

Licensing Board of Tasmania	Decision
Legislation:	Liquor Licensing Act 1990
Applicant:	Michael John Stork
Nature of application:	For an On-Licence
Premises: name	Devonport Golf Club
Premises: address	66 Woodrising Avenue, Spreyton
Name of decision:	Devonport Golf Club On-Licence
Date & place of hearing:	28th September 2006 at Launceston
Date of decision:	27th October 2006.
Members of the Board:	PA Kimber (chairman), L Finney and K Sarten (members)

DECISION

Application

Mr Stork applies for an on-licence for the Devonport Golf Club premises. The proposed licence relates to an area currently authorised for the sale of liquor under a club licence. That would be surrendered if the on licence is granted. The Applicant seeks the new licence to effectively allow flexibility in the service of liquor to the public from the extensive facilities owned by the club.

The Applicant and the Club do not intend to change the provision of services in any significant way. They intend to continue to focus on the wants and needs recreational of the members of the club. The excellent facilities have been made available to the public in the area under the strictures of the 2003 regulations (Liquor and Accommodation Regulations 2003/96 reg 3 and particularly reg 3((2) and in addition the record keeping requirements imposed by the Commissioner by virtue of s10(b) of the Liquor Licensing Act 1990.

The Applicant explained that whilst these ‘rules’ are apparently designed to ensure that a club’s facilities are principally available for the benefit of club members, that the nature of the extensive facilities owned by the club and the numerous and ongoing requests from members of the broader Devonport community for access and use to and of those facilities has meant that the Club either has to disappoint many people, or have an inordinate level of bureaucracy in its administration and record keeping.¹

The premises are located at Spreyton on the outskirts of Devonport. The Club was established in about 1921, and moved to its current location in 1956. The wish to offer the facilities with greater ease to the wider community would appear to be a noble aim, and something ‘in the best interests of the community’. The rules and regulations which hamper that project do not prevent the facilities being available to the broader community, they just make it more difficult and hamper efficient administration. That is not to say that the rules do not have a place in ensuring in many instances that clubs do not become de facto bars. But in the circumstances of a club with many millions of dollars worth of recreational, social, cultural, scientific or other worthwhile public purpose facilities, enabling a more liberal approach to availability has its merits.

For example, the restriction of one function per month for a 'not for profit' organisation outside the club's membership was not argued by anyone as being justified in regard to the Devonport Golf Club. But that is the rule as it stands.

At some stage in the development of some clubs, their facilities become truly part of the wider community, rather than facilities for a relatively exclusive part of the community. That happens with those clubs with facilities which expand over a long period of time, or in regard to which government or public money is expended, or otherwise where the broader public seek access on occasion but do not wish to be ongoing members of the club (and the club membership is willing to make the facilities available without concerns about the members' benefits being unduly curtailed).

This application was squarely put on the basis that the club has no intention of becoming a de facto hotel or bottle shop facility. The main focus will remain provision of a quality facility for the members. Rules and dress standards will remain.

Facilities which will be offered will be the use of function rooms (wedding, balls, dances, meetings etc), the attractive location, and dining facilities.

OPPOSITION

The Australian Hotels Association opposed the grant. First, they said, the licence type was not appropriate. Second, they said it would not be in the best interests of the community to grant the licence (s24A).

The AHA urged that the licence category system (on, off, general, club, and special) dictated that the most appropriate licence should be held for particular enterprises. Clubs are for members and so a club licence should appertain.

The AHA said that the club (with the on-licence – if granted, instead of the club licence it currently holds) would or could operate, in effect, as an hotel, and provide liquor to non-members (as well as members). The AHA said that the club could then operation as a trading entity with no restrictions on the sale of liquor for on premises consumption – just like an on licence tavern or general licensed hotel.

DECISION

Taking due regard for the position of the AHA in advocating for the best interests of the public in maintaining the integrity of the statutory licencing structure, we are of the view that for the reasons set out above, that this is an appropriate application for grant of an on-licence. The intention of the club is not to distort the provision of serves to try to emulate hotels. It is to make more sensibly efficient the provision of existing services, and to make them more widely available. There is no indication that this will lead to any exacerbation of the harm associated with the consumption of alcohol in our community.

The Board has considered a limited number of applications of a like nature: each application brought with it the hallmark of having expensive facilities and was from a club with the desire to maintain the integrity of their club structure but also to make

the facilities available to the broader public without having to either meet (with difficulty) onerous and pedantic record keeping rules, or suffering accidental breach. For example, *Spreyton Racing Club, Tasmanian Racing Club, Smithton Turf Club, Riverside Golf Club (no opposition), and Claremont Golf Club.*

It may be that there is a place for a liberalisation of the record keeping rules rather than implicitly encouraging clubs to seek new licences of a different category. That is not within our jurisdiction. In the interim however, it is certainly in the public interest that this licence be granted.

In the circumstances we consider it is in the best interests of the public for the Devonport Golf Club to operate its enterprise under the auspices of an on-licence. We direct the Commissioner to grant the licence subject to cancellation/surrender of the club licence.

PA Kimber; Chairman.

L Finney; Member.

K Sarten; Member

ⁱ See for example, the Commissioner's record keeping requirements:

The following conditions apply to a club licence.

CONDITIONS – CLUB LICENCE

1. The club must ensure that the following records are kept at the premises:
 - a. A membership register providing the full name and address of each current member.
 - b. A Visitors Book.
 - c. A Functions Book.
 - d. A current roster in the case of a club at which the principal purpose or activity relates to participation in a rostered sporting activity.
 - e. A Green Fees Book in the case of a Golf club.
 - f. A Travellers Register if the club permits entry to persons referred to in Clause 6.
2. The club shall ensure that each guest or invitee [aged 14 years and above] of a member of the club signs their name and records their address in, and dates, the Visitors Book on the following occasion(s):
 - a. When the guest(s) or invitee(s) are at the club with the member other than at a pre-booked private function hosted by the member for more than 10 guests or invitees.
- 2A – The club shall ensure that the member also signs his or her name when introducing persons to the club in accordance with Clause 2.
3. The club shall ensure that a member does not invite more than 10 guests or invitees to the club at any one time unless those persons are attending a pre-booked private function hosted by the member.
4. The club shall ensure that the following functions are recorded in the Functions Book with such record to include the type of function, the name of the hosting member or organization as the case may be and the numbers of persons attending:
 - a. A pre-booked private function hosted by a member of the club specified in the licence.
 - b. A function held at the club and conducted by a not for profit organization [limited to one function each month for that organization] at which persons other than club members attend.
 - c. An event conducted or hosted by the club specified in the licence at which competitors or spectators attend.
5. In the case of a golf club - the club must ensure that persons other than members who are intending to play a game of golf at the club's course on that day sign the Green Fees Book.
6. A club that permits a person who ordinarily resides at least 5 kilometres from the club's premises to enter the club premises other than as a member, a guest or invitee of a member or as an attendee at a function recorded in the Function Book must ensure:

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- a. that the person signs a statement in the Travellers Register to the effect that that person resides at least 5 kilometres from the club premises with such statement to include the residential address of that person; and
 - b. must ensure that a map which displays a radius line of 5 kilometres distance from the club's premises is displayed at the principal entrance to the club premises.
7. The club must ensure that the Travellers Register is kept at the principal entrance to the club premises.
 8. The club must keep records of entry made in the Function Book, Visitors Book & Travellers Register for a minimum period of 12 months from the date of the respective entry.
 9. It is a condition of this licence that the Commissioner may from time to time amend the abovementioned conditions.