

KSM Liquor Pty Ltd [2019] SALC 45

LICENSING COURT OF SOUTH AUSTRALIA

KSM LIQUOR PTY LTD

JURISDICTION: Application for a Retail Liquor Merchants Licence

FILE NO: 5756/2018

HEARING DATE: 14 June 2019

JUDGMENT OF: His Honour Judge BP Gilchrist

DELIVERED ON: 14 June 2019

REPRESENTATION:

Counsel:

Applicant: Mr M Roder QC

Solicitors:

Applicant: Wallmans Lawyers

- 1 This is an application for a Retail Liquor Merchant's Licence in respect of proposed premises at Onkaparinga Valley Road, Woodside. The applicant, KSM Liquor Pty Ltd intends to trade as KSM Liquor. The proposed premises are adjacent to a new shopping centre under construction at Woodside.
- 2 Because the premises are yet to be constructed the applicant seeks a certificate under s 59 of the *Liquor Licensing Act 1997*.
- 3 As this application was not opposed I can be brief in explaining why I granted the application.
- 4 To succeed in this application, the applicant needed to satisfy the Court that the pre-requisites of ss 57 and 58 of the Act have been met and that in the exercise of the Court's discretion the licence should be granted.
- 5 Section 57 concerns matters such as the suitability of the premises; the potential for them to cause undue offence, annoyance and the like to nearby workers, residents and worshippers in their vicinity; prejudice to the safety or welfare of children attending nearby kindergartens and schools; and whether the appropriate approvals, consents and the like, pertaining to the proposed premises have been granted. There was no evidence before the Court that gave it cause to think that any of these matters are at issue in this case.
- 6 Section 58(2) requires an applicant for this type of licence to satisfy the Court that:

the licensed premises already existing in the locality in which the premises or proposed premises to which the application relates are, or are proposed to be, situated do not adequately cater for the public demand for liquor for consumption off licensed premises and the licence is necessary to satisfy that demand.
- 7 For the purpose of this application, I find that the relevant location is the town of Woodside and the adjacent towns of Charlestown, Lenswood, Oakbank and Balhannah.
- 8 There are hotels in Woodside, Charlestown and Oakbank, but none of those towns have a standalone bottle shop. Based on the evidence of the needs witnesses and the evidence of Mr Klose and the Court's own assessment based on the expert evidence of the planning expert, Mr Graham Burns, I am comfortably satisfied that the existing facilities in and about the locality are not adequately catering for the relevant public demand for takeaway liquor.

- 9 I find that the proposed premises are necessary to meet that demand. There is no reason to exercise the Court's discretion to refuse the application. Indeed, the proposed premises promise to be an attractive facility that will complement the new retail precinct in Woodside. Accordingly, I grant the application and counsel is to forward minutes reflecting these orders.