

Charlotte McClure

Sent: Wednesday, 6 April 2022 14:10
To: Robert Cruickshank
Cc: Steven Russell; Charlotte McClure
Subject: RE: Town of Victoria Park – Attention: Robert Cruickshank - Scheme Amendment Submission - 98-104 Goodwood Parade, Burswood (9500)

To: Robert Cruickshank – Town of Victoria Park

Good afternoon Robert,

I refer to your e-mail of 30th March 2022 in relation to the Scheme Amendment request for No.98-104 Goodwood Parade, Burswood and to our subsequent telephone conversation on this matter.

Within your e-mail and in our discussion, it was identified that should the Town support the proposed Tavern use via the Scheme Amendment request, it may potentially be subject to a time limitation (if granted). This is intended to ensure the Town is not limited in its ability to determine whether a Tavern was an appropriate long-term use through the review of its Local Planning Scheme No.1 (LPS1), with the key aspect for consideration being the potential amenity impacts associated with the Tavern use.

On behalf of the proponent, we do not consider the imposition of a time limitation on the Scheme Amendment to be necessary, given the similar potential amenity impacts between the proposed 'Tavern' use and the existing 'Brewery' use, which is presently an 'AA' use within the Office/Residential zone and capable of approval.

Below is a table which summarises the uses within the Town's Local Planning Scheme No.1 and also the Liquor Control Act 1988:

LPS1 Use Class	Definition within LPS1	Liquor Licence type
Brewery	<i>means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988;</i>	In accordance with the Liquor Control Act 1988: Producer's Licence - A producer's licence is issued in accordance with section 55 of the Act. The relevant Section 55(1) from the Act is reproduced below: <i>(1) Subject to this Act the licensee of a producer's licence is, during permitted hours, authorised —</i> <i>(a) to sell on or from the licensed premises all or any of the following liquor produced by the licensee —</i> <i>(i) wine, or spirits made from grapes, for consumption on a part of the licensed premises approved for the purpose by the Director or for consumption off the premises;</i> <i>(ii) spirits not made from grapes, in sealed containers for consumption off the premises;</i> <i>(iii) beer, in sealed containers for consumption off the premises;</i> <i>(iv) beer, for consumption on a part of the licensed premises approved for the purpose by the Director;</i> <i>and</i> <i>(b) to sell or supply that liquor, by way of sample, for consumption on a part of the licensed premises approved for the purpose by the Director; and</i> <i>(c) to sell or supply liquor, other than liquor produced by the licensee, from the licensed premises —</i>

		<p>(i) if the liquor is consumed ancillary to a meal in a dining area on the licensed premises; or</p> <p>(ii) only for the purposes of tasting.</p> <p>In summary: A producer's licence primarily authorises the licensee to sell liquor that has actually been produced by, or under the control or direction of, that person. Liquor other than liquor produced by the licensee can be sold or supplied, but only if the liquor is consumed ancillary to a meal in a dining area on the licensed premises or for the purpose of tastings.</p>
Tavern	<p><i>means premises the subject of a tavern licence granted under the Liquor Control Act 1988;</i></p>	<p>In accordance with the Liquor Control Act 1988: A tavern licence means a hotel licence of the kind referred to in Section 41(1)(a). The relevant Section is reproduced below:</p> <p><i>41(1) For the purposes of this Act —</i> <i>(a) where a hotel licence is not subject to any condition referred to in subsection (4) and is not a small bar licence it shall be referred to as a tavern licence; and...</i></p> <p>Subsection (4) as referenced above is reproduced below: <i>(4) Unless it is a small bar licence or a tavern licence, a hotel licence — (a) subject to subsection (5) and to any variation under subsection (6), is subject to the condition that the licensee provides guest accommodation for any person; and (b) subject to subsection (5) and without limiting section 64, is subject to any condition imposed by the licensing authority requiring meals to be provided to lodgers</i></p> <p>In summary: A tavern licence authorises the sale and supply of liquor for consumption on and off the licensed premises. A holder of a tavern licence does not need to provide accommodation.</p>

In relation to the above, the difference between the Brewery and Tavern land uses is that patrons attending a premises subject to a producers licence (ie: a Brewery) would only be able to consume alcohol produced by the licensee unless it is served with a meal, whilst a Tavern would be able to sell and serve alcohol produced by the producer and other manufacturers without the service of a meal.

We also provide the following for the Town's consideration:

- In the example of Blasta Brewing Co, it currently operates in accordance with a tavern liquor licence and the Town's approval to the premises as a Tavern. If the operation of Blasta Brewing Co (upon relocation to the proposed new premises) was restricted to the requirements associated with a producers' licence, this would mean that patrons attending for reasons other than to obtain a meal would only be able to consume beer. Should this occur, it would result in major detrimental impacts to the operation of the venue and bring the viability of the premises into question.
- We note that the internal fitout illustrated within the Development Application for the 'Brewery' land use, intended to facilitate the relocation of Blasta Brewing Co and currently subject to consideration by the Town, would not require any physical alteration as part of any potential future change of use to 'Tavern' (subject to the gazettal of the proposed amendment).
- The proponent acknowledges the Town's role in facilitating a high level of amenity within the locality for existing and future residents, business operators and visitors through the formulation and administration of its planning instruments. However, Blasta is of the view that the type of alcohol sold within the premises would not alter the potential or magnitude of any adverse amenity impacts

to the locality. We note that it is the obligation of the licensee to ensure the responsible service of alcohol and to limit the potential for antisocial behaviour associated with patrons of the premises, irrespective of the type of alcohol consumed at the premises and where it is produced.

- Producers generally focus on the production of a specific type of alcohol (ie: beer, wine or spirits) and consequently the range produced is limited, as it would be difficult to provide all types for reasons of cost and/or expertise. However, by offering different types of alcohol from other producers for consumption and sale, it would assist patrons to obtain and consume alcoholic beverage(s) of a type which they are familiar with and thereby be able to more appropriately manage their consumption, meaning that a Tavern may actually result in an improved amenity outcome.

For the reasons noted above, we are of the view that the permissibility of the Tavern and Brewery use classes within the Town's LPS1 should be consistent, with the proposed additional use of Tavern at the site not subject to a time restriction as suggested.

We trust this provides further clarification but should you wish to discuss any of the above, please contact the writer.

Regards,

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Senior Planner



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