

Decision Notification

Application Details

Application no.	205498, 205499, 205500
Licence No.	57213785
Licence Class	Club
Premises Name	Bellevue Heights Tennis Club
Premises Address	50 Sargent Parade Bellevue Heights SA 5050
Licensee	BELLEVUE HEIGHTS TENNIS CLUB INCORPORATED
Applicant	BELLEVUE HEIGHTS TENNIS CLUB INCORPORAT
Application Type	Application for a Liquor Licence, Application for Exemption\Responsible person, Application for the Approval of Profit Sharing Agreement

Outcome

Decision	Granted
Effective Date	10 Mar 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

Committee Members

I note the following persons are part of the committee of management of the club:

- Elizabeth Ronda Good (164984)
- Adrian Sykes (164985)
- Adam Marshall (164986)
- Badenoch Ben (164987)
- Jason Dohse (164988)
- Sean Turner (164989)
- Robyn Lange (164990)
- Robyn Baker (164991)
- Anne Pett (164992)
- Gregory Philip Thomas (164993)
- John Schneider (164994)
- Carl Hasenhor (164995)
- Alison Aitchison (164996)

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Vanessa Donaldson, Helen Marinis.

The submissions lodged by both parties are made on quite similar grounds so I will address them together.

Both residents raised in their submission their disappointment at receiving notice of the application, by way of letter, over the festive season, and prior to the application appearing on the CBS website. It is worth noting from the outset that notification to adjacent residents by way of a "letterbox drop" is not a requirement under the *Liquor Licensing Act 1997* (the Act). There is no requirement under the Act for applicant's to do so as part of the application process, and it appears the local Council have taken it upon themselves to send out a letter to adjacent residents on their own initiative, as there was no direction given by our office to do so.

Although the submissions lodged were in response to a letter provided by local Council, the application was still advertised through the required processes under the Act (i.e. on the CBS Website and by way of notice placed on the premises) and therefore the submissions lodged are still valid and I will consider them in accordance with section 77(5) of the Act.

Both submissions raise concerns regarding the noise and disturbance a licence at this premises will create for nearby residents. One submission also states that the club rooms will be used by entities other than the Tennis Club who currently use the facilities, creating a very big club at the premises. I note that I have undertaken searches to check whether any other licences are held at the oval adjacent to the tennis courts, and no permanent liquor licence is currently held at this premises, this licence will be the first. The Club licence will be held by the Bellevue Tennis Club Incorporated and only this association will be authorised to sell or supply liquor on the proposed premises.

The Act requires me to consider whether granting the application would result in undue offence, annoyance, disturbance or inconvenience to people who reside in the area, a prominent concern raised by both residents. The Licensing Court has discussed 'undue noise' on many occasions, with it being held that for the noise to be *undue* it must be excessive or beyond what is appropriate or natural, and that resident's should expect to tolerate a degree of disturbance or inconvenience in the interest of the community having access to a licensed premises. Applying the test in this scenario, I do not believe there is sufficient evidence to conclude that the granting of this application would cause undue noise to nearby residents. The applicant proposes to only licence the club rooms and not the actual tennis courts and, in line with comments from local council, will be restricted to 20 persons within the licensed area (i.e. the clubroom building). I do not consider the trading hours unreasonable either, with them concluding prior to midnight each night of the week.

I do not consider it unusual for a Club licence of this size to be located within a residential area and note that it is quite common to find licenses of this nature in these types of residential areas where parks and sporting facilities are located.

In relation to concerns raised in the submissions about potential issues regarding parking and having flood lights on at the premises into the evening, these are planning related matters and therefore, in accordance with section 77(3) of the Act I am not required to consider these points.

After considering the submission lodged I am of the opinion that the application should be granted as sought.

Premises

New Premises

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

Capacity

The capacity of the venue is set at 20.

Exemptions

The following exemptions are added to the licence

- Responsible Person

Conditions

The following conditions are added to the licence

- The exemption from the Responsible Person requirements is granted on the condition that a committee member must be present at all times they are trading under the licence.

Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption on the licensed premises authorised

Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	Midday to 10:30 pm	-
Tuesday	Midday to 10:30 pm	-
Wednesday	Midday to 10:30 pm	-
Thursday	Midday to 10:30 pm	-
Friday	Midday to 10:30 pm	-
Saturday	Midday to 11:30 pm	-
Sunday	11:00 am to 8:00 pm	-

Reasons for Decision

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

It is a requirement under section 97(1) of the Liquor Licensing Act 1997 (the Act) that premises must be personally supervised by a responsible person at all times that they are open to the public, however under section 97(2) of the Act the Commissioner may exempt a licensee from this requirement and approve alternative arrangements for the supervision and management of the business. An exemption can only be granted if the licensing authority is satisfied that, in view of the limited scope of a business conducted under a licence, an exemption would not compromise the principle of responsible service of alcohol and consumption of liquor.

The Club is only just being granted their liquor licence, and therefore have not traded in liquor in order to be able to produce data to the licensing authority demonstrating the limited scope of their business. However, as part of their application they did make the following submissions in support of their application for an exemption:

- They only intend to trade on the days of tennis competitions and club events, such as barbecues and presentation nights.
- At all of these events, several committee members will be present.

I note that the capacity of the premises is only 20 persons, which is quite low and in turn would pose a very low risk in relation to alcohol related incidents occurring at the premises. I also take into consideration that many other Clubs of

this size also have an exemption of this nature for this reason.

Having considered all of this, I am satisfied that, in view of the limited scope of the business conducted under the licence, an exemption from the responsible person requirements can be granted without compromising the principle of responsible service of alcohol and consumption of liquor.

The exemption will be granted on the condition that a committee member is present at all times they are trading under the licence, as outlined above.

I note that this exemption applies only to the requirement to have a responsible person present at all times, and that the licensee must still comply with the provisions of the General Code of Practice requiring all persons involved in the sale and supply of liquor to have completed approved responsible service of alcohol training.

Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes
Hearings Delegate
10 Mar 2021