

Gallery on Waymouth No.2 [2014] SALC 37

LICENSING COURT OF SOUTH AUSTRALIA

GALLERY ON WAYMOUTH

JURISDICTION: Application for Variation to Licensed Conditions

FILE NO: 2036 of 2014

HEARING DATES: 22 July 2014

JUDGMENT OF: His Honour Judge BP Gilchrist

DELIVERED ON: 8 August 2014

Gallery on Waymouth [2014] SALC 30

REPRESENTATION:

Counsel:

Applicant: Mr M Roder SC with Mr P Kelly

Respondent: Mr J Firth with Mr C McEwen

Solicitors:

Applicant: Norman Waterhouse

Respondent: Wallmans

- 1 These reasons should be read in conjunction with my reasons given on 14 July 2014.¹
- 2 In light of the applicant's undertaking to pay the objectors' reasonable costs on a party/party basis I am persuaded that the application to be relieved of the condition stipulating that patrons must be seated whilst consuming liquor should be removed and I so order. Condition 14 shall now read as follows:

“Area 3 shall operate in a café style configuration through the placement of tables and chairs evenly spread throughout the area. This condition shall not apply when a private pre-booked function is being held or a bona fide exhibition launch or opening is being held in the entire area.”
- 3 In my earlier reasons I indicated that I would require the applicant to put forward to the Court's satisfaction suitably worded draft conditions that make it clear that the Area in question is not able to trade as a bar. It has done so but in my view they require some modification. I also incorporate some proposed conditions that were agreed with the police and which I approve of. There will be a new condition 16, 17, 18, 19, 20 and 21 to read as follows:
 16. Other than when condition 14 does not apply, the licensee will maintain tables and chairs in Area 3 for the seating of 180 persons.
 17. Other than when condition 14 does not apply, patrons shall not stand and consume liquor within 1.4 metres of the bar and the licensee shall display visible and legible signs at the bar advising patrons of this condition.
 18. Other than when condition 14 does not apply, no bar stools or other forms of seating are to be provided at or within 1.4 metres of the bar.
 19. After 7.00 pm on Friday, Saturday and the Sunday of any long weekend and Melbourne Cup Day, the licensee will engage and provide licensed security persons when the following capacities are reached in Area 3:

100 persons – 1 licensed security person

150 persons – 2 licensed security persons

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This condition shall not apply when a private pre-booked function is being held or a bona fide exhibition launch or opening is being held in the entire area on these days.

20. The licensee undertakes that it will not make application for any further amendments to its licence for two years.
21. The amendments to the conditions shall be subject to a twelve month trial period from this day, during which time the parties have liberty to apply. If no such application is made the conditions shall become permanent.