



Ki Lee
c/o KDL Legal
Suite 5C, Level 5
9-13 Redmyre Road
Strathfield NSW 2135

15 September 2016

Dear Mr Lee,

APPLICATION NO: 1-4035286643
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Sunday 10:00AM – 8:00PM

APPLICANT: Soon Ho Kwon
**PROPOSED LICENSED PREMISES
NAME:** Kwon Mart

PREMISES LOCATION: 230 Lambton Road
New Lambton, NSW 2305 (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 – KWON MART NEW LAMBTON**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 17 August 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application number 1-4035286643 subject to the following conditions:

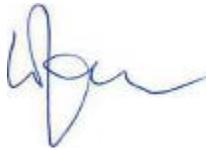
1. Trading Hours
Monday to Sunday 10:00AM – 8:00PM
2. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
3. Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday, 8:00AM – 10:00PM Sunday

Christmas Day Not permitted
December 31st Normal trading

4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being 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.
6. The premises are to be operated at all times in accordance with the Plan of Management dated 1 August 2016 as may be varied from time to time after consultation with the Local Area Commander.
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. That the licensee will be only permitted to sell soju, beer, rice wine, sake or other alcoholic beverages imported from Korea, Japan or China from the licensed premises.

If you have any enquiries about this letter, please contact the 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 lodged on 3 February 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) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

Summary of Further Submissions

3. Email from the Applicant dated 5 August 2016, advising licensing staff that the proposed licensed area is currently being used to store other goods but when the licence is granted those goods will be removed and liquor stored. The Applicant contends that there is only one entrance door and has installed CCTV.
4. Email from the Applicant dated 3 August 2016, advising licensing staff that the liquor licensed area is physically defined by walls and that the CCTV system has a 30 days data storage capacity as requested by Police, with locks on the doors of the proposed licensed area.
5. Email from the Applicant dated 17 June 2016, advising licensing staff that the Applicant has attempted to contact Newcastle City Council (Council) "numerous times" to obtain the signed notice from Council that Complying Development Certificate (CDC) 3916/0 will suffice and requests that the Authority accept that CDC. The Applicant amends the proposed trading hours for Sunday to be between 10:00AM and 8:00PM in line with the CDC. The Applicant agrees to the six conditions proposed by licensing staff including requirements for the licensed business to observe the six-hour closure period pursuant to section 11A of the Act, not operate with a greater overall level of social impact than could be reasonably expected from the Application and CIS, operate in accordance with the Plan of Management, join and being an active member of the local liquor accord ensuring that the liquor sales area is adequately defined and restricting the sale of alcohol to certain alcoholic beverages imported from certain countries.
6. Report to the Authority dated 24 May 2016 from the 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.

7. Submission from Detective Inspector Steve Laksa, Crime Manager, Newcastle Local Area Command (LAC) of NSW Police (Police) dated 7 January 2016, advising that the Applicant may need to reconsider their category of liquor licence as a packaged liquor licence will not comply with the Applicant's notice, which states "Monitor at all times the service of alcohol to ensure that no liquor is removed from the premises and announce that no liquor is to be removed from the premises".
8. Submission from Detective A/ Inspector Keith Price, Crime Manager of the Newcastle LAC on behalf of Police dated 17 February 2016, advising that Police have no objection but recommend that conditions be imposed to address concerns of underage supply/consumption, crime prevention and responsible service of alcohol. Police recommend:
 - (a) the hours of operation be Monday to Sunday 10am to 9pm.
 - (b) the installation of at least one camera in the licensed area for staff to be able to monitor customers inside the enclosed licensed area. The Applicant has a CCTV monitor at the front counter and informed Police of his intention to install a camera and allow footage to stream to the front counter monitor. Police submit that this "will to an extent" deter stealing or supply to underage customers.
9. Police submit that the proposed licensed area is not large and note that the Applicant proposes to sell only sake and Korean sake. Police are satisfied that the licensee will address the "minor concerns" raised by Police.

Legislative Framework

10. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* 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.
11. 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.*
12. 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.
 13. 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.
 14. Section 48(5) of the Act requires that the Authority must not grant the 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”.
 15. 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 New Lambton while the “broader community” comprises the responsible local government area, the Newcastle Local Government Area (LGA).

Analysis of Relevant Facts

16. The Authority is satisfied, on the basis of the Application and CIS before the Authority that, for the purposes of Section 40, 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 also satisfied, on the basis of the Application material, photographs supplied by the Applicant, plans and conditions consented to by the Applicant in further submissions, that additional requirements for packaged liquor businesses under sections 30 and 31 of the Act have been satisfied.
18. 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 licenced venue of the kind proposed in the Application material. No probity issues were raised with regard to the Applicant following consultation with law enforcement agencies including NSW Police and LGNSW. The Authority is also satisfied on the basis of the National Police Certificate No. NCHRC-2016-11033 issued for the Applicant and dated 8 February 2016.
19. 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 *Plan of Management* dated 1 August 2016 and submissions provided by the Applicant.
20. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent to conduct the proposed business on the Premises is in force, on the basis of Complying Development Certificate (CDC) No. 3916/0 issued by Certis Building Certification on 9 October 2015.

