



Ms Sunok Maeng
MS Venture Pty Ltd
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6 February 2018

Dear Ms Maeng

Application No.	1-6331565555
Applicant	MS Venture Pty Ltd
Application for	Packaged Liquor Licence
Licence name	DC Mart
Trading hours	Monday to Saturday 9:00 am – 9:00 pm Sunday 10:00 am – 9:00 pm
Premises	Shop 1 & 1A, 155 Peats Ferry Road HORNSBY NSW 2077
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor and Gaming Authority Application for a packaged liquor licence – DC Mart

The Independent Liquor and Gaming Authority considered, at its meeting on 13 December 2017, the Applicant's application for a packaged liquor licence and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **grant** the licence 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 3:00 am and 9:00 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.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm 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 reasonably be 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 Plan of Management documents, titled 'Statement for intended manner of operations of the premises – DC Mart' dated 22 August 2017 and 'DC Mart Liquor Store House Policy', as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy the Plan of Management 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 ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.

7. The licensee will only be permitted to sell soju, beer, wine, sake or other alcoholic beverages imported from South Korea, Japan or China from the licensed premises.
8. Closed-circuit television system
 - 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.

A statement of reasons for this decision is attached at the end of this letter.

Trading on a Sunday that falls on 24 December

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 earlier than 9:00 am.

If you have any questions, please contact the case manager via email at wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au.

Yours faithfully



David Armati
Deputy Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 25 August 2017, MS Venture Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a packaged liquor licence (“Licence”) for the premises at Shop 1 & 1A, 155 Peats Ferry Road, Hornsby (“Premises”).
2. The Authority considered the Application at its meeting on 13 December 2017 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 29-31, 40, 45 and 48 of the Act, and the relevant provisions of the *Liquor Regulation 2008*.

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 its Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of 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, needs and aspirations of the community, and 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 exercising its powers under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, 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 various 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 before it.

Provisions specific to a 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 hour requirements

- 21. The Authority is satisfied on the material before it 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) if the Licence were to be granted, liquor would 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, as required by sections 29 and 30 of the Act, and
 - d) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by 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 would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Premises 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 development application DA1315/2016 in respect of the Premises, issued by Hornsby Shire Council on 16 January 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 Hornsby, and the relevant “broader community” comprises Hornsby Shire Local Government Area (“the LGA”).

Positive social impacts

25. The Authority accepts the Applicant’s contention that the Premises will only supply a limited range of premium liquor products imported from South Korea, Japan and China, which will:
- a) distinguish the Premises from the existing liquor outlets in the area, and
 - b) cater to the increasing demand for premium imported liquor products among consumers with diverse cultural backgrounds, particularly the growing Asian population in the community, and
 - c) provide additional “one-stop shop” convenience to consumers who wish to purchase liquor while shopping at the Premises.
26. The Authority also notes that the density of packaged liquor licences in both Hornsby and the LGA is lower than the NSW state average.
27. Having regard to the above, the Authority is satisfied that granting the Licence will be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

28. The Authority notes from the BOCSAR data that, for the year to June 2017:
- a) the Premises was:
 - i. located within a low density hotspot for incidents of alcohol related assault,
 - ii. not located within any hotspots for domestic assault, and
 - iii. located within high density hotspots for non-domestic assault and malicious damage to property,
 - b) Hornsby recorded a lower rate of alcohol related domestic assault, but higher rates of alcohol related non-domestic assault and malicious damage to property, in comparison with the NSW state average, and
 - c) the LGA recorded a significantly lower rate of alcohol related assault (domestic and non-domestic) and malicious damage to property than the NSW state average.
29. The Authority also notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA recorded a lower level of alcohol attributable deaths and same level of alcohol attributable hospitalisations compared to the corresponding NSW figure.
30. The Authority has considered the submissions from Hornsby RSL Club and NSW Health Northern Sydney Local Health District opposing the grant of the Licence, noting their contention that a new bottle shop is both unnecessary and detrimental to the community, given the large number of liquor outlets and the Alcohol Free Zone in the area.
31. NSW Health also expressed concerns in respect of the correlation between increases in liquor outlets and alcohol related health issues, and the vulnerability of young students and the socially disadvantaged population near the Premises. The Authority notes the detailed information provided in the submission, and acknowledges the concerns raised.

