

Licensing Board of Tasmania

In the matter of and application
For a **General Licence** for the
Swansea Waterloo Inn

Applicant: Athol G Barker

Heard: at Swansea on the 30th January 2002.

Board: P Kimber, B Morris, L Finney

Decision:

Mr Barker applies for a general licence in substitution for his in-house guests (and their guests, and for pre-booked functions, seminars etc) licence for premises at 1A Franklin St, Swansea.

The application was heard at Swansea. Mr Barker gave evidence, and relied on the documents he had filed. He did not call evidence.

A number of trade objections were filed, and trade objectors attended to express their opposition to the application on business grounds and community grounds.

Mr Peter Oxford, the owner and operator of the accommodation premises adjacent-but – one objected and the freehold owner of the adjacent general-licensed premises “Swan Inn, appeared, objected and gave evidence. He did not call evidence.

Mr Kerry Darby, the operator-lessee of the Swan Inn appeared, objected and gave evidence. He did not call evidence.

A submission lodged in favour of the application was from Real Estate Agent, Chris Skeggs,

Submissions lodged against the application were from the following people and expressed the following objections:

1. David Latham B Pharm, JP:
 - a. the small community of Swansea has sufficient liquor outlets which more than adequately cater for the needs of the area, particularly taking account of the proximity of the subject premises to the Swan Inn (adjacent);
 - b. concentration of liquor outlets into a small area would be to the detriment of the immediate residents and the community generally;

2. Libby and Jim Walters from “Ravensdale” Little Swanport objected on the same ground a 1(a).
3. Kerry Darby objected
 - a. on the stated community based interest that with 550 plus residents in the locality, and seven liquor outlets in close proximity a further general licence was unwarranted.
 - b. He also expressed concern that the applicant’s intention was to procure a licence, then offer his property for sale with that added value, without having any real intention of developing the property with the licence.
4. Ross James from Bomaderry, NSW, objected
 - a. for the same reasons a 1(a),
 - b. concern at potential anti-social behaviour associated with consumption of liquor,
 - c. adverse traffic conditions,
 - d. that the applicant’s property has shut down during some winter months in recent years, and hence this counter-acted any assertion that there was a need in the public for a further general licence;
 - e. that, for some reason unspecified, the sale four years ago of the Swan Inn to Mr Oxford was a breach of good faith between Mr Barker and Mr Oxford;
 - f. he and his wife came to Tasmania to escape the ‘rat race’ (although his address is given as NSW, Mr James owns a country retreat at Dolphin Sands), and that in an over-licensed area, another licensed premises is proposed;
5. Mr Peter Oxford objected:
 - a. Messrs Douglas and Collins, through solicitor Will Edwards, lodged a written objection on behalf of Mr Oxford and his company referring to:
 - i. that economic growth would not be enhanced or promoted by granting the application (vide s216 the Act);
 - ii. hence social growth would not be enhanced;
 - iii. orderly development would not be achieved with 2 general-licensed premises adjacent in a small town;

- iv. that, given the applicant's stated intention of providing dinner and show packages, opening for only limited hours, not promoting takeaway sales, and promoting dinner, bed and breakfast, was an admission that a general licence was not required (in that either the existing licence or a restaurant licence – which was not opposed – would suffice);

- 6. RE Rodgers from Freycinet Waters Beachside Cottage objected;
 - a. That with the limited population in the area, the two existing liquor outlets (Swan Inn and the RSL Club) were just viable, and their continued viability would be threatened if the licence was granted;

 - b. A major increase in the visitor retention rate would be necessary to ensure the sustainability of a third outlet (and hence jeopardise each of the 3 outlets) over the 'lean' period outside the 3 months peak season;

 - c. That local institutions in the form of the existing Swan Inn, and the RSL club should not have their continued operation threatened by a third service.

- 7. Ms R Sawford expressed concern that there are enough licensed outlets, and hence there is no need from the public perspective for the proposed new licence. Mr Darby employs Mrs Sawford in the kitchen of the Swan Inn.

- 8. Chris Skeggs, a real estate agent operating the Roberts Ltd franchise on the East Coast, expressed support for the application on the basis that it would complement and enhance the service provided by existing licensed businesses, and that it would provide a further option during the busy high season and holiday period.

The Board inspected the applicant's premises and also the Swan Inn.

Mr Barker's response to the objections was to the effect that his existing licence is too restrictive of the need to meet customer demand, and re-iterated those aspects of his application documents, which indicated the intended changes to his operation, should he gain the general licence.

His application was on the basis that he intended to maintain the premises as principally providing accommodation (it is a large brick building of cubic shape, on the foreshore, with 23 rooms, seeking to concentrate on the tourist bus market), conference facilities, and function room.

Mr Barker does not intend to change the layout in the ground floor dining and bar area, which is currently used to cater for in-house guests. Indeed, if granted the licence, he expects the changes will be minimal. The main entertainment room, with a view directly

out over the foreshore, would remain principally for diners. The bar area would be closed off from the dining area when only a few guests were attending, to avoid the need to supervise the larger area (including the area with the view out over the water) and to contain those seeking refreshment to the bar area, facing inward.

He expressed no intention to develop a dedicated bottle shop, and would, perhaps (if demand required it) purchase a new two door refrigerator to stock with further liquor supplies.

Mr Barker also intended, if granted the licence, to instruct a marketing agent or manager. His application seemed to rely on the initiative to be developed by the intended marketing manager.

Clearly the application is placed on a minimalist basis; that the applicant perceives that it will enable him to cater for casual drinking clientele, with minimal disruption to his existing business, and minimal economic disruption to other licensed premises.

The Board has taken account of s216 of the Liquor and Accommodation Act, and the Guidelines. After consideration, we are of the view that there has been insufficient evidence to the effect that the public need which the applicant wishes to service is not adequately serviced by existing licensed or permitted premises in the locality. Indeed, there was no evidence apart from the applicant's assertions of desire to meet a perceived need, that there was any need at all for a general licence in his premises.

The applicant did not indicate that he would be providing any new services and facilities in conjunction with the change to general-licensed premises; accommodation is already provided, indications of changes to entertainment were unclear or imprecise and intangible.

On balance we consider that the applicant has not met the required standard of proof in the evidence submitted, and the Board directs the Commissioner to refuse the licence application.

Dated: 19th March 2002

PA Kimber; Presiding Member. WF Morris; Member. L Finney; Member.