

Decision Notification

Application Details

Application no.	213512
Licence No.	57000904
Licence Class	General & Hotel
Premises Name	Darke Peak Hotel
Premises Address	17/18 Darke Terrace DARKE PEAK SA 5642
Licensee	Alan & Anne Pty Ltd
Applicant	J & E Emans Pty Ltd
Application Type	Application for Transfer of Licence
Representative	Ryan Edwards - Carrington Conveyancers

Outcome

Decision	Granted
Effective Date	14 Feb 2022

Requirements

The requirement to provide the following in support of the application has been waived:

The requirement to advertise the application by notice placed on the premises

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

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

People

Position of Authority

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

- Elli Schingenga (170578)
- Jacob Hendrikus Emans (170579)

Licensee

Transfer

The licence is transferred to J & E Emans Pty Ltd effective from 14 Feb 2022.

The licence is transferred, subject to settlement taking place on or before that date. If settlement does not take place on or before that date the applicant must advise this office in writing of the new settlement date.

Conditions

The following conditions are removed from the licence

- The exemption from the Responsible Person requirements only applies during the following days and times:
11am to 4pm Monday to Friday each week

Reasons for Decision

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

It is a requirement under section 97(1) of the *Liquor Licensing Act 1997* (the Act) that premises must be personally supervised by a responsible person at all times that they are open to the public, however under section 97(2) of the Act the Commissioner may exempt a licensee from this requirement and approve alternative arrangements for the supervision and management of the business.

I note that the licensee currently has an exemption from this requirement.

As part of the application, I have reviewed this exemption and asked the applicant to provide a submission as to why the exemption should remain on the licence.

In response to this request the licensee has provided a brief submission.

I have considered the submission made by the licensee, the category of licence held by the licensee, the extent of the trading hours and the capacity of the premises and the location of the premises and I am not satisfied that the business is of limited scope.

In addition to this, a responsible person for the purposes of the Act, is an authorised person in relation to licensed premises.

Schedule 4 of the Act states:

authorised person, in relation to licensed premises, means—

- (a) the licensee; or
- (b) a responsible person for the licensed premises; or
- (c) a police officer; or
- (d) a person who holds a security agents licence that authorises the person to perform the function of controlling crowds in licensed premises under the *Security and Investigation Industry Act 1995*

The Act provides an authorised person with powers and controls that are not afforded to staff of licensed premises.

Given the premises is in an extremely remote location, a great distance from any emergency services, including police it is prudent for a responsible person to be on duty at all times the premises is open.

The exemption from responsible person is removed from the licence. The licence is updated accordingly.

At all times the premises are open to the public the licensee must ensure that a responsible person, or person approved in a position of authority in the licensee entity, are present to supervise and manage the business.

Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson
Hearings Delegate
10 Feb 2022