

DECISION OF DIRECTOR OF LIQUOR LICENSING

NATURE OF APPLICATION: GRANT OF A LIQUOR STORE LICENCE

APPLICATION REF: A000243746

APPLICANT: CJ GLOBAL PTY LTD

OTHER PARTIES: COMMISSIONER OF POLICE
CHIEF HEALTH OFFICER

PREMISES: HANGAWEE MARKET
SHOP 1168/1169 WESTFIELD CAROUSEL SHOPPING
CENTRE, 1382 ALBANY HIGHWAY, CANNINGTON

DELEGATE: B. SNELL
DEPUTY DIRECTOR LIQUOR CONTROL AND ARBITRATION

DATE OF DETERMINATION: 22 FEBRUARY 2018

1. On 15 August 2017, an application was made to the Director of Liquor Licensing (the Director) by CJ Global Pty Ltd (the Applicant) for the grant of a liquor store licence for premises to be known as *HanGaWee Market* and situated at Shop 1168/1169, Westfield Carousel Shopping Centre, 1382 Albany Highway, Cannington (the premises).
2. The application was made pursuant to s 47 of the *Liquor Control Act 1988* (the Act) and was advertised in accordance with instructions issued by the Director, which lead to the lodgement of notices of intervention by the Commissioner of Police (the First Intervenor) and the Chief Health Officer (the Second Intervenor).
3. On 4 December 2017, the parties were advised that, pursuant to ss 13 and 16 of the Act, a document exchange would take place so that each party would be given a reasonable opportunity to present its case and that the application would be determined on their written submissions.
4. As this is an administrative decision, rather than referring in detail to the entirety of the evidence before me, I will set out what I consider to be the relevant material facts. I will also outline the process of my reasoning from consideration of those material facts to conclusion, setting out the differing positions advanced by parties. Where there has been conflict in submissions that has been significant to the outcome, I will provide reasons why I have preferred one position over another.
5. The application was supported by a Public Interest Assessment (PIA) and other submissions to support the establishment of a boutique-type liquor store to meet the growing demand for alcoholic Korean beverages in the locality and to provide convenience for customers seeking the full component of Korean food and beverages, with the Applicant proposing to offer the following range of Korean liquor products:

- (a) *Jinro soju*;
 - (b) *OB Lager beer*
 - (c) *Hite pale lager*;
 - (d) *Cass beer*;
 - (e) rice wine;
 - (f) black raspberry wine; and
 - (g) plum wine.
6. The PIA was supported by 152 consumer surveys, which the Applicant asserted establishes that consumers favoured the grant of the licence because it would facilitate the purchase of Korean alcoholic beverages for a number of reasons, including a desire to use it for cooking, to enrich “cultural diversity in Australia” and to be able to purchase Korean liquor in a convenient location. Further evidence of consumer support was lodged during the course of the application.
 7. The Applicant’s PIA also provided information on the surrounding locality, demographics of the locality; outlet density and generally addressed those matters prescribed in ss 5 and 38(4) of the Act.
 8. The First Intervenor made representations *inter alia* regarding the licensed trading hours being consistent with those of the supermarket; that the remainder of the Applicant’s store should be required to operate as a Korean supermarket; the importance of the Applicant’s security cameras being consistent with the minimum requirements for CCTV surveillance systems as detailed in the Director’s *Safety and Security at Licensed Premises* policy and that the sale of liquor be restricted to the seven items outlined in the Applicant’s PIA.
 9. The Second Intervenor made representations regarding harm and ill-health concerns arising from the integration of alcohol sales alongside grocery items and suggested trading conditions to minimise such harm.
 10. Both Intervenors also sought a delineation of liquor products from supermarket items by, for example, a solid non-transparent barrier or gate.
 11. In its further submissions, particularly those dated 14 February 2019, the Applicant lodged an amended floor-plan, which proposed a licensed area of 7 m², comprising a browsing floorspace, together with various display units for the sale of Korean alcoholic beverages. The submissions further outlined how the proposed licensed area will be bounded by solid back and end panels of 1.85 metres height, to physically segregate the proposed licensed area from the balance of the *HanGaWee Market*. Further, the Applicant also submitted that it was amenable to the imposition of a condition requiring that liquor must be sold ancillary to the purchase of food products
 12. Further, the amended plan also included a service counter within the proposed licensed premises, which will be used for the sale of liquor products. The Applicant also submitted that:

