

Decision Notification

Application Details

Application no.	207911, 207912
Licence No.	57318404
Licence Class	Restaurant & Catering
Premises Name	Tangkaira Cafe Restaurant
Premises Address	44 Hurtle Square Adelaide SA 5000
Applicant	Tangkaira Pty Ltd
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)
Representative	Brendan Le Poidevin - Masterplan

Outcome

Decision	Granted
Effective Date	17 Jun 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:

- Harsh Mehta (126646)
- Sneha Chaudhary (166852)

Determination Details

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

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

The submission is made on the following grounds:

- The proposed trading hours are excessive for a predominately residential location
- The proposed hours have the potential to cause disruption to residents
- Concerns with proposed capacity of the premises

I note that the applicant's representative, has written to the Commissioner addressing the concerns raised above.

I note that the applicant has since varied the capacity of the premises to 50 persons.

I further note that 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.

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

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. The Licensing Court has considered 'undue noise' on many occasions, and has 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.

Whilst the premises is located in a suburban area, the licence class sought is a Restaurant and Catering licence which restricts the licensee to providing liquor only to persons with a meal, seated at a table, or attending a function. This licence class will not allow the applicant to operate a 'bar' which is commonly associated with noise. I do not consider the trading hours unreasonable either, with the applicant seeking to sell and supply liquor from 6am Monday to Friday and 7am on Saturday and Sunday. The applicant seeks to trade no later than midnight on a Friday and Saturday and on all other nights until 10:30pm, which is not unusual for a restaurant on the southern side of the Adelaide central business district.

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.

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 for consumption on the licensed premises authorised
- 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	6:00 am to 10:30 pm	-
Tuesday	6:00 am to 10:30 pm	-
Wednesday	6:00 am to 10:30 pm	-
Thursday	6:00 am to 10:30 pm	-
Friday	6:00 am to Midnight	-
Saturday	7:00 am to Midnight	-
Sunday	7:00 am to 10:30 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



Jane Widdowson
Hearings Delegate
17 Jun 2021