

Decision Notification

Application Details

Application no.	208928, 208931, 208932
Licence No.	57619559
Licence Class	Liquor Production & Sales
Premises Name	Tynbery Beverage Co Pty Ltd
Premises Address	Unit 1, 2 Warwick Street Westbourne Park SA 5041
Applicant	Tynbery Beverage Co Pty Ltd
Application Type	Application for a Liquor Licence, Application for Exemption\Responsible person, Application for up to five endorsements

Outcome

Decision	Granted
Effective Date	18 Aug 2021

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

Position of Authority

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

- Scot William Tyndall (167444)
- Benjamin Andrew Ford Newbery (167445)
- Andrew Colin Ford Newbery (111282)

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Commissioner of Police

Under section 76 of the *Liquor Licensing Act 1997*, (the Act) the Commissioner of Police has made written submissions against the application. The grounds for the written submissions are made under section 77(2)(a) of the Act, that to grant the application would be contrary to the Act in some other way. The Commissioner of Police in the submission has noted that as at 29 June 2021, the applicant had not satisfied the licensing authority of the requirements under section 57(2) of the Act and that to grant the application would be contrary to the Act.

In addition to this the Commissioner of Police has noted that should the applicant satisfy section 57(2) of the Act, the Licensing Authority should under section 11C of the Act take reasonable steps to avoid inconsistency with matters that are dealt with or addressed under the Planning, Development and Infrastructure Act 2016.

I note that on the 20 July 2021, the applicant provided correspondence from council that has satisfied the licensing

authority of the requirements under section 57(2) of the Act.

Exemptions

The following exemptions are added to the licence

- Responsible Person

Conditions

The following conditions are added to the licence

- The licence authorises the sale of liquor produced by the licensee either personally or under contract. Details of all contracts entered into must be available for inspection by an authorised officer.
- The licensee is authorised to sell or supply the licensee's product for consumption on and off the site of the event endorsement(s) as specified on this licence.
- The licensee is authorised to despatch liquor from premises other than the licensed premises. Details of despatch sites must be made available for inspection by an authorised officer.
- The exemption from the Responsible Person requirements is granted on the condition that a Responsible Person must be present at Production and Sales Event Endorsements.
- The licensee shall not, as part of, or in connection with, the business authorised by this licence, invite or admit prospective purchasers of liquor to any premises or place at which liquor is displayed or stored by the licensee.

Premises

New Premises

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

Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor restricted to the licensee's own product by direct sales transactions only
- Endorsements apply
- Sale of liquor for consumption at a site endorsed on the licence is authorised, but restricted to sampling only.

Endorsements

I note that the licensee must comply with all other restrictions on their licence, such as capacity and trading hours, when operating under the endorsement(s) below.

The following endorsements are added to the licence

- Approved Markets

Annual Fees

Noting the restricted trade authorised by this licence, I reduce the annual fees payable under this licence, on an ongoing basis, to align with the annual fees for a category 1 liquor production and sales licence.

Reasons for Decision

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

I am satisfied that the event would not be better authorised by an application for a short term licence or a licence of another category.

As the applicant has advised the licensing authority there will be no access to the proposed premises by the general public and that all sales from the proposed premises will occur on line only, I will impose the following conditions/authorisations on the licence:

- sale of liquor restricted to licensee's own product and by direct sales transactions only
- The licensee shall not, as part of, or in connection with, the business authorised by this licence, invite or admit prospective purchasers of liquor to any premises or place at which liquor is displayed or stored by the licensee

It is a requirement under section 97(1) of 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 applicant has applied for an exemption from this requirement.

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

The premise will not be open to the public for the sale of alcohol, nor will it be used as a tasting room for the public. The requirement of this licence is to be able to sell alcohol to the wholesale and retail trade as well as online sales to private customers.

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.

The exemption from the Responsible Person requirements is granted on the condition that a Responsible Person must be present at Production and Sales Event Endorsements.

Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson
Hearings Delegate
18 Aug 2021