

Decision Notification

Application Details

Application no.	212399
Licence No.	57008342
Licence Class	General & Hotel
Premises Name	Otherness Wines
Premises Address	38-40 Murray Street Angaston SA 5353
Applicant	Otherness Wines Pty Ltd
Application Type	Application for a Liquor Licence
Representative	Vince Mascolo - Dentons Lawyers

Outcome

Decision	Granted
Effective Date	15 Dec 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

People

Position of Authority

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

- Robert Grant Dickson (108250)

Premises

New Premises

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

Capacity

The capacity of the venue is set at 100.

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Ben Allen of Wallmans Lawyers for Nuriootpa Vine Inn Hotel Motel Pty Ltd and Adrian Battiston of Ryan & Durey Lawyers for Hotel Angaston Pty Ltd & Barossa Brauhaus Pty Ltd

The submission by Ben Allen of Wallmans Lawyers for Nuriootpa Vine Inn Hotel Motel Pty Ltd has been withdrawn on the condition that the proposed conditions of the applicant are approved.

The submission by Adrian Battiston of Ryan & Durey Solicitors for Hotel Angaston Pty Ltd & Barossa Brauhaus Pty Ltd has been withdrawn provided that the below conditions shall be imposed on any licence to be granted to the Applicant

by the Licensing Authority:

1. The sale and supply of liquor for consumption off the licensed premises is restricted to three (3) bottles of liquor per person (except for the licensee's own product). The Licensee will not sell beer, cider, spirits or liqueurs for consumption off the premises. The sale of liquor for consumption off premises will be limited to wine.

2. Pursuant to section 43(1)(b) of the Liquor Licensing Act 1997, the licensing authority directs that section 32(d) of the Act does not apply to this licence, such that the licensee is prohibited from the sale and supply of liquor through direct sales transactions.

Community Impact Assessment

The application is a designated application for the purposes of section 53A of the Act.

I am satisfied that the granting of this application is in the community interest.

Conditions

The following conditions are added to the licence

- The sale and supply of liquor (except for the licensee's own product) for consumption off the licensed premises is restricted to three (3) bottles of liquor per person.
- The Licensee is not authorised to sell beer, cider, spirits or liqueurs for consumption off. Sale of liquor for consumption off is limited to wine.
- The Licensee is not authorised to sell liquor by direct sales transactions.

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	11:00 am to 5:00 pm	11:00 am to 5:00 pm
Tuesday	-	-
Wednesday	-	-
Thursday	11:00 am to 10:00 pm	11:00 am to 10:00 pm
Friday	11:00 am to 10:00 pm	11:00 am to 10:00 pm
Saturday	11:00 am to 10:00 pm	11:00 am to 10:00 pm
Sunday	11:00 am to 5:00 pm	11:00 am to 5:00 pm

Reasons for Decision

Otherness Wines Pty Ltd (the Applicant) has applied for a General and Hotel Licence in respect of premises situated at 38-40 Murray Street Angaston 5353 SA.

In order for this application to be granted I must be satisfied that the granting of the application is in the community interest. In making this determination, under section 53A(2) of the *Liquor Licensing Act 1997* (the Act), I must have regard to:

- the harm that might be caused (whether to a community as whole or a group within a community) due to the excessive or inappropriate consumption of liquor; and
- the cultural, recreational, employment or tourism impacts; and
- the social impact in, and the impact of the amenity of, the locality of the premises or proposed premises; and
- the nature of the business conducted or to be conducted under the licence (as prescribed).

I must also apply the Community Impact Assessment Guidelines (the Guidelines) when making a determination on the application. Importantly, the Guidelines state that: *“The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest and to provide relevant evidence and submissions to discharge this onus.”*

Pursuant to section 3(2) of the Act, when deciding whether or not to grant this application, I must have regard to the objects of the Act as set out in section 3(1) of the Act.

As part of the application, the Applicant has submitted a completed Community Impact Assessment Form as their community impact submission. It is the content of this form, as well as the application itself, that my decision is based on.

Nature of the Business

The proposed business is a small-scale wine bar experience and cellar door operating in the Barossa tourist region between 11:00AM and 5:00PM Sundays and Mondays, and 11:00AM to 10:00PM Thursday, Friday and Saturdays.

The Applicant has described the motivation behind the business. An old retail shop had become vacant after many years of operation. The site owner, a local family, wanted the site to be improved and made available again to the streetscape, catering to the local and tourist community. The shop rebuild is a modern weatherboard space replacing a now demolished and defunct “Cottage Industry” community retail shop. The aim is to connect to the community and streetscape through a business that will attract new local and external footfall on a wider scale.

Baking for wholesale and retail distribution will be the core offering. Whilst there will be a shopfront showcasing freshly baked products, it will be aligned to a wine bar and cellar door with a light tasting plate food offering. Local “cottage” producers will be selected to contribute to shelf space in the categories of seasonally available fresh herbs and vegetables, sauces, olive oil and preserves. Coffee and light breakfast food offering is envisaged over four days of the

week. A limited offering of local wine will be available, together with other beverages to complement the food offering. Baked bread and a “tapas” like food menu that embrace the Applicant’s skill set and local produce on a seasonal level will be offered.

