



Mr Grant Cusack
c/o Hatzis Cusack Lawyers
Level 9, 68 Pitt Street
Sydney NSW 2000

5 December 2016

Dear Mr Cusack

APPLICATION NO: APP-1-4522906856
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Wednesday 8:00AM – 8:30PM
Thursday 8:00AM – 9:00PM
Friday 8:00AM – 8:30PM
Saturday 8:00AM – 8:00PM
Sunday 10:00AM – 8:00PM

APPLICANT: ALDI Foods Pty Limited

PROPOSED LICENCED PREMISES NAME: ALDI Belrose

PREMISES LOCATION: Glenrose Shopping Centre
50-58 Glen Street, Belrose NSW 2085
(Premises)

ISSUE: Whether to grant or refuse an application for a new packaged liquor licence.

LEGISLATION Sections 3, 29, 30, 31, 40, 45, 48 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR
NEW PACKAGED LIQUOR LICENCE – ALDI BELROSE**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 16 November 2016 and, pursuant to section 45 of the *Liquor Act 2007* (Act), decided to **grant** the Application number APP-1-4522906856 subject to the following conditions:

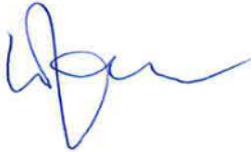
- Trading Hours**
Monday to Wednesday 8:00AM – 8:30PM
and Friday
Thursday 8:00AM – 9:00PM
Saturday 8:00AM – 8:00PM
Sunday 10:00AM – 8:00PM
- Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licenced premises for a continuous period of 6 hours between 2:00AM and 8:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

3. 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 obtaining this licence.
4. The licensee must ensure compliance with the *ALDI Management Policies and Strategies* and *House Policy* documents lodged with the Independent Liquor and Gaming Authority on 30 May 2016 and must provide the Authority with copies of those documents as they are developed or updated from time to time.
5. The licensee must ensure that the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.
6. No refrigerated liquor products may be sold from the licensed premises.
7. The licensee or its representative must join and be an active participant in the local liquor accord.

The licence is subject to a requirement under section 47(2) of the Act that it cannot be exercised unless and until the Authority is notified of the appointment of an approved manager to the licence.

If you have any enquiries about this letter, please contact case manager via email to santina.causa@ilga.nsw.gov.au

Yours faithfully



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 packaged liquor licence application filed on 30 May 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.

Summary of Further Submissions

3. Report to the Authority dated 30 May 2016 from Compliance Branch 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. The EVAT report identifies certain risk factors for the Application applying to the type of licence, the local environment and other factors. These risk factors range from “low” to “moderate” risk.
4. Submission from Northern Beaches Council (Council) to the Authority dated 6 June 2016 advising that Council has no objection to the Application subject to compliance with DA2013/1447 in respect of the Premises and the conditions relating to the sale of food, noise restrictions and fire safety.
5. Submission from Constable Dion Prince, Manly Local Area Command (Police) dated 21 July 2016. In this submission Police support the imposition of licence conditions consented to by the Applicant.
6. Further submissions provided on behalf of the Applicant by Mr Grant Cusack, Hatzis Cusack Lawyers, dated 19 September 2016. In this 18-page submission, the Applicant consents to the conditions proposed by licensing staff being imposed on the licence (including the condition that the mandatory 6-hour closure period be fixed between 2:00AM and 8:00AM daily) and provides information about the location of the Premises within Glenrose Shopping Centre and the ongoing growth and redevelopment of this shopping centre and the nearby “Glen Street Cultural Hub”.
7. The Applicant also sets out the contended benefits of granting the licence in the same terms as specified in the CIS and supporting material provided with the Application. Briefly, those benefits are said to include increased convenience; catering to a community need; increased choice and the introduction of new product lines to the community; increased competition; avoidance of special trips by ALDI customers to purchase liquor; reduction of “escape expenditure” from the communities; an increase in custom at the Glenrose Shopping Centre; a reduction in traffic; an increase in public safety; an increase in employment; other economic

spin-offs and contribution by ALDI to charitable initiatives to moderate the drinking culture.

8. The Applicant contends that on a comparison of licence density data for the State suburb of Belrose, the Warringah Local Government Area (LGA) and New South Wales as a whole as at 1 March 2016, the relevant communities are “underprovided for” in respect of packaged liquor licensed premises. The Applicant also refers to SEIFA data from ABS, crime data sourced from BOCSAR and health data sourced from Health Statistics NSW when assessing the prevailing alcohol related impacts in the local and broader communities.

Legislative Framework

9. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* (Act) and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
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 new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
13. Section 48(5) of the Act requires that the Authority must not grant an 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. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Belrose.

