

# Decision Notification

## Application Details

Application no.	208922
Licence No.	57710135
Licence Class	Packaged Liquor & Sales
Premises Name	Futake
Premises Address	144 Grote Street, Adelaide SA 5000 Adelaide SA 5000
Applicant	FOOD AND BOWL GROUP PTY LTD
Application Type	Application for a Liquor Licence
Representative	George Pawa - Camena Legal

## Outcome

Decision	Granted
Effective Date	14 Oct 2021

## 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:

- Chuan Jiang (161806)
- Mingyuan Li (168263)

## Community Impact Assessment

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

I am satisfied that the granting of this application is in the community interest.

## Exemptions

The following exemptions are added to the licence

- Exemption from requirement that the licensed premises be physically separate from premises used for other commercial purposes
- Exemption from requirement that the licensed premises be devoted entirely to the business conducted under the licence

## Premises

### New Premises

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

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	-	10:00 am to 9:00 pm
Tuesday	-	10:00 am to 9:00 pm
Wednesday	-	10:00 am to 9:00 pm
Thursday	-	10:00 am to 9:00 pm
Friday	-	10:00 am to 9:00 pm
Saturday	-	10:00 am to 9:00 pm
Sunday	-	10:00 am to 9:00 pm

## Reasons for Decision

Food and Bowl Group Pty Ltd (**the Applicant**) has applied for a Packaged Liquor Sales Licence in respect of its existing store situated at 144 Grote Street, Adelaide SA 5000, known as Futake Grocery Store (**Futake**).

In order for this application to be granted I must be satisfied that the granting of the 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 (**the Guidelines**) when making a determination on the 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.”*

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.

As part of the application, the Applicant has provided a community impact assessment in the form of written submissions, as well as further submissions seeking an exemption from section 38(3) of the Act. It is the information provided in these submissions, as well as the application itself, that my decision is based on.

### Nature of the business

Futake is a recently opened Japanese grocery store and supermarket selling a variety of Japanese goods and produce including kitchen utensils, eclectic gifts, novelties, homewares, grocery products and specialised Japanese foods.

Futake is located adjacent to the Gouger Street and Adelaide Central Market district, providing high quality Japanese products to Adelaide consumers. The business is located near a rapidly developing business precinct surrounded by numerous high-rise apartments and is within walking distance to the Central Market.

The Applicant is seeking to enhance the shopping experience of its customers and its product base by offering a

selection of Japanese liquor products to be consumed off premises, including beer, shochus, umeshus, nigori yuzu sake, plum sake, rice sake and whiskey. The Applicant submits that these products will be offered at an above average price intended for special occasions and events, as opposed to cheaper and more regularly consumed alcohol that is available at other liquor stores in the locality.

The Applicant currently offers a variety of food items and key ingredients for Japanese dishes such as noodles, soy sauces, green tea, seaweed, curries, sushi rice and sweets. The Applicant imports and offers high-quality food products that are not readily available in other grocery stores.

The Applicant sought feedback from neighbouring businesses to determine community support for the application. The Applicant advises that all feedback received supported the sale of Japanese liquor within the premises. I note that the Applicant has provided letters of support from the following people:

- Lai Check, Manager of Skinlab Laser Aesthetics
- Yi Ming Wang, Proprietor of Paul's on Gouger
- Youming Guo, Director of Kyoku Yakiniku Pty Ltd
- Hai Guo, Director of Authentic Japanese Noodles (Gouger Street) Pty Ltd
- Calvin Lei, Director of Belle Property Commercial Adelaide

### Potential Harm

The Applicant has referred to the Guidelines and has sought legal advice regarding best practice in relation to meeting its legal requirements and obligations. The Applicant has also obtained the Area and Location Reports from the Community Impact Portal and considered the information to address potential harm.

The Applicant has identified “*22 schools, several licensed premises, public transportation, facilities and a moderate unemployment rate of 4%*” within the ‘locality’ of Adelaide.

The Applicant acknowledges there are ‘at-risk’ groups and subcommunities within the locality, but submits that the proposed liquor is more expensive and of a niche type than other types of liquor that attract vulnerable groups and at-risk individuals. The Applicant further submits that it is unlikely that children and young people will be impacted given the nature of the business and the business model.

