable to a definition of the local community that would incorporate several suburbs that would lose any genuinely "local" focus when assessing overall social impact.

16. The Applicant has defined the "broader community" to include the Young Shire local government area, western parts of Boorowa LGA, northern parts of Harden Shire LGA and parts of Cootamundra Shire LGA and Temora Shire LGA.
17. Consistent with Guideline 6, the Authority is satisfied that the relevant "broader community" comprises the community in the relevant local government area. The Authority notes that the new Hilltops LGA was proclaimed on 12 May 2016, amalgamating the former Young LGA, Boorowra Shire and Harden Shire areas, although the former Young LGA provides the most proximate portion of surrounding suburbs within this broader community.

### **Analysis of Relevant Facts**

18. The Authority is satisfied, on the basis of the Application and CIS material before the Authority that, for the purposes of section 59(2) 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.
19. Section 59(3) of the Act provides that when determining an application for approval to remove a licence to other premises, the Authority is to deal with the Application as if it were an application for the granting of a licence in respect of those other premises. The Authority has the same powers in relation to the Application as the Authority has in relation to an application for a licence.
20. To that end, 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 licenced venue of the kind proposed in the Application. The Authority notes that no probity issues were raised with regard to the Applicant following consultation with law enforcement agencies, including NSW Police (Police) and LGNSW.
21. The Authority is further satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *ALDI Management Policies and Strategies* and *House Policy* lodged with the Application on 16 June 2016.
22. An issue arises as to whether the Applicant has satisfied the requirements of section 45(3)(c) of the Act. While the Applicant relies upon a Complying Development Consent (CDC) 10/0810/40A dated 1 June 2016, which identifies the proposed use as "retail premises – including the sale of liquor", section 45(3)(c) requires an applicant for a licence to establish that if development consent is required such development consent is in place to use the premises *for the purposes of the business or activity to which the proposed licence relates*.

23. Notwithstanding that the Applicant is proposing to operate a *packaged liquor* business pursuant to a *hotel* licence, the Applicant should nevertheless demonstrate whether development consent is required and if so, such consent is in force permitting use of the Proposed Premises as a *hotel* – being the *relevant* business or activity to which this *licence* (a hotel licence) relates.
24. While the Authority has refused the Application on the basis of section 48(5) of the Act, the Authority notes that there is insufficient evidence or material before the Authority to find that section 45(3)(c) is satisfied.

### **Social Impact – Positive Benefits**

25. The Authority is satisfied that the Applicant has demonstrated a considerable amount of support for the Application by ALDI shoppers. A petition signed by **1984** persons includes persons who live in Young and others from the broader community.
26. According to ABS *Quickstats* data before the Authority the total population of the State suburb of Young is **10,039** and the total population of the former Young Local Government Area (Young LGA) is **12,236** while the combined population of the new Hilltops Shire (combining Young LGA, Boorowra LGA and Harden LGA) is **18,219**. The Applicant’s petition satisfies the Authority that there is substantial support for the proposal among ALDI shoppers in the local community of Young although the extent of support across the broader community is less pronounced.
27. The petition states:

*We, the undersigned, support the application by ALDI for a small packaged liquor facility (approx. 33sqm) within the proposed ALDI Supermarket situated at 11 Zouch Street, Young.*

*We are advised that it is proposed to remove an existing hotel licence (The Mill Tavern) to the ALDI Supermarket and that the licence will be the subject of various conditions/restrictions and permit packaged/take-away liquor sales only.*

*We expect to be able to purchase liquor at the ALDI Supermarket at the same time as we do our grocery shopping without having to travel elsewhere to do so. At present, the other two supermarkets in Young (Woolworths and IGA) provide a liquor department for customers. We would prefer to purchase ALDI’s quality owned-branded liquor products.*

*In our view, the creation of a small liquor department in the ALDI Supermarket is not likely to lead to any increase in crime or anti-social behaviour.*

*We support the grant of a small liquor department for ALDI.*

28. The Authority does not accept the Applicant’s submission that the petition evidences “overwhelming support” for the Application in the local community. However, noting that there were no submissions from residents of the local or broader community in opposition to the Application, the petition does provide evidence that a significant number of persons in the local and broader community who shop at ALDI support the Application. In this sense granting the Application would further the statutory object in section 3(1)(a) of the Act of consistency with the “needs, desires and expectations” of the local and broader community.

