

# LICENSING BOARD

## INFORMATION FOR APPLICANTS FOR LIQUOR LICENCES

This information is provided to assist applicants to make the best possible submission to the Licensing Board for a liquor licence.

### GENERAL INFORMATION

In considering your application, you need to understand that, by law, the Licensing Board is required to determine whether granting the licence is *in the best interests of the community*. A liquor licence is, therefore, a privilege, not a right, and you need to make a convincing case to the Board for the grant of the licence.

To assist the Board in making a decision to grant you a licence, it is *in your interests* to provide detailed information on the matters listed below. The more relevant information you provide, the easier it will be for the Board to understand what it is you are trying to achieve and to determine whether it is in the best interests of the community to grant you the licence.

### IS MY APPLICATION “IN THE BEST INTERESTS OF THE COMMUNITY”?

There is no “one size fits all” answer to this question, as every application must be dealt with on its own merits.

The best guide to whether the Board will find that your application is in the ‘best interests of the community’ is likely to be found in those past decisions of the Board on applications which are similar to yours. Previous decisions of the Licensing Board are available at [www.treasury.tas.gov.au](http://www.treasury.tas.gov.au) under “liquor and gaming” (go to the Licensing Board page).

These previous decisions may help you to identify previous applications for the same type of licence, in the same or a similar locality, with the same or a similar people living and working in the locality, and other similar factors.

The following is provided as guidance on the factors which may prove relevant in determining whether an application is in the best interests of the community. The list is not exhaustive, however, and other matters that are not listed here may be relevant, given the individual nature of the application).

- Will the business provide something positive to the social fabric? Or is it solely for the sale of liquor?
- Will it provide economic benefit? Will it provide new employment (how much)? Will it use existing premises, improve or add to existing premises or is it new premises?
- Will it cause other community facilities to close and hence result in an overall reduction in facilities (as a result of the transfer of income or profit)? Will it cause other facilities to be under economic pressure, but nevertheless provide increased facilities overall?

- Will it provide something other than sale of liquor – for example, hospitality generally, accommodation, dining, other retail items of benefit to a diverse community?
- Are the premises in a difficult area which has special community concern – for example in a zone which is inappropriate for dispensing liquor in the manner intended?
- Will it provide liquor in a manner known to be safe and to minimise adverse impact?
- Are the plans for the business well thought out and clear or are they vague, imprecise or purely expressed in terms of personal benefit, without any obvious social or economic benefit to counter the risk of adverse impact from consumption of liquor?
- Is there a sense of ‘integrity’, capability, track record, and reality to the applicant’s intentions?
- Is there community support for the application and your intended business? How is that expressed? Is it objective and supported by factual material? Do the people living and working in the vicinity want the business operating in their locality, and what evidence of that can you provide?
- Is there community opposition? Is there police or council opposition? How do you answer the community opposition objections? Is there a need for specialist or expert information on the nature of the community to answer the criticism? In relation to community opposition to an application to the question of ‘what is in the best interests of the community?’, the Board’s decision in *Peter Morrison: Hill Street Cellars, West Hobart 11<sup>th</sup> August 2010* covers this question in some detail.

While none of these matters of itself may be decisive, you may need to address them (and other relevant) matters in your submission, depending on the nature of the licence you are seeking and the location of your intended business.

The overriding issue is that the Board will make a decision on each matter on the basis of weighing the individual aspects for and against a licence grant, in their discretion. It will not always be that local community opposition is certain to cause the rejection of a licence application.

The onus is on the applicant to demonstrate that the licence grant will be in the best interests of the community, but the onus will shift to objectors to prove their concerns. The generalised assertion that ‘another liquor outlet will increase harm’ is not sufficient to cause rejection of an application.

No doubt it would benefit a licence application to demonstrate that the locals would desire to have the new facility. The question posed by the legislation is ‘what is in the best interests of the community’ which is really the whole community, of which the local community forms part.

## **WHAT ELSE SHOULD I SUPPLY TO THE BOARD TO HELP IT MAKE THE DECISION?**

### **Your business / professional experience**

The Board is interested in your experience in business, particularly the liquor and / or hospitality industry (if you have any), as the Board is looking to be satisfied that you can run a licensed premises in a manner that won't cause any concern to the community.

### **A description of facilities and services**

Provide the Board with a detailed description of the facilities you intend to offer at the premises, as well as a detailed description of the services you intend to offer. Detail the number of bars (if applicable), their layout, links to other services offered, etc.

Make sure you include copies of proposed menus and wine / drinks lists (if you are after a general, an on or on-restaurant licence or a special licence), and of proposed Tasmanian goods or specialty services (if you are after a special licence for Tasmanian beer, wine and spirits) or details of the range of liquor you intend to offer (if you are after an off licence).

