

LICENSING COURT OF SOUTH AUSTRALIA

ADELAIDE OVAL SMA LIMITED

JURISDICTION: Application for Redefinition of Licensed Premises pursuant to the *Liquor Licensing Act 1997*

FILE NO: 1694 of 2018

HEARING DATE: 7 and 8 August 2018

JUDGMENT OF: His Honour Deputy President Judge Gilchrist

DELIVERED ON: 30 August 2018

CATCHWORDS:

*Application for redefinition of licensed premises - Redefined licensed premises to include the areas external to the south, east and north gates of the Adelaide Oval - Relevant place is under the control of the Adelaide Council - Application is approved by council but objected to by residents in North Adelaide - Whether allowing the removal would cause undue annoyance, disturbance or inconvenience to persons who reside in the vicinity of the proposed premises - **Held** that the proposed extension will not cause an increase in the existing annoyance, disturbance and inconvenience to these residents - Whether in the exercise of the court's discretion the extension of the licence should be granted - **Held** that the public interest does not require the refusal of the application - Ss 3, 53 and 68 Liquor Licensing Act 1997 - Ss 4 and 7 Adelaide Oval Redevelopment Act 2011*

REPRESENTATION:

Counsel:

Applicant: Mr M Roder SC

Intervener: Mr Kelly

Respondent Objectors: Dr D Ness, representing himself
Mr C Irwin, representing himself
Mr J Bridgland, representing himself

Solicitors:

Applicant: Minter Ellison

Intervener: Norman Waterhouse

Respondent Objectors: N/A

- 1 This is an application for redefinition of licensed premises conducted under a special circumstances licence and to amend the conditions of the licence. The applicant is Adelaide Oval SMA Limited (SMA). The proposed redefinition seeks to extend the current licensed area in the external area to an area in the south-eastern and eastern side of the Adelaide Oval (the Oval) and another area adjacent to the North Gate.
- 2 An application for redefinition must satisfy the requirements of s 68 of the *Liquor Licensing Act 1997 (LL Act)*. The terms of s 68 are relevantly as follows:
 - (1) The licensing authority may, on the application of a licensee-
 - (a) approve an alteration or proposed alteration to the licensed premises;
 - (b) redefine the licensed premises as defined in the licence;
 - (c) designate a part of licensed premises as a dining area or a reception area
 - (2) An application for approval of an alteration to licensed premises must not be granted unless the licensing authority is satisfied that all other approvals, consents or exemptions required by law have been obtained.
- 3 The applicant must also satisfy the Court that the application warrants the favourable exercise of the discretion provided for by s 53 of the *LL Act*. That discretion must be exercised having regard to the objects in s 3 of the *LL Act*. In this case s 3(b), (c), (d) and (f) are particularly relevant. They provide as follows:
 - (b) to further the interests of the liquor industry and industries with which it is closely associated—such as the live music industry, tourism and the hospitality industry—within the context of appropriate regulation and controls; and
 - (c) to ensure that the liquor industry develops in a way that is consistent with the needs and aspirations of the community; and
 - (d) to ensure as far as practicable that the sale and supply of liquor contributes to, and does not detract from, the amenity of community life; and
 - ...
 - (f) to ensure that the sale and supply of liquor occurs in such a manner as to minimise the risk of intoxication and associated violent or anti-social behaviour including property damage and causing personal injury.