29. The Authority is satisfied, on the basis of the information provided in the CIS, that granting the Application will provide an additional measure of convenience to those ALDI shoppers in the local and broader community who seek to purchase liquor products at the same time as purchasing groceries.
30. The Authority accepts that this additional convenience may advance the object of section 3(1)(a), while the availability of ALDI branded products to the local and broader community may advance the statutory object of the reasonable development of the liquor industry pursuant to section 3(1)(b) of the Act.
31. However, those additional benefits of convenience are reduced, in a practical sense, by the number and range of incumbent liquor retailers in the local and broader community. LGNSW licensing information records that within the State suburb of Young are four packaged liquor retailers, three of which are located in or around the Young CBD (Donges Supa IGA, BWS – Beer Wine Spirits and Liquorland).
32. There are six full hotel licensed premises (not including the Mill Tavern which is currently dormant). Hotels are authorised to sell takeaway liquor and commonly do so. Five of those hotels (the Australian Hotel, Commercial Hotel, Criterion Hotel, Empire Hotel and the Great Eastern Hotel) are located in or close to the Young CBD.
33. Although this proposed business would be located north of the CBD, according to Google maps before the Authority the licensed IGA and BWS liquor stores are located less than 1km from the Proposed Premises.
34. Second, the “one stop” shopping benefit is reduced by the nature of this proposal, noting the limited range of liquor products disclosed by the Applicant in the CIS. The Applicant advises, in the additional information document attached to the CIS, that its liquor business will usually stock around 100 product lines. These will be dominated by ALDI branded products and on occasion, a small selection of non ALDI branded products may be available as “special products” for a limited time until sold out. While the Authority accepts that this will be the case, it follows that some ALDI customers may still need to make special trips to obtain liquor brands *not* stocked by ALDI.
35. The information provided by the Applicant in the additional information document attached to the CIS indicates that the nearest ALDI licensed supermarket is located in Cowra (some 70kms from Young) or Yass (some 97kms from Young). In summary, the Authority is satisfied that there are modest benefits to the local and broader community by way of “one stop shopping” and moderate benefits to the local and broader community by way of increased choice, by way of access to ALDI branded liquor products.
36. The Authority is not satisfied that granting this Application will bring with it the contended community benefit (or in the alternative, a reduction in negative social impacts) of replacing a problematic hotel with a packaged liquor business. The



Authority finds these submissions somewhat artificial on the material before it, noting that the additional information provided with the CIS indicates that the Mill Tavern recently ceased trading.

37. LGNSW licensing information indicates that the hotel licence has been dormant since at least a notice of ceasing to trade was lodged with LGNSW on 9 March 2016. A copy of the advertised sale of the Current Premises by Ray White (sourced from the Ray White website on 12 May 2016) indicates that the hotel property is already on the market.
38. This is not a case of a currently trading licensed business relocating from one address to another for the purposes of commercial development. The practical consequence of granting this Application, from a social impact perspective, is the commencement of a new takeaway liquor business in the local community, not the cessation of a hotel business, which has already occurred.

