

# Decision Notification

## Application Details

|                           |  |
|---------------------------|--|
| Application no.           | 211154   |
| Licence No.               | 57608281   |
| Licence Class             | Liquor Production & Sales                        |
| Premises Name             | Bundalong  |
| Premises Address          | Level 15, 70 Franklin Street<br>ADELAIDE SA 5000 |
| Proposed Premises Address | 1 Pembroke Street<br>College Park SA 5069        |
| Licensee                  | Bundalong Pty Ltd                                |
| Application Type          | Application for Removal of Licence               |
| Representative            | Jonathan Dodd - Piper Alderman Lawyers           |

## Outcome

|                |             |
|----------------|-------------|
| Decision       | Granted     |
| Effective Date | 01 Nov 2021 |

## Procedural

I allow the applicant to vary their application as follows:

Under section 51(3) of the *Liquor Licensing Act 1997* (the Act), I allow the applicant to vary the proposed licensed area at 1 Pembroke Street, College Park.

## 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

## Premises

### Removal

The licence is removed to:  
1 Pembroke Street

College Park SA 5069

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

## Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Dr Michael Crouch

Dr Crouch has lodged a submission pursuant to section 77 of the Act opposing the grant of the application. I note that Mr Crouch failed to provide a copy of the submission to the applicant 7 days prior to the date appointed for determination in accordance with section 77(4) of the Act. However, Mr Crouch did provide a copy to the applicant prior

to the determination date.

In summary, Dr Crouch's grounds for opposing the application were as follows:

- Inadequate car parking
- Availability of toilet facilities at the proposed premises
- To grant a licence at the proposed address would adversely affect residential property values
- The existing land use code is residential
- Public safety as a school is within short distance

In relation to the concerns raised in the submission about potential car parking and toilet issues at the premises, these are planning related matters and therefore, in accordance with section 77(3) of the Act, I am not required to consider these issues. In addition to this, I am not required by the Act to consider property values.

I note that the applicant has provided the relevant planning approvals for the proposed premises. The planning approval restricts the applicant to conduct business within the scope of a home activity as defined in the *Planning Development and Infrastructure Act 2016*.

I therefore do not have any safety or welfare concerns under section 77(f)(ii) of the Act, for children attending kindergarten or school within the area.

I note that Dr Crouch withdrew his submission to the application on 11 October 2021.

## 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.

I note that the licensee currently has an exemption from this requirement.

As part of the application, I have reviewed this exemption and asked the applicant to provide a submission as to why the exemption should remain on the licence.

The applicant has supplied a short submission, in summary the licensed premises is to be contained within a home office and the public will not be attending the premises for the purpose of the consumption of liquor. I am satisfied that the licensee has approval to use the premises as a home activity as defined in the *Planning Development and Infrastructure Act 2016*.

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 remain on the licence, on the condition that a licensee must be contactable by phone at all times the premises is open for trade.

## Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson  
Hearings Delegate

01 Nov 2021

