

Decision Notification

Application Details

Application no.	214920, 214921
Licence No.	57008457
Licence Class	General & Hotel
Premises Name	Hammer n Tongs Strathalbyn
Premises Address	39 Commercial Road Strathalbyn SA 5255
Applicant	VINEYARD MANAGEMENT SERVICES PTY LTD
Application Type	Application for a Liquor Licence, Application for Extension of Trading Area (S 69)
Representative	Ben Allen - Wallmans Lawyers

Outcome

Decision	Granted
Effective Date	18 May 2022

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:

- Maurice Peter Behan (73790)
- Emily Meg Behan (115496)

Premises

New Premises

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

Capacity

The capacity of the venue is set at 200.

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.

Community Impact Assessment

This application for a General and Hotel licence is a designated application under section 53A of the *Liquor Licensing Act 1997* (the "Act") and so may only be granted if the licensing authority is satisfied that the grant is in the community interest. In determining this application under section 53A(2) of the Act, I must have regard to:

- the harm that might be caused (whether to a community as a whole or a group within community) due to the

- excessive or inappropriate consumption of liquor;
- 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 am also required to apply the community impact assessment guidelines which state, *“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.”*

I will have regard to the application and supporting materials in making my determination.

Nature of the business

The applicant currently operates under a Liquor Production and Sales licence at the premises (which will be surrendered upon the grant of this application). They have been operating a Restaurant/Cafe under their Liquor Production and Sales licence at this premises since May 2020. They now seek a General and Hotel Licence to allow patrons the flexibility to consumer liquor while standing and provide a limited range of liquor for takeaway purchases, the majority of which will be sourced from local wineries.

The current food offerings will remain in place and entertainment will only be provided occasionally and will be low key, such as acoustic style duo's.

Potential harm

To define the locality the applicant has used the 5km radius as suggested in the guidelines. However they note that whilst the majority of customers will come from within this locality there will still be those that travel from further afield as well as an element of tourism trade.

The applicant has lodged an area and location report, obtained from the CBS Portal, which they conclude indicate that the community is not particularly "at-risk" from this proposed licensed venue.

The applicant identified a dry area in the locality as well as a number of educational, recreational and health facilities in the locality, including two drug/alcohol treatment facilities. They submit that the proposed licensed venue will not negatively impact these facilities.

In terms of harm minimisation they submit that the licensee will continue to comply with all relevant laws and regulations, such as training and having an approved responsible person present. The applicant also states that whilst trading under their current licence, they have not experienced any significant issues relating from alcohol-related harm.

The applicant wrote to a number of organisations, including SAPOL, local Council and a number of Government Departments and received no responses raising concerns with the application. They also conducted an in-store customer survey which did not attract any negative comments.

Social Impact and Amenity

The applicant has identified 4 existing General and Hotel licence holders in the locality as well as a BWS Liquor Store. The applicant submits that their proposal is very different from these existing venues, which offer 'commercial' ranges of takeaway liquor, gaming machines and TAB (none of which are proposed to be offered by the applicant), and therefore they will attract a different clientele.

Cultural, recreational, employment or tourism impacts

The business expects to continue employing approximately 10 full time staff. Other positive impacts identified by the applicant include the promotion of local wineries via tastings, flow on benefits to other businesses in the supply chain and greater choice and competition, which should appeal to the community.

They note that this business will be different to the traditional hotels in the locality, and different to other restaurants, creating a new style of venue for residents and visitors to attend.

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.
- The sale of liquor for consumption off is restricted to a maximum of 12 lines at any one time.

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
- 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	8:00 am to 10:00 pm	9:00 am to 10:00 pm
Tuesday	8:00 am to 10:00 pm	9:00 am to 10:00 pm
Wednesday	8:00 am to 10:00 pm	9:00 am to 10:00 pm
Thursday	8:00 am to 10:00 pm	9:00 am to 10:00 pm
Friday	8:00 am to 2:00 am the following day	9:00 am to 10:00 pm
Saturday	8:00 am to 2:00 am the following day	9:00 am to 10:00 pm
Sunday	8:00 am to 10:00 pm	9:00 am to 10:00 pm

Reasons for Decision

This is an unopposed application for a General and Hotel licence, which purports to be operated in a very different style from the other licences of this category already in the locality.

The premises already operates as a licensed premises, under a different licence class, and therefore the grant of this application is not adding an additional licensed venue to the locality.

I note that the applicant has provided information from the CBS Portal, as well as engaged in consultation with various stakeholders. The application has not attracted any objections from community bodies or industry groups.

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.”

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, given the nature of the business offering.

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 benefits to the community from the grant of this application outweigh any negative community impacts and that there is very little potential for harm.

There is no reason why the application should be refused on the basis of the matters outlined in s57 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 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 of liquor for consumption off is restricted to a maximum of 12 lines at any one time.

Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes
Hearings Delegate
18 May 2022