

## **DECISION OF DIRECTOR OF LIQUOR LICENSING**

**APPLICANT:** ALDI FOODS PTY LIMITED

**OTHER PARTIES:** DARREL CAKE (OBJECTOR)  
CHIEF HEALTH OFFICER (INTERVENOR)

**PREMISES:** ALDI SPEARWOOD

**PREMISES ADDRESS:** PHOENIX SHOPPING CENTRE CNR BURGUNDY  
CRESCENT & LANCASTER ROAD SPEARWOOD

**APPLICATION ID:** A000249830

**MATTER:** APPLICATION FOR CONDITIONAL GRANT OF A LIQUOR  
STORE LICENCE

**DECISION OF:** PETER MINCHIN  
DIRECTOR LIQUOR CONTROL AND ARBITRATION

**DATE OF DETERMINATION:** 16 NOVEMBER 2018

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### **Introduction**

- 1 On 27 September 2018, a notice pursuant to s 18AA of the *Liquor Control Act 1988* (the Act) was sent to the parties advising them that after consideration of the evidence and submissions presented, I had determined that the grant of the application was not in the public interest and therefore the application was refused.
- 2 Consequently, in accordance with s 18AA(3), the applicant has requested written reasons for the decision. These are those reasons.

### **Background**

- 3 ALDI Foods Pty Ltd (the applicant) lodged an application for the conditional grant of a liquor store licence for premises to be located at the corner of Burgundy Crescent and Lancaster Street, Spearwood and to be known as ALDI Spearwood. The application was made pursuant to ss 47 and 62 of the *Liquor Control Act 1988* (the Act).
- 4 In accordance with instructions issued by the Director of Liquor Licensing, the application was advertised for public comment. A notice of objection was lodged by Mr Darrel Cake (the Objector), while the Chief Health Officer (CHO) intervened in the application as permitted under s 69 of the Act.
- 5 The application was determined on the written submissions of the parties as permitted under ss 13 and 16 of the Act. In addition, this decision has been prepared and should be read in the context of a high-volume liquor jurisdiction which is to act as speedily and with as little formality and technicality as is practicable.<sup>1</sup>

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<sup>1</sup> Refer s 16(7) of the Act.

**A brief overview of the applicant's proposal**

- 6 The applicant lodged a Public Interest Assessment (PIA) to support its application. The purpose of a PIA, amongst other things, is to provide information relevant to the locality surrounding the proposed licensed premises which assists the licensing authority in assessing the likely impact of the grant of the application on the community.
- 7 According to the applicant's PIA, it seeks the conditional grant of a liquor store licence in respect of a small section of its Spearwood supermarket which is situated at the Phoenix Shopping Centre (the Centre). According to the applicant, the proposal is for a boutique type of liquor service designed specifically to complement the ALDI supermarket services and facilities. The proposed ALDI Spearwood liquor store will have similar trading and operational characteristics as existing ALDI liquor stores across the metropolitan and regional areas.
- 8 The proposed liquor store will have the following key features:
  - there will be a small browse/display area of approximately 21m<sup>2</sup>, together with a single licensed checkout;
  - there will be about 95 non-refrigerated liquor products on offer; and
  - some of the liquor products will be unique to the applicant.
- 9 In addition to the PIA, the applicant provided two reports to support its application:
  - a Locality Report prepared by Deep End Services (the DES report); and
  - a Survey of Consumers Requirements prepared by Patterson Research Group (the Patterson report).
- 10 The DES report provided commentary and analysis on the site of the proposed premises and the surrounding locality and included information on dwelling and population growth, demographic and economic data, trade area and existing liquor outlets. According to the DES report:
  - the primary catchment area where most grocery shopping would be directed to the Centre includes the suburbs of Spearwood and parts of Hamilton Hill, North Coogee and Coogee;
  - there are three secondary catchments areas; the north sector into Hamilton Hill; north-east into Coolbellup and Bibra Lake; and south over the southern parts of Coogee and areas of Munster, Beeliar and Yangebup;
  - the catchment area has grown steadily over the last 10 years to over 40,000 people;
  - average individual income is 10% below the Perth average and household income level is 11% below average, which reflects the older age profile and lower workforce participation level, low tertiary education levels and higher proportion of people in 'blue collar' occupations;
  - unemployment rates across the locality vary widely, with unemployment rates for Hamilton Hill and Spearwood being 12.4% and 10.2% respectively, Coolbellup 9.6%, North Coogee 2.4% and Coogee 3.9%. The average across the locality is 8.8%

compared to the Perth average of 6.4%. The higher rates in Spearwood and Hamilton Hill reflect the area's public housing, older migrant families, education levels and age structure;