#### **Social Impact – Negative Impacts**

39. Having reviewed all of the material before it, the Authority considers that over time there is a risk that liquor sold from this new licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor. That risk exists with any new business, but there are factors associated with this Application, which have moved the Authority to give greater weight to the negative impacts associated with this new business.
40. As disclosed in Authority Guideline 6, when considering the overall social impact of granting a liquor application, the Authority will usually have regard to factors including the licence type, the scale of the proposed licensed business, the proposed licensed trading hours, the location of the premises and any harm reduction measures that will be implemented on the premises, above and beyond the minimum requirements of the liquor legislation.
41. When assessing likely social impact associated with the proposed exercise of the licence by ALDI, the Authority is concerned with alcohol related adverse social impacts that may occur *off* the premises.
42. The scale of the Proposed Premises is 33 square metres, which is comparable with other ALDI supermarket liquor departments but smaller than many other stand alone liquor stores in New South Wales. The smaller scale of this business and the more limited range of liquor products to be sold are factors that may, objectively, reduce the scope for liquor sales from this new business to attract and generate adverse social impacts over time.
43. As for prevailing negative social impacts, the Application was notified to relevant agencies as required by the liquor legislation. The former Young Shire Council did not object to the Application, LGNSW have not performed a specific assessment of the Application and there are no adverse submissions from local residents.

44. Police have raised two areas of concern in their brief submission dated 2 June 2016. First, they question the appropriateness of the Applicant proposing to utilise a hotel liquor licence to operate a packaged liquor licence. The Authority considers that this is a legitimate public policy view - that liquor businesses should operate pursuant to the relevant category of licence that the Act provides for that type of business.
45. Notwithstanding this policy concern, the Authority accepts that it would be within the scope of authorisation provided by a hotel licence to utilise that licence only to sell packaged liquor - provided that all other requirements of the Act are satisfied. The Authority is not satisfied as to the sufficiency of the Applicant's evidence with regard to section 45(3)(c), as noted above.
46. Police also touch upon the proximity of the Proposed Premises to a nearby public housing estate. As noted in Guideline 6, the Authority will have regard to the *location* of the proposed new business when assessing its likely overall social impact.
47. The *location* of the Proposed Premises is problematic with regard to the local and broader community in two important respects. First, with regard to the broader community, the former Young LGA (being the most proximate portion of the new broader community and an area that the new licence is likely to service) is currently exposed to unacceptably high rates of *alcohol related domestic violence*.
48. Mindful that recorded alcohol related assault events may potentially involve the abuse of liquor acquired either on licensed premises or off licensed premises, alcohol related domestic violence crime data is of particular interest when assessing the social impact of a new packaged liquor business.
49. This is because, as disclosed by the *BOCSAR Report on Crime for the Young LGA for 2015*, the overwhelming majority of domestic violence assault incidents recorded by Police during calendar year 2015 were recorded to have occurred on *residential* premises, where most packaged liquor sold is expected to be consumed. Of the **68** assault events recorded in that year, **56** occurred on residential premises.
50. Moreover, according to the *BOCSAR NSW Recorded Crime Statistics July 2010 to June 2015*, (which records crime by local government area and alcohol related status), the rate of alcohol related domestic violence assault incidents recorded across the Young LGA during the 2014/2015 financial year was **324.3** per 100,000 persons of population, compared to **122.6** per 100,000 persons for NSW as a whole.
51. Turning to the State suburb of Young, the Authority notes the presence of extensive low and medium concentration hotspots for domestic assault located in nearby residential areas to the North, East and South West of the Proposed Premises. These are areas in Young that may reasonably be expected to be serviced by the new liquor business, given its status as a major chain grocery supermarket and its

location within only a few kilometres. Indeed, they fall within the area that the Applicant submits it is likely to service.

