

## Application Details

Licence No.	57316591
Licence Class	Restaurant & Catering
Application no.	199603
Premises Name	Jive Cafe
Premises Address	77 Spains Avenue Salisbury Downs SA 5108
Applicant	Adamviz Pty Ltd
Application Type	Application for a Liquor Licence

## Outcome

Decision	Granted
Effective Date	31 Mar 2020

## 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

### Position of Authority

The following persons are approved to occupy any position of authority in the entity holding the licence and to receive proceeds of the business conducted under the licence:

- Adam Vizaniaris (68133)

## Premises

### New Premises

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

### Premises Name

On the application form the applicant has listed the proposed premises name as 'Jive Café', however upon inspection of development approval documents lodged as part of the application it appears that there will be considerably large lettering on the exterior of the premises that says 'Jive Café' and then 'Juice & Wine Bar' in smaller lettering next to it. After follow up from this office the applicant clarified that the premises name was still 'Jive Café' even though the exterior of the premises will include the words 'Juice & Wine Bar'. Despite what the applicant has asserted I consider the proposed premises name to be 'Jive Café Juice & Wine Bar' as this is how it appears it will be advertised and promoted to the public.

Our office considered a similar application by Mattim Holdings Pty Ltd in December 2017 in which they wished to use the premises name 'Ruggy's Food and Wine Bar' for their Restaurant licence. I consider much of the reasoning in that decision to still be relevant today, despite the recent amendments to the *Liquor Licensing Act 1997* (the Act), and will draw on those reasons in determining this application.

The Commissioner's delegate, in the Mattim Holdings Pty Ltd decision, provided a comprehensive summary of why the use of the word 'Bar' in the name of a Restaurant is generally not considered appropriate:

*“...Consideration must be given to whether the use of this word in the name of a restaurant connotes an expectation in the mind of the public that the premises are trading in a manner inconsistent with their liquor licence. In my view, use of the word “Bar” in the name of a restaurant connotes an establishment where a patron may enter and obtain liquor contrary to the specific requirements pertaining to restaurant licences contained in s. 34 of the Liquor Licensing Act 1997.*

*The licensing authority has held the position that the use of the word “Bar” in respect of a restaurant licence is generally inappropriate and may cause confusion in the minds of the public, except in circumstances where it appears in conjunction with a non-liquor related food activity – such as for establishments such as a pizza bar, noodle bar, sandwich bar, oyster bar or the like. On many occasions in the past the Commissioner has declined to make Orders enabling licensees to trade under names considered to be inconsistent with their liquor licence.”*

This position has been upheld by the Licensing Court in the case of *Belair Taverna* in which Judge Hume made the following statements:

*“...the name under which a business holding a liquor licence trades should not be such as to create an expectation in the minds of the public that it was able to trade in a manner in which it was not legally able to trade – for example, that it is inappropriate in the public interest to allow the holder of a restaurant licence to trade under the name “Joe’s Bar”. As a matter of broad common sense there is some force in that point...*

*...In that event it seems clear that the intention of Parliament is that the only information which a licensee is obliged to give to the public as to the nature of the business conducted in licensed premises is by a sign over the door saying what the class of the licence is. The public is presumed to know what that is.”*

Whilst the Restaurant licence class, which these decisions listed above were in relation to, has now become the Restaurant & Catering licence class, the trading rights in relation to consumption on the licensed premises remain the same, i.e. that liquor must be consumed ancillary to a meal or, in appropriate cases, without food provided customers are seated at a table or attending a function in which food is provided. For this reason I still consider these statements relevant to this current application for a Restaurant & Catering licence under section 35 of the Act.

I believe that the name ‘*Jive Café Juice & Wine Bar*’ does imply a licensed premises that operates as a Wine Bar, as well as a Café, and members of the public may reasonably believe that the premises operates as a bar. The name suggests that patrons may go to the premises to consume liquor at a bar without being seated and without the requirement that a meal be purchased such as would be required at a restaurant/café. It implies that the service of liquor may occur contrary to the requirements of section 35 of the Act.

Accordingly, I do not approve the name ‘*Jive Café Juice & Wine Bar*’ for the licensed premises. The applicant may, however, trade under the name ‘*Jive Café*’.

## Capacity

The capacity of the venue is set at 147.

## Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption on the licensed premises authorised

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	7:00 am to Midnight	-
Tuesday	7:00 am to Midnight	-
Wednesday	7:00 am to Midnight	-
Thursday	7:00 am to Midnight	-
Friday	7:00 am to 2:00 am the following day	-
Saturday	7:00 am to 2:00 am the following day	-
Sunday	7:00 am to 2:00 am the following day	-

## Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes

Team Leader, Licensing and Registration

31 Mar 2020