

| | |
|-----------------------------|-------------------------------------------------------|
| Licensing Board of Tasmania | Decision |
| Legislation: | Liquor Licensing Act 1990 |
| Applicant: | Ann Brakey |
| Nature of application: | For an special licence: Tas wines and others. |
| Premises: name | Delish Fine Foods |
| Premises: address | Shop 3, 36 Main Rd, Wivenhoe. |
| Name of decision: | Delish Fine Foods |
| Date & place of hearing: | 28th September 2006 at Launceston |
| Date of decision: | 11 th October 2006. |
| Members of the Board: | PA Kimber (chairman), L Finney and K Sarten (members) |

DECISION

Application

Ms Brakey and her partner in this venture impressed the board with their dedication to provision of fine food and the appropriateness of having Tasmanian wines available as an adjunct to their main purpose.

They also sought the ability to retail French and Italian wines and German and Belgium beers.

All liquor was to be sold in conjunction with prepared meals and or food products for off premises consumption (except for tastings).

The application bears the hallmarks of the *Mill Providore Gallery No2 August 2004* application and decision.

There were no objections to the application.

However, the Board's obligation is to make a decision which it considers to be in the best interests of the community (S 24A).

Making such a decision involves considering the intent and purpose of the structure of the Act and regulations. Generally speaking, the Tasmanian wines category of special licence is designed to enable the effective distribution of Tasmanian wines within the state to facilitate and encourage the Tasmanian tourism industry and Tasmanian wine industry. Consistent with *Mill Providore (above)* in special circumstances the addition of other liquor, where that will not detract from some other main purpose which is beneficial to the community, will be permitted. However, the general rule is that the wider scale sale of liquor for off premises consumption is to be conducted via off licensed premises. The law in that regard requires such premises to be principally dedicated to the sale of liquor.

To permit premises principally dedicated to some other purpose to sell a wide range of liquor will tend to distort the licence structure set out in the Act, and may be seen as being contrary to Parliament's intention.

We quote from *Delicacy January 2005*:

This present application is more limited: the wine is only to come from 3 other countries. The applicant's evidence was that he would continue to focus on small Tasmanian vineyard exposure. Also his evidence was of a very strong tourism goods focus; more so than for example in the Bladerunner decision, and the Balfour Street Deli decision, and the Davies Grand Central No. 2 decision.

Other relevant factors and considerations;

- the size of the outlet in regard to wine would be minimal,
- the appropriate desire to facilitate diversity and quality in provision of liquor services,
- there is not likely to be any adverse impact from the licence (if granted) in the sense of contributing to harm associated with consumption of liquor,
- the applicant has a proven record of provision of high quality service to the tourist public,
- the applicant seeks to expand the range of liquor only to enable food and wine matching particularly in regard to imported cheese content which has become an integral part of the existing business, and
- a somewhat similar niche application was recently approved in regard to "The South African Shop" authorising sale of only South African wine.

The factors listed above are generally covered by the application, however, in the premises and in Tasmania, the Applicant does not yet have a proven record of provision of high quality service to the tourist public.

We believe that it would be appropriate in this instance to enable the Applicant to getup and running, with the ability to sell Tasmanian wine (and Tasmanian liqueurs and beer brewed and bottled in Tasmania from Tasmanian owned breweries) in a limited display area (condition of licence) and then in due course to review the nature of the premises, enterprise and service offered. It may then be appropriate to extend the licence.

In the circumstances the Board directs the grant of the first part of the licence application, and reserves for re-consideration at a later time (after the business has been running for some time – and not within 6 months and not after 18 months – otherwise a fresh application would be necessary) the consideration of the second component.

PA Kimber; Chairman.

L Finney; Member.

K Sarten; Member