

# Decision Notification

## Application Details

Application no.	206988
Licence No.	57604986
Licence Class	Liquor Production & Sales
Premises Name	Two Hands Wines Pty Ltd
Premises Address	Lot 1 Neldner Road MARANANGA SA 5355
Licensee	Two Hands Wines Pty Ltd
Application Type	Variation to Conditions (Upgrade)

## Outcome

Decision	Granted
Effective Date	21 Apr 2021

## Exemptions

The following exemptions are removed from the licence

- Responsible Person

## Conditions

The following conditions are removed from the licence

- The provision of samples of liquor shall be supervised at all times.

## Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption on the licensed premises authorised

The following authorisations/restrictions are removed from the licence

- Sale of liquor for consumption on the licensed premises authorised, but restricted to sampling only

## Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	10:00 am to 10:00 pm	-
Tuesday	10:00 am to 10:00 pm	-
Wednesday	10:00 am to 10:00 pm	-
Thursday	10:00 am to 10:00 pm	-
Friday	10:00 am to 10:00 pm	-
Saturday	10:00 am to 10:00 pm	-
Sunday	10:00 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*.

Prior to this application, the licensee was restricted to sampling only in relation to how they could sell or supply liquor for consumption on the licensed premises. They also had an exemption on their licence from the requirement to have a responsible person present on the licensed premises at all times they are open to the public.

As part of this application they now seek to be able to sell and supply liquor for consumption on the licensed premises, under section 39 of the Act, without restriction, this means that they can sell and supply:

- Their product for consumption on (in any quantity); and
- Their product, and other liquor of the same type for the purposes of comparison, by way of sample; and
- Any liquor for consumption with a meal they have provided; and
- Any liquor for consumption at a function at which food is being provided; and
- Any liquor for consumption to a person who is seated at a table

This is a significant alteration to the way they can trade, and it is therefore prudent to review whether the exemption from the responsible person requirements is still appropriate in the circumstances. I note that the licensee was advised that this review would be occurring and provided an opportunity to make submissions as to why the exemption should remain. A brief explanation of how they intend to trade under these new conditions was provided.

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.

To allow the continuation of the exemption, I must be satisfied that the business conducted under the licence is of a limited scope. The premises is a winery with a cellar door open to the public. It is therefore quite evident that liquor, more specifically wine, is their primary and predominant purpose. Whilst previously they were only able to provide samples, they will now be permitted to provide liquor in larger quantities and in more circumstances. It is reasonable to draw the conclusion that this increase in trading rights will lead to patrons consuming more liquor on the premises than previously, which in turn increases the risk in relation to alcohol related incidents and harm on the premises.

As a result of this change I can no longer conclude that the business conducted under the licence (being the sale and supply of liquor) is of a limited scope. For this reason, the exemption is removed from the licence as part of this variation. Therefore, at all times the premises are open to the public the licensee must ensure that a responsible person, or person approved in a position of authority in the licensee entity, are present to supervise and manage the business.

## Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes  
Hearings Delegate  
21 Apr 2021