

Licensing Board of Tasmania	Decision
Legislation:	Liquor Licensing Act 1990
Applicant:	Jim Soldatos
Nature of application:	For an off licence
Premises: name	Greenpoint Off Licence
Premises: address	Greenpoint Shopping Plaza, 26-28 Greenpoint Road, Bridgewater, Tasmania
Name of decision:	Greenpoint Off Licence
Date & place of hearing:	Hobart, 18 <sup>th</sup> May 2010
Date of decision:	20 <sup>th</sup> June 2010
Members of the Board:	PA Kimber (chairman), K Sarten, D Logie (members)

## DECISION

### **Application**

This is the decision on an application by Mr Jim Soldatos for an off-licence under the Liquor Licensing Act 1990 relevant to premises at the Greenpoint Shopping Plaza, shop 3 and 4, Greenpoint Shopping Plaza, 26-28 Greenpoint Road, Bridgewater.

### **Law**

The relevant extracts from the Liquor Licensing Act: sale of liquor without authority is illegal. Authority may be gained by grant of a liquor licence.

### ***9. Off-licence***

*An off-licence authorizes the sale of liquor between 5 a.m. and midnight, on any day on the premises specified in the licence, for consumption off those premises.*

And:

### ***24A. Requirements for licence***

*(1) In considering an application for a liquor licence, the Commissioner or the Board must make a decision which, in the opinion of the Commissioner or the Board, is in the best interests of the community.*

*(2) In 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.*

*(3) In considering an application for an on-licence for a restaurant, the Board must be satisfied that the premises are, or are intended to be, used as a restaurant.*

## **The application**

The Applicant lodged an application submission and written statement of evidence with supporting documents.<sup>1</sup>

Mr Soldatos appeared and gave evidence. He sought leave for Mr Kyle Somann Crawford, counsel, to represent him, which in the circumstances of the Tasmanian Hospitality Association being obliged to be represented, being a non- natural person, leave was granted.

Mr Ben Walker appeared for the THA.

Mr Charles Scarafiotti from EMRS attended.

## **Objections**

Mr Walker noted the objections in the following summary points:

- 1 The Association which he represents is opposed to liquor licences operating (or at least, being granted) in or near supermarkets.
- 2 Concern at the social harm in the Bridgewater area which may be caused by the more ready availability of alcohol – especially taking account of the previous decision of the Board which refused an application for the same

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- 1 Application submission
  - 2 Location map
  - 3 Aerial site plans as existing and as intended after re-development
  - 4 Floor plan
  - 5 Exterior elevations
  - 6 Photos of centre 2006 redevelopment
  - 7 Parking occupancy survey report
  - 8 Nekon Group Profile (the centre owner)
  - 9 Statement by Nekon Director
  - 10 Lease confirmation
  - 11 Department of employment and Workplace Relations – Unemployment statistics 2003, 2006 and 2009. Labour Market Related payments: monthly profiles 2004 and 2010 – Newstart and Youth Allowances.
  - 12 LGA Newstart Recipients per 1,000 population, Centrelink
  - 13 ‘Tasmanian Together’ media release
  - 14 EMRS Market Research Report
  - 15 Liquor licences as at 19<sup>th</sup> Feb 2010 – Dept of Treasury and Finance
  - 16 Confirmation of competency re RSA accreditation program

area *BWS Cheaper Liquor Co Bridgewater, 2005*. Mr Walker asserted that the area was susceptible to social harm, and that the previous decision evidenced reasons which still apply and which justify the refusal of the application.

- 3 Concern at proximity to Police, Community and Youth Club, Aged Care facilities and School, meant that perhaps more vulnerable members of the community would be put into contact with liquor.

In questioning the Applicant the following issues were brought up and responded to:

- 4 Concern at hours of opening: Mr Soldatos stated the hours would be 9am to 10pm, 7 days per week.
- 5 Risk of congregation of youth in car parks adjacent, and adverse activity: Mr Soldatos stated that the 'tenancy profile' in the centre, the rules of the store and of the tenancy manager, would not tolerate misbehaviour in the car park. He replied that the area was frequented by people of all ages, and that under control of the centre manager, any individual tenancy in the manner of its operation would not be permitted to jeopardise the business of other retailers, the area generally, or the safety and comfort of the public. He said he was aware that the area will need careful attention and that the centre and he and his operation intended to have a 'zero tolerance' approach to anti-social behaviour. He mentioned the proximity of the police station as beneficial to the situation, and that police officers are often in the vicinity and in the centre, in uniform. He advised that there would be 35 CCTV cameras on the centre site, with 3 external and 5 internal to the immediate premises, with high resolution quality.
- 6 Responsible Service of Alcohol arrangements: Mr Soldatos stated he would ensure all staff had RSA certificates, and:
  - a. That his signage would be designed not to be seeking to attract under-age persons;
  - b. That he would hold regular joint staff meeting and maintain an 'incident book';
  - c. He would endeavour to maintain a vigilant approach.

## **Consideration of facts**

Commissioner's office Mr Hedge provided a report on the premises and the intentions for supply of liquor.