- 4 Section 53 also requires the Court to have regard to the public interest.
- 5 The application in its original form was for a larger area and it contemplated trading for longer hours than was later the case. In its initial form, it drew over 100 objections. Over the course of various directions hearings the application was significantly modified and various conditions were agreed to. These changes appeased a large number of the objectors.
- 6 The application now before the Court proposes that the area in the south-eastern and eastern side of the Oval will have a capacity of 500 persons and will cease to trade when an event ceases at the Oval and in any case no later than 11.00pm. It is proposed that the area adjacent to the North Gate will have a capacity of 300 persons and will cease to trade when an event ceases at the Oval and in any case no later than 10.00pm. It is proposed that the northern area when operating will be boarded by temporary fencing to be erected and removed on the same day. In the case of both areas the sale and consumption of liquor will not be permitted more than two hours before an event at the Oval other than on the Southern Plaza, there shall be no outdoor amplified music after 11.00pm. Amplified music on the Southern Plaza shall conclude by no later than 2.00am. It is proposed that when these areas are trading under the licence that there will be a minimum of one responsible person in each area there will be signage indicating points of ingress and egress and which stipulate that sale of liquor to minors is prohibited.
- 7 At the conclusion of submissions I informed the parties that I had reached a very firm conclusion in relation to the eastern and southern areas. I was in no doubt that the court should grant the application in respect of those areas. I was not sure as to whether the application should be granted in connection with the northern area. Accordingly, I made an order on an interim basis pursuant to s 53(2a)(a) of the *LL Act* to grant the redefinition in connection with the southern areas and the eastern areas and I reserved my decision in connection with the northern area.
- 8 The Oval is an iconic sporting venue that was established over a hundred years ago. It is situated in the parklands, within walking distance to the Adelaide CBD to the south and residential areas in North Adelaide to the north.
- 9 Following an agreement with the Australian Football League to conduct AFL football matches at the Oval, a partnership was brokered between the South Australian National Football League (SANFL) and the South Australian Cricket Association (SACA), the Stadium Management Authority was formed, and the *Adelaide Oval Redevelopment Act 2011* (the *AOR Act*) was enacted. This resulted in the Oval being substantially redeveloped. It is currently a major hub of sporting and entertainment events, capable of seating more than 50,000 patrons.

- 10 The parklands are owned by the Adelaide City Council (the Council). Pursuant to s 4(1) of the *AOR Act* the Council was, if requested by the Minister for Transport and Infrastructure, obliged to lease to the Minister all of the Adelaide Oval Core Area, or any part of that area specified by the Minister. The Minister made that request in respect of all of the Adelaide Oval Core Area and a lease for the area was executed on 17 November 2011.
- 11 The Core Area is defined in the *AOR Act* as meaning any land constituting or within:
 - (a) Section 1726, Hundred of Yatala; and
 - (b) the Eastern Grandstand Area; and
 - (c) the Southern Area; and
 - (d) the Northern Area; and
 - (e) the land referred to in section 14;
- 12 The Eastern Grandstand Area, Southern Area and the Northern Area are defined by reference to a schedule in the *AOR Act*. The reference to the land referred to in s 14 is a reference to Victor Richardson Road, North Adelaide.
- 13 The Eastern Grandstand Area comprises of the bituminised area outside the eastern grandstand. The Southern Area includes the bituminised and paved area outside the southern grandstand extending to the external walls of the tennis stand to the west and to the kerb of War Memorial Drive to the south east. The Northern Area comprises of a small rectangular bituminised area north of the northern wall of the Oval adjacent to the Bob Quinn Gates.
- 14 Pursuant to s 7(1) of the *AOR Act* the Council was, if requested by the Minister obliged to grant a licence to the Minister over all of the Adelaide Oval Licence Area, or any part of that area specified by the Minister. The Minister made that request in respect of all of the Adelaide Oval Licensed Area and a licence agreement was executed for that area on 17 November 2011.
- 15 The Adelaide Oval Licence Area is defined in the *AOR Act* as meaning any land constituting or within section 1626, Hundred of Yatala other than:
 - (a) land within the Adelaide Oval Core Area; or
 - (b) land that is laid out (on the commencement of this Act) as Light's Vision on the corner of Pennington Terrace and Montefiore Road, North Adelaide; or

- (c) land that, immediately before the commencement of this Act, constitutes the Creswell Gardens or the Pennington Gardens West; or
 - (d) land that, immediately before the commencement of this Act, is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc.
- 16 The Minister in turn entered into sub-lease and sub-licence agreements over these areas with the SMA resulting in further agreements with the SANFL and the SACA.
- 17 All of the proposed redefined areas in relation to the south-eastern and eastern side is within the existing Adelaide Oval Core Leased Area. For the proposed redefined area external to the North Gate, about a third of it is in the existing leased area and the balance of about two-thirds is in an area that is the subject of the licence agreement.
- 18 While the Adelaide City Council and relevant Minister have approved this application, a number of residents from North Adelaide remained as objectors of which three provided written submissions and evidence, they being Mr John Bridgland, Dr David Ness and Mr Charles Irwin. Dr Ness and Mr Irwin also made oral submissions.

The applicant's case

- 19 The applicant's case comprised of a book of tender documents, an acoustic report from Mr Christopher Turnbull and the oral evidence of the SMA's General Manager of Hospitality, Mr Adam Vonthehoff.
- 20 The book of tender documents included copies of the various leases, sub-leases, licence agreements and sub-licence agreements, the Community Land Management Plan for Park 26 Tarntanya Wama, being the area where the Oval and surrounds are situate. The Community land Management Plan expressly contemplates that the Oval and its precincts would be used for hosting large sporting events.
- 21 The tender book also contained various agendas and minutes of meetings conducted by the Council together with various agendas and minutes of meetings conducted by the Adelaide Parks Authority. These indicate support for the within application.
- 22 Mr Turnbull is an acoustic engineer. His brief was to carry out tests to determine whether the grant of this application would increase the noise impacts from the Adelaide Oval, and if so whether any such increase was unreasonable by reference to accepted standards.

- 23 Mr Turnbull carried out his assessment on 22 June 2018, during a night AFL game between Port Adelaide and Melbourne at which about 40,000 patrons attended. Unsurprisingly, his measurements revealed that the acoustic environment within the environs of the Oval was dominated by activities associated with the game, such as cheering, a continuous background sound of voices and occasional higher noise from public address announcements. By reference to the two nearest residences to the Oval it was his opinion that any additional noise associated with the SMA's proposal would make no noticeable difference.
- 24 Mr Vonthehoff is responsible for the operations, food and beverage at the Oval. He said that on a major event day the Oval operates around 30 bars, employing between 800 and 1000 food and beverage employees. He said that every food and beverage employee is required to complete a responsible service of alcohol certificate. In addition to the code of practice issued by the Commissioner for Liquor and Gambling, the SMA's staff are trained in its own alcohol management plan that was formulated with input from a number of sources, including the Liquor Enforcement Branch of SA Police. It is an impressive document.
- 25 Mr Vonthehoff said that in connection with the conduct of licensed events at the Oval no issues had been reported to him by SAPOL's Liquor Enforcement Branch.
- 26 He said that liquor was more expensive at the Oval than it is at the nearby hotels.
- 27 He said that over the course of a year, if this application was granted, the outside areas would be used about 33 times. These would be in connection with AFL football matches, some cricket matches, and a couple of concerts and the like.
- 28 In relation to the conduct of non-football or cricket events, he said it was SMA's practice to do a letterbox drop to surrounding residents to give notice of the upcoming event. In relation to the proposed northern area, he said that it was intended for the bar to comprise of a mobile van and that the licensed area would be cordoned off by a tension barriers. He said that in the past this area had been licensed under a limited licence and that it had a capacity for 300 patrons. He said that it was used as a meeting place for people before an event and a place for patrons to go during an event to perhaps have a cigarette. He said that on the 30 or so times it operated, no noise or behavioural issues had been reported to him. He said the same was true of the occasions when the bar on eastern side of the Oval outside of the Eastern Grandstand was operational.
- 29 Mr Vonthehoff said that the SMA, in pursuing this application, was not motivated by and did not expect a huge economic benefit from operating

the bars that are the subject of the application. He said that its purpose was to provide a service to its patrons. He expected that the bars would be used more during cricket matches than otherwise because of the nature of that game. He said that in light of the more expensive liquor on offer at the Oval compared to nearby hotels, he did not anticipate that these outdoor bars would attract persons who were not already attending a function at the Oval. He said that in any event, it is intended to limit patronage to these venues to persons who have a ticket or pass out. He said that both areas will have licensed security guards at the entrance while the bars are in operation. He said that these security guards will have two-way communication and will supported by 60 to 100 security guards that would be on duty for any event that level.

