



Mr Dan Kim
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11 May 2017

Dear Mr Kim

APPLICATION NO: APP-0002178134
APPLICATION FOR: New Packaged Liquor Licence
APPLICANT: SHINSUN GROUP PTY LTD
LICENSED PREMISES NAME: Asian Food Market
PROPOSED PREMISES LOCATION: 1 George Street
BLACKTOWN NSW 2148
ISSUE: Whether to grant or refuse an application for
a new packaged liquor licence
LEGISLATION Sections 3, 29, 30, 40, 45, 48 *Liquor Act*
2007

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR
NEW PACKAGED LIQUOR LICENCE – ASIAN FOOD MARKET, BLACKTOWN**

The Independent Liquor & Gaming Authority considered application number APP-0002178134 for a new packaged liquor licence (Application) at its meeting on 22 March 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **grant** the Application subject to the following licence conditions:

1. Trading Hours

Monday to Saturday 9:00AM – 7:00PM
Sunday 10:00AM – 7:00PM

- 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 3:00AM and 9:00AM 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.** Restricted trading & NYE (std)

Take away sales

Good Friday	Not permitted
Christmas Day	Not permitted

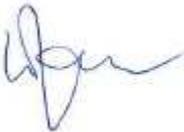
December 31st

Normal trading

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 licensee or its representative must join and be an active participant in the local liquor accord.
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 premises are to be operated at all times in accordance with the Plan of Management dated 27 March 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
8. The licensee will not sell refrigerated liquor from the licensed premises.
9. The licensee is only permitted to sell Asian liquor products from the licensed premises.

If you have any enquiries about this letter, please contact the case manager via email to santina.causa@justice.nsw.gov.au

Yours faithfully



Philip Crawford

Chairperson

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

STATEMENT OF REASONS

DECISION

1. The Independent Liquor & Gaming Authority (“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 lodged on 20 October 2016 (“the Application”) for a new packaged liquor licence, as all of those parties 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.
2. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, the Authority is satisfied, for the purposes of section 48(5) of the *Liquor Act 2007* (“the Act”), that the overall social impact of granting this licence would not be detrimental to the well-being of the local and broader communities. The Application is granted under section 45 of the Act.
3. 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) of the Act.

MATERIAL CONSIDERED BY THE AUTHORITY

4. In making this decision, the Authority has considered the Application, 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 maintained by Liquor & Gaming NSW (“LGNSW”), Bureau of Crime Statistics and Research (“BOCSAR”) crime data and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. The material considered pursuant to the making of this decision is listed and, in some cases, briefly summarised in the Schedule.

LEGISLATIVE FRAMEWORK

5. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and relevant provisions in the *Liquor Regulation 2008* (“the Regulation”). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
6. 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.
7. Section 48(5) of the Act requires that the Authority must not grant an 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”.
8. 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 Blacktown.

9. Consistent with the Authority's long standing policy to find that the broader community comprises the relevant local government area ("LGA"), the Authority is satisfied that the broader community is, at the time of this decision, the area of Blacktown LGA.
10. 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.*

KEY FINDINGS

11. The Authority is satisfied, on the basis of the Application and CIS material before it, including a certificate of advertising dated 27 October 2016, that for the purposes of Section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
12. The Authority is satisfied, for the purposes of section 30 of the Act, that the licensed area will be adequately separated from the rest of the associated supermarket. The Authority makes this finding on the basis of the plan/diagram of the Premises provided by the Applicant.
13. 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 licensed business of the kind proposed in the Application. The Authority notes that no probity issues were raised with regard to the Applicant company following consultation with law enforcement agencies, including NSW Police ("Police") and LGNSW.
14. The Authority is also 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 Applicant's Plan of Management dated 27 March 2017.
15. The Authority is further satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises falls within the scope of the development consent that is currently in force. This finding is made on the basis of a Complying

Development Certificate (“CDC”) 16000353/1 issued by Modern Building Certifiers dated 18 October 2016.

Social Impact – Positive Benefits

16. The Authority accepts the observations made in the Police submission dated 27 April 2016 that the business is a “well established” Asian Food Market that stocks “Asian specific foodstuffs and associated products”.
17. Noting the absence of any adverse submissions from the local or broader communities the Authority is satisfied, on the basis of the Application material and CIS, that granting the Application will be consistent with the “expectations, needs and aspirations of the community”, particularly those in the communities seeking Asian liquor products, advancing a statutory object of section 3(1)(a) of the Act.
18. The Authority is further satisfied a *specialised* Asian packaged liquor licensed business, operating within a supermarket that specialises in supplying Asian groceries, would diversify the range of options available to those in the relevant communities seeking to purchase imported and specialist packaged liquor. This will also facilitate the balanced development of the liquor industry in the local community for the purpose of section 3(1)(b) of the Act.
19. Notably, the Applicant has agreed to the imposition of an enforceable licence condition that restricts the scope of this licence to only selling Asian liquor products. The Authority notes that the Applicant has provided evidence by way of a non-exhaustive product list specifying Korean, Filipino, Chinese and Japanese brands of Beer, Spirits, Soju, Makkoli and Whisky that the Applicant intends to stock on the Premises. This reinforces the specialist nature of the proposed new liquor business.