- (a) the amended floor plan will ensure that the on-site approved manager, who is operating the dedicated counter will have a clear and unobstructed view of the licensed area; and
 - (b) it would adjust the angle of an installed security counter to face the entirety of the proposed licensed area.
- 13. Pursuant to s 38(2) of the Act, the Applicant must satisfy the licensing authority that the grant of the application is in the public interest.
- 14. The factual matters that I am bound to consider when determining whether the grant of an application is 'in the public interest' are those relevant to the primary and secondary objects of the Act.
- 15. The primary objects of the Act are:
 - (a) to regulate the sale, supply and consumption of liquor;
 - (b) to minimise harm caused to people, or any group of people, due to the use of liquor; and
 - (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- 16. The secondary objects of the Act are:
 - (a) to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State;
 - (b) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - (c) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of the Act.
- 17. In considering the evidence presented in the context of the objects of the Act, I find that the grant of the application would promote objects 5(1)(c) and 5(2)(a) of the Act. In respect of the harm minimisation object of the Act, the locality surrounding the proposed liquor store would appear to be typical of most suburbs in the metropolitan area and therefore I am of the view that the grant of the application would not unduly contribute to the existing rate of alcohol-related harm in the area.
- 18. I also note that the revised layout of the premises will address those issues raised by the Interveners regarding the integration of alcohol and grocery items, which can be further mitigated through the imposition of appropriate conditions on the licence. Primarily, this involves a degree of separation between the licensed area and the remainder of the supermarket, consistent with the Director's *Standards of Licensed Premises* policy, which states that licensed premises must be completely separate and distinct venues that are able to operate independently of any other venue.

19. I am satisfied, based upon the evidence submitted, that the applicant has discharged its onus under s 38(2) and demonstrated that the grant of the application is in the public interest.
20. Accordingly, the licence is granted, subject to the following conditions:
- (a) Trading Hours:
- (i) The permitted trading hours are those prescribed in s 98D of the Act, where those hours are consistent with the times that the remainder of the store is trading as a Korean supermarket.
- (b) Trading Conditions:
- (i) The licensee is authorised to sell and supply packaged liquor in accordance with the provisions of s 47 of the Act.
 - (ii) The sale of liquor for consumption on the premises is prohibited.
 - (iii) The licensee is permitted to trade only during such times as the remainder of the store (in which the licensed area is located) is trading as a Korean supermarket.
 - (iv) The licensee is only authorised to sell authentic Korean liquor products, i.e., soju, beer and wine containing less than 19% alcohol per volume.
 - (v) The licensed area within the supermarket must always be delineated and separated from the remainder of the supermarket by way of a physical barrier and signage.
 - (vi) Liquor must be sold ancillary to the purchase of food products from the *HanGaWee Market* Korean supermarket and signage reflecting this condition must be displayed.
 - (vii) At least one checkout of the supermarket must be located in the licensed area, which may not be used by customers who are not purchasing liquor products.
 - (viii) The licensed premises is to be closed off when the supermarket is operating outside of the permitted trading hours for a liquor store.
 - (ix) Pursuant to s 104 of the Act the turnover rental arrangements entered into by CJ Global Pty Ltd (the licensee) and Scentre Management Limited and RE1 Limited (the owner), as contained in the Agreement to Lease are approved.
- (c) Compliance with *Harm Minimisation* policy:
- (i) The licensee is to have a House Management Policy, Code of Conduct and Management Plan developed for these premises in accordance with the Harm Minimisation Policy. These documents must be retained on the licensed premises and produced to any Authorised Officer if required.
21. Pursuant to s 127(2) of the Act, the prescribed licence fee is payable prior to the operation of the licence. I am satisfied that the licence fee has been paid.

22. The licensed premises are defined as the area outlined in red on the plans attached and dated 15 February 2018. A copy of that plan is to be retained on the premises and produced to any authorised officer if required.
23. Pursuant to s 116(3) of the Act, the premises' trading name of *HanGaWee Market* is approved. The licensee shall not subsequently conduct business at the licensed premises under any other trading name, without the prior approval of the Director.
24. The Applicant must ensure that the signage required under s 116(5) of the Act is displayed on the licensed premises within 14 days of the date of this decision.
25. Additionally, pursuant to s 116(4) of the Act, the Applicant must ensure a copy of the licence is displayed in a readily legible condition and in a conspicuous position in the licensed premises.
26. Parties to this matter dissatisfied with the outcome may seek a review of the Decision under s 25 of the Act. The application for review must be lodged with the Liquor Commission within one month after the date upon which the parties receive notice of this Decision.
27. This matter has been determined by me under delegation pursuant to s 15 of the Act.



DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING