

Decision Notification

Application Details

Licence No.	57104318
Licence Class	On Premises
LGO Reference	L09372
Application no.	205059, 205060
Premises Name	Plain Jane Adelaide
Premises Address	18-22 Leigh Street Adelaide SA 5000
Licensee	RED CARPET ENTERPRISES PTY LTD
Applicant	RED CARPET ENTERPRISES PTY LTD
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)

Outcome

Decision	Granted
Effective Date	25 Jan 2021

Procedural

I allow the applicant to vary their application as follows:

- Application sought for trading to cease at 2:00am daily. Applicant varied these hours and sought to trade until 3:00am daily.

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:

- Tarik Nasser Eddine (95746)
- Sania Nasser-Eddine (117713)
- Giuseppe Alvaro (152552)

Premises

New Premises

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

Capacity

The capacity of the venue is set at 210.

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.

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dining area shall lapse and become of no effect if the permit issued by the local council lapses, or is cancelled, withdrawn or revoked.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	7:00 am to 3:00 am the following day	-
Tuesday	7:00 am to 3:00 am the following day	-
Wednesday	7:00 am to 3:00 am the following day	-
Thursday	7:00 am to 3:00 am the following day	-
Friday	7:00 am to 3:00 am the following day	-
Saturday	7:00 am to 3:00 am the following day	-
Sunday	7:00 am to 3:00 am the following day	-

Reasons for Decision

Red Carpet Enterprises Pty Ltd (the Applicant) have applied for an on premises liquor licence in respect of premises situated at 18-22 Leigh Street, Adelaide, to be known as Plain Jane Adelaide.

As part of the application the Applicant has submitted a Community Impact Submission (CIS), with supporting attachments. It is the content of the CIS and supporting attachments and submissions made to the licensing authority (the Authority), that my decision is based on.

This application may only be granted if the Authority is satisfied that the grant of the application is in the community interest. In determining this application 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 a whole or a group within a community) due to the excessive or inappropriate consumption of liquor;
- the cultural, recreational, employment or tourism impacts;
- the social impact in, and the impact on 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.

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 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 an application, I must have regard to the objects of the Act as set out in section 3 of the Act.

Section 3 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 section 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, section 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).

Further, section 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) 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 proposed business

The premises currently holds a liquor licence in the restaurant and catering licence category. The Applicant has applied to the authority for an on premises licence for the purposes of expanding their existing business to allow them to operate as a cocktail/tapas/wine bar, as well as continuing their restaurant operations. The Applicant will also expand their entertainment offerings, with an intention to operate a DJ from 6pm until close on certain nights and also live music on occasion.

The Applicant has indicated that they hope to increase their customer base by allowing customers to continue to enjoy a restaurant experience and then staying on, in a different area of the venue, to enjoy a bar-style set-up. Upgrades to the venue, to include a big screen, will also allow the Applicant to offer food and beverage packages for televised sports events.

The Applicant has provided relevant details to the Authority in relation to its business plan.

The Applicant has provided a menu listing the liquor to be sold, which includes cocktails, wines, beer and cider. They will also be selling food such as sliders, fried chicken, arancini balls, beef ribs and desserts. In their CIS, the Applicant has indicated a desire to base their drinks and food menu on the seasonality of ingredients, and to retain the restaurant as the 'draw card' to the business. The Applicant has indicated that their seasonal menu reflects their determination to remain committed to supporting local South Australian businesses, the economy and lessening the environmental footprint of the business.

Locality

The Guidelines provide a guide for applicants in relation to the 'locality' applicable to their application, and states that applicants are required to identify the geographic area from which they expect to draw customers having regard to the intended nature of the business of the licensed premises.

The Guidelines speak of the locality as referring “to the area surrounding the licensed premises/proposed licensed premises and is the area most likely to be affected by the grant of the application”.

The Guidelines recommend that for premises located inside the Adelaide metropolitan area that, “The locality of a premises in the Adelaide Metropolitan Area is the area within a 2km radius of the site of the relevant premises”.