Social Impact – Negative Impacts

20. Having reviewed all of the material before it, the Authority considers that over time there is a risk that liquor sold from this new licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.
21. The licensed trading hours sought by the Applicant are reasonably extensive across the course of the week, with trading commencing from 9:00am Monday through Saturday and 10:00am Sunday. However, the requested licensed closing time of 7:00pm Monday through Sunday presents a significant moderating factor that reduces the scope for this business to generate sales during traditionally higher risk times of the week for the occurrence of alcohol related anti- social conduct – such as later in the evenings and on weekends.
22. The Authority notes some cause for concern arising from the crime rates indicated in the BOCSAR crime statistics for October 2014 to September 2016 for both the broader and local communities. During 2016 the Blacktown LGA and the suburb of Blacktown had moderately higher rates per 100,000 persons compared to NSW for incidents of *alcohol related domestic assault*. The suburb of Blacktown also had a

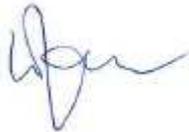
higher rate per 100,000 persons compared to NSW for incidents of *alcohol related non-domestic assault*.

23. The BOCSAR Crime Maps for October 2015 to September 2016 indicate a troubling concentration of crime and anti-social conduct within the local community. The Premises is located within high density hotspots for incidents of *alcohol related assault, domestic assault, non-domestic assault and malicious damage to property*.
24. The Authority is satisfied, on the basis of the LGNSW licensed premises information sourced by licensing staff dated 23 February 2017 that there is some cause for concern arising from the comparatively high prevailing liquor licence density across the broader community. However, that data also indicates that the local community (that will most directly be serviced and impacted by this business) has a rate of liquor licences per 100,000 persons that is substantially below the State-wide rate.
25. The socio-economic data also presents a mixed picture, in that ABS Socio-Economic Indexes For Areas ("SEIFA") data establishes that the broader community is relatively advantaged while the local community of Blacktown is moderately disadvantaged. NSW Health Department data records rates of alcohol related death below the State-wide rate of alcohol related hospital separations almost identical to the State-wide rate.
26. However, the Applicant's submission dated 16 February 2017 accompanied by a plan/diagram of the Premises and a photograph depicting the layout of the Premises establishes that the licensed area within the supermarket is *very small* at only 7.5 square metres. The scale of the proposed liquor business is a factor that underscores the niche nature of the proposal and substantially reduces the capacity for *this* business to contribute, over time, to the prevailing social problems associated with the abuse of packaged liquor in the communities.
27. Further factors that reduce the scope for liquor sales from this business to contribute to prevailing alcohol related anti-social impacts include an enforceable licence condition that will restrict the sale of liquor to Asian liquor products only. This both underscores the positive benefits and substantially reduces the capacity for this business to operate with the same scope as a mainstream liquor business.
28. Moreover, the Applicant consents to a licence condition proposed by Police that the licensee shall not sell any refrigerated liquor products from the licensed Premises. The Authority accepts that this will likely serve as a disincentive to impulse consumption, pre-loading and public drinking in nearby places after purchase of liquor from the Premises.
29. The Authority also had regard to the various harm minimisation measures in the Applicant's Plan of Management dated 27 March 2017. This will not only provide information on risk management for the licensee and staff but will be enforceable as a condition on the licence.
30. Finally, the Authority is reassured that Police, who provided two submissions in relation to this Application, did not raise any concerns in relation to alcohol related crime within the local or broader communities or with regard to the location or nature of this proposal.

Conclusion

31. 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 include Police, the Applicant, neighbouring occupiers, and all other parties required to be consulted under the legislation.
32. Having considered together the positive benefits and negative impacts that the Authority is 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.
33. The Application is granted pursuant to section 45 of the Act.
34. 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; and (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: 22 March 2017



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 <https://www.liquorandgaming.justice.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 before the Authority

