

Information Notice

Application Type:	Change of Licensed Area
Trading Name:	Pavilion Mooloolaba
Address of Premises:	Mantra Building, Shop 2, Cnr Venning Street and The Esplanade, Mooloolaba
Date of the Decision:	17 December 2024
Applicable Legislation:	Section 154 - <i>Liquor Act 1992</i>

Brief Summary of the Reasons for the Decision

As a delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for change of licensed area lodged on 1 September 2023. In deciding the application, I took into account the following findings of fact:

1. The applicant is eligible to apply for a change of licensed area under the *Liquor Act 1992* (Liquor Act).
2. The Office of Liquor and Gaming Regulation's (OLGR) Compliance Division, who are responsible for ensuring compliance of premises under the provisions of the Liquor Act, offered no objection to the application subject to a final inspection, assessment of an acoustic report and endorsement of the patron number condition on the licence.
3. Thirty (30) public objections were received from the community.
4. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer is to be submitted upon completion of the extension.
5. The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
6. Human rights are not limited by my decision to approve the application.

I have considered the relevant matters outlined in section 154 of the Liquor Act.

I took into account the objections received which centred on allegations of noise and patron nuisance currently associated with the operation of the business.

In response to the objections received, I am satisfied that the granting of the change of licensed area application would not necessarily have an adverse effect on the amenity of the locality as:

1. OLGR compliance, council and police offered no objection to the application.
2. An acoustic report is to be submitted upon completion of the new extension.
3. The trading hours of the new area will be restricted.

4. The decision is reasonable and demonstrably justifiable under the *Human Rights Act* as impact on the amenity of the locality will be minimised if the applicant complies with its licence conditions and statutory obligations under the *Liquor Act*.
5. The applicant has a responsibility to ensure its activities do not impact neighbouring residents. If issues cannot be resolved directly with the applicant, there is a complaint process available for the community and for OLGR to take appropriate action if it is required.
6. Without any substantiated evidence, it would be unfair to deny the applicant the opportunity to trade in the new extended area.
7. The *Liquor Act* does not contemplate nil impact on the amenity of the locality. The presumption is in favour of, rather than against, granting of the application unless community impact cannot be minimised.

After considering all the relevant factors and information, both positive and negative, and the aforementioned findings on material questions of fact, I decided to conditionally approve the change of licensed area application to the following requirements:

- Lodgement of a report prepared by a qualified acoustic technician in relation to the ability of the premises to contain sound. This report should also make recommendations to any alterations required at the premises to minimise noise disturbance to the locality.
- A final inspection of the of the premises by the OLGR and the completion of any further requirements of the delegate of the Commissioner for Liquor and Gaming as a result of that final inspection.

And endorsement of the following condition:

- *Patron numbers on the top floor of the premises is limited to a maximum of 125 patrons.*