

Decision Notification

Application Details

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| Application no. | 212805 |
| Licence No. | 57319434 |
| Licence Class | Restaurant & Catering |
| Premises Name | Barendoe |
| Premises Address | T10 6-12 Capital Street Shopping Centre Mawson Lakes SA 5095 |
| Applicant | Bar n Dough Pty Ltd |
| Application Type | Application for a Liquor Licence |
| Representative | Andrew Wong - Lion Liquor Licensing Consultants |

Outcome

| | |
|----------------|-------------------|
| Decision | Conditional Grant |
| Effective Date | 31 May 2022 |

Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- Planning consent has been obtained

Certificate

A certificate of approval is issued for the premises to be situated:

T10 6-12 Capital Street Shopping Centre
Mawson Lakes SA 5095

The certificate is granted subject to the following conditions:

- The certificate shall lapse on 31 May 2023 if the premises are not completed by this date.
- The applicant must submit a copy of Development approval and Certificate of Occupancy if required at which time a further order will be made and the final approved plan and licence will be issued.
- The certificate of approval must be converted to a licence prior to the applicant commencing trade at the premises.

People

Position of Authority

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

- Chady Hamra (72865)
- Marie Mounzer (170013)
- Shadi Mounzer (170014)

Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption on the licensed premises authorised
- Sale of liquor for consumption at the site of a function off the licensed premises authorised

Trading hours

The following are the approved trading hours

| | Consumption on premises | Consumption off premises |
|-----------|-------------------------|--------------------------|
| Monday | 11:00 am to 10:00 pm | - |
| Tuesday | 11:00 am to 10:00 pm | - |
| Wednesday | 11:00 am to 10:00 pm | - |
| Thursday | 11:00 am to 10:00 pm | - |
| Friday | 11:00 am to 10:00 pm | - |
| Saturday | 11:00 am to 10:00 pm | - |
| Sunday | 11:00 am to 10:00 pm | - |

Reasons for Decision

The Commissioner of Police has intervened in these proceedings pursuant to section 28AA of the Act for the purpose of making submissions that all three applicant's are not fit and proper persons to be approved and their approval would be contrary to the public interest.

Marie Mounzer

Mrs Mounzer does not have any offence history of concern. The Police have intervened due to her association with the other applicant's and their concern that the business may be operated in a manner that may facilitate criminality.

Chady Hamra

The Police have intervened due to Mr Hamra's failure to declare and his association with the other applicant's and their concern that the business may be operated in a manner that may facilitate criminality.

Mr Hamra is currently approved as both a responsible person and as a person in a position of authority under another licence. He has also held numerous previous approvals at various licensed premises in the past.

The Police submit that he made a failure to declare to the Licensing Authority when he answered "no" to the following question on the PID for this application: *Your current/previous approval was based on a Personal Information Declaration completed and signed by you prior to the date of approval. Since making that declaration and obtaining approval have you been charged or reported for any offence in any jurisdiction, which was proven (in any State or Territory in Australia or another country), whether or not a conviction was recorded.*

The Police submit that this answer was dishonest as he had been convicted of 'drink driving' in 2016. However, I note that his most recent approval was granted on 10 July 2017 (which has now ceased). His most recent personal information declaration was completed after his most recent conviction, meaning his personal information declaration was answered truthfully as he had not been charged or reported for any offence since his previous approval in July 2017.

Shadi Mounzer

The Police have intervened due to Mr Mounzer's offence history, failure to declare and his association with the other applicant's and their concern that the business may be operated in a manner that may facilitate criminality. The Police submitted an offender history report which shows that Mr Mounzer has the following offence history:

- Fail to furnish information as required by taxation law (2009, 2010, 2x2013, 5x2015)
- Possess or use a prohibited weapon (2009)
- Commit Assault - Basic Offence (2006)
- Producing a controlled substance (2002)
- Drive in reckless or dangerous manner & undue noise (1998)
- Fail to truly answer & disobey learner's permit (1998)
- 8 traffic related expiation notices (2009-2021)

Mr Mounzer declared his assault conviction and also declared 'various speeding fines' on his personal information declaration.

Mr Mounzer was provided a copy of the notice of intervention lodged by the Commissioner of Police and provided a written submission in response to this information.

In relation to the failure to declare all of his offence history Mr Mounzer states that it was not a intentional omission and he did not realise he had to declare offences that occurred decades ago, or that he had to itemise each expiation notice. In relation to not declaring all of his wife's family members he submits that as he was completing the application with his wife who was providing all of her family information on her form, he did not have to complete it all on his as they would be linked. I accept the reasons provided by the applicant and believe he was not trying to deliberately mislead the authority.

In relation to the circumstances of the offending, the applicant was upfront in providing details about his offence history. The numerous tax related offences were a result of him falling behind in paying his BAS due to a failed business and financial rough patch. He has since paid all outstanding fines issued by the Court. He has since run a number of businesses with no further indiscretions of this nature in the last 7 years. Whilst this is classed as a dishonest offence I consider it on the lower end of the scale, and the sentencing given by the Magistrate appears to reflect this also with the applicant only receiving fines totaling roughly \$7,000 all up.

In relation to the weapons offence, the offence was recorded without conviction by the Courts, again reflecting that they considered the offending to be on the lower end of the scale. In relation to the drug related offending in 2003, the applicant states that he was convinced by a friend to grow a marijuana plant having just undergone radiation therapy for cancer. I am not inclined to place much weight on this offending as it was almost 20 years ago, it was a one off with no other drug related offending and the minor sentence (a fine) shows the Court did not consider this to be serious offending either.

Despite all these offences appearing to be less serious (given the nature of the sentences) the applicant showed remorse for his actions in his submission and regrets the mistakes he made in his past. His children attend the local schools in the area and he now wishes to open a family friendly restaurant for the community.

Having take into account all the circumstances of Mr Mounzer's offences history, the nature of the sentences, the time that has passed since the offending and the remorse shown in his submission, I am satisfied that Mr Mounzer is a fit and proper person to be approved to occupy a position of authority in the applicant company.

Facilitation of Criminality

There is insufficient evidence before me to suggest that the business may operate in a manner that will facilitate criminality due to the association between all three parties to the application. Mrs Mounzer has a very minor offence history (a handful of speeding expiation notices) and Mr Hamra has been an approved under the Act in various capacities since 2005 with no disciplinary action against his name. Whilst Mr Mounzer does have an offence history that is more concerning, for the reasons outlined above I am not of the view that this should cause him to be found not fit

and proper to occupy a position of authority. In any event there is no evidence to suggest any negative "influence" between the parties and therefore any reason to be concerned about the relationships between the parties.

Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes
Hearings Delegate
31 May 2022