- 30 He spoke of conciliation and discussion with objectors, and there expression of concern that the initial proposed area in the north was too large. He said that the original intent of why that area was applied for was because it provided some natural boundary for where the liquor licence boundary might go. Having taken on board the expressions of concern the proposal was scaled back.

Residential objectors

Mr John Bridgland

- 31 Mr Bridgland lives in Ward Street, North Adelaide. In his written objection, he outlined that under existing conditions. He said that the noise coming from events held at Adelaide Oval is easily audible several kilometres north. He said that he is able to hear the public address system communications when sporting and entertainment events occur throughout the day and night. He said that some amplification systems are so loud they can be heard in his house even with the windows and doors closed.
- 32 He stated that an approval of this proposed extension will increase the level of undue disturbance and annoyance for the adjacent residential community, thus also affecting the amenity of the area. Furthermore, he said that it is unclear to the community how often in a year gatherings will be held at the relevant areas outside the north, south and east gates, thus making it even more unpredictable.
- 33 Mr Bridgland further highlighted that this application should not be seen as a minor change but rather, as part of a long-term SMA plan for a major expansion of the external use of the parklands surrounding the Adelaide Oval Core Area, particularly on the north side. He said that Agendas from the Adelaide Park Lands Authority in June 2017 show that the SMA intends to hold concerts or events in the northern car park area. He contended that the approval of this application may well result in a

subsequent application to extend the relevant area further in line with the plan revealed in that Agenda.

- 34 He said that the Community Land Management Plan clearly states that it does not contemplate any activity outside the Oval Core Area, other than car parking. He said that temporary fencing of this area and restricting entry only via tickets are not authorised in the Community Land Management Plan.
- 35 Mr Bridgland submitted that this application is not in line with the “spirit and intent” of an agreement made five years ago when the SMA’s Chief Executive Officer, Mr Andrew Daniels, assured the North Adelaide community meeting that the Oval’s design was focused on noise-associated activity in the south. He said that in 2011, the SMA in its initial application for a special circumstances licence evinced an intention to trade in liquor 24 hours, seven days a week. He said that public consultation resulted in the SMA agreeing that sport or entertainment activity inside the Oval would cease at 11.00pm or earlier and that noise would be directed south.
- 36 He stated that the SMA has since applied for limited licences which allowed the gathering of Oval attendees outside the northern gates to drink alcohol on parklands. He said that this was done without letterbox notification to the adjacent community, despite a requirement under the licence agreement for such notifications. He said that in connection with the within application, notice was limited to a tiny classified advertisement in a local newspaper such that many local families had no knowledge of the advertisement and the application.

Dr David Ness

- 37 Dr Ness considered himself an expert witness due to his Master’s level qualifications in Urban and Regional Planning, his PhD, his former experience in arranging approvals of all State Government projects, and his lecturing on planning and building legislation.
- 38 In his written objection, he stated that the proposal is contrary to the Community Plan Management Plan and to the Adelaide Parklands Events Management Plan 2016-2020. He said that any changes to those plans required a proper community consultation which he said had not occurred, such that it was premature for Council to have approved the application.
- 39 Dr Ness stressed that the Council had failed to undertake proper community consultation or follow due process. He said that under the Community and Land Management Plan, the Council was required to “take an inclusive and consultative approach with the local community to even planning”. He said that contrary to this, the Council undertook no more than a limited “targeted consultation” which failed to respect the

rights of objectors, such as himself. He said by way of example that he was not notified of a conciliation hearing held with the Liquor and Gambling Commissioner on 27 November 2017 in connection with this application.

- 40 He submitted that the relevant area is still within parklands which should be available for public use, and to cordon off areas such as being described would prevent the general public from using some of the parklands.
- 41 In his oral submissions, Dr Ness submitted that it was unnecessary to have an additional area outside Adelaide Oval to sell alcohol when there are at least six pre-existing public outlets that sell alcohol in the immediate vicinity of the Oval.
- 42 Dr Ness submitted that the granting of a licence to allow the sale of alcohol is contrary to the Dry Area intentions and the Council's own Liquor Licensing Policy, which recognises the need "in creating public space that are welcoming and safe." He said that alcohol can have adverse effects on our community, including assaults, injuries, property damage and other forms of anti-social or illegal behaviour. He said that intoxicated people can negatively affect the amenity of an area through increased litter, spillage of bodily fluids and reduced perceptions of safety.

Mr Charles Irwin

- 43 Mr Irwin resides in Brougham Place, North Adelaide. He is one of the parties specifically mentioned in the condition of the SMA's current special circumstances licence.
- 44 In his written objection, Mr Irwin outlined in detail the adverse effect on both amenity and convenience that residents currently face. This includes loud invasive noise, light spillage after 11.00pm, parking constraints, traffic restrictions and the anti-social behaviour by drunk patrons arriving or leaving the Oval.
- 45 He objected to the approval of this application on the basis that these problems would be further exacerbated by an increase in patronage, particularly intoxicated patrons, with the additional service of alcohol outside the Oval's North Gate.
- 46 Mr Irwin highlighted that there are already sufficient hotels in the area which adequately cater the serving of alcohol. He said that The Queens Head and Cathedral Hotels are within a five minute walk of the Oval's North Gate, and there are numerous more within a ten to fifteen minute walk in North Adelaide.
- 47 Mr Irwin also objected to SMA's conduct throughout the proceedings. He said that it convened public meetings at inconvenient times with little

notice. He said that the SMA has sought over 20 temporary licences to sell alcohol outside the Oval's North Gate over the past five years, in contravention of condition 20 of the current licence. That condition provides:

The Licensee shall not use its off premise trading rights pursuant to this licence for the sale or consumption of liquor in that part of the northern parklands delineated in red on the attached plan marked "A".

- 48 Mr Irwin submitted that the SMA had contravened condition 21 of the licence by not contacting him with "written notice and details of any application made by the Licensee to subsequently vary the conditions of this licence at the time of any such application".
- 49 In his oral submissions, Mr Irwin also submitted that the application for the relevant area external to the North Gate is superfluous, taking into account the 30 outlets within the Adelaide Oval which already serve alcohol. In contrast, he said that the relevant area outside the North Gate will be less policed, and enclosed by temporary infrastructure which would be a blight on an iconic structure.

The applicant's submissions

- 50 Mr Roder SC, counsel for the SMA submitted that the application was a modest proposal intended to provide some small bars to the north, east and south of Oval for people who are already in the Oval attending an event. He said that the bars were intended to service the needs of those meeting friends outside the Oval before a game and for those who wanted to go outside during an event, perhaps to smoke. He said that what was envisaged was a low-scale activity that will not create any additional noise or disturbance over and above the noise and disturbance that would otherwise occur as a result of the event at the Oval.
- 51 He submitted that the grant of the application would not result in more people drinking. It will occur on limited occasions throughout the year, and under the revised conditions these bars will always be closed by 10.00pm and 11.00pm respectively and that they will usually be closed significantly before then.
- 52 He submitted that the complaint about non-compliance with the Community Management Plan was without merit. He said that the submissions made by the objectors contemplate that unless an activity is expressly identified in the Community Management Plan it is non-compliant. He said that if this was right, benign activities such as face painting outside the Oval would not be permitted. He said that the proposal was consistent with the expectation that the Oval and its precincts would be used for hosting large sporting events and in any event none of what

was put by the objectors about the Community Management Plan provided a proper basis upon which the Court should decline to grant the application.

- 53 He said that there was no serious challenge to Mr Vonthehoff's evidence about what had occurred when these areas were licensed under limited licences. He said that that evidence showed that what was occurring was no more, how they operated and the impacts, again just accords with common than an ancillary use in association with a sporting event.
- 54 He said that people, having spent considerable money to buy a ticket for an event at the Oval are not going to be attending these outdoor bars all day to consume liquor.
- 55 As to the issue of approvals, Mr Roder submitted that in respect of the areas of the application comprising of the south-eastern and eastern side of the Oval and part of the northern area, they are part of the Core Area that has been leased to the Minister such that the issue of approval is, in a sense, irrelevant. He pointed out that in respect of the leased areas, s 4(8) of the *AOR Act* stipulates the lease is not subject to Chapter 11 of the *Local Government Act 1999* or s 21 of the *Adelaide Park Lands Act 2005*. Accordingly, he said that considerations about compliance with the Plan in respect of those areas do not arise.
- 56 In connection with that part of the northern area that is the subject of the property licence, he noted that this is governed by s 7(6) of the *AOR Act*. Pursuant to s 7(6)(d) this authorises the Minister to permit activities that are ancillary to the use of the Oval. Mr Roder said that:

If I was to find, as I should, that the activities of social drinking before events and during breaks in a game are activities ancillary to events being conducted at the Oval, again, considerations about compliance with the Plan in respect of those areas do not arise.

- 57 He submitted that Dr Ness's submissions about the dry zone should be dismissed. He said that the purpose of the dry zone is to prevent people walking around the parklands in unregulated fashion consuming alcohol at all hours of the night. He said that it does not prevent the grant of liquor licences in areas of the parklands nor does it prevent the supply, sale and consumption of alcohol within areas of the parklands that are licensed.

Consideration

- 58 I commence with the complaint that the obtaining of limited licences was a breach of the conditions of the existing licence.
- 59 Condition 20 of the existing licence applies to that licence and that licence only. It does not prevent the SMA from applying for another form of

licence, such as a limited licence, to sell and supply liquor in the relevant area. The seeking of such licences may have been inconsistent with what was understood when the licence was first granted. It is conceivable that it might have been inconsistent with representations that had been made in connection with the conciliation that preceded the grant of that licence. Be that as it may, the obtaining of the various limited licences was not in contravention of the condition.

- 60 As for condition 21, if Mr Irwin is complaining that he was not given notice of the various applications for limited licence, the condition did not impose that obligation. The condition only concerns an application to “vary the conditions of this licence”, that is, the existing licence. If Mr Irwin is complaining that he was not given notice of the within application, the fact of his participation in these proceedings demonstrates that he either had adequate notice, or that he was not prejudiced by the lack of it.
- 61 As to the complaint that this application is part of an ongoing agenda to extend the boundaries of the licence, the Court can only deal with the application that is before it.
- 62 My sense of the objectors’ evidence was that they did not consider that there was adequate consultation. In this case, endeavouring to go through a process of consultation in connection with a project that will be of interest and concern to a large number of people was never going to be easy and there will inevitably be some who feel that they were not given enough information or that they were not listened to. Moreover, consultation is an elusive concept. At one level it involves little more than given prior warning as to what is proposed. At another level, it involves not only making people aware, but actually involving them in the decision making process. What is significant in this case is that when this matter first came to the Court, there were over 100 objectors. That suggests to me that the SMA had taken positive steps to inform within reason, as many people as it could about its proposal. What is also significant, is that over the journey from referral to the Court to trial, it significantly modified its proposal and agreed to new conditions. This indicates that it listened to and took on board the complaints that many objectors voiced. I find that in connection with the proposal there was adequate consultation.
- 63 I am not unsympathetic to the concerns expressed by the residents of North Adelaide about noise and disturbance. Five or six years ago, they might have expected four or five full capacity crowds and the odd concert at the Oval per year, almost exclusively over summer. Since then, however, the number of significant events has increased to thirty or so a year. With those events will come considerable noise and disturbance, but that is the reality of the Oval in 2018, and it is not the role of this Court to re-visit this in this application. In considering this application, the Court must take the

Oval as it is now, and make a judgment about issues such as undue noise and disturbance in connection with the within application from that premise.

