

Licensing Board of Tasmania	Decision
Legislation	Liquor Licensing Act 1990
Applicant	Alexia Kalis
Nature of Application	Off Licence
Premises: name	Shout Bottleshop Lenah Valley
Premises: location	2 Augusta Rd & 462-466 Elizabeth St, Lenah Valley
Name of Decision	Shout Bottleshop Lenah Valley
Date & place of hearing	26 February 2009, Hobart
Date of Decision	20 March 2009
Members of the Board	KB Sarten (Acting Chairperson), D Logie (Member)

DECISION

We direct the Commissioner to grant the Applicant, A Kalis, the off-licence as applied for.

Application

Ms Alexia Kalis applies for an off-licence for premises which are to be constructed as part of a new development on the corner of Augusta Rd and Elizabeth St Lenah Valley.

Appearing at the hearing for the applicant:

- A. Kalis – Applicant
- D. Zeeman – Counsel for the Applicant

- T. Hocking – Enterprise Marketing Research Services Pty Ltd (EMRS)
- L. Miller – EMRS

Appearing at the hearing as, or for, objectors:

- J. Gillon – appearing for the Australian Hotels Association (Tas Branch) (AHA)
- P. Cook – Licensee Talbot Hotel
- S. Mills – local resident
- D. & K. Aldridge – local residents and direct neighbours

Written submissions were received from the aforementioned objectors alongside objections from residents, H. Beattie, A. Robertson and D. Chamberlen.

Application summary

The premises are to be situated on the corner of Augusta Rd and Elizabeth Street Lenah Valley as part of a development on a site previously used as a service station, although over the last several years the site has been vacant and in a general state of disrepair.

Planning permits from local government have been granted which restrict the hours of operation to 08:00 to 21:00 Monday to Saturday and 9:00 to 19:00 Sunday.

Nearby premises with an off-licence and/or bottle shop facility include Eaglehawk Fine Wine Cellar, Talbot Tavern, Queen's Head Cafe Wine Bar and Just Add Wine.

The Applicant gave evidence by her original submission (dated 2 January), and at the hearing tendered an updated planning permit from Hobart City Council and documentation from Tony Hocking, EMRS in response to questions relating to the supporting survey methodology.

The AHA lodged a written submission in general opposition to the grant and Ms J Gillon appeared at the hearing to make submissions.

Ms S Mills lodged a written submission in opposition to the grant with concerns regarding traffic, outlet density and proximity to a school. Ms Mills appeared at the hearing to make submissions.

Mr D & Mrs K Aldridge lodged a written submission in opposition to the grant with concerns including questions regarding the methodology of the applicant's survey (therefore questioning whether the applicant had demonstrated a need), alongside the appropriateness of the nature of the commercial development and a general concern relating to existing alcohol related issues stemming from nearby licensed premises. Mr and Mrs Aldridge appeared at the hearing and tendered a further document in support of their submission regarding the survey – a decision from the Northern Territory Licensing Commission, *Liquorland, Mitchell St, Darwin, (2001)*.

The *Liquor Licensing Act 1990* (Tas) prohibits the sale of liquor without a licence, and permits the grant of an off licence, s 9. Section 24A states that in considering an application for a licence, the Board must make a decision which, in the opinion of the Board, *is in the best interests of the community* (emphasis added). In addition, s 24A (2) states that '[i]n considering an application for an off-licence, the Board must be satisfied that the principal activity to be carried on at the premises will be the sale of liquor'.

The Applicant's further evidence included:

- an intended investment of \$700,000;
- market research from EMRS indicating likely support from 50% of the applicant's intended target market;
- that the principle activity to be conducted will be the sale of liquor;
- a reading area and wine tastings to provide a point of difference;
- evidence of a long term lease;
- traffic impact assessments including car parking and pedestrian access;
- information on the other liquor and gaming licences held by the Applicant who has been in the business of retail outlets for many years;
- RSA policies, training and commitments;
- estimated employee requirements of 3 full-time and 6 part-time staff;
- that the premises and business is to be completely separate and will have no relationship (ownership, staff, or business), with the proposed convenience store on the same site, aside from a common landlord;
- a commitment exit the what may be referred to as the 'alcopop' market where the drinks are in excess of 7.5% alc/vol., demonstrating an awareness of community concerns;
- general social and economic benefits including competition, employment, retention of profits in Tasmania, contribution to the community in providing a use for a derelict vacant lot, among others, and
- the Applicant acknowledged that there may be some shift in business from other premises (including one of the objector's present) however submitted that the premises would provide additional choice and competition for local consumers and that no premises currently exist within the suburb itself.

Consideration of evidence

The nature of the objector's submissions at the hearing was consistent with the written submissions received as outlined above.

Objections were not supported by evidence of harm associated with any concerns mentioned beyond general assertions. Further we have no evidence of any harm arising from the grant of off-licences in recent years. We draw attention to previous decisions of the Board which discuss harm in general terms, some decisions also include reference to bottle shops and proximity to schools. (In particular *BWS – The Cheaper Liquor Co Kingston* (2005)).

The Applicant's intention, planning permit and application satisfy the Board that the principle activity will be the sale of alcohol (s 24 A (2)). Further, the application supports a development on what has been for some time a derelict site, adding vitality and employment to the area among other social benefits. It is reasonably to be expected, in the absence of any direct evidence regarding harm, that the benefits offered are in the best interests of the community.

In conclusion the application meets the criteria of the *Liquor Licensing Act 1990*, and we direct the Commissioner to grant the licence.

K Sarten
(Acting Chairperson)

D Logie
(Member)