

LICENSING BOARD OF TASMANIA

In the matter of the Liquor & Accommodation Act 1990 (as amended to 2003)

In the matter of an application by Bruce Stuart Chambers for special licence (Tasmanian Wines) for the Dunalley Fish Market, Dunalley

Application was filed 26th September 2003. It was signposted and advertised. The applicant provided a written submission in support of his application dated 21st September. The licensee of the Dunalley Hotel Mr Bill Kidd lodged a written letter of objection of the 17th October 2003.

The applicant lodged a response and further submission dated 30th October 2003. The application was heard in Hobart on the 4th December 2003. The applicant appeared in person. The objector did not appear. A representative from the Australian Hotels Association, Ms Louisa Jeschke LLB appeared and was granted leave to represent the AHA.

The evidence in favour of the grant of the licence.

The evidence was to the following effect:

Mr Chambers' primary business is selling local fresh fish, oysters and crayfish. 80% of his trade at Dunalley is catering to the tourist trade with 50% of these customers coming from various parts of Asia and surrounding countries.

Several local winegrowers have asked the applicant to promote their product because of the high number of tourists that form part of the customer base. Many customers take crayfish or smoked products back to the mainland or overseas and the sale of local wine would form a natural adjunct to the existing business.

He asserts a complementarity in the nature of seafood and wine and that the seafood he sells is locally sourced and that it would be a logical progression to sell local wines to the passing tourist trade. Wine would be sold under direct supervision of the licence holder who would have completed the appropriate responsible service of alcohol accreditation program. Wine would be secured in a locked cabinet when not on display to customers.

Opening hours would be 9.00 am – 6.00 pm 7 days a week.

In evidence given verbally at the hearing Mr Chambers added that he has approximately an average of 150 visitors per day although sometimes those numbers go up as high as 400 visitors. 80% are tourists. He indicated he has had interest expressed from many of those tourists about the possibility of buying wine and he sees mutual benefit to them in being able to provide a service and to him in being able to make his business slightly more expansive and profitable.

He stated that the sale of wine would compliment the existing hospitality tourist nature of his business.

He advised that the Dunalley fish market also had fish tanks where fish available for purchase in live form are displayed, much to the interest of some of the customers.

He asserted that he did not believe that Tasmanian wines were particularly promoted from the nearby hotel. He estimated that if he promoted the sale he would sell approximately 4 bottles per day. He said he did not believe, if his customers did not buy the wine from him, that they would buy it from local other licensees but rather they would either not make a purchase or would fail to buy local wine and would rather purchase any liquor they did wish to obtain from their end destination, either Hobart or Port Arthur.

Dunalley Hotel objection

Mr Kidd asserted that there would be no significant social or economic benefits to the community in granting the licence. We disagree. This might be a minor adjunct to the applicant's business, but that does not indicate that the microeconomic and social benefits to the applicant and the broader community are not reflected and multiplied by this and licences of a like nature. The overall macro economic effect is of a positive nature in providing hospitality goods when and where they are wanted by the public via local industry as an adjunct to an existing retail business.

Mr Kidd wrote in this letter of objection that the reason why there is no significant social or economic benefit to the community is because there are a number of licensed outlets in the Dunalley area that sell Tasmanian wine. We disagree with any claimed logic in this statement of objection. That Tasmanian wine may also be available from Mr Kidd's Dunalley Hotel, Potters Croft, Waterfront Café and the Golf Club (and there was no comprehensive evidence about that) (again, no evidence that in fact the club sells Tasmanian wine) is not an indication of a negation of social and economic benefits to the community to the contrary.

Mr Kidd asserted that it is not in the best interests of the community to grant a further liquor licence as licensed premises in the area could be forced to make staff redundant. We disagree. There is no evidence that the grant of the licence will make staff redundant. To the contrary, the obvious most likely impact will be to some minor degree a positive impact on employment in the locality. Mr Kidd could have brought information to the Board to indicate or try to demonstrate or prove his assertion of a possibility of staff redundancy, but he did not do so. To make a bland and bold assertion that this is the case is, however, of no assistance to the Board. This in fact represents an instance where an objector, principally motivated by trade protection attitude seeks to look into the grab bag of available objections and foist them onto the Board for consideration, without having gone to the trouble of reviewing the matter, thus wasting the Board's time.

Mr Kidd states that granting the application would be of minimal benefit to the tourist market. Again, we disagree. Every positive impact, every step by step, every percentage plus percentage, in the absence of any adverse or negative impact, must be seen as being beneficial of the relevant social and economic indicators in the Tasmanian community. There is no evidence provided by Mr Kidd that indicates any negative impact to the tourist market, but the positive impact by one further business being able to provide a service to the tourist market, and the precedent by implication for like businesses to do so is clearly of positive benefit.

Mr Kidd says that it is unlikely a large number of tourists would visit the Dunalley fish market. Had he been at the hearing rather than providing only a written objection without any evidence, he would have heard the evidence from the applicant indicating a significant number of tourists visit the Dunalley fish market. He should also be aware that the Dunalley fish market is on the route between one of the most popular tourist destinations in Tasmania: from Hobart to Port Arthur. His assertion is simply a self serving statement without evidence which is not believable and unsupported in the context of the evidence. Mr Kidd does not appear to have taken the time or effort to understand his neighbour's business or to consider the written submission in favour of the application.

Indeed, it may not even be a self-serving assertion. Whilst clearly motivated by personal trade protection desires, it ignores the flow on effect of having more business premises being more active.

Mr Kidd contends that the Dunalley fish market is not a hospitality provider. He is incorrect. He also asserted the only other apparently available objection, that sale of seafood would cease to be the primary purpose and that the applicant would start to sell large quantities of wine making that his primary purpose, and hence being in breach of regulation 4(2)(b) or regulation 4(1)(a).

Quite clearly the applicant intends to continue to run his business with the primary purpose of sale of fish and with liquor only as a minor adjunct. Mr Kidd is again misguided.

Decision

We consider this application meets the criteria in the Liquor & Accommodation Regulations 2003 with regard to special licences and in our firm opinion it is in the best interests of the community to grant the licence (s. 24A(1) of the Liquor & Accommodation Act 1990 as amended 2003) and we direct the Commissioner to do so.

Dated 4 December 2003

PA Kimber
Chairman

WF Morris
Member

L Finney
Member