

Office of Liquor and Gaming Regulation



Information Notice

Application Type: Commercial Hotel Licence with extended trading hours

Trading Name: Circus Nightlife

Address of the Premises: Level 1, 31-33 Shields Street (Cnr Grafton Street), Cairns

Date of the Decision: 10 July 2024

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

Reasons for the Decision

As delegate of the Commissioner for Liquor and Gaming, I conducted a review of the applications for a commercial hotel licence with extended trading hours lodged by the applicant on 24 January 2024. In deciding the applications, I have considered the following:

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 Cairns Regional Council (local authority) for the sale of liquor for consumption on premises. However, Council objected to the takeaway sales component. A Material Change of Use (MCU) for a Shop is required in order for Council to consider the sale of takeaway liquor. The licensee has accepted a condition restricting the sale of liquor to on premises only.
3. The Queensland Police Service (QPS) objected to the application on the basis that the amenity, quiet or good order of the locality would be lessened. However, should the licence be approved, QPS have identified conditions that should be considered in addition to any other proposed conditions.
4. The proposed premises is to be located with the Cairns safe night precinct.
5. 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, expressed concerns over the licensee meeting the requirements of a commercial hotel licence. However, the officers recommended certain conditions be endorsed on the licence, if approved.
6. The premises complies with sections 59 to 61 (suitability of a commercial hotel licence) and the Liquor Act provides for the cancellation of a provisional licence, in the event of non-compliance with the conditions of the provisional licence.
7. No public objections were received following advertising of the application.
8. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer will be imposed in support of the application.

9. 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.
10. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
11. A decision to grant the application is justifiable and reasonable under the *Human Rights Act 2019*.

After considering all of the relevant factors and information provided, both positive and negative, and the aforementioned findings on material questions of fact, I decided to provisionally grant the licence with trading hours of 10:00am to 3:00am Monday to Sunday 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.
- The sale or supply of liquor for consumption off the premises (takeaways) is prohibited.
- 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 throughout the entire premises. The CCTV system must clearly record all internal areas of the premises as well as entry and exit points (including any fire exit used for emergency evacuation of patrons). The CCTV footage must include recordings of all interactions between patrons and crowd controllers or staff 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.
- An RSA marshal, identifiable by appropriate attire, is required to proactively patrol the licensed premises from 9:00pm until closing time on Thursday to Saturday nights inclusive. The marshal's role is to monitor intoxication levels and patron behaviour."
- One licensed security provider is required to proactively patrol the entire Shields Street frontage of the premises from 10:00pm on Thursday to Saturday nights inclusive until the premises close to the public. The security provider's role is to assist in assessing intoxication levels and conduct of individuals prior to their entry and to help maintain a safe environment for patrons and staff of the premises in the immediate area.
- 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 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 by 4 July 2029 in accordance with Development Approval dated 5 July 2023.