

NSW Independent Liquor & Gaming Authority

Our ref: DF24/028325

Mr Tony Schwartz

BSV Liquor & Gaming Lawyers

16 December 2024

Dear Mr Schwartz

Application No.	SR0001296410
Applicant	PROTRADING PTY LTD
Application for	Change of boundaries
Application date	30 August 2024
Decision date	20 November 2024
Licence name	S Mart
Trading hours	Monday to Saturday 08:00 AM – 09:00 PM Sunday 10:00 AM – 08:00 PM
Current premises	Shop 104, 52 Rowe Street Eastwood NSW 2122
Proposed premises	Shop 204, 62-80 Rowe Street Eastwood NSW 2122
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48, 53, 94, 114, and 123 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for a change of boundaries – S Mart

We **approve** the application above under section 94 of the *Liquor Act 2007* – with the conditions set out in Schedule 1.

Mixed-use checkouts must be closed outside licensed hours

Under section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

Statement of reasons

We are satisfied that the overall impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our main findings

The local community for the purposes of this decision is Eastwood. The broader community is the Local Government Area (LGA) of Ryde.

Positive social impacts

The application sought to move the licence within the same shopping centre providing an upgraded presentation of both Korean grocery items and associated liquor products. The premises is entirely contained within the centre with no street frontage or display.

Negative social impacts

We accept that the proposal could contribute to alcohol-related harm in the local and broader communities because of the:

- high-density hotspots in the suburb for domestic and non-domestic assault and malicious damage
- alcohol-attributable hospitalisations being higher in the LGA than in NSW generally
- saturation of packaged licensed premises in the suburb and LGA being higher than the NSW average
- increased size of the licensed premises and the liquor sales area.

However, we are satisfied that these risk factors are reduced by the:

- lower crime rates for both the suburb and LGA compared to NSW for all categories we considered
- alcohol-attributable deaths being lower in the LGA than in NSW generally
- low-density hotspot located in the suburb for alcohol-related assault
- saturation of packaged licensed premises not increasing if approved
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a Statement of Risks and Potential Effects
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered Guideline 6 to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you have any questions

Please contact the case manager, Max Costa, at Liquor & Gaming NSW if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Honey', is centered on the page.

Chris Honey

Deputy Chairperson

Independent Liquor & Gaming Authority

Schedule 1: Licence conditions to be imposed - S Mart

No.	Condition to be imposed	Description
1.	Retail sales	<p>Good Friday Not permitted</p> <p>December 24th Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</p> <p>Christmas Day Not permitted</p> <p>December 31st Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday.</p>
2.	Overall impact	The business authorised by this licence must not operate with a greater level of overall impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the application and other information submitted in the process of changing the licensed boundaries on 20 November 2024 (SR0001296410).
3.	Adequate separation	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 20 November 2024 or any premises plan subsequently approved by the Authority.
4.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated October 2024 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.
5.	Specialised liquor products	<ol style="list-style-type: none"> 1. The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"): <ol style="list-style-type: none"> a. liquor products produced in South Korea and Japan. 2. Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds. 3. 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 and Gaming Authority.

Schedule 1: Licence conditions to be revoked - S Mart

Condition to be revoked	Description								
Condition 130 (to be replaced by condition 1 above)	<p>Retail sales</p> <table border="0"> <tr> <td>Good Friday</td> <td>Not permitted</td> </tr> <tr> <td>December 24th</td> <td>Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</td> </tr> <tr> <td>Christmas Day</td> <td>Not permitted</td> </tr> <tr> <td>December 31st</td> <td>Normal trading</td> </tr> </table>	Good Friday	Not permitted	December 24th	Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday	Christmas Day	Not permitted	December 31st	Normal trading
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Christmas Day	Not permitted								
December 31st	Normal trading								
Condition 2010 (to be replaced by condition 2 above)	<p>Social impact</p> <p>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.</p>								
Condition 3020 (to be replaced by condition 3 above)	<p>Adequate separation</p> <p>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.</p>								
Condition 3040 (to be replaced by condition 4 above)	<p>Plan of Management</p> <p>The premises is to be operated at all times in accordance with the Plan of Management dated September 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.</p>								
Condition 3070 (to be replaced by condition 5 above)	<p>Specialised Liquor Products</p> <p>1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"):</p> <p>(a) liquor products produced in South Korea and Japan;</p> <p>(b) Sake</p> <p>2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted.</p> <p>3) 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 and Gaming Authority.</p>								