



Ms Un Ju KIM
64 Newington Boulevarde
Newington NSW 2127

26 September 2016

Dear Ms Kim,

APPLICATION NO: 1-3807194840
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Saturday 10:00AM – 7:00PM
Sunday Closed

APPLICANT: Un Ju KIM
**PROPOSED LICENSED PREMISES
NAME:** Ozko Green Pty Ltd

PREMISES LOCATION: Shop 129, 79-87 Beaconsfield Street
Silverwater, NSW 2128 (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 – OZKO GREEN PTY LTD**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 27 July 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application number 1-3807194840 subject to the following conditions:

1. Trading Hours
Monday to Saturday 10:00AM – 7:00PM
Sunday Closed
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 24 th	Normal trading Monday to Saturday, 8:00 to 10:00 pm Sunday
Christmas Day	Not permitted
December 31 st	Normal trading
4. 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.
5. The Licensee must not sell at the premises any of the following products: a. ready to drink (RTD) pre Mixed Alcohol products; b. cask wine; c. clean skin wines; and d. heavily discounted alcohol products.
6. The Licensee will ensure the ranges of alcohol products are limited to Korean products.
7. Liquor products are only to be displayed sold or supplied within the "Liquor Section" identified in floor plan drawing # A-1 00, Issue D as prepared by moMA Pty Ltd.
8. All liquor sales will be via the Liquor Section Point of Sale (POS) terminal as identified in floor plan drawing # A-100, Issue D as prepared by moM A Pty Ltd. Alcohol must not to be sold or supplied at any other location within the licensed premises.
9. 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.
10. The Licensee is to be a financial and active member of the Flemington Local Liquor Accord. The Licensee or a representative of the licensee is to attend all Flemington Local Liquor Accord meetings.
11. The Licensee will ensure the business operates in accordance with the "House Policy" document provided to police at the time of application (document attached). The Licensee is to ensure all staff employed at the licensed premises receive a copy of the house policy upon employment. The Licensee is to ensure all staff employed at the licensed premises understand the house policy document in its entirety.
12. CCTV recording and playback system to be surveillance cameras with hard disk drive (HDD) video recording facilities shall be installed and maintained in the premises with installed providing frontal coverage of persons entering and leaving the Asian Liquor Section. Video recordings shall be retained for a period of no less than twenty-eight (28) days before being destroyed or reused. Time and date stamps must be accurate and automatically encoded into the video recording. Video recordings must be produced to police or special inspectors on request, any recordings requested must be provided to police or inspectors in the form of USB Drive or on DVD's. All video equipment and recordings must comply with Australian Standards 4806 .2-2006. Cameras are to be of high quality so as to facilitate "Face Recognition" as per AS 4806.2 3.7(b) "the entire target person should represent not less than 50% of picture height." All recording equipment is to be maintained, cleaned and functional so as not to reduce clarity of video recordings.

While the decision was informally notified to the Applicant on 30 August 2016, this letter provides the reasons for decision.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', with a stylized, cursive script.

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 27 November 2015 (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. Report to the Authority dated 18 July 2016 from 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.
4. Submission from Senior Constable Shannon Thomson of the Flemington Local Area Command (LAC) of NSW Police (Police) dated 12 November 2015. Police advise no objections to the Application but propose that seven conditions be imposed upon the licence if the Application is granted.
5. Submission from Mr Karl Okorn, Manager Development Assessment, Auburn City Council, advising that Council do not object to the Application.
6. Submission from Roads and Maritime Services (RMS) advising that RMS does not object to the Application but recommending that the licensee maintain awareness of alcohol-related issues by attending the LGA's liquor accord and public education material should be supported on the Premises.
7. Submission from local resident, Mr Peter Jones, dated 16 October 2015 objecting to the Application. Mr Jones contends that there is a church, high school and a primary school nearby; there is insufficient on-site parking; that Beaconsfield and Asquith Roads have a 3- ton road limit and that liquor is available at hotels and other supermarkets within walking distance of the Premises.

Legislative Framework

8. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* (Act) 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.

9. 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.*
10. 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.
11. 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.
12. 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”.
13. 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 Silverwater while the “broader community” comprises the responsible local government area, the Auburn Local Government Area (LGA).

Analysis of Relevant Facts

14. 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.
15. The Authority is also satisfied, on the basis of the Application material, 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.

16. 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 NSW Police.
17. 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 October 2015, the *House Policy* and submissions provided by the Applicant.
18. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent for the proposed use of the Premises is in force, on the basis of Development Application (DA) 130/2012 and Complying Development Certificate Number 15000216 issued on 9 September 2015.

