

Decision Notification

Application Details

Application no.	207399, 207400
Licence No.	57501633
Licence Class	Small Venue
Premises Name	Soi 38 Regional Thai
Premises Address	Part Ground Floor, 74 Pirie Street Adelaide SA 5000
Applicant	SOI 38 THAI STREET FOOD PTY LTD
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)

Outcome

Decision	Granted
Effective Date	28 May 2021

Procedural

I allow the applicant to vary their application as follows:

- withdraw application for extension of trading area.

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:

- Oscar Miller (145095)
- Nattawoot Intarakhamhaeng (133022)
- Alexander Reade (166568)
- Kannika Kenbuppha (166569)

Determination Details

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

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 2:00 am the following day	-
Tuesday	10:00 am to 2:00 am the following day	-
Wednesday	10:00 am to 2:00 am the following day	-
Thursday	10:00 am to 2:00 am the following day	-
Friday	10:00 am to 2:00 am the following day	-
Saturday	10:00 am to 2:00 am the following day	-
Sunday	10:00 am to 2:00 am the following day	-

Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

The application is for the grant of a small venue licence. The applicant has addressed the objects of the *Liquor Licensing Act 1997* (the Act) in the application and I am satisfied that the sale, supply and consumption of liquor will be undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor and the expectations and aspirations of the public.

I am satisfied that the grant of the licence would not be contrary to the public interest or inconsistent with the objects of the Act.

Pursuant to section 56 of the Act, I am satisfied that all persons who occupy a position of authority in the entity holding the licence, are fit and proper persons to occupy such a position.

Prior to a licence for premises being granted, the licensing authority must be satisfied that:

- the premises for which the licence is sought are of sufficient standard for the purpose of properly carrying on business under the licence; and
- that the operation of the licence would be unlikely -
- to result in undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises; or
- to prejudice the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises.

The licensing authority must also be satisfied that any:

- approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained; and
- approvals, consents or exemptions that are required by law for the carrying out of building work before the licence takes effect have been obtained; and
- other relevant approvals, consents and exemptions required for carrying on the proposed business from the premises have been obtained.

The applicant has provided the authority with a copy of the decision notification form which indicates that all relevant consents have been granted. Further, the applicant has provided an email from the City of Adelaide confirming that they do not have any concerns with the trade proposed under the licence.

A submission was received from Shaun Johns, pursuant to section 77 of the Act, in relation to this application, which has been taken into consideration in determining the matter. I exercise my discretion under section 81(1) of the Act to determine this application without holding a hearing.

In summary, Mr Johns raised concerns in relation to the impact the noise of the general business will have on local residents, including noise from waste disposal, deliveries, music, glass bottle collection, waste collection companies, general staff activities such as slamming doors and the effect of intoxicated patrons, such as yelling and anti-social behaviour.

I note that Mr Johns states that he supports the application overall but wants to ensure the applicant is aware of the residents located nearby and the impact noise from the business can have on them.

There are existing provision under the licensing regime that aim to protect residents from undue noise. Under clause 12 of the General Code of Practice, which they are bound to comply with, licensees must take reasonable steps:

"to prevent undue offence, annoyance, disturbance, noise or inconvenience to people who reside, work or worship in the vicinity of the licensed premises, resulting from entertainment or activities on the licensed premises or the conduct of people making their way to or from the licensed premises."

Failure to do so may constitute a breach of the mandatory licence conditions under section 42(1) of the Act. Mechanisms also exist under section 106 of the Act should residents find, once the premises starts trading under their licence, that the noise emanating from the premises is undue.

With these mechanisms already in place, it is not standard practice for the Commissioner to impose onerous conditions on a licence, in relation to noise minimisation, from the outset, unless good reasons exist to do so. In particular as the premises is yet to start trading, whilst the concerns are valid, they are still at this stage merely speculation about what noise could emanate from the premises.

Having assessed the application, the approved land use, being that of a restaurant, and the hours and capacity of the venue, there does not appear to be any justification to impose onerous conditions, above and beyond those that already apply within the Act and Codes of Practice, on this licence.

I am satisfied that the operation of the licence would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity or prejudice the safety or welfare of children attending kindergarten or school in the vicinity. I am satisfied as to the matters set out in section 57 of the Act.

The application for a small venue licence is granted.

I note that the application for extension of trading area was withdrawn on the applicant's request.

Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzisionis
Manager, Liquor & Gambling
28 May 2021