



Ms Holen Jin
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10 June 2022

Dear Ms Jin

Application No.	APP-0009621712
Applicant	Kmall Australia Pty Ltd
Application for	Packaged liquor licence
Licence name	Kmall Australia Pty Ltd
Premises	1-7 Rowe Street Eastwood NSW 2122
Trading hours	Monday to Saturday 8:30 am – 9:30 pm Sunday 10 am – 8 pm
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

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

The Independent Liquor & Gaming Authority considered the application above, and decided on 3 June 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 8:30 am.

Mixed-use checkouts must be closed outside licensed hours

Pursuant to 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.

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, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', enclosed in a thin black rectangular border.

Philip Crawford
Chairperson

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

Concise statement of reasons

Key facts

Application No.	APP-0009621712
Applicant	Kmall Australia Pty Ltd
Application for	Packaged liquor licence
Licence name	Kmall Australia Pty Ltd
Premises	1-7 Rowe Street Eastwood NSW 2122
Trading hours	Monday to Saturday 8:30 am – 9:30 pm Sunday 10 am – 8 pm
Application date	16 January 2022
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	3 June 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 -
- Plan of Management for the licensed business at the premises
- development consent for the premises
- Liquor & Gaming LiveData report for Eastwood
- 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.

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 Eastwood, and the broader community is the Local Government Area of Ryde.

Positive social impacts

The Authority notes that the purpose of the application is to enable the applicant to establish a small 31m² liquor sales area that will sit wholly within a larger specialty Korean supermarket trading as 'KMALL 09'.

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.

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 than average saturation and clustering of packaged liquor licences in the local and broader communities
- presence of alcohol-related domestic violence and malicious damage hotspots in the local community
- higher than average level of alcohol-attributable hospitalisations in the broader community
- submission from NSW Health, which raises concerns about the oversaturation of packaged liquor licences in the local community; elevated rate of alcohol-related domestic violence in the local community in comparison to the broader community; and the elevated rate of alcohol-related hospitalisations in the broader community.

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

- the small scale of the liquor component of the supermarket
- the licence will be restricted to the sale of liquor products produced in South Korea and Japan
- other than the submission from NSW Health which raised concerns as discussed above, there were no objections from agency stakeholders or members of the community
- relative socio-economic advantage in the local and broader communities
- lower than average crime rates in the local and broader communities
- 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.

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Philip Crawford
Chairperson

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

Schedule 1 – Licence conditions to be imposed Kmall Australia Pty Ltd, Eastwood

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 2:30 am and 8:30 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 (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
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.
4. The premises is to be operated at all times in accordance with the Plan of Management dated May 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. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/specialty store in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the supermarket/specialty store 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/specialty store, 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.
7. 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 3 June 2022 or any premises plan subsequently approved by the Authority.
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 subclause 2:
 - (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.

9. Public Holiday trading hours

The licensed premises must cease to trade by 8:00 pm, on public holidays, and customers must not be permitted to access the liquor sales area outside those hours.

10. The licence cannot be exercised until the point of sale is relocated to within the liquor sales area.