Social Impact – Positive Benefits

19. 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 members of the local and broader community who wish to conveniently purchase imported liquor from Korea whilst grocery shopping.
20. The Authority is satisfied, on the basis of the Application, the CIS and the response provided by the Applicant to the sole objection from a local resident, that granting the Application will be consistent with the “expectations, needs and aspirations of the community” in respect of the local community of Silverwater, being an object of section 3(1)(a), particularly with regard to demand for products from Korea.
21. The Authority is satisfied a *specialised* packaged liquor licensed business, operating within a supermarket that specialises in supplying Korean groceries, would diversify the range of options available to the local community seeking to purchase imported packaged liquor within the local community of Silverwater. 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.

Social Impact – Negative Impacts

22. Having reviewed all the material, the Authority is satisfied that over time there will likely be some contribution over time 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.
23. Although the licensed trading hours sought by the Applicant are reasonably extensive, the Premises will not open early (commencing from 10:00AM six days per week) and will not extend to the 10:00PM limit of night time trading that is permissible under the Act for packaged liquor retailers (closing at 7:00PM Monday through Saturday). The Premises will not trade on Sundays. These are factors that reduce to some extent the potential scope for the operation of this business to contribute to adverse social impacts over time, particularly on higher risk weekend evenings.


24. The scale of the proposed licensed area is a mitigating factor. The Authority is satisfied on the basis of CIS that the licensed business area is relatively small, occupying approximately 28 square metres. The licensed area will be adequately separated from the rest of the supermarket ensuring access to the licensed area can be easily monitored.
25. The BOCSAR Crime Maps for the period between April 2015 and March 2016 indicate that the Premises is *not located within any hotspots* for incidents of *non-domestic assault or malicious damage to property but is located on the edge of a low density hotspot* for incidents of *domestic assault*.
26. Liquor licence density data derived by licensing staff from data that is publicly available from LGNSW indicates that Auburn LGA has lower rates of *packaged liquor licences, registered club licences and full hotel licences* per 100,000 persons than the rate for NSW as a whole. The Authority does not consider that prevailing licence density *per se* gives rise to any particular cause for concern with regard to the relevant communities.
27. The Authority is satisfied, on the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data provided by the Applicant with the CIS, that both the local and broader communities are neither particularly advantaged nor disadvantaged, ranking in the 5th decile on the Index of Relative Socio-Economic Advantage and Disadvantage.
28. Notably, the Applicant has undertaken that only a limited range of Korean products will be sold. The enforceable licence condition restricting the sale of alcoholic beverages to Korean products both reinforces the positive speciality benefits of the business while reducing the scope for this licence to operate in the manner of a mainstream liquor store with a broad range of products, reducing negative social impacts in that sense.
29. The Authority has also had regard to the reasonably detailed harm minimisation measures in the *House Policy and Management Plan* dated October 2015, and the conditions to which the licence will be subject.

Conclusion

30. 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 NSW Police, the Licensee, Council, RMS, neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
31. 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.
32. The Application is granted pursuant to section 45 of the Act.
33. 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: 27 July 2016



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 in 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. Application Form lodged on 27 November 2015.
2. CIS document dated 21 September 2015 and supporting material. Briefly, the Applicant's contentions on overall social impact include the following:
 - (a) The proposed licensed Premises will not have any negative impact on the neighbouring community, as the Applicant is particularly well suited to the type of harm reduction strategies outlined in the "Statement for intended manner of operation of the premise";
 - (b) The Applicant has management expertise and operating experience to ensure that the policies and strategies summarised in the "Statement for intended manner of operation of the premise" are adopted and rigorously enforced;
 - (c) Only a limited range of Korean liquor products will be sold;
 - (d) The proposed licensed area will be adequately separated from the remainder of the Supermarket and the proposed licensed area will include display shelving and cash register;
 - (e) There will be a "clear and firm" commitment to Responsible Service of Alcohol (RSA) principles and a detailed House Policy will be in place;
 - (f) All staff involved in the sale and supply of liquor will complete an approved RSA course and measures will also be in place to ensure that minors do not gain access to liquor, as well as security measures such as CCTV surveillance of the Store and the proposed licensed area;
3. List of special interest groups notified of the Application.
4. List of conditions consented to by the Applicant being imposed upon the licence.
5. *Statement for intended manner of operation of the premise* dated October 2015 and the *House Policy* for the responsible service of liquor.
6. Local Consent Authority Notice signed by Mr Karl Okorn, Manager Development Assessment, Auburn City Council, advising Council do not object to the Application.
7. Submission from RMS dated 7 October 2015 advising, inter alia, that within the Auburn Local Government Area during 2013 there were eight alcohol-related crashes, and advising that the licensee must maintain awareness of alcohol-related issues by attending the LGA's liquor accord and public education material should be supported.
8. Notice of Determination of Development Application, DA number 130/2012, dated 14 January 2013.
9. Complying Development Certificate, Number 1500216, dated 13 May 2015, approving the *internal fitout works, shopfront alterations & first use for retail supermarket*.
10. Google geographical maps depicting an aerial view of the location of the Premises.
11. Plan or diagram of the proposed licensed area on the Premises.