- 64 I also appreciate that many in the community believe that alcohol and sport are an unfortunate combination and that there is an unhealthy culture of excessive drinking at major sporting events. The relatively high price of liquor at the Oval may have some moderating influence on the amount of alcohol purchased there, but common experience tells us that excessive drinking at major sporting events does occur.
- 65 That said, I was impressed by the SMA's alcohol management program that Mr Vonthehoff spoke of. It is, however, timely to remind the SMA and licensed sporting venues generally, that they are no different to any other licensed premises. They face the same laws regarding prohibitions about the sale and supply of alcohol to intoxicated persons and minors. They are subject to the same obligations regarding the conduct, supervision and management of the licensed venues and the need to ensure the safety, health or welfare of persons using those venues. Like all licensees, they are bound by the Commissioner's Code of Practice that includes an expectation of not adopting practices that encourage the rapid consumption of alcohol.
- 66 Returning to this application, I agree with Mr Roder that what is now proposed is a modest proposal. Based on Mr Vonthehoff's evidence, whose evidence I accept, there is every reason to assume that if granted, the extended licensed areas will operate as they did under limited licences. As such, there is no reason to think that the grant of it will have an adverse impact on the levels of intoxication at events conducted at the Oval. What is proposed is no more than social drinking before events and during breaks in a game.
- 67 I accept Mr Turnbull's opinion that the grant of this application will not make any noticeable difference to the level of noise and disturbance that residents living in the vicinity of the Oval already have to put up with when events are being conducted at the Oval.
- 68 As for Dr Ness's submission about the parklands being a dry zone, I agree with Mr Roder that the dry zone has no application to licensed premises.
- 69 Although in term of satisfying the requirements of s 68(2), I accept Mr Roder's submissions, I would nevertheless give consideration to the views of the Council and whether the proposal conforms to the Community Management Plan in determining the issue of discretion.
- 70 In that context, I think it is telling that the Council supports the revised proposal. As to the Community Management Plan, I note that amongst other things, it contemplates that the Oval and surrounding areas will be

used as a major events venue, hosting large sporting and community events, international concerts, and multiple private functions. I regard the activities of social drinking before events and during breaks in a game in limited numbers in outside bars immediately adjacent to the Oval as activities broadly consistent with these stipulated uses. As such, I think that the activities contemplated by the application are consistent with the Community Management Plan.

- 71 As to other matters relevant to discretion, I find that the addition of some external bars to the Oval to be used in connection with events being conducted at the Oval will further the interests of tourism. They will enhance the attractiveness of the Oval and add an additional service to the patrons of the Oval. The proposal that is broadly consistent with the needs and aspirations of the community. I find that the limited capacities, the curfews on trading hours, the requirement regarding the presence of a responsible person in each bar, limiting the use of the proposed areas to the Oval's patrons, and having a security guard monitoring entrance to each bar area, are important initiatives. They will go a long way to ensure as far as practicable that the sale and supply of liquor in these areas will contribute to and not detract from, the amenity of community life and to ensure that the sale and supply of liquor occurs in such a manner as to minimise the risk of intoxication and associated violent or anti-social behaviour including property damage and causing personal injury.
- 72 I am therefore satisfied that it is not necessary for the Court to exercise its broad discretion under s 53 of the Act to refuse the application.
- 73 The application for redefinition is granted as is the application to amend the conditions of the licence.