



Ms Lisa Chong
Dahan Lawyers
By email to: lchong@dahan.com.au

14 October 2022

Dear Ms Chong

Application No.	1-8325086072
Application date	27 June 2022
Applicant	Hye Ra Chin
Application for	Removal – packaged liquor licence
Licence name	Newcastle S-mart
Proposed trading hours	<u>Retail</u> Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 08:00 PM
Current trading hours	<u>Retail</u> Monday to Friday 09:00 AM -09:59 PM Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 08:00 PM
Proposed Premises	46-48 Macquarie Rd, Cardiff NSW 2285
Current Premises	290 Main Rd, Cardiff, NSW 2285
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45, 48 and 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a removal – packaged liquor licence – Newcastle S-mart**

The Independent Liquor & Gaming Authority considered the application above, and decided on 19 September 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

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 09:00 am.

Concise statement of reasons

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

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager Glenn Barry at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully



Murray Smith

Deputy Chairperson

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

Concise statement of reasons

Key facts

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Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application;
- Category B community impact statement;
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations;
- Plan of management for the licensed business at the premises;
- Development consent for the premises;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.

- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 29-31: Specific provisions in respect of a packaged liquor licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Cardiff, and the broader community is the Local Government Area of Lake Macquarie.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of:

- increased convenience and choice;
- the new premises sitting within the same suburb; and
- a small liquor sales area that sits wholly within an Asian-style retail supermarket servicing local residents and business owners.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- high-density hotspot in Cardiff for malicious damage to property and medium-density hotspots for domestic assault, and non-domestic assault;
- crime rates for incidents of alcohol-related domestic assault, and malicious damage to property being higher in Cardiff compared to NSW;
- packaged liquor licence saturation in Cardiff being higher than in NSW;
- health data describing the suburb as below average for socio-economic advantage;
- alcohol-related deaths in the Lake Macquarie LGA are higher compared to NSW, and
- higher proportion of vulnerable residents, including a higher-than-average proportion of Indigenous people within both Cardiff and the Lake Macquarie LGA compared to NSW.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- there is an absence of any objections from agency stakeholders or members of the community;
- Cardiff is a low-density hotspot for alcohol-related assault
- the crime rates for incidents of alcohol-related non-domestic assault, and alcohol-related disorderly conduct are lower in Cardiff and the Lake Macquarie LGA compared to NSW;
- the packaged liquor licence saturation in the Lake Macquarie LGA is lower than NSW;
- there will be no increase in the number of packaged liquor licences in Cardiff upon approval of this application;
- alcohol-related hospitalisations in the Lake Macquarie LGA are lower compared to NSW;
- the business model will remain the same with alcohol restricted to products produced in China, South Korea and Japan only;
- no same-day delivery service will be provided;
- the proposed licensed area is reduced compared to the current licensed area; and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Schedule 1 – Licence conditions to be imposed

Newcastle S-mart

Liquor plan of management

1. The premises is to be operated at all times in accordance with the Plan of Management dated 1 July 2022 as may be varied from time to time after consultation with NSW Police. A copy of 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.

CCTV

2. Closed-circuit television system
 1. The licensee must maintain a closed-circuit television (CCTV) system at the supermarket in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket is required to close,
 - (b) recordings must be in digital format and at a minimum of ten (10) 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, and
 - (ii) all publicly accessible areas (other than toilets) within the liquor sales area.
 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.

Adequate separation

3. The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 19 September 2022 or any premises plan subsequently approved by the Authority.

Social impact

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 removing this licence to the premises at **46-48 Macquarie Road, Cardiff NSW 2285**.

Specialised liquor products

5. Specialised liquor products

- 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business (“Business”):
 - (a) liquor products produced in China, South Korea and Japan.
- 2) The licensee must ensure that a list of the product lines and products stocked by the Business at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor & Gaming Authority.