



Mr Jin Hee Hong  
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25 October 2018

Dear Mr Hong

<b>Application No.</b>	APP-0003931865
<b>Applicant</b>	Mr Mingyun Han
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	Young Mart
<b>Trading hours</b>	Monday to Saturday 10:00 am – 9:59 pm Sunday 10:00 am – 8:00 pm
<b>Premises</b>	Shops 8 & 9, 2 McIntosh Street CHATSWOOD NSW 2067
<b>Legislation</b>	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 – Young Mart**

The Independent Liquor and Gaming Authority considered, at its meeting on 18 July 2018 the Application above and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **approve** the Application 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 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.
2. Restricted trading and NYE (std)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 AM to 10:00 PM Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> 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 dated 20 April 2018 as may be varied from time to time after consultation with 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 premises can only trade to 8:00 PM on public holidays.
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**

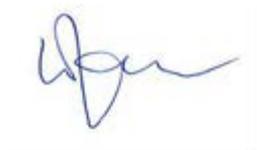
Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 AM. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 AM.

### **Licence cannot be exercised until premises is ready to trade**

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade.

If you have any questions, please contact the case manager at [beatrice.pitpaiaac@liquorandgaming.nsw.gov.au](mailto:beatrice.pitpaiaac@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 28 March 2018, Mr Mingyun Han (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (‘Application’) for a packaged liquor licence (‘Licence’) for the premises at Shops 8 & 9, 2 McIntosh Street, Chatswood (‘Premises’).
2. The Authority considered the Application at its meeting on 18 July 2018 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 and the legislative requirements under the Act and the Liquor Regulation 2018.

### 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 and trading period requirements under sections 11A, 12 and 40 of the Act,
  - b) 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
  - c) 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 will 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 Complying Development Certificate No. J170242 in respect of the Premises, issued by Vic Lilli & Partners on 31 May 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 Chatswood, and the relevant “broader community” comprises Willoughby Local Government Area (“LGA”).

### Positive social impacts

25. The Authority considers that the addition of a small packaged liquor department will provide a measure of convenience for customers of the Asian supermarket, who will be able to purchase their liquor needs at the same time as their specialty groceries.
26. The benefit of convenience is somewhat reduced by the small size of the Premises. A small packaged liquor facility is less likely to carry a comprehensive range of liquor products, meaning that customers of the supermarket might still prefer to shop at an alternative packaged liquor facility.
27. The Authority notes that the populations of both Chatswood suburb and the LGA are increasing, and considers that the Premises will provide the growing local community with additional access to packaged liquor and increased product choice. However, the Authority also notes that Chatswood suburb and LGA are each already well provisioned by the several existing packaged liquor facilities in the area.
28. The Authority notes that there were no objections to the Application received from any stakeholders, special interest groups, occupiers of neighbouring residences or any other member of the public. Notably, NSW Police Force (Police) made a submission and did not object to the Application.
29. The Authority considers the proposed social benefits above to be somewhat limited by the lack of evident community support for the Application. The only indication of any such support is the fact that no submissions in opposition to the Application were received from the community.
30. Accordingly, the Authority is satisfied that granting the Licence would 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

31. The Authority notes that the density of packaged liquor licences per 100,000 of population in Chatswood and the LGA is higher than the NSW state average.
32. The Authority notes that, according to BOCSAR Crime Maps for the year to March 2018, the Premises was located within:
- a) a low-density hotspot for incidents of alcohol-related assault,
  - b) a medium-density hotspot for incidents of domestic assault,
  - c) a high-density hotspots for incidents of non-domestic assault, and
  - d) a high-density hotspot for incidents of malicious damage to property.
33. The Authority further notes that there was a high-density hotspot south of the Premises within the Chatswood suburb, in an area that is likely to be serviced by the Licence.

34. The concerns that such mapping raises, however, are somewhat alleviated by the rates of crime recorded for Chatswood suburb and the LGA for that period, which were significantly lower than the NSW average.
35. BOCSAR crime data for the two years to March 2018 indicates that the rates of alcohol-related domestic and non-domestic assault, malicious damage to property and alcohol-related disorderly conduct (offensive conduct) in Chatswood and the LGA were significantly lower than the corresponding NSW rates.
36. The Authority notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA recorded a lower than average level of alcohol attributable deaths for the period 2012-13, and a lower than average level of alcohol attributable hospitalisations for the period 2013-15.
37. The Authority has had regard to the ABS data indicating that as at 2016, Chatswood was amongst the most advantaged suburbs, and the LGA amongst the most advantaged Local Government Areas, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
38. Accordingly, the Authority notes that there are no immediate concerns regarding socio-economic disadvantage in the broader community which may increase vulnerability to alcohol-related harms.
39. Whilst the information before the Authority gives rise to some concerns, the Authority is nevertheless satisfied that the risk associated with the granting of the Licence will be adequately mitigated by the following:
  - a) the fact that objective BOCSAR data indicates that the rates of alcohol-related crime are significantly lower than the corresponding NSW rates;
  - b) the very small size of the licensed area, measuring only 10.35m<sup>2</sup>;
  - c) the absence of any objections from the stakeholders consulted or members of the public;
  - d) by the imposition of special licence conditions; and
  - e) by the Applicant's adherence to the Plan of Management and House Policy document lodged with the Application.

