

# Decision Notification

## Application Details

Application no.	214619
Licence No.	57008449
Licence Class	General & Hotel
Premises Name	Homes Supermarket Port Adelaide
Premises Address	Port Adelaide Plaza, Tenancy 51 200-220 Commercial Road Port Adelaide SA 5015
Applicant	Sanly (Port Adelaide) Pty Ltd
Application Type	Application for a Liquor Licence
Representative	Ben Allen - Wallmans Lawyers

## Outcome

Decision	Conditional Grant
Effective Date	11 May 2022

## Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- Planning consent has been obtained

## Certificate

A certificate of approval is issued for the premises to be situated:

Port Adelaide Plaza, Tenancy 51 200-220 Commercial Road  
Port Adelaide SA 5015

The certificate is granted subject to the following conditions:

- The certificate shall lapse on 11 May 2023 if the premises are not completed by this date.
- The applicant must submit a copy of full Development Approval and Certificate of Occupancy at which time a further order will be made and the final approved plan and licence will be issued.
- The certificate of approval must be converted to a licence prior to the applicant commencing trade at the premises.

## People

### Position of Authority

The following persons are approved to occupy any position of authority in the entity holding the licence:

- Yang Qu (153777)
- Siyao Xu (153780)
- Linan Zhang (153784)

## Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Australian Hotels Association (SA)

# Community Impact Assessment

The application is a designated application for the purposes of section 53A of the Act.

Sanly (Port Adelaide) Pty. Ltd. (**the Applicant**) have applied for a general and hotel licence in respect of premises to be situated in the Port Adelaide Plaza, located at 200-220 Commercial Road Port Adelaide.

As part of the application the Applicant has submitted a Community Impact Assessment Form (CI). It is the content of the report along with submissions lodged on behalf of the Australian Hotels Association (**AHA**) opposing the grant, that my decision is based on.

This application for a general and hotel licence is a designated application under section 53A of the *Liquor Licensing Act 1997* (the “Act”) and so may only be granted if the licensing authority is satisfied that the grant is in the community interest. In determining this application under section 53A(2) of the Act, I must have regard to:

- the harm that might be caused (whether to a community as a whole or a group within community) due to the excessive or inappropriate consumption of liquor;
- the cultural, recreational, employment or tourism impacts; and
- the social impact in, and the impact of the amenity of, the locality of the premises or proposed premises; and
- the nature of the business conducted or to be conducted under the licence (as prescribed)

I must also apply the Community Impact Assessment Guidelines (**the Guidelines**), which state: “*The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest and to provide relevant evidence and submissions to discharge this onus.*”

The Guidelines generally impose an obligation upon an applicant to include with the application a community impact submission that, if relevant, is expected to address a range of matters, including: the applicant’s products/services in terms of key features and potential customers; business/professional experience, in particular relevant knowledge, experience and competency in relation to the service of liquor; general description of facilities and services; relevant construction details (e.g. materials, finishes, acoustic treatment, etc.); details of any food, including menu; liquor services (e.g. bar) and range of liquor; types of entertainment; types of accommodation; a statement as to whether the community supports the proposed business, including providing evidence of such support; and a statement as to why the granting of the application is in the community interest.

Applicants are also required to provide, where applicable: a map and report regarding the locality generated through Consumer and Business Service’s (CBS) Community Impact Portal; a business plan/plan of management; and a site or property plan, floor plan and/or photographs/artists impressions of the site/building.

Pursuant to section 3(2) of the Act, when deciding whether or not to grant this application, I must have regard to the objects of the Act as set out in section 3(1) of the Act.

Section 3(1) of the Act provides that:

- (1) The object of this Act is to regulate and control the promotion, sale, supply and consumption of liquor—
  - (a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and
  - (b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and
  - (c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and

(d) to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act.

