

Mr Grant Cusack
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27 July 2018

Dear Mr Cusack

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| Application No. | 1-5759492071 |
| Application for | Removal of a packaged liquor licence |
| Trading hours | Monday to Wednesday 8:30am – 7:00pm Thursday 8:30am – 9:00pm Friday to Saturday 8:30am – 7:00pm Sunday 10:00am – 7:00pm |
| Licence name | ALDI Edgeworth |
| Applicant | ALDI FOODS PTY LIMITED |
| Current Premises | Stockland Supercentre Shop 44, 10 Stockland Drive GLENDALE NSW 2285 |
| Proposed Premises | 57 Thomas Street EDGEWORTH NSW 2285 |
| Legislation | Sections 3, 11A, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i> |

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

The Independent Liquor and Gaming Authority considered, at its meeting on 14 February 2018, application number 1-5759492071 seeking the removal of a packaged liquor licence and, pursuant to section 59 of the *Liquor Act 2007* has decided to **approve** the removal of the licence, subject to the imposition of 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 2:30am and 8:30am 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 24th Normal trading Monday to Saturday, 8:00am to 10:00pm Sunday

Christmas Day Not permitted
December 31st 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 wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to premises at 57 Thomas Street, Edgeworth.
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.
 - 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

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 questions about this letter, please contact the case manager via email to andrew.whitehead@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', with a stylized flourish at the end.

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

Statement of reasons

Decision

1. On 21 June 2017 the Independent Liquor and Gaming Authority (“Authority”) received from ALDI Foods Pty Limited (“Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for removal of a packaged liquor licence (“Application”) from its current premises at Stockland Supercentre, Shop 44, 10 Stockland Drive GLENDALE NSW (“Current Premises”) to 57 Thomas Street EDGEWORTH NSW (“Proposed Premises”) trading as ALDI Edgeworth.
2. Pursuant to section 59 of the *Liquor Act 2007* (“Act”), the Authority has decided to approve the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45, 48 and 59 of the Act, and relevant provisions of the Liquor Regulation 2008 (“Regulation”).

Material considered by the Authority

4. The Authority has considered the Application and 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. As foreshadowed in the Authority’s Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule and briefly described where appropriate.

Legislative framework

8. The Authority has considered the Application in accordance with the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3(1), are 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, to facilitate the balanced development, in the public interest, of the liquor industry, and to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
10. In pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with the misuse and abuse of liquor (including

harm arising from violence and other anti social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition 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 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 business to which the proposed licence relates is in force.

Community impact statement

14. Section 48 of the Act requires certain applications, including an application for the removal of 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 a licence, authorisation or approval to which section 48 applies 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 the Authority becomes aware of during the application process.

Removal of liquor licence

16. Section 59 of the Act provides the legal requirements regarding the removal of a licence to another premises, and requires that such an application be dealt with and determined as if it were an application for the granting of a new licence.

Provisions specific to a packaged liquor licence

17. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.

18. Section 29 concerns the time period and manner during which liquor is to be sold or supplied.
19. Section 30 requires a separate liquor sales area to be set up on the licensed premises if the primary purpose of the business is not to sell liquor for consumption away from the premises.
20. Section 31 provides certain restrictions with respect to the grant of packaged liquor licences to general stores, service stations and take-away food shops.

Key findings

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

Validity, procedural and trading requirements

22. The Authority finds that:

- (a) The Application has been validly made and meets the minimum procedural requirements under sections 40 and 59 of the Act. This finding is made on the basis of the Application and CIS material before the Authority and the Certificate of Advertising signed by Mr Grant Cusack dated 19 January 2018.
- (b) The proposed trading hours for the Proposed Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods. This finding is made on the basis of the Application and CIS material provided by the Applicant.
- (c) Liquor will be sold and supplied in a separate liquor sales area at the Proposed Premises, and in accordance with the authorisation conferred by a packaged liquor licence as required by sections 29 and 30 of the Act. This finding is made on the basis of the Application, CIS material and the plan of the proposed licensed area provided by the Applicant.
- (d) Section 31 of the Act does not apply to the Application, as the Premises is not intended to be used for any of the purposes specified in the section.

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

23. Pursuant to section 45 of the Act, the Authority is satisfied that:

- (a) for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the proposed business or activity to which the licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant company following consultation with law enforcement agencies including NSW Police ("Police") and L&GNSW,
- (b) for the purposes of section 45(3)(b), practices will be in place from the commencement of licensed trading at the Proposed Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Management Policies and Strategies and House Policy documents, and

- (c) for the purposes of section 45(3)(c) the requisite development consent for use of the Proposed Premises as a packaged liquor licensed business is in force, on the basis of the Notice of Determination of Development Application DA/1434/2014 issued by Lake Macquarie City Council on 2 July 2015.

