

Information Notice

Application Type: Commercial Hotel Licence with extended trading hours

Trading Name: SOFI

Address of the Premises: Level 1 and 2, 4 Orchid Avenue, Surfers Paradise

Date of the Decision: 3 February 2023

Applicable Legislations: Part 4, Division 2 (*Liquor Act 1992*)

Brief Summary of the Reasons for the Decision

As delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for a commercial hotel licence lodged by the applicant on 25 July 2022. In deciding the application, I took into account the following findings of fact:

1. The applicant is eligible to apply for a commercial hotel licence under the *Liquor Act 1992* (Liquor Act).
2. No objections were lodged by the local authority or Queensland Police Service (QPS).
3. The officers of the Office of Liquor and Gaming Regulation's (OLGR) Compliance Division, who are responsible for assessing compliance of the licensee under the provisions of the Liquor Act, offered no objection to the application (subject to certain conditions to be endorsed on the licence).
4. Two public objections were received from the community.
5. In preparation of its decision, council considered the potential for noise and other impacts on the neighbourhood (i.e. hours of operation, patron noise, music, deliveries, waste collection and traffic issues) in some detail. This material has helped inform the proposed noise conditions to be endorsed on the licence.
6. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer and as a direct result of conditions from the development approval will be imposed in support of the application.
7. The community impact statement was prepared in accordance with Commissioner's Guideline 38, noting the applicant undertook consultation with residents and businesses within 200 metres of the site, residents in the local community area and key advisors. The community impact assessment process did not identify any significant issues of concern/adverse comment in relation to the application.
8. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
9. A decision to grant the application is justifiable and reasonable under the *Human Rights Act 2019*.

I took into account the objections received which outlined the following concerns:

10. Noise from music and the rooftop area.

In response to the objections received, I am satisfied the granting of the commercial hotel licence would not necessarily have an adverse effect on the amenity of the locality as:

11. No objections were received from the local authority or QPS, nor were any concerns raised by OLGR Compliance who are tasked with monitoring the venue.
12. Appropriate noise mitigation conditions, as supported by the development approval and an acoustic report from a qualified sound engineer, are to be imposed on the licence.
13. Council has considered and addressed noise / rooftop concerns as part of its consideration/approval of the material change of use application for the site.
14. The premises is located in a safe night precinct and an established mixed commercial/residential precinct with other licensed premises operating in close proximity.
15. The premises will be subject to ID scanning obligations under section 173EH of the Act to operate an approved networked ID scanner after 10:00pm if they trade past midnight. If they do not have an approved operational ID scanner, they will need to prevent patron entry after 10:00pm on all days when they are authorised to trade past midnight.
16. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance should be substantiated.

After considering all of the relevant factors and information, both positive and negative, and the aforementioned findings on material questions of fact, I decided to provisionally grant the licence subject to the imposition of the following conditions:

- Liquor may be sold or supplied only whilst the premises adheres to its principal activity of the sale of liquor for consumption on the licensed premises, or on and off the premises.
- Liquor may not be sold for consumption off the licensed premises after 10:00pm or be taken away from the premises after 10:30pm.
- Liquor may be sold for consumption off the main licensed premises in the course of the licensee providing catering services for a function to persons genuinely attending the function for consumption by those persons at the function. This approval is subject to the condition that liquor must not be sold to a person who is unduly intoxicated. Catering to public functions is subject to approval of a commercial public event permit.
- The licensee and approved manager/s must ensure crowd controllers licensed under the Security Providers Act 1993 are employed in the following ratios at all times from 11:00pm until one hour after the premises ceases to supply liquor:
 - 1 to 100 patrons or part thereof - 1 crowd controller
 - More than 100 patrons but not more than 200 patrons - 2 crowd controllers
 - More than 200 patrons but not more than 300 patrons - 3 crowd controllers

- More than 300 patrons but not more than 400 patrons - 4 crowd controllers
- More than 400 patrons but not more than 500 patrons - 5 crowd controllers
- Plus at least 1 crowd controller for every 250 patrons (or part) thereafter
- The licensee and approved manager/s must ensure a minimum of one (1) crowd controller licensed under the Security Providers Act 1993 maintains surveillance outside the premises for at least one hour after the premises closes for business or, if earlier, until all patrons have vacated the immediate vicinity of the premises.
- Conditions LL300 and LL302 (the above 2 conditions) apply only on nights the premises trades beyond 1:00am.
- The licensee and approved manager/s must ensure an incident register is kept on site, in a secure place. The register must be signed by all staff involved in the incident and must include:
 - Date and time of the incident;
 - Where the incident occurred;
 - Full descriptions of persons involved, including names where obtainable;
 - Reasons for removing persons from the premises;
 - Any details of injuries to persons.
- The licensee and approved manager/s must maintain closed-circuit television (CCTV) equipment recordings of all patrons entering and leaving the premises via the entrance and exit (including any fire exit used for removing patrons). The CCTV footage must include recordings of all interactions between patrons and crowd controllers or staff, from 8:00pm until one hour after all patrons have left the premises, or close of business, whichever is later.
- The licensee and approved manager/s must keep CCTV recordings in a secure place for at least 28 days after the recording is made. Recordings of incidents where persons are removed or injured must be kept on the premises for 1 year after the recording is made. The recordings must be produced on request by an investigator appointed under the Liquor Act 1992.
- The bi-fold doors on Level 2 must be closed at 12:00am and access into the outdoor areas on Level 2 must not be permitted from 12:00am.
- All external windows must be closed by 12:00am.
- This provisional licence does not allow the sale or supply of liquor under the authority of the provisional licence.
- The issue of the licence is subject to evidence of a final inspection of the premises by an officer of the Office of Liquor and Gaming Regulation and the completion of any further requirements of the Commissioner as a consequence of that final inspection.
- The issue of the licence is subject to the lodgement of an acoustic report of which, the content and recommendations satisfy the Commissioner that any noise from the premises will not create a noise nuisance.
- The issue of the licence may be subject to the imposition of further conditions relating to noise, based on the submitted acoustic report.
- All the stated evidence must be produced to the Commissioner within 4 years of the issue of the provisional licence.