



Mr Grant Cusack:
Hatzis Cusack Lawyer

email to: gc@hatziscusack.com.au

10 November 2023

Dear Mr Cusack:

Application No.	APP - 0010309136
Applicant	YMK Pty Ltd
Application for	New Packaged Liquor Licence (PLL)
Licence name	JJ Asian Market
Trading hours	Monday to Saturday 08:00 AM – 10:00 PM Sunday 10:00 AM – 08:00 PM
Premises	Shops 11 & 12, 19-33 Kent Road, Mascot NSW 2020
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45, 48, 49, 51, 59, 117, 128, 129 and 130 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a new Packaged Liquor Licence – JJ Asian Market**

On 16 December 2022, the Independent Liquor & Gaming Authority (Authority) **approved** application APP-0010309136 under section 45 of the *Liquor Act 2007*, subject to the conditions outlined in Schedule 1.

Preliminary advice of our decision, including licence conditions, was provided on 17 March 2023.

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

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

The statement of reasons (below) will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). Payment of a fee is required on lodgement of the application for review.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

If you have any questions

Please contact the case manager Leonie Jennings, leonie.jennings@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Sarah Dinning
Deputy Chairperson

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

STATEMENT OF REASONS

Our decision

We **approved** the application under Section 45 of the *Liquor Act 2007* (NSW) (the Act).

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

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application meets the Act's requirements for procedural fairness and trading period;
- liquor would be sold and supplied in a separate liquor sales area with-in the premises;
- [section 31](#) of the Act does not apply to this application; and
- the Community Impact Statement (CIS) meets the relevant requirements.

Fit and proper person

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates. Law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and conditions on the licence.

Development consent requirements

A Complying Development Certificate (CDC) (#6928/0) dated 16 September 2021 was issued and a copy sent to Bayside LGA.

Community impact

Local and broader communities

The suburb of Mascot is the relevant 'local community' and the Bayside Local Government (LGA) is the relevant 'broader community' for this licence.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Live Data Report for Mascot states:

Saturation of Packaged Liquor Licences in Mascot is high compared to the Bayside LGA and high compared to the NSW State average.

- there are currently 68 authorised liquor licenses including, one (1) Registered Club Licence, six (6) Packaged Liquor Licences (PLL) and five (5) Hotel Licences.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows, for the year to March 2022:

The premises is located in a higher-than-average density (compared to the LGA) hotspot for alcohol-related assault, domestic violence, and malicious damage to property, higher than average (compared to all of NSW) of alcohol related offensive conduct and a higher-than-average density of packaged liquor outlets (compared to all of NSW).

Alcohol-related health data (per 100,000 residents)

The NSW Health data shows for 2018/19-2019/20 the NSW average for alcohol-related hospitalisations for the Bayside LGA (including Mascot) was low compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

The data shows Mascot and the Bayside LGA were both relatively advantaged for household income and residents in skilled occupations compared to all of NSW.

Business model

We note the proposed business model involves the operation of a small liquor area (11 m²) within an Asian supermarket (233 m²), in order to primarily sell a range of imported Asian liquor products.

Proposed benefits

The applicant proposed the following benefits would apply:

Supermarket customers would have the convenience of purchasing a range of imported Asian liquor products together with other complementary liquor when attending the supermarket to purchase Asian groceries and other products. The supermarket is located in Mascot Central, a retail and residential development adjacent to various surrounding residential developments.

Stakeholder submissions

We considered the following submissions:

- **NSW Police Force** – objected to the licence application noting, there are multiple packaged liquor outlets including Asian liquor outlets in the neighbourhood; there are high rates of alcohol-related domestic violence and crime categories; and there is an increased risk of public drinking and access to alcohol by minors. They opposed opening before 10:00 AM.
- **Local Council** – no concerns were raised;
- **L&GNSW Compliance** - noted, L&GNSW inspectors conducted an inspection of the premises: no issues were identified. Compliance would support the Authority imposing conditions namely CCTV and Plan of Management (PoM); and
- **Public** – a commercial competitor noted, there are sufficient packaged liquor suppliers in Mascot; the premises remains in a hotspot location for alcohol and the trading hours are extensive, leading to increased competition, cheaper alcohol, and a high quantity being consumed. Local residents noted, there are currently sufficient suppliers of liquor.

Applicant's submission in response

We considered the following submission in response:

Several applications for PLL located within a specialty Asian Supermarket and approved throughout Sydney metro area and elsewhere, have not resulted in increased alcohol-related

issues. The applicant provided a data table indicating the density of PPLs in both Mascot and the LGA is low compared to all of NSW. The applicant has consented to the relevant conditions including CCTV and PoM

Population growth is occurring in Mascot, in particular the area housing the supermarket. The licence will service the needs and expectations of residents of Mascot Central.