The CIS prepared on behalf of the Applicant included location and area reports which the Applicant generated by using the Community Impact Portal.

In accordance with the Guidelines, the locality has been determined to be an area within a 2km radius of the premises and includes all/part of the following suburbs: Adelaide, North Adelaide, Mile End, Kent Town, Hackney, Keswick Terminal, Thebarton, Wayville and Unley. However, the Applicant also notes that Leigh Street, the location of the premises, is:

one of the leading laneways in the Adelaide CBD. It is at the heart of the Market to Riverbank Link Project. It has become a busy thoroughfare at different times of the year, particularly when:

- sporting and entertainment events are scheduled at the Adelaide oval;
- during the array of Festivals Adelaide hosted at or around the river precinct;
- the Adelaide Festival Centre, and
- the significance of North Terrace – the home to Adelaide’s two universities, the RAH, medical health and research facilities, Adelaide Casino, Parliament House, the cultural precincts of the State Library, Museum, Gallery and the innovative and business hub of Lot 14.

These events and sites collectively attract people to the precinct.

In my opinion the Applicant has correctly identified the locality, and I agree generally with the additional matters the Applicant has noted in relation to the locality. It is clear given the location of the venue that the premises will service many customers from outside the locality.

Potential Harm

The Applicant has not sufficiently identified, in their CIS, at risk groups relevant to the locality. As set out above, ‘harm’

is defined in the Act to include, “the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community)”. The area report produced the Community Impact Portal indicates that there are 24 schools within the identified locality.

Nonetheless, I think it is unlikely that the grant of this application will result in increased harm, including to children or other vulnerable people within the community.

The Applicant has identified a range of policies and procedures to be adopted that it submits will ensure any risk of harm from the premises is satisfactorily mitigated:

The Business takes the safety of our patrons very seriously, the current policies and management plans are to remain in force. Additionally, the following policies will be implemented:

- Three (3) security guards will be on duty during busy periods. This is in addition to the three (3) managers present to ensure all possible vulnerable community members are protected.
- All staff are trained and will continue to be trained on the responsible service of alcohol.
- Three (3) free water stations will be available for all patrons to ensure water is freely and quickly available to customers.

Our staff are trained, and any new employees will be trained, in warning signs, appropriate response to diffusing aggression, recognising signs of potential trouble via nonverbal behavior and how to deal with antisocial behavior.

It will be stressed that all staff immediately report antisocial behavior/language that may cause offence, annoyance, disturbance or inconvenience to other patrons or nearby residents/businesses in the immediate future.

Mid-strength and non-alcoholic drinks will be available and encouraged as a ‘paired option’ to tapas encouraging the consumption of food with drinks.

To ensure the safety of all customers a ‘Parking and Getting Home Management Plan’ has been developed to ensure employees are advising patrons where transport including taxis, buses and Uber will be available. The business will also arrange transportation for customers if required.

The business will also limit its customers. Large boisterous groups such as buck’s nights or sporting club ‘pub crawls’ will not be permitted entry. This combined with the manner of trade will serve as a deterrent to the troublesome element in the community likely to cause annoyance, disturbance or inconvenience to local residents, neighbouring

patrons and business operators.

A complaints file will be available for all staff to record any complaints received in person or by any other means. This ensures complaints can be addressed at the time in addition to providing better customer and community service by following up issues that need additional investigation. It also ensures the applicant can review any complaints over time to identify problems and address issues that would subsequently be forgotten or not communicated.

Closed Circuit TV (CCTV) installed throughout the venue including all entrance and exit points, this system will provide vision/footage that enables identification of any incidents.

The Business has an exemplary record as a licensee. There has not been one infringement.

Our staff are well education and trained, frequently encouraging patrons to enjoy the Premises Safely.

We promote and practise responsible drinking by not allowing 'pub crawls' or other events which encourage the rapid consumption of liquor.

