

## Application Details

Licence No.	57316729
Licence Class	Restaurant & Catering
Application no.	200622
Premises Name	Chill Out
Premises Address	31 Albion Ave GLANDORE SA 5037
Applicant	Area Development Pty Ltd
Application Type	Application for a Liquor Licence
Representative	Andrew Wong - Lion Consulting

## Outcome

Decision	Granted
Effective Date	28 Apr 2020

## Procedural

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

## 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 and to receive proceeds of the business conducted under the licence:

- Craig William Lambert (161828)

## Licensee

I note that the applicant will hold the licence as trustee for Area Development Family Trust .

## Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Australian Hotels Association (SA)

### Grounds of Submission

The submission was made on the following grounds:

- Section 35(3) of the Act states that food must be provided by the licensee of the function. It is only in these circumstances that off licensed premises sale is permitted, otherwise the licensed premises means 31 Albion Ave Glandore.
- These are not 'prescribed circumstances' as set out in the Liquor Licensing (General) regulations 2012.

- The condition sought is contrary to section 35 and the licence must not be granted.
- The trading hours cannot be justified in any reasonable business model
- A mobile alcoholic 'slushie' business is not a proper business model for a liquor licence

The applicant has provided the following in response to the submission lodged by the AHA:

- There is a provision under section 35 of the Act, "except as otherwise allowed by a condition of the licence" and the Commissioner therefore has discretion to impose the condition.
- This condition appears on other current Restaurant and Catering licenses.
- The hours sought are to provide flexibility for booking events. There would not be one event that would run from 6am to midnight, but rather would allow the applicant to operate at breakfast functions, as well as functions such as weddings which run later into the night.
- The frozen 'slushie's' that will be sold will have no more alcohol content than the same product should it not be frozen and that due to the liquor being 'frozen' it would be difficult to consume the product quickly.

## Premises

### New Premises

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

## Conditions

The following conditions are added to the licence

- All containers of liquor are to be opened at the point of service.
- The licensee is exempt from the requirement to provide food at functions.

## Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption at the site of a function off the licensed premises authorised

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	6:00 am to Midnight	-
Tuesday	6:00 am to Midnight	-
Wednesday	6:00 am to Midnight	-
Thursday	6:00 am to Midnight	-
Friday	6:00 am to Midnight	-
Saturday	6:00 am to Midnight	-
Sunday	6:00 am to Midnight	-

## Reasons for Decision

I have considered the submission lodged by the AHA in respect to this application, however I do not agree with the statements they have made in their submission. The Commissioner has a discretion to impose conditions on the grant of a licence under section 43(2)(a) of the Act. Furthermore, there is a clear intention by Parliament that there be an

element of flexibility surrounding meals and food under section 35 of the Act with the inclusion of "except as otherwise allowed by a condition of the licence" in section 35(2) of the Act.

I do not believe that the imposition of this condition significantly alters the licence class nor varies it to such an extent that another licence class would be more appropriate. The restaurant and catering licence is the most appropriate licence class for this type of trade.

The applicant intends to operate a business that focuses on providing beverages at functions, rather than food. The applicant has stated that whilst they will be able to provide snacks at the functions, they will not have the capacity to cater for everyone at the events.

I do not believe that a business of this nature is contrary to the public interest and therefore am of the opinion that, in these circumstances, it is appropriate to exempt the applicant from the statutory requirement to provide food at functions which they operate at. The licensee will still be required to comply with all other requirements under section 35(3) of the Act, relating to booking of the function and keeping records. The site of the function will still, for the duration of the function, be considered to be part of the 'licensed premises' and therefore subject to all the statutory requirements relating to licensed premises, such as the provision of signage and having a responsible person present.

I also do not have any concerns with the proposed business being the sale of alcoholic 'slushies'. The idea of frozen cocktails is not new and is a common beverage seen in some licensed premises. I do not consider it to be significantly different to an ordinary cocktail, other than it being in frozen form.

With regards to the trading hours, I do not believe the hours sought are unreasonable for the proposed business model and will set the trading hours at 6am to midnight for each day of the week

## Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes  
Team Leader, Licensing and Registration  
28 Apr 2020