15. Consistent with the Authority's long standing policy to find that the broader community comprises the relevant local government area, the Authority is satisfied that the broader community is, at the time of this decision, the area of the Warringah LGA.

Analysis of Relevant Facts

16. The Authority is satisfied, on the basis of the Application and CIS material before it, that for the purposes of section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
17. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licensed venue of the kind proposed in the Application material. The Authority notes that no probity issues were raised with regard to the Applicant following consultation with law enforcement agencies, including Police and LGNSW.
18. The Authority is 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 *Management Policies and Strategies* and *House Policy for the Responsible Service of Alcohol* documents provided with the Application and CIS.
19. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises falls within the scope of development consent. This finding is made on the basis of the submission by Council dated 6 June 2016.

Social Impact – Positive Benefits

20. The Authority is satisfied, on the basis of the Application, CIS and additional material supplied by the Applicant that granting the licence will provide some modest additional benefit to those members of the local and broader community who wish to conveniently purchase liquor products when shopping at the Glenrose Shopping Centre ALDI Supermarket.
21. The Authority notes, on the basis of LGNSW liquor licensing records, that the suburb of Belrose currently has 2 packaged liquor licences, 1 registered club licence and 1 full hotel licence. This level of availability constrains the extent of convenience provided to the local community by the addition of this new licence. LGNSW licence density information indicates that the rate of packaged liquor licences per 100,000 persons of population for the Warringah LGA is 9.23 per 100,000 persons, while the rate for New South Wales as a whole is 32.85.
22. The Authority accepts the Applicant's submission that the expanded Glenrose Shopping Centre will comprise two supermarkets, provide 519 car parking spaces and have a primary trade area of Belrose, Davidson, and Frenchs Forest and a secondary trade area of Terrey Hills, Duffys Forest and a large portion of Ku-ring-gai. On this basis, the Authority is satisfied that granting the application will afford members of the local community in particular, but also the broader community, the convenience of being able to purchase packaged liquor products at the same time

as they do grocery shopping at the ALDI supermarket. Noting that there were no objections from any local stakeholders consulted on the Application, the Authority is satisfied that this is consistent with the needs and expectations of the local and broader community, consistent with the object in section 3(1)(a) of the Act.

23. The Authority is also satisfied, on the basis of the CIS and additional material supplied by the Applicant, that the packaged liquor facility will operate within an ALDI Supermarket, which will in turn be situated in the Glenrose Shopping Centre. It will provide a range of competitively priced, ALDI-branded liquor products including wines, beers, and spirits and will increase choice and availability to shoppers and in this sense may reasonably develop, in the public interest, the liquor industry serving the local and broader community, for the purposes of section 3(1)(b) of the Act.
24. The Authority gives little weight to the Applicant's contentions that there would be a reduction in escape expenditure from the communities and an increase in employment or economic spin-offs for the communities by reason that the Applicant has not provided sufficient data or analysis to substantiate these claims.
25. The Authority gives little weight to the Applicant's contention that granting the Application will result in a reduction in traffic as the Applicant has not provided sufficient data or analysis to substantiate these claims.
26. The Authority gives little weight to the Applicant's contention that some small measure of public safety may be garnered through reduced travel between stores, by reason that this benefit has not been supported with any evidence or analysis explaining the nature and extent of this purported benefit.
27. The Authority accepts that the Applicant company participates in charitable programs focused on responsible drinking but in the absence of a clear indication as to how and when the Applicant's activity will provide a positive contribution to these communities the Authority is unable to give significant weight to this benefit.

Social Impact – Negative Impacts

28. In the CIS the Applicant advised that the new licence will operate as a small liquor department within an existing ALDI Supermarket. The Applicant contends that this will minimise any negative impact of the licence as the licence will be exercised entirely within the supermarket, trading for the same hours as the supermarket and selling mostly to customers purchasing groceries.
29. The Applicant further contends that the business will utilise a range of strategies to ensure there is no negative impact on the local community. This includes requiring identification from any person who appears to be 25 years of age or under, not serving patrons who appear intoxicated, and training staff to identify signs of intoxication and secondary supply and on how to refuse service.
30. However, having reviewed 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.

