

# Licensing Board of Tasmania: Decision

## Application

Applicant: Mr Vijan Patel, Ravenswood Duncan's, Shop 9, Prossers Forest Road, Ravenswood.

Type of Application: Off Licence (Section 9 *Liquor Licensing Act 1990*).

The application was heard at the Mercure Hotel, Launceston on 18 September 2013.

Decision: 2 October 2013

## Background

Appearing before the Board were the applicant, Mr Vijan Patel; and Mr Patel's business partner, Mr Pratik Sarasavadiya, who manages the adjacent IGA supermarket on his behalf and who would manage the day to day operations of the proposed bottle shop.

There were four letters of support for the application plus one from the General Manager of Southern Independent Liquor under whose Duncan's brand the proposed outlet would operate. Mr Patel submitted 70 questionnaires completed by community members; 35 respondents indicated they were "happy with a new business opening in the complex as a bottle shop"; 25 were not. He also submitted ten pages of Facebook comments with variable comments.

Mr Cornelius Zoon, a potential new employee of the bottle shop spoke in its favour.

There were five written objections to this application and four objectors/observers were present at the hearing. Of these, the following made verbal submissions in support of their written submissions:

- Ms Maxine Butwell (resident)
- Mr Nigel Tapp (representing Uniting Care Tasmania)
- Ms Jenny Gee (representing Ravenswood Neighbourhood House)

## **BACKGROUND**

The applicant seeks an off licence to sell liquor from a proposed outlet, currently vacant, in the Eastside Shopping Centre on Prossers Forest Road, Ravenswood. The applicant operates the adjacent IGA supermarket. There are eleven shops in the complex, four of which are currently vacant.

The proposed hours of operation are between 11.00 a.m. and 7.00 p.m., 7 days a week.

The nearest licensed liquor outlet is the Sunnyhill Hotel, approximately one kilometre away but this has been closed since April 2013. The other closest bottle shops are at Newstead,

Mowbray and St Leonards all within approximately three or four kilometres of this proposal. The Ravenswood Over 50s Club, which operates with a club licence, is located nearby.

### **The applicant's submission**

The applicant sought leave from the Board for his legal representative, Ms Bethan Frake to appear on his behalf. Section 213(6) of the *Liquor Licensing Act 1990* states that:

A person is not entitled to be represented at a hearing unless the Board is satisfied that injustice could otherwise result.

The Board conferred and, given opposition by the objectors and the applicant's statement that he was happy to appear on his own behalf, was satisfied that Mr Patel would not be disadvantaged if not represented by counsel.

The applicant submits that it is in the best interests of the community to have a liquor licence granted for these premises (Section 24A(1) *Liquor Licensing Act 1990*).

The applicant submits that there are currently no liquor stores in Ravenswood or Waverley, an adjacent suburb. While there are outlets within reasonable driving distance, he submits there is nowhere for pedestrians to purchase alcohol. The proposed bottle shop would fill a gap in community need.

Being part of the Eastside Shopping Centre that includes *inter alia* a supermarket, pharmacy and post office, the proposed bottle shop would increase the ability of consumers to address their shopping needs in the one central location.

The development of a vacant shop would invigorate the shopping complex and contribute to community amenity.

The security cameras installed in the proposed outlet mirror those in the supermarket and would be monitored rigorously. The applicant outlined a system of security surveillance involving the generation of a "criminal file". He claims that information on persons suspected of breaking the law obtained through this system is regularly disclosed to the Ravenswood police. He submits that this provides a safe, secure environment for all people to make their purchases of alcohol.

The applicant submits that the proposed bottle shop would close at 7.00 p.m., one hour before the IGA supermarket.

The applicant states that the proposed bottle shop would contribute to community benefit through the employment of local persons who would be trained accordingly.

The applicant submits that the proposed bottle shop would be operated as a separate business and would not be accessible from within the IGA supermarket which is next door. There is no connecting door as is claimed by objectors. They are separate tenancies.

In response to objections in relation to the vulnerability of the Ravenswood community and concerns about availability to alcohol, the applicant submits that the sale of liquor would be conducted in a responsible and lawful way, supported by the existence of the security surveillance system. He submits that no evidence has been submitted that makes a causal link between future anti-social behaviour of people, including criminality, in the Ravenswood community and this proposed liquor outlet.

### **The objectors' submissions**

As indicated, there were five written objections and three verbal submissions.

All of the objectors' submissions were claiming that the grant of this licence would not be in the best interests of the community (Section 24A (1)).

The common theme to emerge in these submissions is the impact of a bottle shop on vulnerable people in the local community and the potential for increased availability of cheaper alcohol to lead to increases in anti-social, violent and even criminal behaviour.