An approved manager with the requisite RSA and licensee training qualifications would be appointed and staff would complete an approved RSA course. There is no existing Asian supermarket within the Mascot Central development and the Mascot neighbourhood supported the application.

Findings of concern

Mascot has a higher density of packaged liquor licences than all of NSW. The premises are also located in a high-density hotspot for alcohol-related assault, domestic violence, and malicious damage to property. We accept that the proposal may contribute to an increase in alcohol-related harm in the local and broader communities because of this.

However, we are satisfied the risk is reduced by the following:

- relatively small size of the area in which liquor will be sold or supplied;
- indication of a high level of socio-economic advantage in both Mascot and the Bayside LGA;
- crime rates in the local and broader communities for offences of concern were lower than comparable NSW averages;
- liquor products sold are principally imported Asian products for the local Asian population; and
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

Material considered

We considered all material received relevant to the application, including:

Application material

- completed application dated 28 July 2022;
- completed Category B Community Impact Statement (CIS) dated 25 July 2022;
- completed certification of advertising dated 11 and 14 October 2022;
- plan of management documents for the premises, titled Management Plan (Annexure E) dated July 2022;
- ASIC business records for the Applicant and associated companies; and
- floor plan for the premises, dated 18 March 2022

Submissions from:

- NSW Police Force, dated 6 December 2021 and 12 August 2022;
- L&GNSW Compliance, dated 28 September 2022;
- members of the public, dated 31 July 2022 and, 23 and 29 August 2022; and
- A petition in support with 105 signatures (undated).

Other relevant material

- Correspondence between L&GNSW and applicant on the matter of the assessment (08/08/22 - 02/11/22); and
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

The law that applies

Sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 which apply to this application:

- Section 3: Statutory objects of the Act and other relevant considerations;
- Section 11A: 6-hour closure period for licensed premises;
- Section 12: Standard trading period for liquor licences;
- Section 29: Authorisation conferred by packaged liquor licence;
- Section 30: Liquor sales area required if bottle shop is part of another business activity;
- Section 31: Restriction on granting packaged liquor licences;
- Section 40: Minimum requirements to apply for a liquor licence;
- Section 44: Submissions about licence applications;
- Section 45: Criteria for granting a liquor licence;
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being;
- Section 49: General provisions about Extended Trading Authorisations (ETAs);
- Section 51: General provisions about licence-related authorisations;
- Section 59: Requirements for an application to remove a liquor licence to another premises;
- Section 117: offences relating to sale or supply of liquor to minors; and
- Section 128: Minor required to provide information;
- Section 129: Minor must not use false evidence of age; and
- Section 130: Minors not to be detained.

We also considered [Guideline 6](#) to assess the likely social impact on the local and broader community.

Yours sincerely



Sarah Dinning
Deputy Chairperson

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

**Schedule 1 – Licence conditions imposed
YMK Pty Ltd**

No.	Conditions to imposed	Description
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 02:00 AM and 08:00 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 & NYE - Hotel	Restricted trading & NYE Retail sales Good Friday - Not permitted. December 24 th - Normal Trading Monday to Saturday, 08:00 to 12:00 midnight Sunday Christmas Day - Not permitted. December 31 st - Normal trading Monday to Saturday, 10:AM to 12:00 MN Sunday
3.	Social impact	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.
4.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 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.
5.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
6.	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 16 December 2022 or any premises plan subsequently approved by the Authority.
7.	CCTV	The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/speciality store in accordance with the following requirements: the system must record continuously from opening time until one hour after the supermarket/general store is required to close,

No.	Conditions to imposed	Description
		<ul style="list-style-type: none"> (a) recordings must be in digital format and at a minimum of ten (10) frames per second, (b) any recorded image must specify the time and date of the recorded image, (c) the system's cameras must cover the following areas: <ul style="list-style-type: none"> (i) all entry and exit points to the supermarket/general store, and (ii) all publicly accessible areas (other than toilets) within the liquor sales area. <p>1. The licensee must also:</p> <ul style="list-style-type: none"> (a) keep all recordings made by the CCTV system for at least 30 days, (b) ensure 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.
8.	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"), except as provided by clause 2: (a) Liquor products produced in South Korea, Japan, China, Thailand, Vietnam, Indonesia, India, Taiwan, Singapore, Malaysia and the Philippines 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.