

# Decision Notification

## Application Details

Application no.	210350
Licence No.	57104570
Licence Class	On Premises
Premises Name	The Monkey Bar Port Noarlunga
Premises Address	Unit 2 11 Gawler Street Port Noarlunga SA 5167
Applicant	JACK JOSEPH GIBSON
Application Type	Application for a Liquor Licence

## Outcome

Decision	Granted
Effective Date	10 Feb 2022

## Procedural

I allow the applicant to vary their application as follows:

Amending the licensed area sought to exclude the outdoor areas under the verandahs on the Gawler Street side.

## Requirements

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

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

## People

### Licensee

The following persons are approved to hold the licence:

- Jack Joseph Payne Gibson (168342)

## Premises

### New Premises

The licensed area is outlined in red on the approved plan.

### Capacity

The capacity of the venue is set at 20.

## Determination Details

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

Under section 81(1)(a) of the *Liquor Licensing Act 1997* (the Act) I exercise my discretion to determine this matter without holding a hearing.

In summary, the submission by the Australian Hotels Association (SA) (the AHA) was lodged on the following grounds:

1. The premises are unsuitable for the proposed business model as the outdoor areas do not have the necessary council approvals, they will impede pedestrian flow through the area, are not within sight of the staff and one of the areas is outside a premises not connected to the licence.
2. The proposed business model has been altered throughout the application process and therefore the "petition" responses lodged as part of the community impact assessment should be disregarded.
3. There is insufficient car parking available which will affect other businesses in the area.
4. There is little proposed by way of harm minimisation other than compliance with the existing laws.

The applicant was provided an opportunity to respond to the submission and I have taken this response into consideration as well.

I have granted permission for the applicant to vary their application by way of amending their proposed licensed area to exclude the two verandah areas on the Gawler Street side of the premises. I note that these areas are the areas of concern which form the first ground of submission by the AHA. As they have now been excluded from the application I consider this first ground no longer relevant and therefore there is no need to address this point any further.

In relation to their second ground, the licensee has clarified that while they have had to "pivot" their business model during the application process, this has resulted in their "Paint and Sip" classes becoming more of a predominant aspect of their business model due to the capacity restrictions affecting their plans to operate as a boutique bar. I therefore am of the opinion that the responses from their petition should still be considered as part of their Community Impact Assessment as the responses appear consistent with how the applicant intends to trade. These responses will be discussed in further detail below in relation to how they affect the assessment of whether the application is in the community interest.

In relation to the third point made, car parking, I note that these matters are dealt with under the relevant planning and development laws and as they do not relate to the sale and supply of liquor, are not regulated by the Liquor and Gambling Commissioner. The local Council, as the regulatory body of car parking matters, have not expressed any concerns with what is sought in the application and therefore I can only assume that they do not foresee the issues that the AHA have raised in relation to this point.

In relation to the last point raised by the AHA (harm minimisation) I will not go into significant detail here as I will discuss the potential harm when considering their community impact assessment, but will note that in assessing the potential harm I have taken into consideration the points raised by the AHA.

## Community Impact Assessment

In order for this application to be granted I must be satisfied that the granting of this application is in the community interest. In making this determination, under section 53A(2) of the *Liquor Licensing Act 1997* (the Act), I must have regard to:

- the harm that might be caused (whether to a community as whole or a group within a community) due to the excessive or inappropriate consumption of liquor; and
- 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 when making a determination on this application. Importantly, the guidelines state that, "*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.*"

As part of the application the applicant has submitted a Community Impact Assessment submission, area report and

location report, and it is the content of these documents, as well as the application itself, that my decision is based on.

#### Nature of the business

The applicant intends to operate the space as an art studio/gallery space, offering art classes in which local produce and alcohol will also be showcased. Light food will also be available for patrons.

In terms of community support for the application, the applicant submits that he has received overwhelming support from the Port Noarlunga Business & Tourism Association. He has also provided responses to a petition he conducted which shows support from local residents and other local businesses to the proposed business.

In terms of the locality, the applicant has relied on the 2km radius, as suggested in the community impact guidelines for premises located within the metropolitan area. I am satisfied that the locality that the applicant has relied upon is appropriate.

#### Potential harm

The applicant identified a number of potential "at-risk" groups within the locality, including the local primary school and kindergarten and retirement village. However, they note that they are considerably far from these premises and as they will have very limited trading hours, and be offering predominantly pre booked sessions, will pose no greater risk than other premises in the area trading under a liquor licence.

The applicant is also aware of existing 'dry zones' within the locality and submits that they will ensure patrons respect these laws.

The applicant lists a number of strategies they will use to try to minimise any potential harm, including:

- Training for staff to minimise harm
- Responsible service of alcohol
- Monitoring of patrons via CCTV and perimeter checks
- A dedicated storage area for bottles and cans that will not be visible from the street
- Having an open feedback forum in which anyone can communicate any issues with the applicant

The AHA in their submission raised concerns with the premises being conjoined with a second hand shop, a business that would attract minors. The applicant in response noted that the trading hours are largely opposite and the customers of the shop will not be impacted by the operations of the licensed premises. Whilst this appears somewhat true for Thursdays and Fridays, the licensed premises does wish to commence trade at midday on Saturday and Sunday and I can only assume the shop would be trading on weekend afternoons as well. However, as I note in further detail below the premises previously traded as a licensed premises for two years. During this time no issues were brought to the attention of this office in relation to the licensed premises trading directly behind a second hand store.

Taking into consideration the manner in which they intend to trade, the significantly small capacity and the location of the premises (i.e. not being visible from the main street) I am of the view that these harm minimisation strategies are sufficient given the relatively low risk this business poses to the community.

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

The applicant submits that the premises will offer part time employment opportunities for local residents. They also submit that they will have a positive impact to the locality by showcasing local and historical art exhibitions and offering local produce, with flow on economic benefits for the broader community. They aim to provide a recreational experience for the local community as well as becoming a destination for local tourism in the area.

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

The applicant obtained relevant reports from the Community Impact Portal which show that the premises is located in a suburban area with a mix of residential and commercial activities and community facilities. There are a number of existing licensed premises within the locality, however these are predominantly the holders of Restaurant and Catering licences and Club licenses with only one general and hotel, one packaged liquor sales and three On Premises licences within the locality. The applicant submits that their business will offer an experience different to the other licensed premises in the area.

It is also worth noting that the premises was previously licensed from 2019 to last year (when this application was lodged) and operated as a cellar door under a Liquor Production and Sales licence with consumption of liquor on the premises and takeaway liquor sales. Therefore the granting of the application would not be adding an additional outlet to the community, but rather, is replacing an existing licensed premises.

## Decision

All licensed premises carry with them the potential for harm to the community, however I am satisfied that the potential risk of harm that this premises poses to the community is quite minimal, and is outweighed by the recreational and social benefits the premises would provide for the community as a whole.

I also place weight on the fact that the premises has operated as a licensed premises for a number of years in the community and no concerns have been raised by members of the local community to the premises continuing to operate as a licensed premises.

Based on the information lodged as part of their application, the applicant has satisfied me that the grant of this application for an On Premises licence would be in the community interest.

Accordingly, under section 53A(1) of the Act the application is granted.

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	-	-
Tuesday	-	-
Wednesday	-	-
Thursday	5:00 pm to 1:00 am the following day	-
Friday	5:00 pm to 1:00 am the following day	-
Saturday	Midday to 1:00 am the following day	-
Sunday	Midday to 1:00 am the following day	-

## Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes  
Hearings Delegate

10 Feb 2022

