

Licensing Board of Tasmania	Decision
Legislation:	<i>Liquor Licensing Act 1990</i>
Applicant:	Trevor Clarke
Nature of application:	For a special licence - restaurant
Premises: Name	Port Sorell Snack Bar
Premises: Address	44 Meredith Street, Port Sorell
Name of decision:	Port Sorell Snack Bar restaurant licence application
Date and place of hearing:	25 July 2011, Launceston and 21 September 2011, Port Sorell
Date of decision:	23 September 2011, updated 18 October 2011.
Members of the Board:	PA Kimber (chairman), K Sarten and D Logie (members)

Reasons for decision:

The Applicant, together with his wife Kathleen run a mixed business from premises in Port Sorell adjacent to the caravan park. They gave evidence at the hearing on 25 July 2011 and the Board conducted a view of the premises on 21 September 2011. Note that an inspection is intended to enable the Board to view the premises but otherwise verbal and written evidence is not received.

The premises is predominantly what is termed ‘a corner shop’ – although ironically it is on a straight stretch of roadway in the township. The building is clean and tidy and well presented, newly painted and accommodating. The principal services offered, as it appears from entering, are foodstuffs and like requisites which might be needed by campers in the adjacent caravan park, take-away food in the nature of fish and chips and other deep fried fare, chocolate bars, cigarettes and cordials. As described by the Applicant: “Basics of bread, milk, papers, groceries, takeaway food, fishing supplies, ice and somewhere to sit and dine within very close proximity”.

Passing through the main part of the shop there is a relatively narrow entrance to the adjoining room for which the Applicant seeks a 'restaurant licence' – that is, a special licence permitting the sale of liquor to patrons who attend on the premises for dining, for consumption on the premises.

That space is relatively small in the context of the whole shop – perhaps 20 per cent in floor area. It contains a gas heater, and four or so tables with three or four metal chairs with wooden seats and cushions around each table, a tile and carpet covered concrete floor, painted brick surface walls, and a relatively large glass case cake freezer, and a large 'coke' refrigerator containing various bottles and cans of cordial.

The intended menu includes 'all day breakfast', light lunches and (as described by the Applicant) special occasions (eg mothers' day). Other than that, not much detail of available food for consumption in the seated area.

Other offerings are (from the menu)

- Wedges with sour cream and sweet chilli sauce
- Sweet and sour fish bites on lettuce
- Nachos
- Chicken Caesar salad
- Hamburgers
- Chicken wrap
- Chicken parmigiana
- Chicken mignon and kiev
- Mixed grill
- Rump steak
- Crumbed flounder
- Seafood basket – all served with chips and salad.

The intended drink list includes a choice of five white wines, five red, some by the glass, sparkling wines, Tasmanian wines (four) and a range of beers and spirits.

The intended hours of operation will mirror the hours of the shop - approx 7.30am to approx 7.30pm (and through to 9pm in the summer). If the licence is granted the Applicant intends to close the take-away section at 9pm and have the restaurant section open until 10pm – depending upon demand for the services provided.

The Applicant says that he has had several requests for liquor to be served. He says small groups such as the real estate agents in the area have expressed interest in having dinners, meeting etc, if they were able to have a wine or alcoholic beverage available.

The issue which has taxed the Board in this application is that it is not the intention of the legislation or this Board that every corner shop or retail venture be also licensed to sell liquor. To move from a corner shop with takeaway food facilities and an adjunct seated dining area to the concept of being 'a restaurant' is necessary before, in our opinion, it is in the community interest for a venture such as this to be licensed for sale of liquor. Not every café is appropriate for licensing. It is clearly appropriate when the premises as a whole can be termed a 'coffeehouse, restaurant or bar, serving as a predominant focus, a broad range of food and refreshments'. But it is not when the café is simply a minor adjunct to the principal purpose of selling foodstuffs and consumables, and selling take-away food of the nature of deep fried fish and chips.

The Applicant's venture is apparently in process of change. The addition of the café area is an endeavour to broaden the focus, and gain entry to a new part of the food service and delivery market. However, in combination with the overall apparent use to which the premises is being put, the focus is not sufficiently on provision of dining services.

Whilst it may well be that the consumption of liquor as an adjunct to dining the café/restaurant area is likely to be of minor significance, in regard to volume or gross revenue, (and consequently unlikely that the sale of liquor under the licence would prove to add to the harm associated with consumption of liquor), the issue in this application is that the premises and venture are not predominantly a restaurant.

This is not to say that a special licence-restaurant is only available for 'stand alone' restaurants or cafés; however the mixed business/corner shop plus minor addition of seating space for consuming food does not of itself justify the grant of a liquor licence. In the best interests of the community the provision of liquor in the restaurant type of designation dictates that the premises offer something more, either exclusively (ie not as part of a mixed business) or more closely resembling a restaurant in 'look and feel' –including fittings, fixtures, menu and services.

We direct the Commissioner to refuse the licence application.

Dated: 18 October 2011

P Kimber, Chairman.

K Sarten, Member

D Logie, Member