52. The ALDI supermarket, if licensed, would be closer to persons living in the North of the CBD than the IGA and BWS packaged liquor licensed premises located within the CBD.
53. The Authority is satisfied, noting Police information about the proximity of nearby social housing estate, that this new business, offering liquor and grocery products that are priced with an eye to local spending capacity, is quite likely to service this very disadvantaged portion of the local community which Police have singled out as of concern to local law enforcement, along with other residential areas in the local and broader communities.
54. The Authority notes that the domestic violence hotspots in Young are reasonably extensive. They are not confined to any particular area or estate - but the proximity of this estate, as noted by Police, is another negative factor when considering the potential for this new business to contribute to adverse alcohol related social impacts in this local community.
55. The Applicant's consultant focuses on whether liquor sales from this new business will cause an increase in alcohol related crime, particularly domestic violence. That is a relevant enquiry, but the Authority's role is not confined to assessing whether there will be an overall increase in alcohol related crime should a licence be granted.
56. When applying the overall social impact test, the Authority must assess the likely positive and negative impacts of granting *this particular* licence, in the context of the particular business model proposed. This involves a degree of speculation, albeit informed by what is known about the prevailing circumstances in the local or broader communities in question.
57. Considering together the Authority's findings on likely positive benefits and negative impacts, the Authority *must* be satisfied, on the material before it, that the "overall" impact of granting this Application will not be detrimental to either the local or broader community.
58. There is insufficient data or analysis before the Authority to discern whether the activation of this licence at the Proposed Premises in Young 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. 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)) to measure the effect of increased volumes of liquor sold in a local government area on assault rates.

59. However, the Authority considers that the scope for *this* proposed business to *contribute* to prevailing negative social impacts in *these* local and broader communities is elevated, by reason of the *location* of the Proposed Premises, its reasonably extensive trading hours across the week and the vulnerability or over exposure to alcohol related crime that is evident in the local community and immediately neighbouring suburbs within the broader community.
60. The Applicant's consultant, Mr Purcell, submits that the existing outlets in Young provide a very competitive pricing structure and that the commencement of an ALDI liquor department will not be likely to drive down prices in Young.
61. The Applicant's Consultant provides a concise table specifying price points for products available at Liquorland, BWS, IGA and the Young Hotel including cleanskin wines, ranges of wines (including Gossips, Jimbaroo Valley, McWilliams and Riverside Landing) along with some beer and vodka products. The products specified are not extensive and the Consultant does not provide price points for comparable ALDI products including the foreshadowed occasional specials on mainstream brands. The Authority is unable to find on the basis of this analysis, whether the commencement of ALDI's operation will place no competitive pressure on prices in Young. There is insufficient evidence to make a finding either way.
62. The Authority does consider it likely that a rational liquor supplier entering this market may reasonably be expected to supply liquor products at prices directed to the purchasing power of the market that it serves. The available ABS SEIFA data for Young and the former Young LGA areas recorded that those communities ranked in the 3<sup>rd</sup> decile – that is, they are relatively socio economically disadvantaged.
63. As noted in the research in the Appendix to Authority Guideline 6 (Livingston M: "A longitudinal analysis of alcohol outlet density and domestic violence" (2011) *Addiction* (May 2011)) there is an association between low socio economic status and domestic violence. This provides a further risk factor considering the location for the Proposed Premises, the SEIFA data for local and broader communities and the rate and concentration of domestic violence incidents in the local and broader communities.
64. In the submission from the Applicant dated 1 December 2016, the Applicant refers to US evidence (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 Labouvic & 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) and a recent meta-study which reviewed 11 studies conducted in the USA, New Zealand and Australia (Wilson IM, Graham K and Taft A "Alcohol Interventions, Alcohol Policy and

Intimate Partner Violence: A Systematic Review”, *BMC Public Health* 2014, 14:881 published at <http://www.biomedcentral.com/1471-2458/14/881>) and contends that there is little or no relationship between outlet density and domestic violence rates. That runs counter to the research (from Livingston, noted in Authority Guideline 6) derived from the Australian context, indicating that a relationship between higher off licence density and domestic violence rates was demonstrated in Melbourne.

