

# Decision Notification

## Application Details

Application no.	206139
Licence No.	57318006
Licence Class	Restaurant & Catering
Premises Name	Mums Beard Cafe
Premises Address	158 Hindmarsh Road Victor Harbor SA 5211
Applicant	RIVOLI CLARE PTY LTD
Application Type	Application for a Liquor Licence

## Outcome

Decision	Granted
Effective Date	16 Mar 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 and to receive proceeds of the business conducted under the licence:

- Melanie Amanda Lenk (162738)

## Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: City of Victor Harbor

The City of Victor Harbor have lodged a submission against the application on the grounds that granting the application would cause undue offence or annoyance to those who reside, work or worship in the vicinity. In their submission they state that proposed hours are inconsistent with the development approval issued in December 2020 for a change of land use.

I note that under section 11C of the Act, the Commissioner should take steps to avoid inconsistencies with matters that are dealt with under the relevant planning laws. It is also important to note that whilst local Councils can regulate trading hours of premises, a licence issued under the Act only regulates the hours that liquor may be sold, supplied or consumed on the premises, not the actual trading hours of the venue. Whilst the two authorities are regulating different aspects of trade, where possible direct conflicts should still be avoided.

I have received a copy of DA 453/372/20, issued by the City of Victor Harbor. One of the conditions that the development approval was granted on was "The development shall be in accordance with the plans and details submitted (including amended plans marked and dated 3/11/20 and 6/11/20) to and approved by Council as part of the application except as

varied by any subsequent conditions imposed herein."

I have also been provided with a document that was lodged by the applicant, as part of the development approval application, which has been stamped by the City of Victor Harbor as forming part of DA 453/373/30 dated 3/11/20. The document includes a statement from the applicant that the cafe is initially anticipated to operate between 8am and 4pm every day of the week, which may increase to 9pm in the future to cater for a dinner service. Council submits that the information in this document form part of the 'details' as referred to in the development approval condition as outlined above.

It appears quite clear from the information before me that the development approval granted by Council for the change of land use was granted on the condition that the cafe will only trade between 8am and 9pm.

I therefore do not consider it appropriate for this office to issue a liquor licence permitting the sale, supply and consumption of liquor on the premises outside the hours in which they are permitted to trade under the relevant planning laws. Accordingly, in granting the licence sought I restrict the authorised trading hours under the licence to 8am to 9pm every day of the week, as outlined below.

## Premises

### New Premises

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

## 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	8:00 am to 9:00 pm	-
Tuesday	8:00 am to 9:00 pm	-
Wednesday	8:00 am to 9:00 pm	-
Thursday	8:00 am to 9:00 pm	-
Friday	8:00 am to 9:00 pm	-
Saturday	8:00 am to 9:00 pm	-
Sunday	8:00 am to 9:00 pm	-

## 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



Ashleigh Hughes

Date of Order: 16 March, 2021  
Order Number: B232478  
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Government of South Australia  
Attorney-General's Department

