

Decision Notification

Application Details

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| Application no. | 214248 |
| Licence No. | 57104813 |
| Licence Class | On Premises |
| Premises Name | Lennys Lounge |
| Premises Address | Building E 7 Percy Street Mount Gambier SA 5290 |
| Applicant | N.M.F. Moretti Pty Ltd |
| Application Type | Application for a Liquor Licence |

Outcome

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| Decision | Conditional Grant |
| Effective Date | 25 Oct 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

Certificate

A certificate of approval is issued for the premises to be situated:

Building E 7 Percy Street
Mount Gambier SA 5290

The certificate is granted subject to the following conditions:

- The certificate shall lapse on 19 September 2023 if the premises are not completed by this date.
- The applicant must submit a copy of the Certificate of Occupancy at which time a further order will be made and the final approved plan and licence will be issued.

People

Position of Authority

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

- Nicholas Matthew Frank Moretti (140975)

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.

Reasons for Decision

N.M.F Moretti Pty Ltd (the Applicant) have applied to the Licensing Authority (the Authority) pursuant to section 33 of

the *Liquor Licensing Act 1997* (the Act) for an 'on premises' licence in respect a premises to be known as 'Lennys Lounge' and located at 7 Percy Street, Mount Gambier.

Section 33 of the Act provides that the holder of an on premises licence may sell alcohol for consumption on the licensed premises at any time:

33—On premises licence

Subject to this Act and the conditions of the licence, an on premises licence authorises the licensee to sell liquor at any time -

- (a) to a person on licensed premises for consumption on the licensed premises; and
- (b) to a resident on licensed premises for consumption on or off the licensed premises.

An application for an on premises licence is defined in s 53A of the Act as a 'designated application'.

As part of the application the Applicant has submitted a community impact submission. It is the content of this submission and supporting material, that my decision is based on, having considered the matters outlined below.

Pursuant to section 53A of the Act the Authority may only grant a designated application if it is satisfied that the grant of the application 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 a 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 on 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), 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."

The Guidelines generally impose an obligation upon an applicant to include with the application a community impact submission that, if relevant, is expected to address a range of matters, including: the applicant's products/services in terms of key features and potential customers; business/professional experience, in particular relevant knowledge, experience and competency in relation to the service of liquor; general description of facilities and services; relevant construction details (e.g. materials, finishes, acoustic treatment, etc.); details of any food, including menu; liquor services (e.g. bar) and range of liquor; types of entertainment; types of accommodation; a statement as to whether the community supports the proposed business, including providing evidence of such support; and a statement as to why the granting of the application is in the community interest.

Applicants are also required to provide, where applicable: a map and report regarding the locality generated through the Community Impact Portal; a business plan/plan of management; and a site or property plan, floor plan and/or photographs/artists impressions of the site/building.

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.

Section 3(1) of the Act provides that:

(1) The object of this Act is to regulate and control the promotion, sale, supply and consumption of liquor—

(a) to ensure that 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; and

(b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and

(c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and

(d) to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act.

(1a) For the purposes of subsection (1)(a), harm caused by the excessive or inappropriate consumption of liquor includes—

(a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and

(b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and

(c) the adverse effects on a person's health; and

(d) alcohol abuse or misuse; and

(e) domestic violence or anti-social behaviour, including causing personal injury and property damage.

The Applicant must also satisfy the Authority that the pre-requisites in s 57 of the Act have been met, in relation to such matters such as: the suitability of the premises; the potential for them to cause undue offence, annoyance disturbance or inconvenience to nearby residents, workers and worshippers in the vicinity; prejudice to the safety or welfare of children attending nearby kindergartens and schools in the vicinity of the premises; and whether the appropriate approvals, consents and exemptions, in respect of the proposed premises have been obtained.

Additionally, s 53 of the Act gives the authority "an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, the licensing authority considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application)", and s 53(1a) provides that the authority must refuse an application if it is satisfied that granting the application would be contrary to the public interest.