65. While licence density in the suburb of Young appears higher than New South Wales for packaged liquor and hotels (hotels can and do commonly sell liquor for takeaway, whether or not there is a devoted liquor store) licence density *per se* is not at such a high rate as to warrant decisive weight when making this decision.
66. However, the US research, noted in the Applicant’s submission dated 1 December 2016 (Waller et al (2012) and Gorman et al (1998)) does identify an association between low socio economic status and domestic violence, which is acknowledged by Livingston (2011) as a risk factor.
67. This association arising from the literature reinforces the Authority’s concern as to the suitability of the location of the Proposed Premises, giving weight to the local knowledge of Police and their concerns as to proximity with the public housing estate and the “number of incidents” in that area.
68. The Authority is satisfied, on the basis of the BOCSAR crime data for domestic violence and alcohol related domestic violence and the Police submission, that this type of business will operate in a location where it is at least likely to *contribute*, along with the incumbent liquor licensees, to the problematic rates and concentrations of alcohol related domestic violence in the local community of Young.
69. In short, this new business will likely contribute to the prevailing *over exposure* of the local community to alcohol related domestic assault. This is a negative incident of *this* proposal and the Authority has given weight to the statutory considerations in section 3(2)(a) and 3(2)(c) of the Act in light of what is known about the extent of alcohol related domestic violence in *this* local community.
70. The Authority accepts the Applicant’s submission that BOCSAR recorded domestic crime rates are declining, and notes that the Applicant has provided some material suggesting that higher rates may reflect a localised emphasis on domestic violence *reporting*. Accepting that this is the case, domestic violence (and particularly alcohol related domestic violence) remain at unacceptably high levels, having regard to the latest available crime data for the State suburb of Young and the former Young LGA.

## Conclusion

71. Acknowledging that the Applicant has demonstrated some positive benefits from granting this Application, the likely benefits are not so great for the Authority to be satisfied that the overall impact of granting this licence in this location will not be detrimental to the local community, given the scope for this business to increase accessibility and contribute to the supply of packaged liquor in what remains a very challenging environment for alcohol related domestic violence.
72. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services (FACS) and all other parties required to be consulted under the legislation.
73. In conclusion, having considered together the positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application, the Authority is not satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the well-being of the local community of Young.
74. The Application is refused pursuant to section 45 of the Act.
75. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (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.

Decision Date: 23 December 2016



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 in the liquor and gaming website <https://www.liquorandgaming.justice.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 Before The Authority

1. Application Form lodged on 16 June 2016.
2. Category B CIS lodged on 16 June 2016, attaching:
  - Applicant's geographical map depicting area notified of the Application (attached to the CIS lodged on 16 June 2016).
  - List of stakeholders and special interest groups notified of the Application (attached to the CIS lodged on 16 June 2016).
  - "Additional Information about the Application and CIS" attached to the CIS lodged on 16 June 2016. In this 20-page document, the Applicant provides information about the Application, the operations of the Mill Tavern and the effect the proposed removal will have on the operation of the hotel licence. The Applicant contends that the removal of the licence will result *inter alia* in: a significant reduction in the size of the licensed area and in the approved licensed hours; the licence only being exercised as a packaged liquor licence; a liquor sales area wholly within a supermarket; no refrigerated liquor sales; and an adequately defined licensed area.
  - The Applicant also discusses CCTV coverage, joining the local liquor accord, ALDI's operation of their liquor departments in accordance with its *House Policy and Management Policies and Strategies* document and entertainment. The Applicant consents to nine conditions being imposed upon the licence upon removal. [The Authority notes that these conditions relate to the social impact of operating the business, the Proposed Premises being complete and ready to trade, transferring the licence to ALDI Foods Pty Limited, notification of the appointment of a manager, compliance with *Management Policies and Strategies* and *House Policy* documents, adequately defining the liquor sales area, the local liquor accord, refrigerated products, removing the licence, consumption of liquor on the Proposed Premises and entertainment].
  - In this document, the Applicant also discusses ALDI stores, the role of the corporate licensee, approved manager and staff, the position with Council, completion of the licensed area of the Proposed Premises, the liquor sales area, the location of nearby community buildings, facilities and places, the proposed 6-hour closure period and contended positive benefits of granting the Application (discussed in the statement of reasons).
  - In this document, the Applicant also discusses (by apparent reference to the social impact factors identified in Authority Guideline 6) the type, scale, hours and location of the Proposed Premises, along with growth and tourism in Young, prevailing licence density and measures to reduce the potential for



alcohol-related harms (including preventing intoxication and sales to minors and minimising potential for anti-social behaviour).

