

Licensing Board of Tasmania: Decision

Application

Applicant: Mr Dennis Behrakis of Salamanca Fresh – Kingston, Shop 101, 29 Channel Court, Channel Highway, Kingston, Tasmania.

Type of Application: Special Licence (Section 11 *Liquor Licensing Act 1990*).

The application was heard in Hobart on 19 March 2015.

Decision: 9 April 2015

Background

Appearing on behalf of the applicant were his daughter, Ms Soula Behrakis, Marketing Manager for the Salamanca Fresh stores, and associate, Mr Len Butterworth.

The Chair of the Licensing Board inspected the premises on 18 March 2015 and the other two Board members (separately) on 24 March 2015. Mr Logie was met by Ms Behrakis and Mr Butterworth.

The applicant's submission

The applicant seeks a special licence to sell Tasmanian wines, spirits and liqueurs and Tasmanian made and brewed beer produced from Tasmanian owned breweries for consumption off the premises subject to the ongoing sale of a range of hospitality goods and services.

The applicant describes his business at Salamanca Fresh – Kingston as a speciality food store providing a range of local fresh products including fruit and vegetables, meat, cheese, and specialty delicatessen products. A limited range of standard grocery lines is available. A point of difference in his stores is the capacity to provide a “full meal offer”, including liquor.

The applicant seeks to enjoy uniformity within the three stores that comprise his group. He submits that the “merit gain” in potential liquor sales at Kingston would be “a small but an inclusive element” to his overall business group operation.

The applicant submits that he has had strong enquiry for this product from his customers who would find it convenient to be able to buy Tasmanian wine as a complement to their other purchases. Ms Behrakis submits that the availability of liquor at Salamanca Fresh - Kingston would give the discerning customer a choice of purchase place rather than going to a pub.

Ms Behrakis submits that the Salamanca Fresh stores are a wholly owned and operated business which supports the sale of Tasmanian products and they would love to add Tasmanian liquor to this line. She submits that customers appreciate this connection to Tasmania and a specialty food store means the whole range – food and drink.

Ms Behrakis further submits that tourists do visit the store on the way to Bruny Island or Geeveston and the addition of Tasmanian liquor would be an advantage to them as well.

The applicant submits that, on the basis of these arguments, 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*).

Considerations by the Liquor Licensing Board

The Licensing Board of Tasmania is called upon to determine this application for a Special Licence (Section 11) authorizing the sale of liquor as an adjunct to the provision of hospitality, tourist goods or services and in accordance with the following condition: that only Tasmanian wines, spirits and liqueurs and Tasmanian made brewed beer produced from Tasmanian owned breweries may be sold for consumption off the premises.

The principal test for the granting of any licence is if it is 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 responsibility is on the applicant to convince the Board that this is the case.

Whilst Regulation 4(2) is no longer in place, the Board maintains the view that it is not in the best interests of the community for every retail outlet to be granted a liquor licence “as a collateral component to their other principal activity” (“Fresco Decision” 2011). To be granted a licence an applicant must demonstrate that the premises are not just “any other” retail grocery store or standard corner store and that special conditions exist that place it in the best interests of the community to be granted a special licence.

Salamanca Fresh at Kingston has a layout and offerings that are somewhat different from the other two Salamanca Fresh stores. The predominant product line (over 50%) at Kingston is fresh fruit and vegetables, not all of which is Tasmanian. The store does offer provedore type produce, some of which is Tasmanian, as well as cakes, pastries and so on. It also offers traditional supermarket type products such as a variety of cereals, cleaning products, laundry detergents, matches, kerosene and rat poison (to name some).

The issue for the Board is one of balance. What is the balance across all offerings of fresh produce, Tasmanian products and other generic product lines such that the store provides something distinctive to its customers that would see a liquor licence as a natural adjunct. The Board is not convinced that the balance of offerings at Salamanca Fresh Kingston makes it necessarily distinctive.

The site location is also an important consideration. The large premises is on the upper level of the Channel Court Shopping Centre in Kingston - an enclosed ordinary retail shopping centre in a residential area. Despite some attempt to convince otherwise, the Board does not

see this as a tourist precinct or on a route where offerings of Tasmanian wines could be beneficial to tourists. The relative inaccessibility of the store to passing tourists on their way to elsewhere militates against any claim to a specific tourist customer base.

There is also a BWS bottle shop immediately opposite that offers a reasonable selection of Tasmanian wines, including sparkling. This is very conveniently located for the shoppers of Salamanca Fresh. There seems little argument for Salamanca Fresh to be granted a liquor licence from a convenience point of view.

The applicant's main reasons for seeking a liquor licence appear to be related to business needs: liquor is available in the other two stores so a uniform product line and branding make good business sense to the owner.

But the test is the community's best interests and the applicant has not satisfied the Board that the grant of the special licence is in "the best interests of the community".

Decision

The Board directs the Commissioner to reject the application as applied for.

Jenny Cranston (Chairperson)

David Logie (Member)

Ann Cunningham (Member)

9 April 2015