

Decision of the Licensing Board of Tasmania

In the matter of the "Bicheno Gaol"

In the matter of an application by Mr Wayne Homan for a special licence permitting limited conditional sale of liquor without the necessity to provide food at restaurant premises at Bicheno

Dated: 15<sup>th</sup> December 2000

Application heard: at Launceston 15<sup>th</sup> November 2000

Present:

Board: Phillip Kimber, chairman, William Morris, member and Louise Finney, member.

Applicant: Mr Homan and Mrs Homan.

Representors: Mr D Leesong and Ms S Butterworth (Australian Hotels Association), Mr M Webb from the Silver Sands Motel Hotel.

The applicant referred to papers filed, and gave evidence. Mrs Homan gave evidence.

The Board accepted the applicant's evidence, and the evidence via his witness so far as relevant to the application.

They run a small licensed restaurant in Bicheno. The business is productive, in support to the tourism industry, in providing opportunity for labour to the applicant and others, and in generating income to the applicant.

The proposition is for an area which would permit sale of liquor to restaurant patrons, but not with the requirement that the patron partake of a meal: a casual drinking area, in accordance with the guidelines, in a set aside area at the front of the premises, and a smaller area at the rear of the premises (both outside).

The Board had concern that there was no proposition for catering for casual drinking within the premises. Although this was not explained, it is implicit that the market that the applicant seeks to meet is that which is attracted to consume liquor without food on days conducive to being outside the building.

The enterprise apparently has a good reputation, is profitable, provides for the local as well as the tourist market, and offers food at all times when open. The applicant explained her evidence to the effect that he would not wish to jeopardize the main business of being a restaurant by running the premises as a 'bar'. We accept the applicant's integrity in this issue.

Issues regarding proximity to local schools were raised. It is immediately apparent that this was a concern raised mainly by or on behalf of local industry operatives in recognition that it is a matter relevant to the Board's considerations. There was no evidence from those more proximately associated with the school (parents, teachers, education department, police) expressing concern at the application.

We conclude that, on the evidence, there is no likelihood of adverse affect to the community, and in particular, to those working or attending the local schools, due to the prospect of this application being granted.

The local supermarket or convenience store operators made objection on the basis of the school issue, but were not present to advance the objection, and the Board was left in doubt as to what real concerns there could be.

A Mr Pearce also backed up this complaint, but again, he was not present and his evidence could not be advanced. On balance, the objection appeared to have no merit.

As to need, the applicant called or gave evidence to the effect that they have a number (not large) of customers who request a drink without being obliged to buy a meal. This is a recurrent theme in such applications, and well understood by the Board to be a reality in the market. Whilst the numbers may not be large, the result of refusal is a dissatisfied customer, on each occasion.

Whether the application will result in disorderly development (or, more properly, whether the grant of the application will contribute to the orderly development) of the hospitality industry is a matter where the impact of the business is critical. Clearly, this is not likely to be a business, when authorised to sell liquor in the manner for which application has been made, where there is going to be any adverse repercussions to the hospitality industry. Indeed, the likelihood is that the flow on or multiplier effects of the increase in trade in Bicheno will, step by step, improve the service to locals and tourists alike, and encourage sensible development of the industry in the locality.

The application is for 3 tables at the front of the premises and one table at the rear. The premises seat 29 inside, and the outside tables would seat maximum 16. So of a total of 45, 16 represents 35 per cent. Normally the board considers between 25% and 30% to be appropriate, to bolster the purpose of providing liquor only as an adjunct to the principal purpose of providing food/dining. 13 would be 28.8%, 12 = 26.6% and 14 = 31.1%. In the circumstances, a maximum number of people consuming liquor without also partaking of a meal, and therefore a maximum number of people in the outside areas of 13 is appropriate to keep the balance of purpose towards providing meals.

Mr Webb from Silver Sands said there is no need for the licence to be granted. That is answered above. In the Board's discretion, the need issue is

met by the non-intrusive nature of the application, and the social and economic benefit of the contribution which the premises makes to the community.

Ms Butterworth expressed concern that the exclusive licensing of an outside area might lead to beer garden type approach. We are satisfied that that is not the intention of the applicant, and that the principal purpose of the applicant in regard to both inside and outside areas will continue to be the provision of food, and liquor only as an adjunct to provision of food.

The Board will direct the grant of the licence, subject to conditions. The terms of the licence and licence conditions as amended are:

The sale of liquor is authorised for consumption on the premises at any time on any day subject to the following conditions:

1. Liquor may be sold for consumption on the premises to people partaking of a meal;
2. Liquor may be sold for consumption on or off the premises to in house guests and their guests, resident in the adjacent premises known as the Bicheno Gaol House;
3. Liquor may be sold to patrons in area A and B (as marked on the plan tendered at the hearing and on the file) for consumption without food, provided that there are no more than 9 and 4 people (respectively) in the respective areas consuming liquor at any one time;
4. Food in accordance with, or similar to that available in the menu submitted to the Board is to be available to all patrons at all times when the premises is open for the sale of liquor;
5. A range of non-alcoholic beverages is to be available for consumption on the premises; and
6. This licence and the plan referred to above are to be displayed on the premises.

PA Kimber – Presiding Member

W Morris – Member

L Finney - Member