- Aboriginal and Torres Strait Islanders made up 1.4% of the primary trade area population in 2016 and 1.6% of the total trade area (compared with Perth 1.5%), which was a decrease of 12% in the catchment area between 2011 and 2016;
- Public Housing accounted for 3.7% of private dwellings in the primary sector and 5.8% across the secondary sector which is higher than the Perth average of 2.9%;
- persons with a disability or need of personal assistance make up 6.1% of the primary population and 5.1% of the total trade area, which is above the Perth average of 4.25%; and
- the SEIFA<sup>2</sup> score for the primary catchment area (973) is 5.2% below the Perth average and 2.7% below the national average (1000). The average score across the secondary catchment area is 1007, which is 1.9% below the Perth average. There are two hot spots with low SEIFA scores that generally coincide with areas of State housing, being Hamilton Hill and Coolbellup.

11 Data from the Patterson report indicates that:

- a little more than a quarter (28%) of packaged liquor buyers purchase 'all or most' of their takeaway liquor requirements when also shopping for household groceries;
- just over three-quarters (76%) of packaged alcohol buyers reported that if they were shopping in ALDI Spearwood, and it had packaged liquor available, they would be likely to buy packaged liquor at that store;
- eighty-four per cent of respondents buy packaged liquor at least once a year while 67% of respondents buy packaged liquor at least once a month;
- almost eight out of ten respondents (78%) who buy packaged liquor indicated that the ability to obtain packaged liquor from a section within a grocery store would be more convenient for them; and
- competitive prices and specials are the most appealing aspects of a packaged liquor outlet for respondents.

12 It was submitted by the applicant that the experience in the eastern states in relation to ALDI 280+ liquor licences and the trend of authorities to continue to grant ALDI licences confirms that the ALDI model does not cause noticeable harm and ill-health. According to the applicant, the operation of the proposed liquor store is low risk and the positive public interest factors outweigh any negative risks to the local community.

### **The objection**

13 It was submitted by the objector that the locality surrounding the proposed liquor store is already well serviced with liquor outlets and Spearwood has many welfare recipients and indigenous people. The grant of a further outlet which offers cheap liquor would be contrary to the harm minimisation object of the Act.

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<sup>2</sup> Socio-economic Indexes for Areas

## The intervention

14 The CHO made representations that:

- ALDI Spearwood intends to provide the public with consistently low-priced alcohol products from within its supermarket;
- the association of alcohol products with everyday grocery items can lead to increased consumption and harm;
- there is a relationship between low cost liquor, consumption and increased alcohol-related harm;
- the risk of harm associated with the ALDI Spearwood intended manner of trade is exacerbated when introduced into a community that already experiences risk factors for harm and ill-health;
- there is alcohol-related harm occurring in the locality, some of which is greater than the State rate;
- local alcohol and other drug treatment service providers raise concerns regarding ALDI's proposal and the potential impact on clients accessing treatment for their alcohol use; and
- if the application is granted, the imposition of conditions that separate the sale and display of alcohol from the sale and display of general grocery items would be an important harm minimisation approach.

15 The CHO submitted that there are several risk factors associated with the grant of the application, including:

- between 2014/15 and 2016/17, there were 872 treatment episodes at services funded by the Mental Health Commission, of which alcohol was identified as the primary drug of concern in 34% of cases;
- in the period 1 January 2015 to 22 November 2017, there were 668 reported domestic assault offences in the suburbs of Spearwood, North Coogee, Hamilton Hill, Bibra lake and Coogee of which alcohol was a contributing factor in almost one in four;
- for the period 2013-2015, the total hospitalisation rate for 'all alcohol-related conditions' in Coolbellup for males (1.41 times), females (1.29 times) and all residents (1.35 times) were significantly higher than the State rate;
- for the period 2013-2015, the acute (1.18 times), chronic (1.33 times) and total (1.23 times) hospitalisation rate for 'all alcohol-related conditions' for residents of Hamilton Hill was significantly higher than the corresponding State rate; and
- whilst there are pockets of advantage within the locality, half the suburbs in the locality have a low SEIFA score reflecting a high a level of disadvantage (Spearwood (3), Hamilton Hill (3) and Coolbellup (2)).