(1a) For the purposes of subsection (1)(a), harm caused by the excessive or inappropriate consumption of liquor includes—

(a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and

(b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and

(c) the adverse effects on a person's health; and

(d) alcohol abuse or misuse; and

(e) domestic violence or anti-social behaviour, including causing personal injury and property damage.

The Applicant must also satisfy the Authority that the pre-requisites in s 57 of the Act have been met, in relation to such matters such as: the suitability of the premises; the potential for them to cause undue offence, annoyance, disturbance or inconvenience to nearby residents, workers and worshippers in the vicinity; prejudice to the safety or welfare of children attending nearby kindergartens and schools in the vicinity of the premises; and whether the appropriate approvals, consents and exemptions, in respect of the proposed premises have been obtained.

Additionally, s 53 of the Act gives the Authority “*an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, the licensing authority considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application)*”, and s 53(1a) provides that the authority must refuse an application if it is satisfied that granting the application would be contrary to the public interest.

Section 53(1b) of the Act requires that the Authority must refuse an application for a licence if it is satisfied that granting the application would be inconsistent with the objects of the Act.

#### Nature of the business

The proposed business model is an Asian grocery offering with limited on site food and beverage consumption and on and off premises sales of a limited range of Asian liquor products.

The principals of the Applicant company currently operate other Homes Supermarket outlets, in the Adelaide CBD and Kilburn. The Adelaide Store trades under a packaged liquor sales licence and the Kilburn Store under a general and hotel licence.

The proposal is to provide for a limited range of liquor, primarily from Asia for off premises consumption, a small range of liquor will be displayed for takeaway purchase as well as consumption onsite by patrons in the dining area.

The Applicant expects the clientele to be varied, and that the premises will appeal to customers from a diverse demographic including families attracted to the Asian style food and beverage offering.

The Applicant submits that entertainment will not be provided on a regular basis, but may be provided for promotional

events, or significant cultural events such as Chinese New Year.

The Applicant wrote to a number of other tenants within the centre advising them of the application as well as the local council, SAPOL and the Departments for Education, Health and Wellbeing, Human Services and Aboriginal Affairs and Reconciliation Division of the Department of Premier and Cabinet. The Applicant has advised that no negative responses were received as result of the notification.

#### Potential harm

The Applicant has referred to the Consumer and Business Services portal to determine communities and facilities in the locality. There are a number of childcare centres, kindergartens and schools in the locality, however the applicant has not identified any 'at risk' groups in the locality.

The Applicant has confirmed that it is an experienced operator of licensed premises and will comply will all its obligations under the Act and Code of Practice, ensuring that all staff will be appropriately trained.

Based on the nature of the proposal, the likely clientele of the venue, the limited trading hours and the layout of the premises, the Applicant is of the view that the grant of the licence is unlikely to have any negative impact on any at risk groups in the locality.

The proposed premises is relatively small in size, with a specialised focus on Asian liquor which is usually more expensive than other liquor products commonly available at traditional front bars and bottle shops. On that basis the Applicant maintains that a new licence of this nature is unlikely to have an impact on the harm associated with packaged liquor sales.

There are a number of nearby health facilities and places of worship within the locality, as well as 2 dry areas and the Port Adelaide Magistrates Court. However, given the nature of the proposed business model and its location within an established shopping centre, the Applicant submits that the grant of this licence is not likely to have any significant impact on persons using other building facilities or public areas outside of the centre in the wider community.

The Applicant notes that although minors are allowed on premises in accordance with the Act, it does not expect unaccompanied minors to attend the store. Patrons in school uniform will not be served liquor and staff will be required to ask for proof of age for any patron who appears to be under 25 years of age. It has also been submitted that the range of liquor provided, and the price points will not be attractive to minors.

#### Social impact and impact on the amenity of the community

The Applicant has acknowledged the number of old style traditional hotels in Port Adelaide, and whilst this application is for the same category of licence, the proposed operation will be very different to a traditional 'hotel'.

