

Mr Grant Cusack
Hatzis Cusack Lawyers
By email to: gc@hatziscusack.com.au

11 March 2024

Dear Mr Cusack

Application No.	APP-0011854384
Applicant	ALDI FOODS PTY LIMITED
Application for	Packaged liquor licence
Decision Date	21 February 2024
Licence name	ALDI Goonellabah
Trading hours	Monday to Saturday 08:30 AM – 08:00 PM Sunday 10:00 AM – 07:00 PM
Premises	15 Simeoni Drive Goonellabah NSW 2180
Legislation	Sections 3, 11A, 12, 29, 30, 40, 44, 45, and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for a packaged liquor licence – ALDI Goonellabah

We first considered the application above on 15 November 2023 and, following the receipt and consideration of further requested information, decided on 21 February 2024 to **refuse** the application under section 45 of the *Liquor Act 2007*.

Statement of reasons

Overall, we are concerned that the social impact of approving the application may be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness and trading period
- liquor would be sold and supplied in a separate liquor sales area at the premises
- [section 31](#) of the Act doesn't apply to this application

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. Lismore Council approved the development application for the premises on 2 October 2014.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Goonellabah, and the relevant 'broader community' comprises the Local Government Area (LGA) of Lismore.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Harm Minimisation and Community Impact Data Report for Goonellabah shows:

- there are 8 authorised liquor licenses, of which 5 are authorised to sell packaged liquor. This includes: 2 packaged liquor licences, 2 registered club licences and 1 full hotel licence
- saturation of packaged liquor licences in Goonellabah is lower (14.98) compared to the Lismore LGA (40.60) and all of NSW (38.40).

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to June 2023:

- the premises were located in hotspots for alcohol-related assault, domestic and non-domestic assault, or malicious damage to property
- alcohol-related domestic assault in Goonellabah was higher compared to both the Lismore LGA and the NSW average
- malicious damage to property in Goonellabah was higher compared to the NSW average
- alcohol-related non-domestic assault and offensive conduct in Goonellabah was lower compared to both the Lismore LGA and the NSW average.

Alcohol-related health data (per 100,000 residents)

HealthStats NSW data showed that:

- alcohol-related deaths in the Lismore LGA were higher compared to the NSW average
- alcohol-related hospitalisations in the Lismore LGA were higher compared to the NSW average.

ABS Socio-Economic Index for Areas (SEIFA)

Goonellabah was ranked as below average and Lismore LGA as average in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the proposed business model involves operation of a liquor sales area of 49sqm, sitting wholly within an ALDI supermarket. The liquor sold will be primarily comprised of a limited range of ALDI branded products (including beers, wines, and spirits) and a small selection of non-ALDI products which may be available as "special products" for a limited time until sold out. No refrigerated liquor will be sold at the premises. No delivery services will be offered.

Benefits proposed by applicant

The applicant proposes that the supermarket provides for the demands of the growing population

in Goonellabah and neighbouring areas.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 18 September 2023, which noted that the store had temporarily relocated to Goonellabah during 2022 and had operated temporarily without incident. They did not raise any objection to the application
- NSW Police Force, dated 20 December 2023, in response to the Authority's request for more information, which notes that on further review they have concerns that alcohol related crime has not reduced since a previously refused submission in 2015, and has significantly increased in some categories in the period 2019 - 2023
- Lismore Council, dated 28 September 2023, which did not raise any objection to the proposal
- NSW Health, dated 28 September 2023, which contends the CIS process was deficient as the applicant failed to identify key interest groups and services for vulnerable populations and did not notify them of their intention to apply for a packaged liquor licence. Additionally, they noted serious concerns regarding the potential detrimental impact to a vulnerable community from additional availability of alcohol
- Transport for NSW, dated 18 July 2023, which did not raise any objection to the proposal
- The general public in the form of a petition in support with approximately 596 signatures.

We also considered the Applicant's submission in response, to these submissions, which contends that:

- the NSW Health objection in relation to the CIS process is flawed as the notification procedure was completed in accordance with legislative requirements, and the objection in relation to alcohol-related health impacts is not based on objective data
- the NSW Police objection based on crime statistics is subjective as some offence categories are below the NSW average and their change in position (from the 18 September 2023 submission) appears to have been swayed by a misunderstanding of the data submitted by NSW Health and the assertion from NSW Health that the CIS process was flawed
- Goonellabah attracts a large number of shoppers, workers and other visitors who attend the shops, offices, civic and recreational facilities in the area, and that BOCSAR statistics do not take account of non-resident influxes which can result in increased crime counts.

Findings of concern

We consider that the applicant had not made a strong case for community benefit in adding another packaged liquor outlet and noted:

- crime rates for the offences of alcohol-related domestic assault and malicious damage to property are higher in both Goonellabah and the Lismore LGA compared to NSW
- the proposed premises is located within or adjacent to high density hotspots for all offence categories considered by us
- the saturation rate of packaged liquor, club, and full hotel licences in the Lismore LGA is higher than NSW

- the rates of both alcohol-attributable deaths and hospitalisations in the Lismore LGA are higher than NSW
- SEIFA data indicates that Goonellabah has a below average level of relative socio-economic advantage compared to other communities in NSW.

We were particularly concerned that alcohol-related assault rates for the Lismore LGA had been consistently above the NSW average over the last 5 years, with majority of those assaults occurring within private residences.

In these circumstances, we are concerned that if the licence is granted, there is a risk that liquor sold at or from the premises would lead to an increase in alcohol-related crime, health, and other social and amenity issues, worsening these problems. Approving the application would therefore be inconsistent with the objects of the legislation which require us to have due regard to:

- the need to minimise harm associated with misuse and abuse of liquor
- the need to ensure that the sale, supply and consumption of liquor, and the operation of licensed premises, contributes to, and does not detract from, the amenity of community life

As a result of our concerns, we cannot be satisfied that the overall social impact of granting the application will not be detrimental to the well-being of the local and broader community.

Our concerns may be somewhat mitigated by the:

- crime rates in Goonellabah for offences of alcohol-related non-domestic assault and offensive conduct being lower than comparable NSW averages
- saturation of packaged liquor licences in Goonellabah being lower than the NSW average
- previous temporary operation (during 2022) without issue.

However, on balance, we consider that the likelihood of adverse social impact from approving the application outweighs any benefit to the local or broader community and accordingly, approval of the application is not in the public interest.

We also do not believe that imposing additional harm minimisation conditions under section 53 of the *Liquor Act 2007* would effectively mitigate the risks presented.

The material we considered

We considered all the material we received about the application, including:

Application Material

- completed application dated 22 August 2023
- completed Category B Community Impact Statement (CIS) dated 22 August 2023
- completed certifications of advertising dated 10 October 2023
- plan of management documents for the premises, titled Management Policies and Strategies, ALDI Liquor – NSW submitted 22 August 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 11 November 2022, indicating the proposed licensed area and liquor sales area.

Under [Guideline 6](#), we also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- submissions received
- correspondence between L&GNSW staff and the applicant between 4 September 2023 and 10 October 2023 in relation to the assessment of the application
- Google map images extracted from the Google website showing the location and photos of the premises in map view.

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are dissatisfied with this decision

If the applicant, or a person who was notified of the application and made a submission, is dissatisfied with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

If you have any questions

Please contact the case manager, Andy Whitehead, at Andrew.whitehead@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

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