16 Consequently, it was submitted by the CHO that there are suburbs within the locality that are experiencing a level of socio-economic disadvantage and hardship and these community characteristics may increase the potential for harm to result from the grant of

the application. According to the CHO, this is particularly relevant given the applicant proposes to supply low-priced liquor within a supermarket environment which is likely to impact on at-risk persons in the community by further contributing to levels of alcohol-related harm and problems already being experienced within the locality.

### Determination

- 17 An applicant for the grant of a liquor store licence must satisfy the licensing authority that the grant of the application is in the public interest.<sup>3</sup> Clearly, there is no presumption in favour of the grant of the application and the applicant must adduce sufficient evidence to discharge its burden under the Act.
- 18 In determining whether the grant of the application is 'in the public interest', the factual matters which I am bound to consider are those relevant to the primary and secondary objects of the Act, as set out in s 5.<sup>4</sup>
- 19 The primary objects of the Act are:
- to regulate the sale, supply and consumption of liquor;
  - to minimise harm caused to people, or any group of people, due to the use of liquor; and
  - to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- 20 The secondary objects of the Act are:
- to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State;
  - to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor;
  - to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act; and
  - to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community.
- 21 In respect of an objector and intervenor, s 73(10) of the Act states that the burden of establishing the validity of any objection lies on the objector, while an intervenor carries no onus to establish their assertions of fact or opinion.<sup>5</sup>
- 22 Consequently, in determining this application, I must evaluate the evidence presented by all parties and make findings and draw conclusions from the evidence (including any

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<sup>3</sup> Refer s 38(2) of the Act.

<sup>4</sup> *Woolworths v Director of Liquor Licensing* [2013] WASCA 227.

<sup>5</sup> *Re Gull Liquor, Gingers' Roadhouse Upper Swan* (1999) 20 SR (WA) 321, 340 (Greaves J);

notorious facts) and apply the public interest criteria, in accordance with the statutory requirements, to the relevant circumstances of the case before me and to any findings or conclusions I have drawn.

- 23 The applicant lodged a detailed PIA and submissions. When I evaluate the applicant's evidence, particularly the survey evidence from the Patterson report, together with the notorious fact that in contemporary Australian life one-stop shopping in large suburban shopping centres is of great importance,<sup>6</sup> I find that the grant of the application would promote object 5(1)(c) of the Act. The popularity of the applicant's supermarkets and business model are also factors to be taken into consideration.
- 24 However, this finding is not determinative of the application. As noted by Banks-Smith J in ***Australian Leisure and Hospitality Group Pty Ltd v Commissioner of Police***,<sup>7</sup> consideration of the matters under object 5(1)(c) does not diminish the role of the other objects of the Act to which I must have regard.
- 25 Object 5(1)(a) of the Act is to regulate the sale, supply and consumption of liquor. This statutory policy of regulation is entirely consistent with taking a measured approach to the granting of licences and whether the grant of an application will contribute to the proper development of the liquor industry.<sup>8</sup> Object 5(1)(b) of the Act is directed towards the minimisation of alcohol-related harm in the community.
- 26 In respect of object 5(1)(b), it should be noted that the harm contemplated by the Act is not confined to just consumers of alcohol and extends to harm caused to people other than the consumer of liquor and includes an increase in anti-social or injurious behaviour.<sup>9</sup> This object also includes the harm caused to the health and well-being of individuals, families and communities, as well as social, cultural and economic harm.
- 27 Allanson J in ***Carnegies Realty Pty Ltd v Director of Liquor Licensing***<sup>10</sup> held that where object 5(1)(b) was relevant to the determination of an application there are four steps to be undertaken, namely:
- make findings that specifically identified the existing level of harm and ill-health in the relevant area due to the use of liquor;
  - make findings about the likely degree of harm to result from the grant of the application;
  - assess the likely degree of harm to result from the grant of the application against the existing degree of harm; and
  - weigh the likely degree of harm, so assessed, together with any other relevant factors to determine whether the applicant has satisfied the licensing authority that it was in the public interest to grant the application.