Ravenswood is described as an area of entrenched socio-economic disadvantage and objectors were concerned at the negative influence of off licensed premises in a community that has for a long time struggled with alcohol and other substance abuse related issues. The addition of a bottle shop, it is submitted, would increase access to alcohol and therefore exacerbate the significant social problems already existent in the community.

Concern was raised about the proposed bottle shop being in the centre of the shopping centre with one objector describing this as quite confronting already on a Saturday afternoon with people "hanging around" behaving inappropriately. The bottle shop, it is submitted, would be a magnet for further gathering of such people.

Mr Tapp, representing Uniting Care Tasmania which has a long involvement with the Ravenswood community, spoke of the NEWPIN program, one of only two in Tasmania, which operates in Ravenswood offering intensive intervention support for the most vulnerable families who may be at risk of child protection intervention due to issues of abuse and/or neglect.

Ms Jenny Gee, Manager of the Ravenswood Neighbourhood House, outlined similar concerns about the vulnerability of the Ravenswood community from the perspective of her organisation which provides support for thousands of clients each year. She submitted a petition conducted in May 2013 containing 140 signatures opposing the application.

Objectors cited the Tasmanian Government's recently released (2013) publication *Everybody's Business: A Strategic Framework for Implementing Promotion, Prevention and Early Intervention Approaches in Averting Alcohol, Tobacco and Other Drug Uses* that identifies the ease of access to alcohol as a factor in increased abuse.

The written submission of the Ravenswood Neighbourhood House included the annexure of the *Report for Smart Kids, Strong Futures: A future for all young people in Ravenswood*

(2008) prepared by representatives of the three spheres of government, the community and staff of the State departments of Education and Health. The report provides a profile of the Ravenswood community and outlines the problems in a troubled social environment.

Submission was also made in relation to the connection of the bottle shop to the adjacent supermarket. Two objectors spoke of the connecting door between the two businesses and claimed that this was confirmed by the IGA representative during the Council inspection. They submit the common management of businesses, similar workers, similar hours of operation and the bottle shop security cameras that would be monitored from the IGA store as examples of the inter-connectedness of the businesses such that they should be viewed as one premises.

In summary, the objectors submit that the proposed bottle shop would add nothing positive to the social fabric of the Ravenswood community; its sole purpose is the sale of alcohol. They submit that given that the applicant has failed to put forward any convincing argument to the contrary, it could not be said that this application is in the best interests of the community.

### **Considerations by the Liquor Licensing Board**

The Liquor Licensing Board of Tasmania is called upon to determine this application for an Off Licence (Section 9) authorizing the sale of liquor for consumption off the premises.

The principal test for the granting of any licence is if it is in the best interests of the community to do so.

*In considering an application for a liquor licence, the Commissioner or the Board must make a decision which, in the opinion of the Commissioner or the Board, is in the best interests of the community (24(A) (1)).*

The Board has weighed submissions made by both applicant and objectors.

Firstly the Board considers whether the case is made by the applicant regarding this bottle shop being in the best interests of the community.

We can see some benefit in the establishment of the liquor outlet in terms of convenience – currently there is no outlet within walking distance for those without a car. The Board agrees that the shopping centre would benefit from an operating retail outlet rather than vacant premises which do not add to the aesthetics of the complex.

As this is a new retail outlet, we accept that there would be some net employment gain; what the full extent of this would be is not entirely clear given the applicant submits 4-5 jobs but a mix of full and part-time.

The submissions from the members of the community and community representative bodies outlining the detrimental effects of alcohol consumption – exacerbated by an additional bottle shop – and the particularly problematic aspects of the Ravenswood community are

convincing. It is one of the poorest communities in Tasmania and is ranked as the second most disadvantaged community in the State.<sup>1</sup>

On the matter of the petition/surveys, as a rule, the Board does not place much weight on these as there generally can be no guarantee of their integrity either in the method of their compilation or whether the signatories are bona fide members of the community.

As stated elsewhere, the issue for determination by the Board is whether the granting of this licence would be in the best interests of the community.

In our view, the community opposition and concerns expressed by a number of residents and representatives of community groups outweigh any potential benefit to the community by way of convenience, invigoration of the area or employment such that the Board determines on balance that it is not in the community's best interest to direct the grant of this licence.

The connection between the proposed bottle shop and the IGA supermarket was raised as a secondary issue by objectors but in light of our findings with respect to the best interests test, the Board did not consider that it was necessary to make a determination on this issue.

## **Decision**

The Board directs the Commissioner to reject the application of Mr Vijan Patel as applied for.

Jenny Cranston (Chairperson)

David Logie (Member)

Ann Cunningham (Member)

2 October 2013

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<sup>1</sup> Socio-Economic Indices for Areas (SEIFA) (SA2) Australian Bureau of Statistics 2011