32. Having regard to the relevant statistics and the objections received, the Authority accepts that there is a risk that if the Licence were to be granted, liquor sold or supplied at the Premises will, over time, contribute to an increase in alcohol related crime and health issues in the local and broader communities.
33. The Authority is nevertheless satisfied that the risk is adequately mitigated by the following:
- a) The liquor sales area within the Premises is small in size (approximately 17 square metres), which limits the types and volume of liquor products that can be sold at the Premises.
 - b) The liquor products sold at the Premises will be limited, as prescribed in the relevant licence condition, to products imported from South Korea, Japan and China. The Authority accepts the Applicant's contention that these products mainly target the higher end of the market and consumers with an Asian background, and are less likely to appeal to young or disadvantaged groups in the community compared to the more mainstream products.
 - c) The Premises will close by 9 pm on all trading days, which is earlier than the standard closing time for packaged liquor licences and will help to further reduce any adverse impact its operation may have on the amenity of the community.
 - d) There were no objections from NSW Police, Hornsby Shire Council, or local residents in relation to the Application.
 - e) The Applicant has consented to all proposed conditions, and committed to adhering to the measures set out in the Plan of Management to ensure the responsible serving of alcohol.

Overall social impact

34. The Authority has had regard to the ABS data indicating that as at 2011, Hornsby and the LGA were relatively advantaged in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is almost seven years old and does not draw any specific inference from it, other than to note that it does not raise any apparent concerns.
35. Having considered the positive and negative social 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.
36. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



David Armati
Deputy Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule

Material considered by the Authority

1. ABS SEIFA data based on the 2011 Census for Hornsby and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths in the LGA for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2013-15.
3. NSW Recorded Crime Statistics 2016 outlining the proportion of offences in the LGA by day of week and time of day.
4. Notice of determination issued by Hornsby Shire Council on 16 January 2017 approving development application DA/1315/2016 in relation to the Premises.
5. BOCSAR crime maps for the year to June 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
6. NSW crime statistics for the two years to June 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Hornsby and the LGA.
7. Completed application dated 22 August 2017.
8. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 22 August 2017.
9. Completed Category B Community Impact Statement dated 22 August 2017.
10. Appointment of manager notice dated 22 August 2017 in relation to the Premises.
11. Floor plan dated 23 August 2017 indicating the proposed liquor sales area within the Premises.
12. L&GNSW liquor licensing records as at 28 August 2017, outlining the density of all types of liquor licences in Hornsby, the LGA and NSW, and listing all packaged liquor licences in Hornsby and the LGA.
13. Submission from Hornsby RSL Club on 28 August 2017 in relation to the Application.
14. Acknowledgement of the local consent authority notice by Hornsby Shire Council on 4 September 2017.
15. Submission from NSW Health Northern Sydney Local Health District on 11 October 2017 in relation to the Application.
16. Submission from NSW Police on 17 October 2017 in relation to the Application.
17. The Applicant's response on 1 November 2017 to the objections received.
18. Google map images extracted from the Google website on 21 November 2017, showing the location and photos of the Premises in map view, earth view and street view.
19. Certification of Advertising signed and dated 21 November 2017.
20. Correspondence between L&GNSW and the Applicant's representative on 22 November 2017 in relation to the proposed licence conditions.
21. ASIC business records in relation to the Applicant and the owner of the Premises.
22. Plan of Management documents titled "Statement for intended manner of operation of the premise DC Mart" and "DC Mart Liquor Store House Policy".
23. Proposed list of products to be sold at the Premises.
24. Document titled "Proposed re-establishment of an alcohol free zone in the Hornsby Town Centre", setting out the location of the proposed alcohol free zone.