Community Impact Statement

24. 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 Proposed Premises on the local and broader communities.
25. 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 Edgeworth, and the relevant “broader community” comprises Lake Macquarie Local Government Area (“the LGA”).

Positive social impacts

26. The Authority accepts the Applicant’s claim that the granting of the removal of the licence would provide an additional measure of convenience to customers of the ALDI Supermarket in Edgeworth who wish to purchase liquor items along with their grocery items. This additional expediency can only be considered a modest benefit however, given that residents of Edgeworth can already access grocery and liquor products together at the existing Coles supermarket and adjoining and associated Liquorland store (notwithstanding the fact that the purchase of packaged liquor at these facilities requires a further transaction in addition to the purchase of groceries).
27. The benefit of convenience is further reduced by the small size of the Proposed 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.
28. The Authority notes the petition in support of the Application, which features several hundred signatures, along with numerous pro forma letters from members of the public wishing to indicate their support for the Application, and, on the basis of this evidence of local support, is satisfied that granting the removal of the licence will be consistent with the expectations of at least parts of the local and broader communities.
29. The Authority accepts the Applicant’s submission that the Proposed Premises will sell a range of principally ALDI-branded liquor products which are not currently available elsewhere in Edgeworth, however notes that the range of additional products to be offered is limited.
30. The Authority notes that the density of packaged liquor licences in Edgeworth suburb is slightly lower than the corresponding NSW figure, and significantly lower than that of Glendale suburb, wherein the existing licence is currently located. The density of other licence types that have the capacity to sell packaged liquor is also lower in Edgeworth suburb when compared to NSW.

31. 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.
32. Other purported positive community benefits posited by the Applicant include community “need” for the removal of the 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, are not as well defined and are not supported by persuasive evidence or analysis. On the limited supporting evidence and material before the Authority as to the nature and extent of those benefits, these contentions have been given little weight.

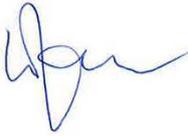
Negative social impacts

33. The Authority notes that, according to BOCSAR Crime Maps for the year ending September 2017, the Proposed Premises is located in a low density hotspot for domestic assault, in the vicinity of a low density hotspot for non-domestic assault, and in the vicinity of low, medium and high density hotspots for malicious damage to property. The concerns that such mapping raises, however, are somewhat alleviated by the rates of crime recorded for Edgeworth suburb for that period, which are similar to the NSW average.
34. BOCSAR crime data for the year to September 2017 indicates that the local community of Edgeworth recorded a slightly lower rate per 100,000 persons of population than NSW for incidents of alcohol-related domestic assault, whereas rates of alcohol-related non-domestic assault and malicious damage to property for Edgeworth were slightly higher than corresponding NSW rates.
35. The Authority accepts that data provided by NSW Health indicates that, whilst residents of the Lake Macquarie LGA are being hospitalised as a result of alcohol-related health problems at a lower than average rate, they are dying as a result of alcohol-related health problems at a higher than average rate.
36. The ABS Socio-Economic Indexes For Areas (“SEIFA”) data sourced from the 2011 Census for the suburb of Edgeworth and Lake Macquarie LGA on the Index of Relative Socio-economic Advantage and Disadvantage provides a mixed picture.
37. Edgeworth suburb ranked in the **third** decile (with the 10th decile being the most advantaged) compared to other suburbs in NSW whereas Lake Macquarie LGA ranked in the **seventh** decile compared to other LGAs in New South Wales. This data establishes that to some extent, socioeconomic disadvantage is a factor of concern when assessing the vulnerability of the local community of Edgeworth to adverse alcohol-related social impacts.
38. The Authority has had regard to the submission received from NSW Police, which opposes the granting of the Application on the basis of the proximity of the Proposed Premises to existing packaged liquor outlets in the area and a public school. The submission also raises concerns as to the extent of alcohol-related crime occurring in Edgeworth suburb, and the number of instances in which the last place of alcohol consumption is recorded as having been at home or in a private residence.