### **The likely impact of the licence on the local community**

The Board needs to know who will be impacted by your proposed licence, so tell the Board why the local community will benefit from your proposed licence (see ***Is my application "in the best interests of the community"?*** above).

Similarly, provide the Board with information about what you intend to do to minimise / eliminate the potential for any undue annoyance or disturbance or disorderly conduct that might arise from the grant of the licence.

You should be aware that, just because a licence application has support from people in the local community (or, alternatively, that it is opposed by the people in the local community), this is not indicative of whether a proposed licence is (or isn't) in the best interests of the community. The Board must decide these issues on principles that are broader than the level of immediate community support or concern.

In some applications, the potential impact of the grant of the licence on the neighbourhood or the community and the concerns raised by objectors might mean that expert evidence (on traffic management issues for example) might be required to satisfy the Board as to the issues raised or likely to be raised at the hearing. It is up to you (as the applicant) to determine what expert evidence you might need to bring before the Board.

### **Planning approvals**

While the Licensing Board is not a planning authority, there may well be planning issues that are relevant to determining whether an application is '*in the best interests of the community*' and relevant, therefore, to a determination whether or not to direct the grant of a liquor licence.

While it is not necessary to submit a planning permit when putting an application to the Board, it is unusual not to do so. In many instances if an applicant demonstrates the planning issues have been adequately and appropriately dealt with by the planning authority, then the Licensing Board will have little further interest in those issues. The Board's 2010 decisions in relation to *Brian Armstrong: Seaside Turners Beach 17th June 2010*, and *Jason Bresnehan Main Rd Hadspen 20th May 2010* are a useful guide to the relevance of planning approvals in determining whether an application is '*in the best interests of the community*'.

These decisions show that the Board will receive and hear an application without prior planning approval, but that if planning issues (like parking, traffic flow, zoning, noise levels, harmony and coherence within the local environment, etc) are crucial, then the Board may determine that the evidence is insufficient to grant the licence, but may be satisfactory after the site has been approved by the planning authority.

Especially in the context of local community opposition based on planning grounds, the Board will be reluctant to decide in favour of an application when the planning issues have not first been dealt with by the planning authority.

In the instance of a simple matter where planning consent is likely to follow, and opposition (if any) is not based on planning issues, then the Board may well be satisfied that directing the grant of the application prior to planning approval is appropriate. In that way, you can pursue a number of the regulatory approval processes in tandem, and not waste time dealing with them serially.

Ideally, the property will be zoned for the intended use, and a planning permit will be in place before the application for liquor licence is made, but life isn't always so simple. You will need to take the chance that your licence application will be refused or adjourned due to the absence of planning certainty. The Commissioner's office will receive and progress applications, but the risk of rejection or adjournment when the matter comes on for hearing by the Board is a risk that you take. The Commissioner's officers cannot state with certainty what the result of a hearing will be at the very early stage of lodgement.

### **Construction details**

As the Board is unlikely to be aware of your premises, provide photographs and professionally-drawn plans of the exterior and interior of the premises, including detail (and photographs if possible) of the building materials and finishes (inside and outside), furnishings, any acoustic treatment to reduce noise escaping the premises, etc. Include as detailed a costing as you can, so that the Board can get an understanding of the quality of the build of the proposed premises.

### **Type of entertainment or accommodation (if applicable)**

Entertainment and liquor can be an explosive combination – you need to convince the Board that the community won't be adversely affected by providing both. If you propose having entertainment, give the Board the detail of the type of entertainment, where on the premises it will be held, the times of

the week and times of the day that you intend to offer the entertainment, etc. In particular, because of the need to manage liquor carefully in entertainment venues, you need to convince the Board that you have measures in place in relation to sound-proofing, security, staffing levels, etc to ensure that you can manage the sale of liquor in these circumstances.

### **Type of accommodation (if applicable)**

If your proposed premises includes accommodation, provide the Board with the detail of your target clientele, the nature and style of accommodation to be offered, how the sale of liquor will be managed in relation to guests.

## **ADDITIONAL REQUIREMENTS**

### **Applications for an off-licence**

In applying for an off licence, you *must* provide evidence to the Board that the principal activity to be carried on at the premises will be the sale of liquor.

### **Applications for an on licence for a restaurant**

In applying for an on licence for a restaurant, you *must* provide evidence to the Board that the premises are, or are intended to be, used as a restaurant.

### **Applications for a club licence**

In applying for a club licence, you *must* provide the Board with:

1. Evidence of the number of members in the club (by each category of membership, as applicable).
2. A copy of the constitution of the club
3. A copy of the rules of the club.
4. A copy of the certificate of incorporation of the club.