#### Trading hours

40. The Authority notes from the Application and community consultation material that the trading hours sought for the Premises between Monday and Saturday end at 10 pm.
41. The Authority also notes that if the Premises is authorised to trade until 10 pm, Monday to Saturday, it would in practice be authorised to also trade between 10 pm and 11 pm on those days pursuant to an exemption afforded by clause 70AB of the Regulation.
42. In the current circumstances, the Authority considers it appropriate to impose a closing time of 9:59 pm, Monday to Saturday, to prevent the unintended consequences of permitting the Premises to trade beyond the hours sought by the Applicant and represented to stakeholders, including Council and NSW Police, during the community consultation process.

#### Overall social impact

43. 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.

44. The Authority is also satisfied that a decision to grant the Licence would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.

45. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



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.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. HealthStats NSW data showing that the Willoughby LGA recorded:
  - a. for the period 2012-13, a smoothed standardised mortality ratio of 72.20 compared to the state benchmark of 100, and
  - b. for the period 2013-15, a smoothed standardised separation ratio of 93.00 compared to the state benchmark of 100.
2. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-Economic Advantage and Disadvantage on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1st decile the most disadvantaged, both Chatswood and the Willoughby LGA ranked in the 10<sup>th</sup> decile.
3. Submission from Roads & Maritime Services on 21 November 2017 in relation to the Application.
4. Letter from the Applicant's representative to Roads & Maritime Services on 6 December 2017.
5. NSW Recorded Crime Statistics 2017 outlining the proportion of offences in the LGA by day of week and time of day.
6. NSW Recorded Crime Statistics 2017 outlining the number and proportion of selected offences flagged as alcohol related by NSW Police.
7. BOCSAR crime maps for the year to March 2018, indicating the location of the Premises and relative to hotspots for alcohol-related assault, domestic assault, non-domestic assault, and malicious damage to property.
8. NSW crime statistics published by BOCSAR indicating that:
  - a. for the year to March 2018, the rate of:
    - i. alcohol-related domestic assault in the Willoughby LGA and Chatswood were 32.0 and 30.6 respectively, compared to the NSW average of 114.4,
    - ii. alcohol-related non-domestic assault in the Willoughby LGA and Chatswood were 56.4 and 80.3 respectively, compared to the NSW average of 130.4,
    - iii. malicious damage to property in the Willoughby LGA and Chatswood were 379.3 and 596.6 respectively, compared to the NSW average of 779.5,
    - iv. alcohol-related disorderly conduct (offensive conduct) in the Willoughby LGA and Chatswood were 11.5 and 34.4 respectively, compared to the NSW average of 41.2,
  - b. for the year to March 2017, the rate of:
    - i. alcohol-related domestic assault in the Willoughby LGA and Chatswood were 17.9 and 15.3 respectively, compared to the NSW average of 113.2,
    - ii. alcohol-related non-domestic assault in the Willoughby LGA and Chatswood were 41.0 and 57.4 respectively, compared to the NSW average of 132.8,
    - iii. malicious damage to property in the Willoughby LGA and Chatswood were 358.9 and 512.5 respectively, compared to the NSW average of 805.1,
    - iv. alcohol-related disorderly conduct (offensive conduct) in the Willoughby LGA and Chatswood were 6.4 and 7.6 respectively, compared to the NSW average of 46.3.
9. Completed Category B Community Impact Statement dated 20 March 2018.
10. NSW National Police Certificate in relation to the applicant, issued on 21 March 2018.

11. Completed application dated 28 March 2018.
12. Copy of the public consultation site notice and local consent authority notice dated 28 March 2018.
13. Submission from Family & Community Services on 11 April 2018 in relation to the Application.
14. Premises plan dated 19 April 2018 for the Premises.
15. Email from Willoughby City Council to the Applicant dated 18 April 2018.
16. Certifications of Advertising Application signed and dated 19 April 2018.
17. Plan of Management and House Policy document for the Premises dated 20 April 2018.
18. Complying Development Certificate No. J170242, in relation to the Proposed Premises, issued by Vic Lilli & Partners on 31 May 2017.
19. Submission from NSW Police Force on 1 June 2018 in relation to the Application.
20. L&GNSW liquor licensing records as at 18 June 2018, setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Chatswood and the Willoughby LGA. The density of packaged liquor licences is 34.44 in NSW, 58.83 in the Willoughby LGA and 44.15 in Chatswood.
21. Correspondence between L&GNSW staff and the Applicant between 5 April 2018 and 22 June 2018 in relation to the assessment of the Application.
22. Google map images extracted from the Google website on 25 June 2018, showing the location and photos of the Premises in map view, earth view and street view.
23. ASIC business records in relation to the business owner and Premises owner.
24. Copy of the Applicant's identification.