39. The Authority has also considered the objection received from a member of the public, who argued for the adequacy of current packaged liquor facilities in the area.
40. In addition, the Authority has considered its previous refusal of an application for a new packaged liquor licence to attach to the Proposed Premises.
41. Having reviewed all of the material before it, the Authority considers that there is a risk that if the removal of the licence were to be granted, liquor sold or supplied at the Proposed 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 concerns identified above are adequately mitigated by:
- The fact that objective BOCSAR data indicates that the rates of alcohol-related crime are roughly on par with corresponding NSW rates;
 - The fact that objective liquor licence density data indicates that the density of packaged liquor licences in Edgeworth suburb is slightly lower than the corresponding NSW figure, and significantly lower than that of Glendale suburb, wherein the existing licence is currently located;
 - The relatively small licensed area, which will help to further reduce any adverse impact its operation may have on the amenity of the community;
 - The licensed area is smaller than the licensed area at the Current Premises, and the approved trading hours are less than those that apply to the Current Premises;
 - 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, including a condition limiting the Proposed Premises to the sale of non-refrigerated liquor only, and by the Applicant's adherence to the Management Policies and Strategies and House Policy documents lodged with the Application; and
 - The fact that the licence is already operating at the Current Premises, which is only 1.5km by road from the Proposed Premises, with the granting of the Application simply resulting in the movement of the licence from one suburb to an adjoining suburb within the same LGA, rather than increasing the number of licences in the LGA.

Overall social impact

43. Having considered the positive and negative impacts that are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the removal of the packaged liquor licence would not be detrimental to the well-being of the local and broader communities.
44. The Application is granted pursuant to section 59 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 in the liquor and gaming website <http://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 before the Authority

1. ABS SEIFA data sourced from the 2011 Census for Edgeworth suburb and Lake Macquarie LGA, which indicates that, on the Index of Relative Socio-Economic Advantage and Disadvantage, Edgeworth is ranked in the third decile compared to all suburbs within NSW, and Lake Macquarie LGA is ranked in the seventh decile compared to all LGAs within NSW.
2. HealthStats NSW data relating to alcohol attributable deaths in Lake Macquarie LGA, 2001-2002 to 2012-2013, which indicate that the LGA had a smoothed standardised mortality ratio of 109.5, and alcohol attributable hospitalisations in Lake Macquarie LGA, 2001-2003 to 2013-2015, which indicate that the LGA had a smoothed standardised separation ratio of 84.8.
3. Development Application Notice of Determination DA1434/2014 issued on 2 July 2015 by Lake Macquarie City Council.
4. Statement of reasons for the Authority's decision to refuse a previous application for a new packaged liquor licence to be known ALDI Edgeworth, dated 16 June 2016.
5. NSW Recorded Crime Statistics for Lake Macquarie LGA for 2016.
6. An email from Aboriginal Affairs dated 6 April 2017 advising that it has no objection to the Application on the basis that the Applicant has also notified the NSW Aboriginal Land Council and Local Aboriginal Land Council of the proposal and objection process.
7. ASIC Current Organisation Extracts for ALDI Pty Ltd and ALDI Foods Pty Limited, dated 12 May 2017.
8. CIS Category B dated 20 June 2017, with accompanying document titled "Additional Information – Application and Community Impact Statement".
9. Packaged liquor licence – removal application form, lodged 21 June 2017.
10. Submission from Lake Macquarie Local Area Command, NSW Police dated 25 July 2017.
11. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the rates of alcohol-related domestic and non-domestic assault and malicious damage to property in Glendale and Edgeworth suburbs and the LGA, indicating the following:
 - For the year ending September 2017, the rate of incidents of alcohol-related domestic assault was 109.9 for Edgeworth, 94.0 for Glendale and 115.4 for the LGA, compared to the NSW rate of 114.3.
 - For the year ending September 2017, the rate of incidents of alcohol-related non-domestic assault was 141.4 for Edgeworth, 31.3 for Glendale and 84.3 for the LGA, compared to the NSW rate of 131.9.
 - For the year ending September 2017, the rate of incidents of malicious damage to property was 801.0 for Edgeworth, 3225.8 for Glendale and 926.8 for the LGA, compared to the NSW rate of 793.2.

12. BOCSAR Crime Hotspot Maps for Edgeworth and Glendale and surrounding suburbs for the year ending September 2017, indicating that the Proposed Premises is located in:
 - a low density hotspot for domestic assault;
 - the vicinity of a low density hotspot for non-domestic assault; and
 - the vicinity of low, medium and high density hotspots for malicious damage to property.
13. Certification of Advertising Application signed by Mr Grant Cusack, the Applicant's solicitor dated 19 January 2018.
14. Liquor licensing records from L&GNSW as at 21 January 2018 setting out the liquor licence density in the suburb and LGA, based on 2016 Census population figures.
15. Submission from the Applicant in response to the assessment of the Application, dated 23 January 2018.
16. Google maps showing the location of the current and proposed Premises, extracted on 1 February 2018.
17. L&GNSW report titled "Compliance Detail" dated 5 February 2018 in relation to ALDI Glendale.
18. Submissions from 22 members of the public in relation to the Application.
19. Management Policies and Strategies and House Policy, undated.
20. Plan of the proposed licensed area, undated.
21. An undated petition featuring 562 signatures from members of the public indicating support for the Application.