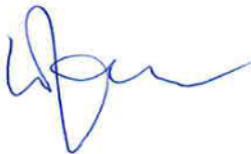
31. The Authority notes that the licensed trading hours sought by the Applicant are reasonably extensive across the week, trading until 9:00pm on Thursdays and until 8:00pm or 8:30pm on the other nights of the week. The Authority also notes that the licensed Premises are located within a supermarket, which is itself located within a larger shopping complex, providing a greater level of security and passive surveillance.
32. Another mitigating factor is the size of the proposed liquor department, which the Authority notes, based on the plan of the Premises provided by the Applicant, will be 35.5 square metres. This is smaller in size than many standard packaged liquor outlets and is an objective factor in reducing the scope of this business to contribute to prevailing social impacts over time. The Application also indicates that the ALDI licensed business will provide a more limited range of products than other mainstream liquor outlets.
33. When considering the cumulative impact of adding another licence, LGNSW liquor licence density data establishes the Authority that the Warringah LGA has lower rates of *packaged liquor licences, registered club licences and full hotel licences* per 100,000 persons compared to New South Wales as a whole. The Authority does not consider that prevailing licence density *per se* gives rise to any particular cause for concern at the level of the local or the broader community.
34. The Authority takes considerable comfort from the BOCSAR *Report on Crime by LGA and Alcohol Related Status* for July 2010 to June 2015 which records that during 2015 the Warringah LGA recorded rates of *alcohol related assault police and assault (domestic and non-domestic)* that were well below those for New South Wales as a whole.
35. At the local community level, the BOCSAR Crime Maps between July 2015 and June 2016 indicate that the Premises is *not* located inside any of the suburb hotspots for incidents of malicious damage to property, domestic assault or non-domestic assault. Further, those concentrations are derived by reference to comparatively low overall rates of alcohol related crime occurring across the LGA. Furthermore, this Application has not given rise to any objection or comment from LGNSW or Police as to any concerns with the proposed location of the Premises or the surrounding area.
36. The Authority is further satisfied, on the basis of the ABS SEIFA data, that both the suburb of Belrose and the Warringah LGA are very advantaged communities. Belrose ranks in the 10th decile of the Index of Relative Socio-Economic Advantage and Disadvantage, and the Warringah LGA ranks in the 10th decile for that index (with decile 10 being the most advantaged).
37. The absence of data or evidence indicating any prevailing problems with crime, alcohol-related crime, or disadvantage in the local and broader communities, relative to New South Wales as a whole, satisfies the Authority that the scope for adverse impact arising from granting this Application to these communities is constrained.
38. The Authority has also had regard to the reasonably detailed harm minimisation measures set out in the *Management Policies and Strategies and House Policy for*

the Responsible Service of Alcohol documents, the licence conditions to which the Applicant has consented, the additional harm minimisation measures above those required by the legislation including CCTV, and the location of the department within a Supermarket development.

Conclusion

39. 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 Applicant, Council, RMS, neighbouring occupiers, NSW Health and Department of Community Services, and all other parties required to be consulted under the legislation.
40. Having considered together the positive benefits and negative impacts that the Authority is satisfied 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 this licence would not be detrimental to the well-being of these local and broader communities.
41. The Application is granted pursuant to section 45 of the Act.
42. 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; and (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: 16 November 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 on 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. ASIC Current Organisation Extract dated 29 January 2016 for ALDI Foods Pty Ltd.
2. ASIC Current Organisation Extract dated 29 January 2016 for ALDI Pty Ltd.
3. Email submission from Aboriginal Affairs, NSW Department of Education, dated 12 April 2016 advising no objection to the Application provided that the NSW Aboriginal Land Council has been afforded the opportunity to make comment.
4. Submission from Roads and Maritime Services (RMS), dated 19 April 2016, advising that there were 25 alcohol related crashes in the Warringah LGA during 2013. RMS recommend that the licensee or its representative join and be an active member of the local liquor accord and that the licensee draw customer's attention to the safe party strategies available on the Police website or display a list of tips for people hosting social events.
5. ASIC Current Organisation Extract dated 20 May 2016 for Fabcot Pty Ltd.
6. Application Form for a new packaged liquor licence, dated 25 May 2016 and stamped as received by the Authority on 30 May 2016, signed by Andrew Tindal on behalf of the Applicant as the company's Managing Director.
7. Category B CIS dated 25 May 2016 and filed on 30 May 2016. Material provided in support of the CIS includes:
 - Document titled "Additional Information – Application and Community Impact Statement". In this 12-page submission, the Applicant provides information about ALDI stores, responsible service of liquor, access to liquor by minors, position with Council, completion of the Premises, contended positive benefits of granting the Application, growth and redevelopment in the broader community, and notification of stakeholders.
 - The Applicant also discusses (by apparent reference to the social impact factors identified in *Authority Guideline 6*) the type, scale, location, and hours of the Premises, licence density, SEIFA data, and measures to be implemented to reduce the potential for alcohol related harms and submits that there will be no adverse impact to the area.
 - Applicant document titled "Additional Information – 6-Hour Closure Period", proposing a closure period between 2:00am and 8:00am on Monday through Sunday.
 - Plan of the Premises, submitted with the Application and CIS, highlighting in orange the overall supermarket area and separate plan of the licensed area. The licensed area is indicated to be 35.5 square metres.
 - Document titled Management Policies and Strategies – ALDI Liquor – NSW. This two-page document states that ALDI is "committed to making a contribution to the community in which we operate and recognise the need to act upon our social obligations to our customers and the wider community". Management policies and strategies include requiring operation within approved trading hours only; use of CCTV surveillance; adequacy of staffing levels; staff training including ensuring staff awareness of NSW liquor legislation, signage, and prevention of intoxication and sale of alcohol to minors; cooperation with "various interested persons" including licensing authorities, local police, community organisations and transport authorities.

