

# Decision Notification

## Application Details

Application no.	215191, 215193
Licence No.	57214016
Licence Class	Club
Premises Name	Pasadena Tennis Club Incorporated
Premises Address	Naomi Reserve Naomi Terrace Pasadena SA 5042
Applicant	Pasadena Tennis Club Incorporated
Application Type	Application for a Liquor Licence, Application for Exemption\Responsible person

## Outcome

Decision	Granted
Effective Date	30 May 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

## People

### Committee Members

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

- Dianne Rattray (171938)
- Sweet Marie Anne (171939)
- Julie Quist (171940)
- Susanne Cronin (171941)
- John Arthur Smith (171943)
- Douglas Thomas Wallace (171944)
- Roger Sydney Rose (172340)

## Premises

### New Premises

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

### Capacity

The capacity of the venue is set at 50.

## Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Ms Karon Zajicek

I exercise my discretion under section 81(1)(a) of the Act to determine this matter without holding a hearing.

I note that Ms Zajicek did not lodge her submission within the 7 days required under section 77(1) of the Act, however after providing reasons why it was lodged late I exercised my discretion under section 77(1) of the Act to allow lodgement within a lesser period.

In her submission, Ms Zajicek raised a number of concerns with the proposed application which can be summarised as follows:

- The premises is part of a shared area comprising the club rooms, 3 tennis courts, playground and grassed area and there is direct access to the reserve from the Parks Lifestyle Village.
- The club rooms are located adjacent to the play equipment and within the "play area" which is frequented by young children.
- The neighborhood is rejuvenating with more families moving into the area with children. The reserve is therefore being utilised more by children and demand will continue to increase with more families moving into the area.

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 verandah area, and, in line with comments from local council, will be restricted to 50 persons within the licensed area. I do not consider the trading hours unreasonable either, with them only wishing to trade in liquor one day a week, and only until 9:30pm.

I am also required to ensure that the sale and supply of liquor under this proposed licence minimises harm and potential harm to those in the community, including children. I note that Ms Zajicek raises the presence of young children in the area in her submission. I don't believe the nature of the Club and proposed licence poses a risk to the children in the area. The licensed area does not extend into the playground or grassed area where children may be present. Further, the licence is only sought for a short period of time once a week with the potential for only a maximum of 50 people at any time. 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.

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

## 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 is present any time the premises are open and 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	-	-
Tuesday	-	-
Wednesday	-	-
Thursday	-	-
Friday	-	-
Saturday	4:00 pm to 9:30 pm	-
Sunday	-	-

## Reasons for Decision

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 licensee of the Pasadena Tennis Club Incorporated has applied for an exemption from this requirement.

The applicant has submitted the following reasons why they should be granted an exemption:

We are a small tennis club with some 28 members using 3 tennis courts for social tennis on Saturday afternoons. The majority of members are over 60 years of age and are responsible persons. About a third of the members are retired university academics (professors, doctors and lecturers), a further third are retired planners and the remaining third are made up of mostly retired long standing members. There are no junior members or member under the age of 18 years. The club was formed in the 1960's by the local community association and has been an integral part of the community since. The licence will be utilised for the consumption of alcohol for a limited period of time after Saturday social tennis usually from 4:00 p.m. to 5:00 p.m. but occasionally up to 9:30 p.m. during special occasions when a BBQ is held i.e. Christmas BBQ, start or end of summer season. At all times the consumption of alcohol will be under the control of a member of the committee. As we are a small club it would be onerous and expensive to have all members of the committee to be approved as Responsible Persons.

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. When granting this exemption I must approve alternative arrangements for the supervision and management of the business, I therefore impose the condition that a committee member must be present at all times the premises are open and trading under the licence.

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  
30 May 2022