There are a number of letters of support from local winemakers in the region. I note the owner and winemaker of Purple Hands Wines Pty Ltd writes that the Applicant Grant Dickson has provided invaluable support to the winemaking community through his international wine knowledge and believes the application will further cement the Barossa’s reputation as Australia’s premium wine tourist destination.

Potential Harm

The premises is located on the main street of the township of Angaston. The Applicant has identified the Angaston Primary School and a number of places of worship nearby, however submits that the grant of this application will not adversely affect the persons using the community facilities or buildings. The facility will operate for the early morning breakfast/coffee trade through lunch. It is envisaged that meals will be offered in the evening, accompanied by local wines, 3-4 nights per week (Thursday through to Saturday). Local wines, limited beers and spirits will be offered for those wishing to taste and accompany their meal. It is envisaged that it is to be a short term stay venue.

Further, the Applicant has been a member of the local hospitality community for many years and is held in high regard. The Responsible Person for the Applicant has worked in licensed venues over many years and understands the requirements for the responsible consumption of alcohol.

SAPOL have not objected to the application.

The Barossa Council have not objected to the application and have confirmed that the Applicant has “*obtained the necessary approvals for the use of the building, in which has been granted development approval, and is in accordance with the approved plans and conditions of approval*”.

Cultural, Recreational, Employment and Tourism Aspects

The proposed venue is located in the main street of Angaston, the well-known Barossa wine region. The Applicant submits that the township of Angaston does not currently have an offering as proposed in the area and aims to become a destination for tourists:

“The Applicant and other invited like-minded winemakers will align to deliver a casual quality option with meals, or an

occasional last afternoon wine tasting hosted by a rotation of local winemakers. The township of Angaston does not have an offering as proposed by the Applicant and we believe it will enhance the local community, firstly by a substantially improved physical building, and secondly, by expanding the offering of a local young aspiring Ancient Grains Baker we are mentoring in business.”

Social Impact and Amenity

There are currently two hotels (pubs) in the main street of Angaston, together with a number of licensed cafes and restaurants. All of the outlets are within 200 metres of the Applicant’s new facility. I am satisfied that the Applicant’s business will complement the community and other licensed venues. The business will be open over 3-4 evenings and will have no negative impact on those venue’s current trading hours.

Decision

I have considered and have had regard to the objects of the Act, as required by section 3(2) of the Act, in determining the application.

Harm minimisation is a key component of the community interest test, underpinned by the first object of the Act: *“to ensure the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor.”*

The Licensing Authority received submissions from the Nuriootpa Vine Inn Hotel Motel Pty Ltd, Hotel Angaston Pty Ltd and Barossa Brauhaus Pty Ltd, however each of the submissions were withdrawn on the basis that the Applicant agreed to the following condition:

“The sale and supply of liquor (except for the licensee’s own product) for consumption off the licensed premises is restricted to three (3) bottles of liquor per person. The Licensee will not sell take away beer cider, spirits nor liqueurs. Take away will be limited to wine.”

I have considered the harm that might be caused (whether to a community as a whole or a group within a community) due to the excessive or inappropriate consumption of liquor, and I am satisfied on the material before me that the risk of harm posed by the proposed licence is low, particularly given the nature of the business offering, the trading hours and that patrons are likely to consume liquor as part of a tasting experience or ancillary to a meal.

The proposed premises will provide employment opportunities, and it seems likely that some of these opportunities

would be for the benefit of members of the relevant community. I am also of the view that the premises will enhance the tourism experience of Angaston, and the Barossa region more broadly, due to the historical building and connection to local winemakers.

The Act requires an evaluative exercise that involves weighing the positive aspects of the proposed application with the negative aspects in order to determine whether granting the application is in the community interest. I am of the view that the community benefits are significant, with very little potential for harm or negative community impacts.

There is no reason why the application should be refused on the basis of the matters outlined in s 57 of the Act such as the suitability of the premises; the potential for the premises to cause undue offence, annoyance and the like to nearby workers, residents and worshipers in their vicinity; or prejudice to the safety or welfare of children attending nearby kindergartens and schools. The relevant consents and development approvals are in place to allow the Applicant to carry on the proposed business at the premises.

There is also no basis for refusing the application under the broad discretion available pursuant to section 53 of the Act. I am of the view that granting the application is in the public interest and will further the objects of the Act. I am also satisfied that granting the application is in the community interest.

For the reasons set out above, the application for a General and Hotel Licence is granted, subject to the following conditions:

1. The sale and supply of liquor (except for the licensee's own product) for consumption off the licensed premises is restricted to three (3) bottles of liquor per person.
2. The Licensee is not authorised to sell beer, cider, spirits or liqueurs for consumption off. Sale of liquor for consumption off is limited to wine.
3. The Licensee is not authorised to sell liquor by direct sales transactions.

Under Delegation from the Liquor and Gambling Commissioner



Zoe Thomas
Assistant Director, Licensing
15 Dec 2021