He noted:

- The proposal is for what might be called a normal bottle shop within a shopping centre, not part of or attached to a supermarket.
- The plan would involve refurbishment of the proposed space.
- Mr Soldatos is experienced in business and strong background in retail and wholesale in Tasmania and Victoria, involving management, training and leadership. He has worked in social welfare for the Salvation Army and in real estate for an Agency in commercial property management.
- The proposed area of the shop would be 162m<sup>2</sup> with a new built entrance. Refurbishment would include refrigeration installation, walk in cool room, small office area, and goods receivable area for deliveries, and of course, retail display area.
- Alterations would be made to the existing newsagency and post office premises and additional building development at the rear of the premises would enable storage and delivery associated with the licensed business.
- The Shopping Centre ("Plaza" as it is called) has 250 car park spaces available, with a recent survey indicating that the centre is operating under capacity – significantly.
- If the licence is granted, the existing newsagency and post office would be re-located within the centre.
- Other businesses in the centre are Woolworths supermarket, bakery, cafe, and newsagency.
- Entities operating within the corporate building include Centrelink, Service Tasmania, Library and online access centre, Red Cross, office for Department of Justice and Community Corrections.
- Nearest licensed premises are the Derwent Tavern, Brighton Hotel/Motel. Both have out of hours permits and operate bottleshops.
- The Applicant states that he and the centre owner have developed long term relationships and networks with the local community and business owners.

The Police and Citizens Youth Club (adjoining the retail building), where police presence in and around the centre is evident, is ideally located for issues relating to the area.

- The application was signposted and advertised.
- No objections were received by the Commissioner within the relevant period.

The Commissioner advised the Board that for the purposes of the Act, the Applicant is a 'fit and proper person' to hold a liquor licence.

The Board has taken account of all the written material lodged with the submission and note the following which appears from it, and submissions made at the hearing:

Mr Scarafiotti stated that in his opinion there had, on review of the social data, been a clear change in the demographics and social balance in Bridgewater, Brighton and Old Beach in recent years, with general improvement being the feature.

He said Brighton was predicted to be Tasmania's fastest growing area, and certainly in terms of infrastructure being developed and money being spent on that, the situation was self evident.

He stated that Greenpoint is to be the main commercial area in the municipality, as reflected in the Council Strategic Plan.

He said that a convenience issue was relevant, and that being able to procure usual household purchases in a common area, where administrative and social tasks would be undertaken was an accepted community method of rationalising service delivery.

He said his data indicated that there was one general licensed premises (including a bottleshop) serving 9,800 people, and that the existing premises was in a bar and gaming environment, whereas the present application would not have that focus. Also, the other premises is on the other side of the main north – south highway, and not easily accessible for those living and working on the side of the highway where the Greenpoint centre has been built.

Mr Somann-Crawford submitted on behalf of the applicant that the proposal gave to the community some choice about liquor purchases, with greater likely range of product, price competitiveness, and a different service than the existing most proximate alternative. He said it was a positive aspect that purchases could be made in an environment which did not, in fact, involve the consumption of alcohol (on site) and did not involve provision of gaming facilities. He said it should be seen as a comfortable place to shop.

Mr Somann-Crawford noted that the Applicant is involved in the local community, and over 10 years the area had been changed to a vibrant shopping centre, and that the shopping centre owners, the applicant, and apparently the public in the vicinity felt the works and including the present proposal were a positive development.

He noted the close proximity to police offices, and their use of the centre.

He responded to any assertion of ‘proliferation’ of outlets to the effect that this was the first new application in the area for many years, and the public may well perceive they had been left off the map as to modern facilities in this regard.

He said the application central submission should be seen as requesting a comparison between this area and neighbouring or other service centre localities, and that by comparison, this area was poorly served, and endeavours to provide facilities or the usual range in comparable areas should be encouraged for social and economic benefits. He said that there would still only be 2 outlets – so it could still be realistically asserted that the area is under-serviced compared with other community central hub areas.

There was no evidence contradicting the assertions made by Mr Somann-Crawford or Mr Charles Scaroiotti and the Applicant.

Taken at face value, the application seems an appropriate one for direction for a grant of a licence.

The Board reviewed the decision in the previous application (by a different applicant) for the same general area. Taking account of the lack of objection (not thereby denying that the THA expressions of concern stated by Mr Walker are valid matters to be taken into account) by community or social groups, lack of objection by ordinary members of the public who would be likely to be adversely affected if adverse effect is likely, and taking account of the quite significant research material provided, indicating positive improvements in the area - the Board is able to conclude that this is a very different scenario than that which was portrayed at the previous application hearing.

It is apparent that the local Brighton Council is not opposed to the grant of the application, nor are individual councillors opposed.

It might also be thought likely that if Tasmania Police had concerns as to where the premises would be sited or even the actual presence of a bottle shop in the intended centre they too would have made a submission expressing concern viz a viz the potential adverse impact on those living and working in the neighbourhood, and in the difficulties which the risk of exacerbation of the impact of consumption of liquor might produce.

But that did not happen.

On balance it would appear that the provision of additional services in this area outweighs general expressions of concern about the availability of liquor, and that on balance the grant of the licence would be in best interests of the community, providing the benefits noted above.

### **Decision**

We direct the Commissioner to grant the licence.

PA Kimber; Chairman.

K Sarten; Member.

D Logie; Member