1. ABS SEIFA data sourced from the 2011 Census indicates that the Blacktown suburb is ranked in the 3rd decile on the Index of Relative Socio-economic Advantage and Disadvantage (with a score of 10 being the most advantaged) compared to other suburbs in NSW. Blacktown LGA is ranked in the 7th decile compared to other LGAs in NSW.
2. NSW BOCSAR Crime Statistics for October 2014 to September 2016 indicate that:
 - (a) The rate of incidents of *alcohol related domestic assault* for NSW as a whole was **121.5** (per 100,000 persons of population) in the year ending September 2015 and **118.1** per 100,000 persons in the year ending September 2016, decreasing **2.8% per year**. The rate for the Blacktown LGA was **133.3** in the year ending September 2015 and **120.9** in the year ending September 2016, decreasing **9.3% per year**. The rate in the suburb of Blacktown was **169.6** in the year ending September 2015 and **139.9** for the year ending September 2016, remaining stable.
 - (b) The rate of incidents of *alcohol related non-domestic assault* across NSW as a whole was **141.2** (per 100,000 persons of population) in the year ending September 2015 and **137.9** in the year ending September 2016, decreasing **2.4% per year**. The rate in the Blacktown LGA was **96.9** in the year ending September 2015 and **104.7** in the year ending September 2016, remaining stable. The rate in the suburb of Blacktown was **154.8** in the year ending September 2015 and **190.8** in the year ending September 2016, remaining stable.
 - (c) The rate of incidents of *malicious damage to property* in NSW as a whole was **859.0** (per 100,000 persons) in the year ending September 2015 and **838.1** in the year ending September 2016, down **2.4% per year**. The rate in Blacktown LGA was **1036.0** in the year ending September 2015 and **1013.5** in the year ending September 2016, remaining stable. The rate in the suburb of Blacktown was **1250.8** in year ending September 2015 and **1106.6** in the year ending September 2016, decreasing **11.5% per year**.
3. Publicly available BOSCAR Crime Maps based upon data from October 2015 to September 2016, indicating hotspots that the Premises is located within.
4. Application form lodged on 20 October 2016 attaching an ASIC extract and Creditor Watch Report for Shinsun Group Pty Ltd as at 2 June 2016.
5. CIS lodged on 20 October 2016 including a Google geographical map and two street view images of the Premises, a letter from Police dated 27 April 2016, certificate of advertising dated 27 October 2016, Applicant's Plan of Management dated 27 February 2017, a letter from Modern Building Certifiers dated 20 September 2016 and a diagram of the proposed licensed area.
6. Complying Development Certificate from Modern Building Certifiers dated 18 October 2016.
7. Submission from Blacktown Local Area Command ("LAC") of Police dated 27 October 2016. In this two-page letter Police make the same points as noted in their letter dated 27 April 2016 while noting the Applicant's agreement to conditions being placed on the licence and proposing that the three conditions recommended in their submission dated 27 April 2016 be imposed if the licence is granted.

8. Email from the Applicant's legal representative dated 16 November 2016 in response to an email from licensing staff dated 25 October 2016, attaching a certificate of advertising, complying development certificate, a floor plan of the Premises and a notice of appointment of a manager.
9. Email from the Applicant's legal representative dated 16 February 2017 in response to an email from licensing staff dated 14 February 2017 advising no objections to the conditions proposed by Police, accepting a no refrigeration condition and advising other aspects about the scale and layout of the proposed liquor business on the Premises.
10. LGNSW licensed premises information sourced by licensing staff dated 23 February 2017 indicating **7** packaged liquor licences in the Blacktown suburb and **58** in the Blacktown LGA. There is a rate of **16.14** packaged liquor licences per 100,000 of the population in the suburb and **192.53** in the Blacktown LGA compared to a State-wide rate of **38.23** per 100,000 persons.
11. Email from the Applicant's legal representative dated 27 February 2017 responding to an email from licensing staff dated 21 February 2017 and attaching a copy of the Applicant's Plan of Management (updated liquor trading hours) and a copy of a complying development certificate (regarding 'Internal fitout to a retail tenancy for Liquor Store').
12. Email from the Compliance department of LGNSW dated 28 February 2017 attaching a copy of the Environment and Venue Assessment Tool ("EVAT") report and noting that LGNSW "does not intend to carry out any further assessment of this application at this time".
13. Email from the Applicant's legal representative to licensing staff dated 28 February 2017 responding to the LGNSW submission dated 28 February 2017. The Applicant notes that the venue risk is overall low as there are no extended liquor trading hours sought and that the location risk is moderate, while the presence of late night transport and proportion of venues that are diversifying mitigate this risk. The Applicant notes that LGNSW do not intend to carry out any further assessment and observes that this indicates that the risks involved with this Application "are not particularly of note". The Applicant also noted the no refrigeration condition that it will observe should the licence be granted.
14. Google Maps of the Premises and surrounding area extracted on 7 March 2017.
15. Email from the Applicant's legal representative dated 13 March 2017 agreeing to a condition restricting the licence to the sale of Asian liquor products only.
16. Email from the Applicant's legal representative dated 28 March 2017 in response to an email from licensing staff dated 24 March 2017. In this email, the Applicant attaches a copy of the Plan of Management dated 27 March 2017 having made the relevant changes requested by the Authority at its meeting dated 22 March 2017.
17. NSW Department of Health data for the Blacktown LGA indicates a smoothed standardised alcohol related mortality ratio of **91.600** and a smoothed standardised ratio of alcohol related hospitalisation of **100.100**, with the NSW average at **100**.