Social Impact – Positive Benefits

21. The Authority is satisfied, on the basis of the CIS and further submissions made by the Applicant, that granting this licence will provide a discrete benefit to those members of the local and broader community who wish to conveniently purchase imported liquor from Korea, Japan and China whilst grocery shopping.
22. The Authority is satisfied, on the basis of the CIS, and the lack of local opposition, that granting the Application will be consistent with the “expectations, needs and aspirations of the community” in respect of the local community of New Lambton, being an object of section 3(1)(a), particularly with regard to demand for products from Korea, Japan or China.
23. The Authority is satisfied a *specialised* packaged liquor licensed business, operating within a supermarket that specialises in supplying Asian groceries, would diversify the range of options available to the local community seeking to purchase imported packaged liquor within the local community of New Lambton. This will develop, in the public interest, the liquor industry that serves the local and broader community, for the purposes of section 3(1)(b) of the Act.
24. To further support the positive benefits of the proposal and to differentiate the Premises from a mainstream packaged liquor outlet, the Applicant has agreed to an enforceable licence condition restricting the scope of the licence to only selling “soju, beer, rice wine, sake or other alcoholic beverages imported from Korea, Japan and China”.

Social Impact – Negative Impacts

25. Having reviewed all the material, the Authority is satisfied that over time there will likely be some contribution from the liquor sold at the licensed business to alcohol related crime, disturbance or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
26. The Authority notes that the trading hours are reasonably extensive. This is a factor that objectively extends the scope for adverse impact from the operation of this business over time.
27. The Authority is satisfied, on the basis of the photographs supplied by the Applicant and the Police observations, that the licensed area within the supermarket is small. The Authority is further satisfied, on the basis of the Plan of the Premises, that the licensed area of the Premises comprises approximately 14.5 square metres. The photographs and plans provided indicate that the licensed area will be adequately separated from the rest of the supermarket.
28. The Authority notes that the BOCSAR Report on *Crime by LGA and Alcohol Related Status* as at June 2015, with which the Authority is familiar, indicated that the broader community of Newcastle LGA had lower rates of *assault police* and only moderately higher rates of incidents of *domestic violence related assault*. It has higher rates of *non-domestic violence related assault* and *offensive behaviour* per 100,000 persons compared to NSW as a whole.

29. The Authority notes that although that the BOCSAR crime maps for the period between April 2015 and March 2016 indicate that the Premises itself is *not* located within any hotspots for incidents of *domestic assault* and *non-domestic assault*, there are multiple *domestic assault* hotspots in the suburb of New Lambton. The Authority also notes that this data indicates that the Premises *is* located *within a low density hotspot* for incidents of *malicious damage to property*.
30. The domestic violence hotspots and *BOCSAR Report on Crime by LGA and Alcohol Related Status* provide a cause for concern with regard to the impact of alcohol related domestic violence in the local and broader communities and the contribution this business may play, along with the incumbent licensees, to that social problem.
31. However, prevailing licence density does not give rise to any particular cause for concern with regard to the relevant communities. The Authority is satisfied on the basis of the licence density data which indicates that Newcastle LGA has lower rates of *packaged liquor licences, registered club licences and full hotel licences* per 100,000 persons compared to NSW as a whole.
32. The Authority is satisfied, on the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data provided by the Applicant with the CIS both the local and broader community are somewhat advantaged, with the broader community of Newcastle LGA raking in the 8th decile and the state suburb of New Lambton ranking in the 6th decile on the Index of Relative Socio-Economic Advantage and Disadvantage.
33. Notably, the enforceable condition restricting the sale of liquor to alcoholic beverages to those imported from Korea, Japan or China both reinforces the speciality nature of the business while reducing the scope for this business to operate in the manner of a mainstream liquor business with a broader range of products. The small scale and absence of any opposition to the proposal from Police or LGNSW provide some further assurance, notwithstanding some problematic crime data for the communities.
34. The Authority has also had regard to the reasonably detailed harm minimisation measures in the *Plan of Management* dated 1 August 2016 and notes the CCTV system requirements proposed by Police and accepted by the Applicant.

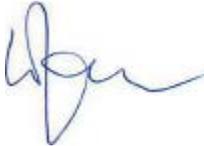
Conclusion

35. 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 are NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
36. Having considered together the positive benefits and negative impacts that the Authority are 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.

37. The Application is granted pursuant to section 45 of the Act.
38. 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 (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: 17 August 2016

A handwritten signature in blue ink, appearing to read 'Philip Crawford', is positioned above the printed name.