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<sup>6</sup> [2013] WASCA 227

<sup>7</sup> [2017] WASC 88

<sup>8</sup> ***Woolworths Ltd v Director of Liquor Licensing*** [2012] WASC 384);

<sup>9</sup> ***Re Gull Liquor***:

<sup>10</sup> [2015] WASC 208.

- 28 The intervenor's evidence indicates that there is existing alcohol-related harm in the locality and some suburbs experience alcohol-related harm above the State rates. For example:
- between 2014/15 and 2016/17, there were 872 treatment episodes at services funded by the Mental Health Commission, of which alcohol was identified as the primary drug of concern in 34% of cases;
  - in the period 1 January 2015 to 22 November 2017, there were 668 reported domestic assault offences in the suburbs of Spearwood, North Coogee, Hamilton Hill, Bibra lake and Coogee of which alcohol was a contributing factor in almost one in four;
  - for the period 2013-2015, the total hospitalisation rate for 'all alcohol-related conditions' in Coolbellup for males (1.41 times), females (1.29 times) and all residents (1.35 times) were significantly higher than the State rate; and
  - for the period 2013-2015, the acute (1.18 times), chronic (1.33 times) and total (1.23 times) hospitalisation rate for 'all alcohol-related conditions' for residents of Hamilton Hill was significantly higher than the corresponding State rate.
- 29 Based upon this evidence, I find that there is a high rate of pre-existing alcohol-related harm in the locality surrounding the proposed liquor store.
- 30 In considering the likely degree of harm to result from the grant of the application it is appropriate to assess the vulnerability of the community to the likely adverse impacts of alcohol use. In this regard, both the applicant and the intervenor provided evidence of the following risk factors in the local community:
- there is a high level of social disadvantage in the suburbs of Spearwood, Hamilton Hill and Coolbellup as reflected in their respective SEIFA index;
  - unemployment rates across the locality vary widely, however, unemployment rates for Hamilton Hill and Spearwood are 12.4% and 10.2% respectively and Coolbellup is 9.6%. The average across the locality is 8.8% compared to the Perth average of 6.4%;
  - average individual income is 10% below the Perth average and household income level is 11% below average;
  - Aboriginal and Torres Strait Islanders made up 1.4% of the primary trade area population in 2016 and 1.6% of the total trade area (compared with Perth 1.5%), which was a decrease of 12% in the catchment area between 2011 and 2016;
  - Public Housing accounted for 3.7% of private dwellings in the primary sector and 5.8% across the secondary sector which is higher than the Perth average of 2.9%; and
  - persons with a disability or need of personal assistance make up 6.1% of the primary population and 5.1% of the total trade area, which is above the Perth average of 4.25%.
- 31 I also note from the applicant's evidence (the DES report), that the primary catchment area where most grocery shopping would be directed to the Centre includes the suburbs

of Spearwood and parts of Hamilton Hill and the secondary catchments areas include Hamilton Hill and Coolbellup.

- 32 The applicant acknowledged in its submissions that the sale and supply of liquor has the potential to cause some risks, however it was submitted that the applicant's proposal presents only a very low risk, which will be greatly mitigated and heavily outweighed by the very strong public interest considerations. The applicant referred to the findings of the Liquor Commission in *ALDI Harrisdale*<sup>11</sup> to support its contention that the grant of this application is low risk.
- 33 The applicant also stated that the licensing authority in NSW has found that "the small scale of the proposed licensed area is a mitigating factor" in terms of the likelihood of the ALDI liquor selection contributing to any existing alcohol-related harm. The applicant referenced a decision by the NSW licensing authority for *ALDI Lake Haven* in which the authority remarked in ALDI's "good regulatory record" and "well-developed internal business policies."
- 34 In my view, these submissions do little to advance the applicant's case.
- 35 The facts and circumstances in *ALDI Harrisdale* are very much different to the facts and circumstances of this case. In *ALDI Harrisdale*, the Liquor Commission found that the levels of alcohol-related harm in the Harrisdale locality were no higher than other areas of the State, which is not the situation in this case, and the same risk factors were not present in the Harrisdale locality compared to the locality surrounding the proposed liquor store in this application.
- 36 More specifically, the Liquor Commission in *ALDI Joondalup*<sup>12</sup> stated:

