

Licensing Board of Tasmania	Decision
Legislation:	<i>Liquor Licensing Act 1990</i>
Applicant:	Marko Jotic
Nature of application:	For an on licence
Premises: name	Proller
Premises: address	Basement, 121 Collins Street, Hobart
Name of decision:	Proller
Date & place of hearing:	26 th July 2006 at Hobart
Date of decision:	4th August 2006.
Members of the Board:	PA Kimber (chairman), K Sarten (member)

DECISION

Application

Mr Jotic applied for an on licence (to permit sale of liquor from premises for consumption on those premises) for the basement area at 121 Collins Street, Hobart. The premises are those previously known as the Aegean Restaurant, Catch a Rising Star Theatre Restaurant, and historically, the Commercial Traveller's Club. This is the first time an application has been made for these premises to have the benefit of an on licence.

The premises have a large kitchen area, and retain the décor established with the most recent arrangements and fit out for the restaurants mentioned above.

The premises are in the centre of the city, in the commercial and retail part, surrounded by offices and shops. There are other licensed establishments in the area, including general and special licensed restaurants. The application if granted would permit sale of liquor to patrons with or without food. The essence of the Applicant's submission did not comprise any significant component for provision of food.

The Applicant's written submission was characterised by generalisations. For example:

"offer a comprehensive range of beer, wine, cocktails and spirits".

"Emphasis on quality, comfort and consistency and a level of hospitality we believe is lacking in Hobart's nightlife".

"Experienced and knowledgeable staff".

"we will not tolerate uncouth or disrespectful behaviour, and a stringent door policy will ensure this is achieved".

"Every drink will be mixed with care and precision, and served by knowledgeable staff".

What is apparent is that the Applicant wishes to operate the present premises with minimal alteration or addition through to 4am on Friday and Saturday nights, employing DJs 'to enhance the ambience' as the principal entertainment.

The application indicated a desire or intention to seek out city professionals for after work drinks, cinema goers, and guests from nearby hotels and restaurants.

An 'exclusive retreat from the crowded bars of the waterfront'.

Costing for establishing the premises was stated at \$100,000. No detail was given. It appears that this statement is in conflict with the statement that there would be minimal changes. Alternatively, the \$100,000 might include stock. We can not distinguish.

Food would be available, in the form of antipasto and cheese plates, chips, cake and biscuits. Clearly a minimal attempt to provide food of any variety or substance.

The application states that the business would employ 15 to 20 people. No detail of substance was given as to characterisation of staff positions, and timings, descriptions, hours etc.

It suggests table service for drinks, whilst at the same time indication that in the area stated, there might be up to 200 people. These statements appear to the Board to be mutually inconsistent or inherently unlikely, but were not, in any event, particularised so that we could ascertain how the premises would work with potentially such numbers and with table service. Nor could the Board reconcile this statement with providing an alternative from crowded waterfront venues.

Opposition to the application came from a nearby competing business the Central Café Bar (Mr Damian Bush proprietor) by letter/submission. Mr Bush did not attend. One of his points was the absence of a 'regulatory smoking area'. We do not know what he means by this.

Mr Bush also expressed concerns about disorderly behaviour in the city, and the possibility that these premises might contribute to the problem of intoxicated patrons in the inner city. He expressed concern at the absence of detail of how the Applicant would provide 'crowd control'.

His express concerns about noise pollution appear to be answered by the absence of any neighbouring residences, and the nature of the premises.

The Australian Hotels Association (Tasmanian Branch) made submissions about the risk of contribution by these premises to the negative aspects of harm associated with consumption of liquor, notably:

- Potential for a large number of patrons or potential patrons to congregate in the area or premises, and inadequate description of method to control the situation;
- Prospect of absence of Council approval;
- Noise and disturbance, or absence of express detail about containment;
- Prospect of anti-social behaviour associated with the premises or people departing the premises;
- Absence of indications about arrangements for transporting patrons away on departure;
- Absence of detail of security and crowd control arrangements;
- Absence of detail about controlling under age issues.

