



Mr Grant Cusack
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Dear Mr Cusack

APPLICATION NO: APP-0003000860

APPLICATION FOR: Packaged Liquor Licence

TRADING HOURS: Monday to Wednesday 8:30am – 8:30pm
Thursday 8:30am – 9:00pm
Friday 8:30am – 8:30pm
Saturday 8:30am – 8:00pm
Sunday 10:00am – 8:00pm

APPLICANT: ALDI FOODS PTY LIMITED

LICENCE NAME: ALDI Wetherill Park

LICENSED PREMISES: Shop 1 Wetherill Park Market Town Shopping
Centre
Corner The Horsley Drive & Rossetti Street
WETHERILL PARK NSW 2164

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

LEGISLATION: Sections 3, 29, 30, 40, 45 and 48 of the
Liquor Act 2007

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

The Independent Liquor & Gaming Authority considered application number APP-0003000860 at its meeting on 15 November 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **grant** the application, subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:30 AM and 8:30 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. Restricted trading & 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 obtaining this licence.
5. The premises is to be operated at all times in accordance with the ALDI Management Policies and Strategies and House Policy documents, as submitted to the Independent Liquor and Gaming Authority in support of the licence application and as may be varied from time to time after consultation with the Alcohol Licensing Enforcement Command of NSW Police. 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 Independent Liquor and Gaming Authority.
6. The licensee will not sell refrigerated liquor products from the licensed premises.
7. 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.
8. 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.

Please note that the licence cannot be exercised unless and until the Authority has been:

1. provided with evidence that the premises is complete and ready to trade, and
2. notified of the appointment of an approved manager to the licence or the licence has been transferred to an individual licensee.

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

If you have any enquiries about this letter, please contact the case manager via email to andrew.whitehead@liquorandgaming.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

DECISION

1. On 25 May 2017, the Independent Liquor and Gaming Authority (“the Authority”) received, through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”) from ALDI Foods Pty Ltd (“the Applicant”) for the premises at Shop 1, Wetherill Park Market Town, Corner The Horsley Drive & Rosetti Street, Wetherill Park, NSW 2164 (“the Premises”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority decided to grant the licence.
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 and 48 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“the Regulation”).

MATERIAL CONSIDERED BY THE AUTHORITY

4. The Authority has considered the Application, the accompanying community impact statement (CIS) and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with 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, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is set out in the Schedule.

LEGISLATIVE FRAMEWORK

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

Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and to facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise alcohol-related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Trading hours and 6 hour closure period

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the

sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Minimum procedural requirements

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

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

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:

- (a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
- (b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- (c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.

15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

Provisions specific to packaged liquor licence

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

17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.

18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.

19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

KEY FINDINGS

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

Validity, procedural and trading requirements

21. The Authority is satisfied that:

- (a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
- (b) the proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,
- (c) liquor will be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence under section 29 of the Act and the requirements set out in section 30 of the Act.

- (d) section 31 of the Act is not applicable 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

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

- (a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- (b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible service of alcohol, having regard to the ALDI Management Policies & Strategies and the conditions to be imposed on the licence, and
- (c) the requisite development consent is in force, based on the Notice of Determination of Modification Application 40724.2/1999 issued by Fairfield City Council on 15 February 2017.

Community impact statement

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

Positive social impacts

25. The Authority has had regard to the Applicant's contention and evidence that the Premises is a small scale packaged liquor facility that will be wholly located within an ALDI Supermarket, is only accessible by customers of the Supermarket and will operate during reduced trading hours which are less than the standard hours permitted under the Act.
26. The Authority accepts the Applicant's submission that the Premises will sell a range of principally ALDI-branded liquor products which are not currently available elsewhere in Wetherill Park, however notes that the range of additional products to be offered is limited.
27. The Authority accepts the Applicant's claim that the granting of the licence would provide an additional measure of convenience to customers of the ALDI Supermarket who wish to purchase liquor items along with their grocery items.
28. Accordingly, the Authority is satisfied that granting the licence will be in line with the expectations and needs of the local and broader communities, and will contribute to the balanced and responsible development of the liquor industry.

Negative social impacts

29. The Authority notes that there is little evidence of any significant degree of support for the proposal amongst members of the local or broader communities. The only indication of any such support is the fact that no submissions were received from local residents in opposition to the Application. Whilst the Authority accepts the results of the 2015 ALDI

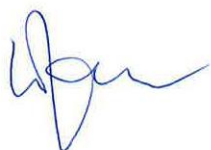
customer survey that suggests that the majority of the ALDI customers surveyed expect ALDI to sell liquor, and that just over half indicated that they would be inconvenienced if ALDI were not to sell liquor, the customers surveyed shopped at 20 ALDI store locations currently selling liquor across NSW and there is no local evidence to suggest that the prospective customers of ALDI Wetherill Park share the same expectations and outlook on convenience.

