



Ms Atsuko Kobayashi Radcliffe

By email to: atsuko@smallforest.com.au

24 January 2023

Dear Ms Radcliffe

Application No. APP-0009542312
Applicant Atsuko Kobayashi Radcliffe
Application for Packaged liquor licence
Licence name Small Forest Pty Ltd
Trading hours Retail
Monday to Saturday 10:00 AM – 12:00 AM
Sunday 10:00 AM – 10:00 PM
Premises 5052 Jerrys Plains Road,
Denman NSW 2328
Legislation Sections 3, 11, 12, 29, 40, 44, 45 and 48 of the *Liquor Act 2007*

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Small Forest Pty Ltd**

The Independent Liquor & Gaming Authority considered the application above and decided on 23 November 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 10:00 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, Zof El Hussein, at zof.el.husseini@liquorandgaming.nsw.gov.au.

Yours faithfully



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

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 & Gaming NSW website](#) 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](#).

Concise statement of reasons

Key facts

Application No.	APP-0009542312
Applicant	Atsuko Kobayashi Radcliffe
Application for	Packaged liquor licence
Licence name	Small Forest Pty Ltd
Premises	5052 Jerrys Plains Road, Denman NSW 2328
Trading hours	<u>Retail</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Application date	9 April 2022
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	23 November 2022

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: 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.

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 Denman, and the broader community is the Local Government Area of Muswellbrook.

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, and
- the packaged licence will exclusively be used to sell Japanese sake.

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:

- higher crime rates in the Muswellbrook LGA compared to NSW;
- high licence saturation of packaged liquor licences in the Denman suburb compared to NSW;
- high indigenous population within the Muswellbrook LGA (5.6%) and the Denman suburb (6.7%) compared to NSW (2.9%);
- health statistics indicate a below average level of relative socio-economic advantage/disadvantage in the Denman suburb and Muswellbrook LGA respectively, and
- higher rate of alcohol-attributable deaths in the Muswellbrook LGA compared to NSW.

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

- no objections were received in relation to the application;
- the premises is not located in any crime hotspot category normally considered by the Authority;
- there are lower rates of alcohol-attributable hospitalisations in the Muswellbrook LGA compared to NSW;
- this licence is one of three packaged liquor licence located in the Denman suburb;
- the applicant has consented to the specialised liquor product condition limiting the sale of liquor to Sake only, 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

Small Forest Pty Ltd

6-hour closure

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 six (6) hours between 04:00 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.

Restricted trading & NYE

2. Restricted trading & NYE (std)

Retail sales

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday 8:00 AM to 12 midnight Sunday
Christmas Day	Not permitted
December 31 st	Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday

Social impact

3. 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.

Liquor Accord

4. The licensee or its representative must join and be an active participant in the local liquor accord.

Plan of management - default

5. The premises is to be operated at all times in accordance with the Plan of Management dated August 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.

Crime scene preservation

6. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
 - 3) make direct and personal contact with NSW Police to advise it of the incident, and

- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
- 5) In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

Incident register

7. Incident register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
 - (d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - (b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

Specialised liquor products

8. Specialised liquor products

- 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 China, South Korea and Japan;~~
 - (b) Sake.
- 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.

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.

CCTV – standalone PLL

9. Closed-circuit television system

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises 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 on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the 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