The Applicant has considered the General Code of Practice Guidelines and the Intoxication Guidelines in the preparation of its Risk Assessment and Management Plan (**the Plan**), which it intends to implement to minimise any potential harm to at-risk groups and sub-communities. A number of measures have been identified in the Plan, including:

- Supervision and management of the premises by a Responsible Person
- Training of all staff in the responsible service of alcohol
- Implementation of an age policy requiring proof of age for patrons appearing under 25 years of age
- Refusal of service to a person who appears to be intoxicated

The Applicant submits that the potential risk of harm is managed and “*effectively nullified*” by its proposed business practices and procedures.

## Cultural, Recreational, Employment and Tourism Aspects

The Applicant suggests that Futake will serve as “*the newest ‘all Japanese experience’ for local, interstate and international visitors to the business district*” given the style and product mix of Japanese products, groceries and liquor. It is submitted that this will benefit small hospitality venues, restaurants and local residents by offering a one-stop destination for unique Japanese items.

The Applicant intends to employ 8 – 10 employees ranging from full time to casual, with the hope that increased sales from Japanese liquor products will lead to a further increase in employment in the future, thereby lowering the unemployment rate in the locality.

## Social Impact and Amenity

The Applicant notes that the premises is located on the busy intersection of Grote Street and Morphett Street, which is in walking distance to the Adelaide Central Market hospitality and retail precinct.

The Applicant has used the Area and Location Reports to identify 583 licensed premises within the locality, and submits that “*the sale of speciality Japanese liquor will help meet and satisfy the demands for a speciality retail outlet within the immediate geographical area.*”

The Applicant advises that SAPOL reports for the year ending 31 December 2020 indicate an estimated 559 total offences committed in the post code area of 5000. The Applicant notes that 71 of these offences related to theft from shops, while a further 134 offences relate to unspecified thefts. The Applicant submits that the risk of theft will be managed by the measures, policies and procedures identified in the Plan.

## Request for exemption

The Applicant is seeking an exemption from the requirements of section 38(3) of the Act, which provides:

### 38—Packaged liquor sales licence

(3) In addition, it is a condition of a packaged liquor sales licence that the licensed premises must be devoted entirely to the business conducted under the licence and must be physically separate from premises used for other commercial purposes.

The Applicant submits that granting the exemption pursuant to section 38(6) of the Act is in the public interest because of the uniqueness of the business, the specialised nature of the Japanese liquor, and the specific product mix it proposes to sell as a grocery store.

The Applicant further submits that granting the exemption will not put at-risk groups in greater harm because the liquor products that the Applicant proposes to sell are unique and priced above products being sold by other alcohol retailers in the locality.

The Applicant points out that refusing the request for an exemption and requiring the premises to be devoted entirely to the sale of liquor would not only cause the business model of a grocery store to fail, but would also lead to an over-supply of alcohol in the locality.

## Decision

I have considered and have had regard to the objects of the Act, as required by section 3(2) of the Act, in determining the application.

Harm minimisation is a key component of the community interest test, underpinned by the first object of the Act: “to

*ensure 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.”*

I note that SAPOL and the City of Adelaide have not objected to the application.

The Licensing Authority has not received any submissions from individuals, entities or stakeholders opposing the application.

I have considered the harm that might be caused (whether to a community as a whole or a group within a community) due to the excessive or inappropriate consumption of liquor, and I am satisfied on the material before me that the risk of harm posed by the proposed licence is low. The Applicant has identified a number of risk mitigation measures in the Plan which I consider will adequately mitigate the risk of harm to at-risk groups and vulnerable members of the community.

The Act requires an evaluative exercise that involves weighing the positive aspects of the proposed application with the negative aspects in order to determine whether granting the application is in the community interest. I agree with the Applicant’s submissions that the addition of specialised Japanese Liquor products will enhance a customer’s shopping experience at Futake. I also agree that the liquor which the Applicant proposes to sell will not put at-risk groups in greater harm given the higher price points and the types of liquor that will be sold.

There is no reason why the application should be refused on the basis of the matters outlined in s 57 of the Act such as the suitability of the premises; the potential for them to cause undue offence, annoyance and the like to nearby workers, residents and worshippers in their vicinity; or prejudice to the safety or welfare of children attending nearby kindergartens and schools.

There is also no basis for refusing the application under the broad discretion available pursuant to section 53 of the Act. I am of the view that granting the application is in the public interest and will further the objects of the Act. I am also satisfied that granting the application is in the community interest.

Finally, I am of the opinion that it is in the public interest to grant the Applicant an exemption under section 38(6) from the requirements of section 38(3) of the Act.

For the reasons set out above, the application for a Packaged Liquor Sales Licence is granted.

**Under Delegation from the Liquor and Gambling Commissioner**



Stephanie Burke  
Hearings Delegate  
14 Oct 2021