30. The Authority accepts that the local community has a higher than average rate per 100,000 of population of packaged liquor licences. The Authority is not persuaded by the Applicant's suggestion that a number of the existing packaged liquor licences in the area should not be included in density calculations due to being restricted operations, as the same limitations also exist in respect of an unknown number of the many packaged liquor licences located across NSW, and are not accounted for in the calculation of the density of packaged liquor licences per 100,000 of the state's population.
31. The Authority notes that NSW Police opposes the grant of the licence based on the following claims:
 - (a) The licence is likely to contribute to alcohol-related harm and anti-social behaviour within the Fairfield Local Area Command.
 - (b) Packaged liquor licences sell large amounts of alcohol to the general public and there is no process for RSA once the customer has left the point of sale.
 - (c) Packaged liquor is already readily available in Wetherill Park.
32. The Authority also notes concerns raised by South Western Sydney Local Health District ("SWSLHD") in respect of alcohol-related harms currently being experienced in the area, including concerns about assault rates, motor vehicle injuries, levels of alcohol consumption and deaths attributable to alcohol.
33. The Authority notes from the BOCSAR data that:
 - (a) for the year to June 2017, the proposed Premises was located within a low density hotspot for incidents of domestic and non-domestic assault and malicious damage to property.
 - (b) for the two years to June 2017:
 - i) Wetherill Park reported considerably lower rates of alcohol-related assault (both domestic and non-domestic) and malicious damage to property in comparison to the NSW state average.
 - ii) Fairfield LGA reported considerably lower rates of alcohol-related assault (both domestic and non-domestic) and incidents of malicious damage to property in comparison to the NSW state average, and a stable two year trend for those incidents.
34. The Authority is satisfied that alcohol-related offences in the Fairfield LGA and Wetherill Park are occurring at much lower rates in comparison to the state average. On this basis, the Authority considers that the level of alcohol-related crime in Wetherill Park and Fairfield LGA does not give rise to any immediate concern, or indicate that an additional packaged liquor licence would aggravate any existing problems attributable to alcohol.
35. The Authority notes from the Healthstats NSW data that the Fairfield LGA reported a lower rate of alcohol-related deaths and hospitalisations in comparison with the NSW state average.

36. The Authority is satisfied that, despite the concerns raised by stakeholders, the objective data available does not support the suggestion that the current levels of alcohol related harm being experienced in the local and broader communities are troubling.
37. The Authority is also satisfied that ALDI is an experienced operator of many packaged liquor licences, and that any risk associated with the granting of the licence will be further mitigated by the imposition of special licence conditions and by the Applicant's adherence to the "Management Policies and Strategies" and "House Policy" documents lodged with the Application.
38. The Authority has had regard to the ABS data indicating that, as at 2011, Wetherill Park was moderately disadvantaged in comparison with other suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, ranking in the 4th decile. The Fairfield LGA ranked in the 1st decile in comparison to other local government areas.

Overall social impact

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



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 <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

1. ABS SEIFA data based on the 2011 Census ranking Wetherill Park and Fairfield LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths for the Fairfield LGA for the period between 2001-02 and 2012-13.
3. HealthStats NSW data showing alcohol attributable hospitalisations for the Fairfield LGA for the period between 2001-03 and 2013-15.
4. Plan of proposed liquor store layout, dated 31 August 2016.
5. Notice of Determination of Modification Application 1041/99 issued by Fairfield City Council, dated 15 February 2017, approving shopping centre additions and alterations.
6. Completed Category B CIS form, signed and dated 5 May 2017, and relevant additional information prepared by the Applicant's representative.
7. ASIC Current Organisation Extracts for ALDI PTY LTD ACN 086 493 950, ALDI FOODS PTY LIMITED ACN 086 210 139 and WETHERILL PARK MARKET TOWN PTY LTD, dated 12 and 22 May 2017.
8. Application for a packaged liquor licence, lodged on 25 May 2017.
9. Letter from NSW Health, South Western Sydney Local Health District, dated 6 June 2017, in relation to the application.
10. Submission from NSW Police, dated 15 June 2017, in relation to the application.
11. BOCSAR crime maps for the year to June 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
12. NSW crime statistics for the two years to June 2017, published by BOCSAR, on incidents of alcohol related assault (domestic and non-domestic) and malicious damage to property in Wetherill Park and Fairfield LGA.
13. Letter to the Applicant from Department of Transport, Roads and Maritime Services, dated 29 July 2017, in relation to the application.
14. Email from Aboriginal Affairs, Department of Education NSW, dated 3 August 2017, in relation to the application.
15. Letter to the Applicant from Family & Community Services, dated 18 August 2017, in relation to the application.
16. Liquor licensing records from L&GNSW as at 28 August 2017 listing the details of all liquor licences in Wetherill Park suburb and Fairfield LGA, and setting out the density of packaged liquor licences in Wetherill Park suburb, Fairfield LGA and NSW.
17. Certifications of Advertising Application signed by Mr Anthony Cox on 4 October 2017 and Mr Grant Cusack on 10 October 2017.

18. Submission prepared by the Applicant's representative, dated 11 October 2017, in response to the submissions received in relation to the Application and supporting information.
19. ALDI Liquor Management Policy and Strategies document and House Policy for the responsible service of liquor.
20. Google map indicating the proposed location of the Premises.