

Licensing Board of Tasmania	Decision
Legislation:	<i>Liquor Licensing Act 1990</i>
Applicant:	Helen Alma Stevenson
Nature of application:	For an off licence
Premises: name	Arthurs Lake Roadhouse
Premises: address	54 Arthurs Lake Rd, Arthurs Lake, Central Highlands
Name of decision:	Arthurs Lake Off Licence
Date & place of hearing:	Launceston, 10 th October 2007
Date of decision:	1 st November 2007
Members of the Board:	PA Kimber (chairman), K Sarten and D Logie (members)

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DECISION

The Board has determined to direct the grant of the licence.

Application

The owner of the premises applied for a similar licence approx. 10 years ago (see written decision. It was refused. The nature of the application at that time was that the liquor would be sold in conjunction with a mixed business being conducted at the premises, and was prohibited due to the legislation or guidelines.

The present application is different in that:

- It is made not by the operator of the roadhouse, but by an associate who will effectively be running a joint venture with that operator.
- The premises have been upgraded since 1998, and although they continue to provide essentially the same service to the public, that is done from more modern and attractive premises.
- The area from which liquor would be sold is separate from, albeit adjacent to the roadhouse premises. Whilst this might not be a significant separation, in the context of this remote area, and the Applicant's express intentions, we are content that the premises are separate for the purposes of s24A(2) of the Act.
- The only activity on the actual premises will be sale of liquor. It will be run as a separate business, and will be accessed via separate doorway. Takings from the business will be dealt with separately from the adjacent business in the roadhouse.
- Whilst the purpose of the legislation might be seen to limit access to liquor such that the number of outlets will not proliferate due to the ability to sell from combined retail outlets, some consideration for the remote nature of the premises is appropriate. Similar arrangements might not be appropriate in city areas under the Board's general discretion to consider what is in the best interests of the community under s24A(1).

Law

Refer to s24A for the significant provisions.

We have taken account of *Gaghan v LLC [2000] VCAT 1871* in considering the degree of appropriate separation such that the business of the roadhouse and that of the liquor retailing may be seen as not being conducted from the same premises, and as such be in breach of s24A(2) by the principal business being other than sale of liquor.

Consideration of facts

The Applicant initially indicated the business would be her business, but the limited tenure of her lease, the limited hours during which she will be in attendance, and the effective delegation of operation to the owner of the Arthurs Lake Roadhouse, and the arrangements whereby he will open up the premises for sale of liquor (effectively only having one shop assistant for the two businesses for significant periods of time) indicate the true nature of the business is one akin to joint venture with the owner/landlord, Mr Hedley Monks.

Hours of operation are to be no more than 9am to 5pm seven days a week.

The remoteness of the area and distance to alternative sources to purchase liquor, the likelihood that much liquor consumed by shack owners in the vicinity is brought from city areas, indicates that the grant of the licence will provide a service much desired in the locality.

There are a significant number of letters in support from people who express what the Board considers to be a genuine desire to have the convenience of a facility near their property in the area. Not only convenience, but also issues of safety arise where the alternative may be a 44 km round trip for liquor supplies.

Some concession to the remote locality, desire to serve the apparent community need, absence of easy alternatives and holiday or tourism nature of the area must be given.

The opposition was only from other liquor licensed operators in the locality: Mr and Mrs Hattinger of the Great Lake Hotel, some 22 km away. The objectors did not attend the hearing.

Decision

We direct the grant of an off licence.

PA Kimber: Chairman.

K Sarten: Member

D Logie: Member