

Decision Notification

Application Details

Application no.	215743
Licence No.	57320168
Licence Class	Restaurant & Catering
Premises Name	BeWon Korean BBQ
Premises Address	180 Hutt Street Adelaide SA 5000
Applicant	Bewon BBQ Pty Ltd
Application Type	Application for a Liquor Licence
Representative	Andrew Wong - Andrew Wong - Lion Liquor Licensing Consultants

Outcome

Decision	Conditional Grant
Effective Date	28 Jun 2022

Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised

Certificate

The certificate is granted subject to the following conditions:

- The certificate shall lapse on 28 June 2023 if the premises are not completed by this date.
- The applicant must submit a copy of their Development Approval and, if applicable, a certificate of occupancy at which time a further order will be made and the final approved plan and licence will be issued.
- The certificate of approval must be converted to a licence prior to the applicant commencing trade at the premises.

People

Position of Authority

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

- You Ra Kim (160067)
- Hyogil Yang (172409)

Determination Details

Under section 81(1)(a) of the *Liquor Licensing Act 1997* (the Act) I exercise my discretion to determine this matter without holding a hearing.

Submission

A submission has been lodged against the application by the following persons, who oppose the grant of the application:

- Mrs Jennie Boisvert

- Mr Michael Butler
- Ms Louise Burselm
- Mr Dennis Braid

All of the persons above raised similar concerns in their submissions against the application. They can be summarised collectively as follows:

- There will be undue offence and annoyance to those residing on Corryton St due to the use of the rear door and the disposal of rubbish etc. from the back of the premises.
- There are no other late night venues in this section of Hutt Street.
- There will be increased cars parking in the area, affecting residents.

I exercised my absolute discretion under section 78 of the Act to invite the applicant to lodge a submission in response to the concerns raised. The applicant provided a submission and I have taken their response into consideration.

I note that one of the objectors provided a further response to the applicant's submission via email, however as I did not invite any further submissions under section 78 I did not view this response and therefore have not taken it into consideration.

Noise & Trading Hours

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.

The location of the premises and surrounding amenity is crucial when making this assessment. The Restaurant is located in the CBD amongst other commercial premises, including hospitality venues. The proposed trading hours seem quite appropriate for a Restaurant in this location, with liquor sales proposed to cease at either 10pm or 11pm. As the applicant notes, there are two other licensed premises in the immediate vicinity that can trade until 1am so I can not foresee a Restaurant trading to 11pm creating noise in excess of these other premises.

I also note that the applicant has stated that the rear door, which is of most concern, will not be kept open and will only be open at times it is in use.

Taking all these factors into consideration, I am not satisfied that it is likely the proposed premises will create a level offence or annoyance to those residing nearby that would meet the test of being 'undue', and therefore warrant me exercising my discretion to refuse the application on this ground.

Rubbish Disposal & Parking

I note that the Liquor and Gambling Commissioner is only responsible for regulating the sale and supply of liquor, the disposal of cans and bottles and car parking does not fall within the jurisdiction of the Commissioner and is a matter dealt with under the relevant planning and development laws. To avoid duplication and ensure compliance with section 11C of the Act we will not be regulating this matter.

In any event, the applicant has advised that as parking on Corryton St is permit parking, patrons will utilise the ample street parking on Hutt Street. They have also advised that they will ensure all rubbish will be removed from the premises prior to 9pm.

Decision

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

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

Reasons for Decision

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

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



Ashleigh Hughes
Hearings Delegate
28 Jun 2022