

Decision Notification

Application Details

Application no.	208751, 208752
Licence No.	57501659
Licence Class	Small Venue
Premises Name	Bar La Vie
Premises Address	230 Grenfell Street Adelaide SA 5000
Applicant	Sparkle Babies Pty Ltd, Sparkle Babies Trust
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)
Representative	Andrew Wong - Lion Liquor Licensing Consultants

Outcome

Decision	Granted
Effective Date	14 Oct 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
- The applicant has satisfied the relevant eligibility criteria to hold a licence of this class

People

Position of Authority

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

- Cheng Hui Wang (135054)
- Manling Zhang (167386)
- Chenyu Liu (167387)
- Ruijie Zeng (167388)

Premises

New Premises

I am satisfied that the premises is located, or will be located, in a prescribed area for the purposes of section 37(2) of the Act.

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

Capacity

The capacity of the venue is set at 20.

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.

Licensee

I note that the applicant will hold the licence as trustee for Sparkle Babies Trust .

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Dr Lynn Arnold, Peter Howard, Kathleen Partington, James Partington and Gary Watts. The submissions lodged by the parties have been made by nearby residents to the proposed licensed premises. The concerns raised in the submissions have been made on quite similar grounds and therefore I will summarise collectively and address them together.

These concerns are detailed below:

- Music (including amplified music)
- Patron noise
- Trading hours
- The premises are unsuitable for operating such a business due to the proximity of nearby residents
- There is no provision for hygienic storage of the considerable refuse which it will produce
- The ground floor and first floor of the premises will not accommodate 100 patrons
- There are not enough toilets to accommodate 100 patrons
- The footpath proposed to be licensed is in extremely close proximity to its neighbouring business Uniqorn Eats which caters primarily for young children and seats them on the footpath

The applicant's representative has written to the Licensing Authority addressing the concerns raised above. A copy of this response was circulated to the objectors. I note that some objectors responded to this submission.

The licensing authority is of the view that the applicant should have the right to make a submission in reply to a submission lodged by objectors, but does not consider it appropriate to call for or permit further submissions from objectors about these submissions.

In relation to the concerns raised in the submissions about potential issues regarding waste, capacity and toilets these are planning related matters and therefore, in accordance with section 77(3) of the *Liquor Licensing Act 1997* (the Act), I am not required to consider these issues.

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, a prominent concern raised by all five residents. The Licensing Court has discussed 'undue noise' on many occasions, with it being 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.

In addition to this I note that the planning approval for the premises provides restrictions to the level of noise from the premises.

I note that in the applicant's response to the submissions, the applicant has said they will be wary of the concerns of their neighbours and will actively work with them to ensure they are not disturbed to create a friendly local community for which we hope they will frequent.

I do not consider the trading hours unreasonable either, with trade concluding at midnight each night of the week. This is not unusual for a licensed venue on the eastern side of the Adelaide central business district.

After considering the submissions lodged, I am of the opinion that the application should be granted as sought.

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	11:00 am to Midnight	-
Tuesday	11:00 am to Midnight	-
Wednesday	11:00 am to Midnight	-
Thursday	11:00 am to Midnight	-
Friday	11:00 am to Midnight	-
Saturday	11:00 am to Midnight	-
Sunday	11:00 am to Midnight	-

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
14 Oct 2021