12. Final Occupation Certificate, Number 1500216/2, dated 11 July 2016.
13. Liquor product list.
14. Submission from local resident, Mr Peter Jones, dated 16 October 2015 objecting to the Application. Mr Jones contends that there is a church, high school and a primary school nearby; there is insufficient on-site parking; that Beaconsfield and Asquith Roads have a 3- ton road limit and that liquor is available at hotels and other supermarkets within walking distance of the Premises. The Applicant informed licensing staff by letter dated 18 July 2016 that Mr Jones had been advised:
 - (a) The subject site comprises 118 residential units and 23 commercial/retail units with basement car parking, approved under development consent DA-130/2012 by Auburn Council and Complying Development Certificate CDC-1500216;
 - (b) No objection was raised by the Sydney Korean Catholic Church, at 26 Carnavon Street, Silverwater;
 - (c) There is no High School within a 500 metre radius of the Licensed Premises;
 - (d) No objection was raised by the Auburn North Public School, at 100 Adderley Street, West Auburn;
 - (e) Liquor product delivery will be made by vans not heavier than 3 tons;
 - (f) Required off street parking and loading area for the building were approved by development consent DA-130/2012;
 - (g) The nearest liquor shop is BWS, 163 Parramatta Road, Auburn, approx. 770 m away;
 - (h) Liquor products to be sold at the Premises are mainly an imported range not found in other liquor stores in the Silverwater or Auburn area.
15. Email from Eric Kim, moMA Pty Ltd, on behalf of the Applicant, dated 5 July 2016 in response to licensing staff accepting the imposition of conditions regarding:
 - (a) The Licensee must comply with the 6-hour closure period required by section 11A of the Liquor Act 2007;
 - (b) The business 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 the licence;
 - (c) The Licensee will ensure the business operates in accordance with the "House Policy", that all staff employed at the licensed premises will receive a copy of the house policy and that all staff understand the house policy document in its entirety;
 - (d) Liquor products are only displayed, sold or supplied within the "Liquor Section" as identified in the floor drawing #A-100, Issue D as prepared by moMA Pty Ltd;
 - (e) All liquor sales will be via the Liquor Section Point of Sale terminal as identified in the floor plan drawing #A-100, Issue D, and that alcohol must not be sold or supplied at any other location within the licensed premises;
 - (f) The Licensee will ensure that the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid or permanent barrier;
 - (g) The Licensee must not sell at the premises any ready to drink pre mixed alcohol products, cask wine, clean skin wines or heavily discounted alcohol products;

- (h) The Licensee or its representative must be a financial and active member of the Flemington Local Liquor Accord and the Licensee or representative must attend all Flemington Local Liquor Accord meetings;
- (i) The Applicant agreed to the installation, operation and maintenance of CCTV recording and playback system in the premises.

The Applicant did not agree to a condition:

a) requiring the Licensee not to sell refrigerated liquor products from the licensed premises, nor

b) to a condition that required the range of alcohol products be limited to premium rice wine.

- 16. Report to the Authority dated 18 July 2016 from Compliance Branch of LGNSW, advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT).
- 17. BOCSAR Crime Maps for the period between April 2015 and March 2016 which indicate that the Premises is *not* located *within any hotspots* for incidents of *non-domestic assault or malicious damage to property but is located on the edge of a low density hotspot* for incidents of *domestic assault*.
- 18. Liquor licensing records indicating that the suburb of Silverwater already has 6 packaged liquor licences.
- 19. Liquor licence density data derived by licensing staff from data that is publicly available from LGNSW indicates that Auburn LGA has lower rates of *packaged liquor licences, registered club licences and full hotel licences* per 100,000 persons than the rate for NSW as a whole.
- 20. ABS Socio-Economic Indexes For Areas (SEIFA) data indicating that the Auburn LGA ranked in the 5th decile on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged). The state suburb of Silverwater ranked in the 5th decile.
- 21. Submission from Senior Constable Shannon Thomson of the Flemington Local Area Command (LAC) of NSW Police (Police) dated 12 November 2015.