The Applicant responded to these concerns, in summary:

- Noise would not be a problem due to the situation of the property. We agree that this does not appear to be a live issue;
- Anti social behaviour management: this the Applicant states will be controlled by employing experienced staff, permanently stationed at the front door for quiet and orderly entrance and exit of patrons, which will also enable effective management of loitering and localised disturbances to 'industry standards'. We do not glean from this response how these potential issues will be dealt with.
- Under age: employment of experienced staff. We do not understand from the reply any detail of how this will be managed.
- Council status: the Applicant tendered further documents following the hearing (permitted at the hearing) which indicated that an on licensed premises serving minimal food is apparently permitted by the planning designation "Restaurant (Lounge Bar)". The nomenclature does not seem appropriate, but the detail indicates the intended use is now authorised.
- Smoking: consistent with a number of recent applications, the Applicant indicated that access to an outdoor laneway or area will be provided for patrons who wish to smoke, given the law requirements that smoking not occur inside licensed premises.
- Transport: the Applicant indicated a belief that taxis will be easily accessible from nearby taxi ranks (roughly one block away), and that taxi drivers will take their cars to the premises if opportunity presents. Also, buses leave from within two blocks to most suburbs.

The Applicant's potential Landlord Mr S Merchant gave evidence that he had carefully selected the Applicant from amongst a number of applicants to lease for the premises and supported his intentions, as his proposal provided a suitable mix for the rest of the 121 Collins Street tenants (solicitors, café, Printing Authority).

Conclusion

We do not doubt that the Applicant has worked in a number of capacities in the liquor and hospitality industry, and is well trained and experienced.

How the premises will operate, however, is not clear to us. The detail in the application was slight.

For an intensive licence in the nature of an on licence, more clarity is necessary. Hobart city has the capacity to become problematic in the vicinity of on licensed premises, as has occurred in the past in some nearby establishments.

It is also common for on licensed premises to have as an integral part of their plan the provision of food either at all times or for significant parts of the day. Provision of food in association with the sale of liquor is a significant contributor to reduction of the harm associated with the consumption of alcohol. The Applicant's plans for provision of food are negligible.

Some elements of the Applicant's case were inherently inconsistent: table service, yet with a potential and likely patronage in the area of 200 people. How this would work was not explained.

Measures for potential crowd controlling and other potential harm from law and order issues were insufficiently explained.

How the asserted staff numbers would be employed was not explained. With the numbers indicated, and the principal service offered being sale of liquor, there is an impression that the premises are intended to be high in volume of liquor sales.

With a desired 4 p.m. close on Friday and Saturday nights, this impression of intended high volume of liquor sales is apparently confirmed.

No financial data was provided of any detail.

No clarity of detail about how the desired 'high profile' patronage would be attracted was provided. No detail was given of décor, marketing, targeting, or other strategies to ensure that the premises would operate in the safe and high quality mode stated by the generalisations in the application.

Whilst the absence of a menu is understandable due to the intent to provide principally antipasto and cheese, there was also no detail of the breakdown of liquor to be provided by type and name and method of sale, or price, or contribution by each particular to targeted gross profit.

No indication of provision of non-alcoholic drinks and other alternatives to alcoholic drinks was provided.

Whilst the Board members have some local knowledge of the locality, there was no detailed information about the nature of the community in the vicinity of the intended licensed premises. Some applications go into considerable detail about the services provided by other service providers in the locality, and compare that with the services the Applicant intends to provide. Also consideration of amenity to persons living or working or otherwise resorting to the locality is often dealt with in much more detail in potentially intensive applications like the present.

In conclusion, in comparison with a number of previous licence applications for on licensed premises, the present application does not have sufficient information to enable the Board to conclude that the granting of the licence would be in the best interests of the community. As that criterion is fundamental to the Board's duty in deciding an application, we must reject the application.

We direct the Commissioner to refuse the application.

PA Kimber; Chairman.

K Sarten; Member