

Licensing Board of Tasmania:	Decision
Legislation:	<i>Liquor Licensing Act 1990</i>
Applicant:	Paul Lucock
Nature of application:	On Licence
Premises name:	Pool on Liverpool/Lava Lounge
Premises: address:	142 Liverpool St, Hobart
Name of decision:	Pool on Liverpool
Date and place of hearing:	18 December 2006 at Hobart
Date of inspection:	12 January 2007
Date of decision:	24 December 2007
Members of the Board:	Phillip Kimber (Chairperson), Louise Finney, Kerry Sarten

Reasons for decision.

The Board heard this application, and subsequently inspected the premises. Mr Lucock gave evidence and called evidence from his business's manager Darren Turner. Officers of Tasmania Police from the Licensing Section Justin Helmich and Michael Maksimovic attended and made submissions, as did Mark Brazendale on behalf of the Commissioner for Licensing. The Board considered a review and report from the Commissioner's officer John Anderson. The Australian Hotels Association (Tas Branch) lodged a written submission opposing the application, but did not attend to support their opposition nor to seek to examine the witnesses or to call any evidence.

Neither the Police nor the Commissioner's officers sought to oppose the application, but, rather, to provide information about the premises and the business in order to assist the Board in their task of determining whether the grant of the licence would be in the best interests of the community.

The Applicant was granted a special licence some time ago, and has been operating the business under that licence. The predominant focus was originally 'pool' or '8 ball', and the premises (being upstairs in Liverpool Street, Hobart) was in the nature of an old fashioned pool hall. It has, however, developed such that providing live music entertainment is equally a focus, and the condition on the existing licence of providing

liquor only to those participating in pool/8 ball activities is now redundant, and restricts the business.

The question then remains as to whether the more extensive 'on licence' which would permit sale of liquor to any adult on the premises is appropriate and 'in the best interests of the community.

The applicant has a 10 year lease and is a promoter of music. The premises are somewhat old and unique, and quirky in an entertainment style. They are not modern plastic and fashionable – but in that regard paradoxically and quixotically they have their unique charm and utility. No doubt the venue being upstairs and not in the mainstream enables a relatively lower budget expense on rental, and larger premises for the business than might otherwise be available.

The Applicant's proven desire to make the premises available for 'college bands' and the like also provides a benefit to a sector of the community who thereby have the opportunity, which might otherwise not be available, to perform in public.

The Applicant provides a food and non-alcoholic drinks, albeit (in regard to food) of a limited extent. He also provides free internet access to customers. He has a house policy to manage and control the risk of supply to under-age people and to minimise the risk of sale to intoxicated people.

In addition the Applicant stated clearly to the Board that the opening hours would be to no later than 1am on any evening. On that undertaking the Board was prepared to further consider the application, but if it were considered by the Applicant that later opening hours were to be sought (by way of out of hours permit) then we consider that the application would not have proceeded positively. That is, if later hours are sought, then we would consider this application and subsequent grant was procured on the basis of misleading information, and an application for cancellation of the licence would be appropriate. If on the other hand, the licence is sought in conjunction with later opening

hours, the Applicant can again apply for a licence, and reveal the full extent of services, hours, and plans, and intentions, and the Board can consider whether it would direct grant in the context of those changed plans.

The Board was assisted by submissions from the police which were to the effect that the premises and locality indicate some risk in regard to inappropriate activities, if not managed properly and safely. We are content that these risks can be managed appropriately by the Applicant and his staff, and by the Commissioner in her discretion regarding the hours and terms and conditions of any out of hours permit which she may issue. In addition designation to permit young persons on the premises can be granted which prohibits sale of liquor during times when young people are on the premises.

The Police officers gave evidence of issues, which are addressed as follows:

- 1 Designation to permit young people on the premises: as above.
- 2 Previous problems with respect to disorderly behaviour: the Applicant gave evidence that he has not had many problems in this regard in the past. One possibility for that being achieved is suggested as being low patronage.
- 3 Unregistered crowd controllers: this has, the Applicant states, been remedied.
- 4 Underage drinking: evidence was submitted that staff were charged with supply to persons underage, and the Applicant responded that ID checking is now more rigorous, and that the improved management offered by employing Mr Turner as manager will assist in safeguarding against this risk in the future.
- 5 That one staff member had been charged with illicit drug possession required explanation. Mr Lucock stated that the staff member was dismissed or otherwise ceased employment. There was no evidence that the possession was linked to any supply or trafficking associated with the premises.

In conclusion the Police officers indicated that their concern was about 'future directions'. The Board accepts and has the same concerns, and accepts that the Applicant's intentions are appropriate to manage relevant risks.

The Applicant stated that his intention is not to become a late night 'nite club' style venue, and that he will use the current kitchen to provide café style food and coffee. The position of the premises is such that activity is not likely to cause disruption to people living or working in the area. The provision of music entertainment is of benefit to a sector of the community, and the continuing 'pool hall' component is likewise of benefit to those who seek that form of recreation. The Applicant is approved by the Commissioner, after enquiry, as a person qualified to hold a liquor licence.

The AHA letter of submission asked for further detail as to the nature and range of alcohol products to be sold, RSA practices, skills of key staff, strategies to manage alcohol related behaviour, and management of under age access. These issues were addressed adequately in evidence and in the documents submitted by the Applicant in reply, and as set out above in these reasons for decision.

In conclusion, we conclude that in our opinion, and in accordance with s24A of the *Liquor Licensing Act 1990*, that in balancing the relevant issues, it is in the best interests of the community for this licence to be granted, and so direct the Commissioner to grant the licence.

Dated: 7th February 2007.

PA Kimber (Chairman), L Finney (Member) and K Sarten (Member).

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