- The Applicant discusses the notification of stakeholders and issues raised during consultation and contends that Council advised that it had no objection to the removal of the licence, that Murrumbidgee Local Health District (MLHD) saw no reason to oppose the Application, that RMS provided the “usual form of response” and that Aboriginal Affairs had no objection to the Application.
- In this document the Applicant also responds to the email from NSW Police and contends *inter alia* that: there are a number of examples across NSW where hotel licences are used solely for the sale of packaged liquor - Dan Murphy’s at Manly Vale (LIQH400103905) and Dan Murphy’s at Burwood (LIQH424011838); unlike the Dan Murphy’s stores (which generally occupy an area of well over 1,000sqm), the licensed area of the Proposed Premises is “only 33sqm”; granting the Application will remove the potential for the licence to be used in a manner which has a much higher impact on the local community; the rates of public housing in Young (3.31%) and Young LGA (2.67%) are below the state average of 4.4% and the public housing referred to in the Police submission is more than 830 metres by foot to the northeast of the ALDI supermarket; the majority of customers will be existing customers of the supermarket; the existing packaged liquor facilities in Young comprise a stand alone liquor store, a bottleshop associated with the Young Hotel which provides a drive through facility, a BWS store associated with a Woolworths supermarket and an IGA liquor store associated with an IGA supermarket; the majority of customers of those packaged liquor facilities travel by car to meet their shopping and liquor needs and this is not likely to change as a result of granting this Application; the Application takes an existing hotel licence and seeks to reduce its scale, trading hours, trading activities and impose restricted conditions; and the local health department advise that they have consulted with local mental health and drug and alcohol management staff, and have no reason to oppose the Application.
- The Applicant also responds to the Police submission by contending that BOCSAR crime statistics for the 12 months ended December 2015 reveal that the area in which the ALDI supermarket is located is not within a hotspot for alcohol related assault; that there have been “significant improvements” in relevant crime rates in the suburb of Young over the last 5 years with the rates of alcohol related non-domestic assault halved from 2011 to 2015 (43 incidents in 2011 and 23 incidents in 2015) compared to the NSW rate reducing by “approximately one-third” over the same period; and that rates of domestic violence assault in the suburb of Young have fallen from 1.7 times the State average in 2011 to approximately 1.5 times the State average in 2015 and the rate in Young LGA is 1.4 times the State average.

3. The Applicant has attached the following further material to the document entitled “Additional Information about the Application and CIS”, provided with the CIS lodged on 16 June 2016:
  - Onegov licence record for the Mill Tavern at the Current Premises as at 22 April 2016;
  - Google Earth photographs of the ALDI Supermarket;
  - Geographical map depicting an aerial view of the locations of the Current Premises and the Proposed Premises;
  - Geographical map depicting the distance between the public housing referred to in the Police submission and the ALDI supermarket;
4. Additional information about the proposed 6-hour closure period, attached to the CIS lodged on 16 June 2016. In this six-page document the Applicant discusses (relevantly) the current position of the Mill Tavern, the proposed 6-hour closure period to apply on removal, the proposed mode of operation of the liquor store, the demonstrated or likely needs of patrons, the interests of the local community towards the proposal, the need to minimise harm associated with misuse and abuse of liquor, the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life and granting of previous similar applications by the Authority.
5. A list of conditions consented to by the Applicant to be imposed on the liquor licence upon the grant of the removal (attached to the CIS lodged on 16 June 2016).
6. Also provided with the CIS lodged on 16 June 2016 are Current Organisation Extracts from the Australian Securities and Investments Commission (ASIC) for the following entities:
  - GEMSTONE HOTEL PTY LTD (business owner at the Current Premises) as at 22 April 2016 (attached to the CIS lodged on 16 June 2016).
  - ALDI PTY LTD as at 31 May 2016 (attached to the CIS lodged on 16 June 2016).
  - ALDI FOODS PTY LIMITED as at 31 May 2016 (attached to the CIS lodged on 16 June 2016).
7. Google Geographical Map depicting the walking distance being 600 metres between the Current Premises and the Proposed Premises (provided as part of the Application material lodged on 16 June 2016).
8. CDC 10/0810/40A issued by Steve Watson & Partners on 1 June 2016 certifying the development of “Minor internal alterations to the existing floor plan” for “Retail

