

Application Details

Licence No.	57003318
Licence Class	General & Hotel
Application no.	199876
Premises Name	Queens Head Hotel
Premises Address	117 Kermod Street NORTH ADELAIDE SA 5006
Licensee	Tony's Maylands Pty Ltd, Peter's Maylands Pty Ltd, Vicki's Maylands Pty
Application Type	Variation to conditions

Outcome

Decision	Granted
Effective Date	03 Apr 2020

Requirements

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

The application has been advertised

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Sandra and Les McKessar, Stephen Guest and Graham Bagshaw.

Reasons for Decision

I determine this application on the basis of the materials provided and written submissions made, without holding a hearing under section 81(1)(a) of the *Liquor Licensing Act 1997* Act.

The application is to remove two existing conditions from the licence namely:

- Patrons shall not enter or exit the premises through the entry points on Abbott Lane *and*;
- Security must be provided at a rate of 1 per 100 patrons when trading on Friday and Saturday nights and on any night the licensee holds a function. Security shall monitor the premises until one hour after the premises have ceased trading or until the last patron has left the vicinity.

The application was advertised and submissions received from four nearby residents. The submissions provided a number of reasons why the application should not be granted, I summarise those reasons as follows:

- The hotel is located in a residential area, the exit of noisy unruly patrons late at night with security guards to control them would cause undue disturbance, annoyance and inconvenience to the residents and will affect the ambience of the area.
- The hotel gates and doors on Abbott Lane should only be used for special events in accordance with previously

agreed conditions between the parties and a decision of the Licensing Court.

- The safety of patrons is at risk if the doors on Abbott Lane are used because the laneway is narrow and used by vehicles.
- Allowing patrons to enter and exit the premises via Abbott Lane would also cause undue noise, offence and disturbance to the residents and will affect the amenity of the area.

I note that submissions may only be made against an application advertised under section 52 of the Act, and may be made on one or more of the grounds under section 77(2). Whilst the submissions did not specify the particular grounds, I will assume based on the information provided that the residents seek to rely on section 77(2)(f).

The licensee also provided written submissions in response, which I summarise as follows:

- The residents have suggested that the grant of the application would cause offence, annoyance and disturbance, but have failed to establish that any such offence, annoyance or disturbance would be *undue* as required by the Act.
- The licensee is required to comply with the General Code of Practice and the relevant Guidelines, therefore the licensee is not seeking to remove any requirement for security officers, simply the current condition.
- The Abbott Lane entrance is at the rear of the hotel, and it can be difficult for patrons at the rear of the hotel to access the front if they wish to depart. The licensee also suggested that the residents experiences as described in their submissions related to special events at the Adelaide Oval, not ordinary hotel trade.

I have considered the submissions made, the residents refer to the removal of a number of conditions following changes in liquor licensing laws, and a matter before the Licensing Court in 2012 which led to the imposition of the subject conditions. Although a recent incident of disturbance is mentioned, the submissions do not adequately address *how* the removal of the subject conditions would cause *undue* noise offence and disturbance.

I can accept that if patrons are using an entry/exit point on Abbott Lane which was not previously in use, there may be *some* noise, and neighbours believe that if there are no security officers then patrons will be noisy. However, the Act requires the noise and disturbance to be "undue" – that is to be so excessive as to be beyond what could be reasonably expected from persons living in the vicinity of licensed premises. The submissions made have not convinced me of such.

I appreciate the concern that if the condition in respect of security officers is removed then it is not clear what the licensee's obligations are. However the residents can be reassured that the licensee is still required to comply with the General Code of Practice and the venue's management plan and provide security personnel as needed.

Based on the information before me I am satisfied that the grant of the application would not result in undue offence, annoyance and disturbance or inconvenience to people who reside in the vicinity of the premises to which the application relates.

The application for variation to licence conditions is granted.

Under Delegation from the Liquor and Gambling Commissioner



Vicki Brunello
Hearings Delegate
03 Apr 2020