

Information Notice

Application Type:	Extended trading hours
Trading Name:	Hervey Bay Hotel & Resort
Address of the Premises:	249 Charlton Esplanade, Pialba
Date of the Decision:	30 May 2023
Applicable Legislations:	Section 86 of the Liquor Act 1992

Brief Summary of the Reasons for the Decision

As delegate for the Commissioner for Liquor and Gaming, I conducted a review of the application for extended trading hours lodged for the Hervey Bay Hotel & Resort on 20 June 2022. In deciding the application, I took into account the following findings of fact:

- 1) The applicant is eligible to apply for extended trading hours under the *Liquor Act 1992* (the Act).
- 2) No objections were lodged by the Queensland Police Service or the local authority.
- 1) The Office of Liquor and Gaming Regulation's (OLGR) Compliance Division does not support the application for extended hours trading. Nonetheless, OLGR compliance has recommended additional licence conditions to restrict amplified and live entertainment on the premises after midnight.
- 3) The application was advertised for public comment with four objections being received.
- 4) The licensee has made undertakings to objectors to address concerns raised during the subsequent objection conference.
- 5) The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
- 6) 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 Act.

I have considered the relevant matters outlined in section 86 of the Act.

I took into account the objections received, which outlined concerns with the licensee's ability to control disorderly behaviour of departing patrons and patrons using the smoking area.

In response to the objections received, I am satisfied the granting of extended trading hours is unlikely to significantly impact on local amenity as:

- 7) The licensee has made undertakings to address concerns raised during the objection conference to the satisfaction of the objectors present.
- 8) Additional conditions are proposed to be endorsed on the licence to minimise entertainment noise and patron amenity impacts on the locality.
- 9) The 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.
- 10) The OLGR has a complaints system and can take action to address any substantiated breaches of licence terms and conditions should the licensee be unable to meet their responsibilities under the Act.

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 approve the extended trading hours, subject to endorsement of the following additional conditions:

- 11) *Noise emanating from the premises after midnight including amplified and non-amplified noise and/or patron noise must not exceed 75 dB(C), fast response, when measured approximately 3 metres from the primary source of the noise.*
- 12) *No live entertainment, including DJ entertainment, is permitted on the premises after midnight.*
- 13) *Liquor may not be sold for consumption off the licensed premises after 12 midnight or be taken away from the premises after 12:30am.*
- 14) *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.
- 15) *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.*
- 16) *Conditions LL300 and LL302 apply only on nights the premises trades beyond 1:00am*

- 17) *The licensee and approved manager/s must ensure an incident register is maintained where written details of incidents that occur at the premises involving a patron being removed or a person being injured must be recorded and signed by all staff involved in the incident. For the purpose of this condition the details must include the date and time of the incident, where the incident occurred, full descriptions of persons involved (including names where obtainable) and reasons for their removal and any details of injuries incurred by any person.*
- 18) *The licensee and approved manager/s must ensure closed-circuit television equipment is operating and clearly recording all patrons entering and leaving via each entrance and exit of the premises (including fire exits used for removing patrons at any time). CCTV footage must capture all interaction between the patrons (whilst entering or leaving) and crowd controllers or staff of the premises at all times from 8:00pm until close of business and for at least one hour after all patrons have left the premises.*
- 19) *The licensee and approved manager/s must ensure closed-circuit television recordings required by the conditions of this Licence are kept in a secure place for a minimum period of 28 days, or where an incident occurs involving a patron being removed or a person being injured for a minimum period of 365 days and must be produced immediately on request by an investigator appointed under the Liquor Act 1992.*