*"It should be noted that the granting of this application does not result in a conclusion that all future applications of this nature will be granted. Each application will be considered on its merits and factors relevant to each location to which an application relates will be taken into account, particularly issues of harm and ill health. Each application will be determined on its merits and in accordance with the relevant legislative provisions of the Act."*

- 37 In terms of the findings by the licensing authority in NSW, the applicant appears to have been selective in its references and has failed to indicate how many of its applications in NSW have been refused by the authority in that State because of concerns about the likely negative impact upon the local community. In fact, the *ALDI Lake Haven* application was refused by the licensing authority in NSW, where it found that:

*"...it is more likely than not that the competitively priced liquor to be sold by this ALDI Supermarket will be attractive to persons who abuse packaged liquor. The licensed business will contribute to the already challenging local environment for alcohol related anti-social conduct and the new business will*

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<sup>11</sup> *ALDI Foods Pty Ltd v Director of Liquor Licensing* LC 09/2017

<sup>12</sup> LC 19/2017

*contribute to those problems, along with incumbent licensees servicing that community.”*

- 38 It is by necessity, a matter of prediction when assessing the likely harm to result from the grant of the application. Ipp J in *Lily Creek*<sup>13</sup> stated that:

*“whether harm or ill-health will in fact be caused to people, or any group of people, due to the use of liquor is a matter for the future and, in the sense referred to at 516 in Malec v JC Hutton Pty Ltd, is essentially a matter of prediction. The Licensing Authority will only be able to determine the likelihood of harm or ill-health occurring by reference to a degree of probability.”*

- 39 Although the applicant does not discount liquor products on a daily or weekly basis, it does consistently provide very cheap liquor across a range of products, including wine (\$2.27 a bottle and four litre casks for \$8.89), and a six pack of beer, cider or RTDs for under \$10.00. Therefore, the grant of the application will see the introduction of low priced packaged liquor into a locality that already experiences rates of alcohol-related harm at levels significantly above the State rate. This could also result in downward pressure on the price of alcohol in the area.
- 40 Suburbs in the primary and secondary catchment area for the supermarket are socio-economically disadvantaged with the presence of at-risk persons who may be vulnerable to alcohol abuse. According to the applicant, access to the liquor area is deliberately situated near the checkouts. In my view, at-risk persons will be attracted to the applicant’s supermarket (which, based upon the applicant’s evidence, is perceived as a low-price supermarket) and then be exposed to readily accessible cheap liquor which would foster opportunistic purchases. The CHO has referenced research which indicates that in this environment, people may buy liquor more frequently than usual and consume more liquor than they normally would. The CHO also referenced research which demonstrates a relationship between low-cost liquor, consumption and increased alcohol-related harm in the community.
- 41 Although the applicant states in its PIA that the liquor area will have no presence outside of the ALDI supermarket and there will be no external access, façade or signage<sup>14</sup>, the evidence from the CHO is that applicant does in fact advertise the presence of liquor in its supermarket external to the premises. This is a further risk factor in the context of the profile of the locality.
- 42 Whilst the research referenced by the CHO does not relate directly to the premises the subject of this application, it may nonetheless assist in determining the likelihood that harm will occur if the application is granted particularly where it is connected by other evidence about the local, social, demographic and geographic circumstances of a given case.<sup>15</sup>

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<sup>13</sup> Supra

<sup>14</sup> PIA para 3.41

- 43 Given the existing levels of alcohol-related harm in the locality, the presence of at-risk persons, the socio-economic status of a large section of the locality and other existing risk factors, I find, on the balance of probability, that the offering of consistently low-priced liquor within the supermarket environment as proposed in this application is likely, over time, to contribute to the existing high rate of alcohol-related harm in this community.
- 44 According to the applicant, the grant of the application will provide a convenient liquor service to its supermarket customers and choice, diversity and competition. However, the DES report indicates that there are already 10 packaged liquor outlets in the locality, including a Liquorland store about 200 metres from the ALDI site and a BWS liquor store, which is in the Centre, and also about 200 metres away. In my view, there is already competition and choice for consumers in the locality together with the option of one-stop shopping.
- 45 I also note from the Patterson report that convenience is a significant factor for public support for the application. In LC 18/2015, the Liquor Commission observed at [125] to [129] that:

*“Convenience is just one factor to be considered when considering the requirement of consumers for liquor - under the current Act it must be considered having regard to the proper development of the liquor industry, the other objects of the Act and, of course, the public interest.*