Premises – including the sale of liquor” (provided as part of the Application material lodged on 16 June 2016).

9. Development Application (DA) 2007/DA-00079 issued by Young Shire Council on 18 July 2007 granting consent to development, which included “to establish and operate an ALDI Store from the site” (provided as part of the Application material lodged on 16 June 2016).
10. ALDI Liquor NSW *House Policy* for the responsible service of alcohol and *Management Policies and Strategies* for ALDI Liquor (provided as part of the Application material lodged on 16 June 2016).
11. Email from NSW Aboriginal Affairs to Mr Grant Cusack, the Applicant’s solicitor, dated 23 March 2016 advising no objection to the Application on the proviso that the relevant NSW Aboriginal Land Council and Local Aboriginal Land Council have been notified (provided as part of the Application material lodged on 16 June 2016).
12. Letter from RMS to Mr Grant Cusack, the Applicant’s solicitor, dated 30 March 2016 recommending that customers purchasing large quantities of alcohol are advised of the *Safe Party Kit* available on the Police website and that a list of tips for customers be displayed (provided as part of the Application material lodged on 16 June 2016).
13. Letter from Council to Mr Grant Cusack, the Applicant’s solicitor, dated 8 April 2016 (provided as part of the Application material lodged on 16 June 2016). In this one-page letter Council advise that they have “no objection” to the Application and note that the CDC 10/0810/40 which was issued on 21 March 2011 lapsed on 21 March 2016 meaning that a further CDC will need to be obtained to facilitate the required works for the licensed area.
14. Letter from Murrumbidgee Local Health District to Mr Grant Cusack, the Applicant’s solicitor, dated 11 April 2016 advising that the local mental health and drug and alcohol management and staff were consulted and that they see no reason to oppose the Application (provided as part of the Application material lodged on 16 June 2016).
15. Email from Senior Constable Michael Wood, Licensing Coordinaor, Cootamundra Local Area Command (LAC) of NSW Police to Mr Grant Cusack, the Applicant’s solicitor, dated 2 June 2016 (provided as part of the Application material lodged on 16 June 2016). In this one-paragraph submission, Police raise an issue with the type of licence being transferred (a hoteliers licence to a packaged liquor licence) and although the Applicant has stated in previous emails that conditions will apply, Police contend that “it will always be a hoteliers licence”. Police also raise concerns about the location of the Proposed Premises being close to a “housing commission area” and “the number of incidents”.
16. Report to the Authority dated 4 November 2016 from Compliance Branch of the Office of LGNSW.

