

Decision Notification

Application Details

Application no.	211002, 211003
Licence No.	57501748
Licence Class	Small Venue
Premises Name	DUNFOR Noodle Bar
Premises Address	62 Pulteney Street Adelaide SA 5000
Applicant	Bills Quality Productions Pty Ltd
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)

Outcome

Decision	Granted
Effective Date	03 Dec 2021

Procedural

I allow the applicant to vary their application as follows:

Under section 51(3) of the *Liquor Licensing Act 1997* (the Act) I allow the applicant to vary the application to increase the proposed trading hours. I note that the varied trading hours have been advertised.

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
- The applicant has satisfied the relevant eligibility criteria to hold a licence of this class
- The application has been advertised on the premises albeit noting that the premises was displayed 11 days late

People

Position of Authority

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

- Justin Michael Healy (168840)
- Beowulf Richard Downing (169466)
- Mit Lade (169465)

Premises

New Premises

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

Licence Plan

The licensee is authorised to sell and supply liquor in an area adjacent to the premises for consumption in that area, as outlined in red on the approved plan.

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Liz Baines

Mrs Baines has lodged a submission, pursuant to section 77 of the *Liquor Licensing Act 1997* (the Act), opposing the grant of this application.

In summary, Mrs Baines grounds for opposing the application are as follows:

Potential noise coming from patrons of the venue

Music being audible outside of the venue

Concerns regarding the space for pedestrians to walk through the outdoor seating area

Concerns with the proposed trading hours of the premises to 1:30am

The applicant has written to the Licensing Authority addressing the concerns raised above. A copy of this response was provided to Mrs Baines.

The Act requires me to consider whether granting the application would result in undue offence, annoyance, disturbance or inconvenience to people who reside in the area, a prominent concern raised by all five residents. The Licensing Court has discussed 'undue noise' on many occasions, with it being held that for the noise to be undue it must be excessive or beyond what is appropriate or natural, and that residents should expect to tolerate a degree of disturbance or inconvenience in the interest of the community having access to a licensed premises. Applying the test in this scenario, I do not believe there is sufficient evidence to conclude that the granting of this application would cause undue noise to nearby residents.

The applicant has sought approval under section 69 of the Act, This provision allows the licensing authority to extend the authority conferred by the licence so that the licensee is authorised to sell liquor in a place adjacent to the licensed premises for consumption in that place.

Section 69(3) of the Act provides that an authorisation cannot be granted under this section unless, if the relevant place is under the control of a council - the council approves the application. The Adelaide City council have provided the applicant with an outdoor dining permit for the use of the area.

As this area is under the control of the council, the council is responsible for the area that is designated for use, setting trading hours for the use of the area and a capacity for the area.

In the applicant's response to the opposing submission, the applicant has noted the concerns regarding the potential noise and music from the premises and has stated:

“we have no approval to play music outside of the venue itself we can't for see an issue with the overflow of music from inside the venue itself. As speakers are fixed internally, there is a tenancy above the absorb external sound leakage. Also ambient street noise occurs from Pulteney Street and Rundle Street and nearby late night venues”

I do not consider the proposed trading hours unreasonable, with trade concluding at 1:30am each night of the week. This is not unusual for a licensed venue on the eastern side of the Adelaide central business district.

After considering the submission lodged by Mrs Baines, I am of the opinion that the application should be granted as sought.

Conditions

The following conditions are added to the licence

- The approval to sell liquor in an outdoor dining area shall lapse and become of no effect if the permit issued by the local council lapses, or is cancelled, withdrawn or revoked.

Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor in an approved place adjacent to the licensed premises authorised

Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	11:30 am to 1:30 am the following day	-
Tuesday	11:30 am to 1:30 am the following day	-
Wednesday	11:30 am to 1:30 am the following day	-
Thursday	11:30 am to 1:30 am the following day	-
Friday	11:30 am to 1:30 am the following day	-
Saturday	11:30 am to 1:30 am the following day	-
Sunday	11:30 am to 1:30 am the following day	-

Reasons for Decision

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

Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson
Hearings Delegate
03 Dec 2021