*It is accepted in the community, as evidenced by the many and varied shopping centres and precincts, that there may be some level of inconvenience experienced in purchasing liquor.*

*Liquor is a product that may have negative consequences in the community and is subject to extensive regulation as to its sale, supply and consumption. These controls and restrictions exist for the benefit of the community and whilst some members of the community may express a desire for more convenience, the Commission is entrusted with the responsibility of making a determination on whether the public interest is served by any proposal to widen or extend the level of convenience currently enjoyed by the public by the extension or granting of certain licences.*

*Many shopping centres and precincts, for example, have independent liquor stores quite removed from the local supermarket, and, for that matter, removed from the bakery, post office, bank, butcher or other retail outlets or public utilities regularly frequented as part of a person’s or family’s weekly or regular shopping expedition. Some liquor stores are even located in relatively isolated areas separate from a shopping centre or precinct.*

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<sup>15</sup> Per Bell J in *Director of Liquor Licensing v Kordister Pty Ltd & Anor* [2011] VSC 207

*A liquor outlet at every corner delicatessen or beside every supermarket or regularly visited retail outlet to satisfy the convenience of some members of the public is not what the community would countenance or expect, and would not be, in the Commission's view, in accordance with the provisions and intent of the Act."*

- 46 In **Liquorland (Australia) Pty Ltd v Executive Director of Public Health**<sup>16</sup> Edelman J stated:

*'In assessing the overall question of whether granting the application is in the public interest it is relevant to consider the baseline level of risk and, in that context, the effect of an increase in risk from the baseline level. It may be that where an existing level of risk is greater, a small increase in risk is less likely to be tolerated. Similarly, it is relevant that there are existing 'at risk' persons who might be further affected.'*

- 47 Where there is already a high level of alcohol-related harm in the community, it may be that even the smallest risk of a further increase in harm is unacceptable.
- 48 Given the findings I have made, particularly in respect of objects 5(1)(b) and 5(1)(c), this application falls to be determined by balancing considerations which bear in competing ways on the public interest.<sup>17</sup> Any purported benefits to the community from the grant of the application must be considered in the context of existing and potential harm due to the use of liquor.
- 49 The Act is also based on a statutory policy of regulation, as reflected by object 5(1)(a), which is consistent with taking a measured approach to the granting of licences under the Act.<sup>18</sup>
- 50 This application is principally directed to catering to the requirements of ALDI supermarket customers. When I weigh and balance the competing interest in this case, namely the convenience to ALDI customers to be able to purchase packaged liquor while shopping at the ALDI Spearwood supermarket and to source some unique products, compared to the potential increase in alcohol-related harm through the introduction of consistently low-priced liquor in a supermarket environment within a locality which already experiences elevated rates of harm and social disadvantaged, I find that even a small increase in the risk to this community, and in particular the at-risk persons in this community, to be unacceptable. The Patterson report states that competitive prices is one of the most appealing aspects of a packaged liquor outlet for respondents.
- 51 In my view, the local community is well catered for in terms of the availability of packaged liquor, and there presently exists competition, choice and diversity.

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<sup>16</sup> [2013] WASC 51

<sup>17</sup> **Executive Director of Health v Lily Creek International Pty Ltd & Ors** [2000] WASCA 258).

<sup>18</sup> **Woolworths Ltd v Director of Liquor Licensing** [2012] WASC 384

52 Tamberlin J in *McKinnon v Secretary, Department of Treasury* [2005] FCAFC 142, said:

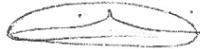
*“The expression “in the public interest” directs attention to that conclusion or determination which best serves the advancement of the interest or welfare of the public ....and its content will depend on each particular set of circumstances.”*

53 I am of the view that in the circumstances of this case, the welfare of the local community should take precedent over the marginal benefits to customers of the ALDI Spearwood supermarket if the application was approved.

54 I find that the applicant has failed to discharge its onus under s 38(2) of the Act and satisfy me that the grant of the application is in the public interest. The application is therefore refused.

55 Parties to this matter dissatisfied with the outcome may seek a review of the Decision under s 25 of the Act. The application for review must be lodged with the Liquor Commission within one month after the date upon which the parties receive notice of this Decision.

56 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin

DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING