

Decision Notification

Application Details

Application no.	210050, 210051
Licence No.	57613406
Licence Class	Liquor Production & Sales
Premises Name	Brothers at War
Premises Address	16 Gramp Avenue ANGASTON SA 5353
Proposed Premises Address	58 Murray Street TANUNDA SA 5352
Licensee	Wardcar Co Pty Ltd
Application Type	Application for Removal of Licence, Variation to Conditions (Upgrade)

Outcome

Decision	Granted
Effective Date	18 Aug 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 amend the plan lodged with the application. The proposed licensed area on the amended plan is smaller in size than that initially sought.

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:

58 Murray Street
TANUNDA SA 5352.

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

Capacity

The capacity of the venue is set at 40.

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

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 cellar door open to the public. It is therefore quite evident that liquor, in this case 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 than previously permitted under the licence, 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



Jane Widdowson
Hearings Delegate
18 Aug 2021