Further, the Applicant states in their CIS that, given the large number of educational facilities in the locality, staff are "meticulous with the checking of customers identification documents, particularly when the patron look younger than the legal drinking age". The Applicant also indicates that the premises has been designed with a focus on Crime Prevention through Environmental Design (CPTED) which focuses on:

- surveillance and lighting;
- territorial reinforcement;
- space/activity management; and,
- access control.

The Applicant indicates that the implementation of those principles aims to impart a strong sense of safety and amenity for customers whilst limiting the opportunity for unlawful access to liquor products.

The Applicant has provided the Authority with a copy of its Risk Management Assessment Plan for the premises and the business.

No submissions have been received with respect to this application.

Having considered the policies and risk mitigation measures to be adopted, I agree with the Applicant's submission that if the licence were to be granted, the risk of any harm which may be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor will be satisfactorily managed and mitigated.

Cultural, recreational, employment or tourism impacts

The Applicant submits that the change in licence class will result in the increase in current hours for existing staff and the employment of an estimate further 10 staff members.

The Applicant also submits that the venue is unlike other venues which are operating in the locality as their design and concept is to create a cocktail/wine/tapas environment where patrons can enjoy a good meal accompanied by unique local beverages whilst standing and mingling with other guests in various sections of the venue.

The Applicant has indicated that they believe that the grant of an on premises licence will benefit existing staff, result in greater employment opportunities for others, boost the local South Australian economy and provide more vibrancy to the Adelaide CBD. They also indicate that the restrictions on the business currently has resulted in a level of hardship that would be overcome by the change in licence class, which would allow the business to remain open and viable.

I am satisfied that if the application were to be granted that it will result in an increase in employment in the locality, and will also have a positive cultural, recreational and tourism impact on the locality.

Social impact and impact on the amenity of the locality

The Applicant has not addressed this issue sufficiently in their CIS.

The South Australian Police website indicates that for the month of November 2020 there were 1,875 crimes against the person reported in the whole of South Australia. Crimes against the person encompass homicide, acts intended to cause injury, sexual assault, robbery and family and domestic abuse. With respect to the suburb of Adelaide, for the same period, the figure was 92.

I note that it is difficult to draw any specific conclusions from these statistics.

I note that the premises has been licensed for some time, albeit it under a restaurant and catering licence, and that there will be no change to the current layout of the venue.

I note that there is a significant number of licensed premises in the locality – approximately 618. However, I also note that the venue is located in the main entertainment precinct for South Australia and that the density of licensed premises in this locality may not be as relevant a consideration as it may be in other localities.

I am satisfied that the Applicant has demonstrated a clear understanding of the importance of the responsible service of alcohol and the importance of managing and minimising harm and I am satisfied that there will not be any adverse impact socially or to the amenity of the locality by the grant of this application.

Community support for the proposed business

Community consultation was undertaken by the Applicant. The Applicant has indicated that the changes proposed to their business model is driven by customer feedback.

The Applicant has included with their application a letter of support signed by 13 venues in Leigh Street who are supportive of the application.

Decision

Harm minimisation is a key component of the community interest test. The Applicant has identified a number of risk mitigation measures which I consider will adequately mitigate the risk of harm to vulnerable members of the community.

The proposed premises will provide employment opportunities and the proposed changes to the business model will better benefit and suit the locality. The Applicant has provided evidence of community support for the application.

I am of the view that the grant of the application is in the community interest and, more broadly, that it is not contrary to the public interest.

I have had regard to the objects of the Act and am satisfied that the grant of the application would not be inconsistent with them. Further, I am satisfied of the matters set out in section 57 of the Act as to:

- the suitability of the premises;
- that the grant of the licence would result in undue offence, annoyance and the like to nearby workers, residents and worshippers in their vicinity;
- that the grant of the licence would prejudice to the safety or welfare of children attending nearby kindergartens and schools; and
- that all necessary approvals, consents and exemptions required have been obtained.

The application is granted.

Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzionis
Manager, Liquor & Gambling
25 Jan 2021