

Decision Notification

Application Details

Application no.	206279
Licence No.	57008198
Licence Class	General & Hotel
Premises Name	Vivonne Bay General
Premises Address	4417 South Coast Road VIVONNE BAY SA 5223
Applicant	Tye James Boyle
Application Type	Application for a Liquor Licence
Representative	Andrew Wong - Lion Consulting

Outcome

Decision	Granted
Effective Date	05 Mar 2021

Procedural

I grant permission for Andrew Wong to represent the applicant in this matter.

I allow the applicant to vary their application as follows:

The applicant applied for a Restaurant and Catering licence for this premises and to redefine the current Packaged Liquor Sales licence to another part of the premises. The applicant has varied those applications and has applied for a General and Hotel licence.

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

Licensee

The following persons are approved to hold the licence and receive proceeds of the business conducted under the licence:

- Tye James Boyle (151506)

Premises

New Premises

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

Capacity

The capacity of the venue is set at 200.

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 off the licensed premises authorised

Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Tuesday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Wednesday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Thursday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Friday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Saturday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm
Sunday	8:00 am to 2:00 am the following day	8:00 am to 9:00 pm

Reasons for Decision

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

The applicant initially applied to:

- to redefine their existing packaged liquor sales licence such that the licence would be restricted to a small portion of the existing premises; and
- for a new restaurant and catering licence for a separate portion of the premises (to provide for 'consumption on').

Subsequently, the applicant sought to amend their application to a general and hotel licence. I note that the advertising requirements were modified (i.e.- shortened), and the requirement for the applicant to complete a community impact submission has been varied by the licensing authority (the Authority) in relation to this application, such that the Authority has agreed to accept a statement as to why the grant of the application should be considered to be in the community interest, in place of a full community impact submission.

The applicant has made a statement to the authority, which can be summarised as follows:

- the applicant started running the business in July 2020;
- all Western End facilities and eateries were destroyed in the 2020 bushfires on Kangaroo Island and there is a desperate need for general supplies, fuel and alcohol;
- during the July school holiday period the business needed to expand to accommodate the influx of tourists and continual growth in tourist numbers. The applicant has decided to build an area off the main building of the premises to allow for the higher demand of inhouse seating, with the expectation that the need/ demand for this will continue to increase for years to come;
- there is a need for the Vivonne Bay General Store to be stocked with alcohol throughout the year to provide to the community and others the convenience of not having to travel a 100 plus km round trip to the main town;
- Vivonne Bay General Store is the hub of the Western End of the Island and it is vital that the business is able to provide a place for locals and tourists to come together (e.g.- community wellbeing; meetings (business, sporting, general); information sessions; gatherings; ability to accommodate functions);
- given the devastation of the 2020 bushfires the closest facility to provide for the options noted above is 30 km

from Vivonne Bay. This is more than an inconvenience and the restrictions of night travel in and around the Western end of the Island are a significant issue to locals and tourists alike;

- the expansion and grant of the licence will benefit the community in many ways, including the positives of growing the business and increased job opportunities.

The application is for a general and hotel licence, which is a designated application for the purposes of the *Liquor Licensing Act 1997* (the Act). The application can only be granted if it is in the community interest.

In determining whether or not a designated application is in the community interest, the licensing authority must have regard to the matters set out at section 53A(2) of the *Liquor Licensing Act 1997*.

I have had regard to each of the considerations, and am satisfied that the grant of the application is in the community interest.

With respect to harm that might be caused due to the excessive or inappropriate consumption of liquor, the licensee currently holds a packaged liquor sales licence which allows the licensee to sell liquor for consumption off. This authorises the retail sale of packaged liquor products in sealed containers, bottles or cans for consumption off the licensed area. The licensee has held this licence since 1996.

The current application before the Authority is for a general and hotel licence. The general and hotel licence will allow the licensee to continue to sell liquor in the same manner as their previous licence with the additional ability to sell liquor by way of consumption on.

Given the licensee's experience selling liquor for consumption off for many years from the premises, the locality of the licensed premises, and the trade proposed under the general and hotel licence, I am satisfied that the grant of the licence would be unlikely to cause harm due to the excessive or inappropriate consumption of liquor.

With respect to the cultural, recreational, employment or tourism impacts that the grant of the licence will have on the locality, the applicant has addressed this issue in their community impact statement. The applicant has also indicated that their expanded business will encompass a restaurant-type setup, with the ability to sell liquor for consumption off. I am satisfied that the grant of this application would have positive cultural, recreational, employment and tourism impacts on the locality. I am also satisfied that the grant of this application would have a positive social impact and a positive impact on the amenity of the locality of the premises.

For the reasons set out above, I am satisfied that the grant of the application is in the community interest.

I note that South Australia Police (SAPOL) does not oppose the application, and the authority has not received any submissions opposing the application.

Kangaroo Island Council does not oppose the application.

I do not consider that there is any other reason why I should refuse the application under the broad discretion available in section 53 of the Act.

On the material before me there is no reason to refuse the application pursuant to either section 53(1a) or section 53(1B) of the Act.

I am of the view that granting the application is in the community interest, the public interest, and is consistent with the objects of the Act.

Pursuant to section 57 of the Act, I am satisfied that the premises for which the licence is sought are of a sufficient standard for the purpose of carrying on business under the licence. Further, 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 of the premises and or to prejudice the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises.

Pursuant to section 72 of the Act, I am satisfied that the lessor has consented to the application.

Accordingly, the application for a general and hotel licence is granted.

Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzionis
Manager, Liquor & Gambling
05 Mar 2021