- Document titled ALDI Liquor – NSW – House Policy for the Responsible Service of Liquor. This one and a half page document states that its purpose is to “minimise the likelihood of negative impacts and ensure compliance with the liquor laws”. The House Policy addresses, inter alia, prevention of persons under the age of 18 from purchasing liquor or having liquor purchased for them, primarily by requesting an approved form of ID in the form of a current driver or rider licence, a current passport or NSW Photo Card from any person who appears to be under the age of 25; refusing service to any person who appears to be intoxicated; ensuring that liquor is not consumed on the Premises or displayed outside the licensed area; ensuring that all staff involved in the sale and supply of liquor are RSA certified. The House Policy also states that “all required signage will be prominently displayed in the correct locations” and that a CCTV surveillance system will be installed.
 - Notice of Application to Local Consent Authority Notice signed and dated 25 May 2016.
 - Police Notice signed and dated 25 May 2016.
 - Public Consultation Notice signed and dated 25 May 2016.
 - Google geographical maps depicting an aerial view of the location of the Premises.
 - DA2013/1447 (DA) issued by Warringah Council on 23 July 2014 with respect to Lot 4 DP 548285 at 56-58 Glen Street, Belrose, granting consent for the construction of a retail centre.
8. Report to the Authority dated 30 May 2016 from Compliance Branch of LGNSW.
 9. Submission from Northern Beaches Council to the Authority dated 6 June 2016.
 10. Further submissions on behalf of the Applicant by Mr Grant Cusack, Solicitor, dated 19 September 2016.
 11. BOCSAR Crime Maps based upon data from July 2015 to June 2016 detailing hotspots for the concentration of offences within the local community indicating that the Premises is located outside *a low density hotspot* for incidents of *domestic assault*, and that there are *no* concentrated areas of incidents of *malicious damage to property* in the local community.
 12. Liquor licensing records from LGNSW indicating that the suburb of Belrose already has 1 registered club licence, 1 full hotel licence and 2 packaged liquor licences.
 13. Liquor licence density data from LGNSW indicating that the Warringah LGA recorded:
 - (a) A rate of **9.23** *packaged liquor licences* per 100,000 persons, which is below the NSW state wide rate of **32.85**.
 - (b) A rate of **3.55** *registered club licences* per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **7.10** *full hotel licences* per 100,000 persons, which is substantially below the NSW state wide rate of **30.36**.
 14. BOCSAR Report on *Crime by Local Government Area and Alcohol Related Status* for July 2010-June 2015 indicating that during 2015:

- (a) The rate of *alcohol related domestic violence assault* incidents across the Warringah LGA from July 2014 to June 2015 was **54.7** per 100,000 persons, well below the rate for New South Wales at **122.6** per 100,000 persons.
 - (b) The rate of *alcohol related non-domestic assault* across the Warringah LGA from July 2014 to June 2015 was **73.4**, significantly less than the State-wide rate of **144**.
 - (c) The rate of *alcohol related offensive behaviour* offences flagged by reporting Police as *alcohol related* across the Warringah LGA from July 2014 to June 2015 was **38.0** per 100,000 persons, well below than the State-wide rate of **88.2**.
 - (d) The rate of *alcohol related assault police* incidents across the Warringah LGA from July 2014 to June 2015 was **7.1**, lower than the rate of **18.2** per 100,000 for New South Wales.
- 15.** Data on alcohol related crime obtained from published BOCSAR sources for the period between July 2014 and June 2015.
- 16.** ABS SEIFA data based on the 2011 Census indicating that the State suburb of Belrose ranked in the 10th decile and the Warringah LGA also ranked in the 10th 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).
- 17.** Email from licensing staff to the Applicant dated 13 September 2016 providing third party submissions and proposed licence conditions to the Applicant for comment.