Section 53(1b) provides that the authority must refuse an application for a licence if it is satisfied that granting the application would be inconsistent with the objects of the Act.

Nature of the business

The Applicant submits that they are seek to create a high end bar, where people can come after work and have a drink before going out for dinner, or go for a drink after dinner to wind down before going home, offering craft beer, locally sourced wine, high end whiskey and cocktails.

The Applicant does not intend to provide food or entertainment at the venue and is not intending to include a dance floor, but may include a live music area in the outdoor under cover deck.

The proposed hours of operation will be:

- Thursday 2pm - 10pm
- Friday 12pm - 12am
- Saturday 11am - 1am
- Sunday 11am-10pm

The Applicant intends to have security guards at the entrance of the premises, and there will be only 1 entry/exit point which should make it easier to manage the entry and exit of patrons.

Potential Harm

The Applicant recognises that there are various alcohol-related harms associated with bars and nightlife, such as violence, conflict and disorderly behaviour, but submits that it will look to manage these by offering responsible service of alcohol to all patrons as well as having security staff who are well equipped in managing violence and patrons who cause it.

The Applicant acknowledges that Commercial Street is a Dry Zone, but submits that its proposed offering will not negatively impact on this given that alcohol will not be sold for consumption off.

The Council and SAPOL have not objected to the application, and there are no other objectors to the application.

I am satisfied that the proposed offering is relatively low risk in terms of the alcohol-related harms and that the Applicant will implement measures such as RSA and security staff to manage and mitigate the risk of harm.

I am satisfied that the proposed offering will result in some employment opportunities for those in the relevant local community, and will also stock products from and support some local producers and businesses.

In my opinion granting the application will have a positive impact on the amenity of the Locality.

I have considered and have had regard to the objects of the Act, as required by section 3(2) of the Act, in determining this application. I am of the view that the grant of this application is consistent with the expectations and aspirations of the public and will facilitate the responsible development of the licensed liquor industry and associated industries such as tourism and the hospitality industry.

I do not consider that there is any other reason why I should refuse the application under the broad discretion available

in s 53 of the Act, and make a specific finding that it is in the public interest to grant this application.

The onus is on the Applicant to satisfy the licensing authority that the grant of the application is in the community interest. On the basis of the information provided, together with the application, I am satisfied that the grant of this application is in the community interest.

Accordingly, under section 53A(1) of the Act the application is granted. but given the extent to which the proposed premises are uncompleted, I grant the Applicant a Certificate of Approval pursuant to section 59 of the Act, subject to the following conditions:

- 1) The Applicant shall notify the Authority within 7 days of any changes to the approved plans submitted with this application;
- 2) The applicant obtaining any necessary approvals for the fit out of the premises from the local Council (if required);
- 3) The Applicant must provide a copy of the Certificate of Occupancy to the Authority, prior to commencing trade from the premises;
- 4) On providing the Authority with a copy of the Certificate of Occupancy, the Authority will grant the Applicant an On Premises Licence in accordance with sections 33 and 59 of the Act;
- 5) The Certificate of Approval shall lapse on 19 September 2024 if the premises are not completed by this date (consistent with Development Application Number 22014739), or on such later date as approved by the Authority.

The following trading rights will be conferred if/ when the Certificate of Approval converts to an On Premises Licence:

1) Sale of liquor for consumption on the premises:

- Thursday 2pm - 10pm
- Friday 12pm – 12am
- Saturday 11am - 1am
- Sunday 11am-10pm

2) Capacity is set at 60.

3) The following persons are approved to occupy any position of authority in the entity holding the licence: Nicholas Moretti (140975).

The licensee shall notify the Liquor and Gambling Commissioner within seven days of any changes to the approved plans submitted with this application.

Under Delegation from the Liquor and Gambling Commissioner



Paul Bertram

Hearings Delegate

25 Oct 2022