Philip Crawford
Chairperson

SCHEDULE

Material Before The Authority

1. Application Form lodged on 3 February 2016.
2. Copies of stakeholder notices notifying the Application to various stakeholders as required by the liquor legislation – including Police, Council and the site notice.
3. CIS document and supporting material dated 3 February 2016. Briefly, the Applicant's contentions on overall social impact include the following:
 - (a) The Premises would be fitted out with refrigeration, cabinets, shelving and sales counter;
 - (b) CCTV would be installed internally;
 - (c) The licence would be exercised in accordance with the provision of the Act, Regulation and any policies recommended by the Authority or the Liquor Store Association;
 - (d) The Application does not lead to any identifiable adverse effects on the community.
4. Geographical Map depicting the radius in which notification of the Application was distributed.
5. Notice of intention to apply for a liquor licence or a licence authorisation contending that Kwon Mart is an Asian grocery shop, that there is no other take-away Asian liquor service reasonably available to the public in the neighbourhood of the Premises and that granting the licence would not encourage drink-driving or other liquor-related harm. The Applicant contends that the following will be "strictly" abided by:
 - (a) Cease supply of alcohol 30 minutes prior to closing;
 - (b) Ensure that low alcohol content beverages and non-alcoholic beverages be sold at a lower price than full strength alcohol beverages;
 - (c) Monitor at all times the service of alcohol to ensure that no liquor is removed from the Premises and announce that no liquor is to be removed from the Premises;
 - (d) Install CCTV recording and playback system to the Premises in accordance with Australian Standard 4806.2-2006;
 - (e) In order to prevent underage access require proof of age;
 - (f) Display specific liquor signage as required by law.
6. Plan of Management dated 1 August 2016.
7. National Police Certificate No. NCHRC-2016-11033 dated 8 February 2016 advising that there are no "disclosable court outcomes" or outstanding matters recorded against the Applicant.
8. A copy of the Applicant's numerous personal identification documents including New Zealand passport and NSW drivers licence.

9. Responsible Service of Alcohol (RSA) certificate issued by RSA Express Pty Ltd on 9 December 2015 advising that the Applicant has successfully completed a course approved by the Secretary of the NSW Department of Justice in RSA.
10. A copy of the Applicant's RSA Competency Card CCH10514598 with expiry date 8 December 2020.
11. List of Liquor Products to be sold at the Premises and the country of import.
12. Plan or diagram of the proposed licensed area.
13. Final Occupation Certificate (FOC) number 3916/0 issued by Certis Building Certification on 13 November 2015 for the "Change of use and fitout of shop 4 to form a grocery store".
14. Two photographs of the proposed licensed area of the Premises.
15. CDC Number 3916/0 issued by Certis Building Certification on 9 October 2015 for the "Change of use and fitout of shop 4 to form a grocery shop".
16. Google geographical maps depicting an aerial view of the location of the Premises.
17. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location indicating that the Premises:
 - (a) Is *not* located *within any hotspots* for incidents of *domestic assault*
 - (b) Is *not* located *within any hotspots* for incidents of *non-domestic assault*
 - (c) *Is* located *within a low density hotspot* for incidents of *malicious damage to property*
18. Liquor licensing records indicating that the suburb of New Lambton already has 1 packaged liquor licence, 5 registered club licences and 3 hotel licences.
19. Liquor licence density data obtained by the Authority from licensing records that are publicly available from LGNSW indicate that the Newcastle LGA as a whole recorded:
 - (a) A rate of **8.75** *packaged liquor licences* per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
 - (b) A rate of **3.37** *registered club licences* per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **6.73** *full hotel licences* per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
20. BOCSAR Report on *Crime by LGA and Alcohol Related Status* as at June 2015 with which the Authority is familiar provides the following comparison of alcohol related crime in the Newcastle LGA and New South Wales as a whole:
 - (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Newcastle LGA was **148.7** per 100,000 persons, moderately above the rate for New South Wales rate of **122.6** per 100,000 persons.

- (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Newcastle LGA for 2013 was **272.5**, higher than the State wide rate of **144.0**.
 - (c) The rate of *offensive behaviour* offences flagged by reporting Police as *alcohol related* across this LGA was **168.7** per 100,000 persons, higher than the State wide rate of **88.2**.
 - (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Newcastle LGA was **13.1**, less than the rate of **18.2** per 100,000 for New South Wales as a whole.
21. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
- (a) The Newcastle LGA ranked in the 8th decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
 - (b) The state suburb of New Lambton ranked in the 6th decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.
22. Email from the Applicant dated 5 August 2016.
23. Email from the Applicant dated 3 August.
24. Email from the Applicant dated 17 June 2016.
25. Report to the Authority dated 24 May 2016 from the Compliance Branch of LGNSW.
26. Submission from Detective Inspector Steve Laksa, Crime Manager of the Newcastle LAC on behalf of Police dated 7 January 2016.
27. Submission from Detective A/ Inspector Keith Price, Crime Manager of the Newcastle LAC on behalf of Police dated 17 February 2016.