17. Letter from the Applicant to licensing staff dated 1 December 2016 attaching a seven-page document containing an executive summary.
18. Applicant further submission dated 1 December 2016 attaching the following documents: Consultant's report dated 13 November 2016; petition in support of the Application signed by 1984 persons; transcript of proceedings in the Licensing Court on 8 February 2008 in relation to Dan Murphy's, Manly Vale; licence records for Dan Murphy stores the subject of a hotel licence – Manly Vale and Burwood; and The Young Witness newspaper article, *But Police Attributed Local Figures to High Reporting Rate*, written by Ms Christine Speelman dated 14 August 2015.
19. Plan of the Proposed Premises highlighting in orange the proposed licensed area and clearly depicting the location of the entry barrier and exit door for this licensed area (provided as part of the Application material lodged on 16 June 2016).
20. Onegov licence record for the Mill Tavern at the Current Premises as at 29 October 2016 provided by licensing staff.
21. Liquor licensing records from LGNSW indicating that the suburb of Young already has **7** full hotel licences (including the dormant Mill Tavern licence) and **4** packaged liquor licensed premises all of which are authorised to sell takeaway liquor.
22. Data prepared by licensing staff based on the ABS 2011 Census data and LGNSW licensing data as of 18 October 2016, indicating that:
  - (a) The State suburb of Young has a rate of **69.72** *full hotel licences* per 100,000 persons and Young LGA has a rate of **81.72**, both of which are both above the NSW state wide rate of **30.76**.
  - (b) The suburb of Young has a rate of **39.84** *packaged liquor licences* per 100,000 persons and Young LGA has a rate of **32.69**, compared to the NSW state wide rate of **35.02**.
23. BOCSAR Crime Maps based upon data from October 2015 to September 2016 detailing hotspots for the concentration of offences near the location indicating that the Proposed Premises:
  - (a) Is located in a *low density hotspot* for incidents of *domestic assault* with extensive low to medium hotspots for the concentration of domestic assault extending from Blakett Avenue to the North of the Proposed Premises to Lachlan Street to the South of the Proposed Premises to Templemore Street, South West of the Proposed Premises.
  - (b) Is not located *within any hotspots* for incidents of *non-domestic assault* although there is an extensive medium density hotspot in the CBD extending along the axes of Boorowra Street and Main Streets
  - (c) Is located *on the border of a low and medium density hotspot* for incidents of *malicious damage to property* with an extensive high density hotspot for the

concentration of malicious damage to property located South West of the Proposed Premises.

24. BOCSAR Crime Maps and Rates for the State suburb of Young based upon data from October 2015 to September 2016 (published on the BOCSAR website). This data indicates that:
- (a) alcohol related assault incidents in Young are *stable* over the last 2 years and that the rate per 100,000 persons is **460.2** compared to the NSW rate of **272.1**
  - (b) alcohol related non-domestic assault in Young is down 39.5% over the last 2 years and that the rate per 100,000 persons is **220.5** compared to the NSW wide rate of **118.1**
  - (c) alcohol related domestic assault incidents in Young are *stable* over the last 2 years and that the rate per 100,000 persons is **575.2** compared to the NSW rate of **389.0**
25. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for July 2014-June 2015. This data indicates that:
- (a) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Young LGA was **55.4**, higher than the rate of **18.2** per 100,000 for New South Wales as a whole.
  - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Young LGA was **229.4**, significantly higher than the State-wide rate of **144.0**.
  - (c) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Young LGA was **324.3** per 100,000 persons, significantly higher than the New South Wales rate of **122.6** per 100,000 persons.
  - (d) The rate of *offensive behaviour* offences flagged by reporting Police as *alcohol related* across this LGA was **245.2** per 100,000 persons, significantly higher than the State-wide rate of **88.2**.
26. ABS SEIFA data prepared on the basis of the 2011 census indicating that both the suburb of Young and the Young LGA ranked in the 3<sup>rd</sup> decile compared to other local government areas and state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
27. NSW Department of Health *HealthStats* data prepared on the basis of the 2011 Census indicating that the smoothed estimate of standardised separation ratios for *alcohol attributable hospitalisations* for 2013-2015 for the Young LGA was **126.6** (with the New South Wales wide rate being **100**), and that the smoothed estimate

of standardised mortality ratios for alcohol attributable deaths for 2012-2013 for the Young LGA was **112.3**.

28. *BOCSAR Report on Crime for the Young LGA for 2015*, indicating that the overwhelming majority of domestic violence assault incidents recorded by Police during calendar year 2015 were recorded to have occurred on *residential* premises, where most packaged liquor sold is expected to be consumed. Of the **68** assault events recorded in that year, **56** occurred on residential premises.