

Licensing Board of Tasmania

In the matter of the CMax Cinemas, 5-7 Best Street,
Devonport. Applicant: Ms Katrine Wakelam.

In the matter of the Liquor Licensing Act 1990
And an application for a special licence.

Dated: 12 December 2005.

Decision

This application was heard at Launceston on the 27th November 2005.

The Applicant Ms Katrine Wakelam gave evidence.

Ms Melanie Bonde from the Australian Hotels Association (Tas Branch) attended to object to the grant on the grounds that it was perceived by her organisation that it was not in the best interests of the community for the licence to be granted in conjunction with the business of a cinema in the circumstances.

The application was for authority for the sale of liquor on the premises to persons attending picture screenings, for one hour prior to, during and one hour after picture screenings, and to be sold for consumption on the premises to people attending bon-fide pre-booked functions such as receptions, seminars, meetings, product launches, and conferences etc, to which the public are not invited.

The application was signposted and advertised. The Commissioner provided a background report on the proposal.

The AHA objection was on the basis of concerns at the Applicant's ability to exercise effective control over the consumption of liquor on the premises, given that the premises (being a cinema centre) is frequented by young persons, and that picture screenings by their nature require significantly reduced lighting. Ms Bonde submitted that the ability to monitor and control the behaviour of the patrons would be thereby reduced.

The Applicant provided plans of the cinemas, and a written submission, and a further letter responding to the AHA concerns. The Board inspected the premises.

The Board has previously licensed some such establishments, being the Theatre Royal in Hobart, and the State Cinema in North Hobart. These establishments are very different in nature to the CMax Cinema complex. The Theatre Royal is a live theatre, and the patronage is generally people of full age. Liquor is sold at interval and sometimes before presentations. A significant proportion of the public expect to be able to obtain wine or beer at live theatre at interval.

The State Theatre is a relatively unique cinema, again catering principally for people of full age, and offers access to films which are usually not available at the mainstream cinemas: films of the arthouse or 'world' cinema variety. Again, this State Theatre is a very much different enterprise from the much more mainstream variety of cinema complexes, of which the CMax is one. CMax is described by the Applicant as a 'family cinema complex'.

The Applicant's proposal:

The Applicant intends to sell only wine (one white wine and one red wine – dispensed from a vat) and beer in plastic cups. Only cinema ticket holders would be supplied liquor. Supply would be for 1 hour before any session, during and for one hour after. Some sessions would not have liquor available, for example, when the nature of the film is such that it would be attractive only to underage patrons.

It is proposed that a set aside area near the chocolate bar/cashier area and video games area be set aside as designated for people who wish to consume liquor to do so, and otherwise patrons can take liquor into any of the four cinemas with them. There is also a small function room, which the Applicant seeks to be able to permit sale of liquor to groups who might book the room for corporate functions, birthday parties, product launches etc.

The premises will continue to provide 'typical cinema food', but the Applicant intends to add cheese and fruit packs at roughly \$9.00 per pack, to complement the wine and beer.

We were advised that some cinemas on the Mainland are licensed, but no comprehensive details were provided.

The applicant stated that 2005 had been a tough year for the industry in which her business operates with gross takings down, due to absence of 'blockbuster' movies, piracy, DVD burning and home theatre/cinema, iPods and other competitive entertainment. Hence her desire to offer something 'unique' to try to improve takings.

The Applicant gave evidence of processes she would implement to endeavour to ensure liquor was not available to minors, and to diminish the prospect of secondary supply to minors. She advised that the grant of the licence would not result in an increase in employment.

We formed the conclusion that this was intended as an add on 'attraction' for patrons, in the prospect of increasing the overall take per patron, to increase the profitability of the operation. The concept arises not so much from any community demand for the service (as there was no evidence presented of community desire for liquor in the cinema) but as an initiative by the Applicant.

The AHA maintained their objection at the conclusion of the evidence, on the assertion that (per s24A(1) of the Liquor Licensing Act 1990) the granting of the application was not demonstrated to be in the best interests of the community.

The AHA submission was that the prevailing presence of under age patrons in dim lit areas, in a games arcade and cinema type environment would not lend itself to sufficient control and ran the risk of consumption by underage persons. Ms Bonde asserted that there was no evidence of 'need' from the community, and the Board should not, in this instance, assume there was nevertheless a community need to have liquor available in the manner proposed within the cinema complex.

DECISION

We agree with the AHA submissions, and believe that in the particular family and underage environment which contemporary cinema complexes provide, there would need to be substantial additional relevant evidence to overcome the onus to demonstrate that it is in the public interest for such a licence to be granted. We doubt such evidence is available. The Applicant admitted, in closing submissions, that it was hard to prove that the grant of the application would be in the best interests of the community. Indeed it was. The mere opportunity that the licence would present for liquor to be bought and sold and to add value to the Applicant's business is not, in itself, sufficient.

We direct the Commissioner to refuse the application under s214(1)(a)(ii) of the Liquor Licensing Act 1990.

PA Kimber, Presiding Member. K Sarten, Member

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