According to the Locality and Area reports available from the Consumer and Business Services Portal, the area is not as affluent as some parts of metropolitan Adelaide with unemployment ranging from 5-12%. However, the Applicant notes that there is a revival of the area currently underway including a housing development and significant expansion and redevelopment of the shopping centre.

The redevelopment of the shopping centre accommodating more than 70 stores and services is expected to cost more than \$50 million and attract more than 3.5 million shoppers annually. The residential development includes over 1000 homes, and a Rydges hotel offering accommodation of up to 180 rooms.

#### Cultural, recreational, employment or tourism impacts

It is anticipated that the directors of the Applicant company will work in the business in a hands of role, an additional 15

staff members will be employed at the store in a mixture of casual and part time capacity. The staff members may be sourced from the local area.

It is expected that the business will provide an important social and cultural facility offering Asian food and liquor products which may not be easily obtained elsewhere.

#### AHA Submission

A submission was lodged on behalf of the Australian Hotels Association, I note that the AHA does not oppose the grant of the licence as such, and has not challenged any of the submissions made by the Applicant. The AHA has simply sought the imposition of a condition to ensure that all liquor available for sale under the licence is of Asian origin. The AHA is of the view that such a condition is consistent with the applicant's business model.

The Applicant has accepted the imposition of such a condition on the licence, should a licence be granted.

## Authorisations

The following authorisations/restrictions are added to the licence

- Bottle Shop
- Sale of liquor for consumption on the licensed premises authorised
- Sale of liquor for consumption off the licensed premises authorised

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	9:00 am to 5:30 pm	9:00 am to 5:30 pm
Tuesday	9:00 am to 5:30 pm	9:00 am to 5:30 pm
Wednesday	9:00 am to 5:30 pm	9:00 am to 5:30 pm
Thursday	9:00 am to 9:00 pm	9:00 am to 9:00 pm
Friday	9:00 am to 5:30 pm	9:00 am to 5:30 pm
Saturday	9:00 am to 5:00 pm	9:00 am to 5:30 pm
Sunday	11:00 am to 5:00 pm	11:00 am to 5:00 pm

## Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

This is an application for a general and hotel licence for an Asian style grocery store at Port Adelaide. The proposed business model is more than a 'grocery store' and includes the consumption of food and beverages on site, as well as the sale of grocery items and liquor products for consumption off site. The Applicant has provided copy of a sample menu.

The Applicant has considered the risk that the sale of take away liquor may pose to vulnerable groups in the locality and has indicated that there will be appropriate measures put in place to minimise the risk of harm. I accept that the nature of the proposed business, including the style of operation, trading hours, location of the premises within a shopping centre and range of liquor products available will pose little risk to the community.

I have had regard to the submissions made on behalf of the Australian Hotels Association. I note that the Applicant has agreed to the imposition of a condition as suggested by the AHA.

The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest. I am satisfied, based on the information before me, and in the context of the 'revival' of the locality, that a venue such as this, offering a range of Asian style grocery products, dining facilities and a limited range of liquor products (not widely available in other bottle shops) is in the interest of the community.

I have some reservations about the business name "Homes Supermarket" trading under a general and hotel licence, and the confusion that it may create in the minds of consumers. However, noting that the Applicant already operates 2 other "Homes Supermarket" stores, (one under a packaged liquor sales licence and another under a general and hotel licence) I can accept, based on the submissions made that the Applicant's business model can be distinguished from both a conventional full-line supermarket and a traditional hotel.

I am satisfied that the grant of this application is in the community interest and is consistent with the expectations and aspirations of the public. Accordingly, under section 53A(1) of the Act I grant the application subject to the following condition.

"All liquor available for sale for consumption off the licensed premises is to be fully imported from Asia".

The licensee shall notify the Liquor and Gambling Commissioner within seven days of any changes to the approved plans submitted with this application.

## Under Delegation from the Liquor and Gambling Commissioner



Vicki Brunello  
Hearings Delegate  
11 May 2022