

5.1. PROPOSED CHANGE TO LIQUOR LICENSE FOR COW BAY HOTEL

REPORT AUTHOR	Daniel Lamond, Planning Officer
MANAGER	Paul Hoyer, Manager Environment and Planning
DEPARTMENT	Environment and Planning
PROPOSAL	Removal of Condition LL003- Persons under the age of 18 years shall not be in areas of the licensed premises where entertainment is being conducted at any time after 10:00pm.
APPLICANT	Cow Bay Pub Pty Ltd
NAME OF PREMISES	Cow Bay Hotel
LOCATION OF SITE	1480 Cape Tribulation Road COW BAY QLD 4873
PROPERTY	Lot 458 on RP738178
LOCALITY PLAN	

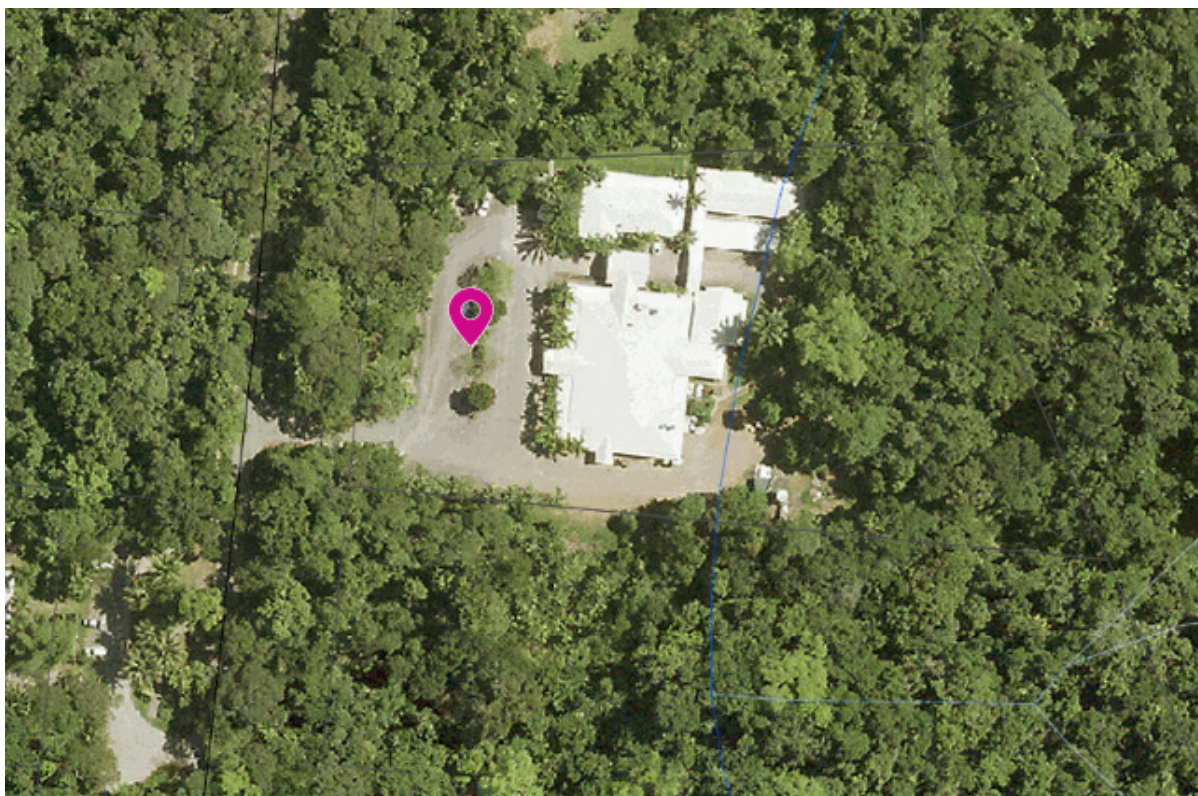


Figure 1. – Site Plan

ZONE	Conservation
PLANNING SCHEME	2018 Douglas Shire Planning Scheme version 1.0.
REFERRAL AGENCY	Office of Liquor & Gaming Regulation Department of Justice & Attorney-General Locked Bag 180 CITY EAST QLD 4002
REQUEST RECEIVED	15 April 2019
RECOMMENDATION	

That the Office of Liquor & Gaming Regulation, Department of Justice & Attorney-General, be advised that Council does not object to the removal of Condition LL003 from the Commercial Hotel Licence for Cow Bay Pub Pty Ltd, 1480 Cape Tribulation Road, Cow Bay, also described as Lot 458 on RP738178. The removal of the condition has no bearing on the town planning approval associated with the site.

INTRODUCTION

A request for Council's comment has been submitted by the Department of Justice and Attorney-General, Office of Liquor and Gaming Regulation, for the Cow Bay Hotel, located at 1480 Cape Tribulation Road, Cow Bay, and described as Lot 458 on RP738178. A copy of the request is attached as *Attachment 1*.

The original request was received on 15 April 2019. Comments are due to the Department by 30 April 2019 as required by section 117 of the Liquor Act 1992. Given comment can only be provided late due to Council meeting dates, the advice may not be considered. Officers from the Department have been advised that the comment will be late.

Proposal

The current Commercial Hotel license includes conditions as detailed in Attachment 1. A request by the applicant has been made to remove condition LL003- *Persons under the age of 18 years shall not be in areas of the licensed premises where entertainment is being conducted at any time after 10:00pm.*

Planning Scheme Requirements

The land is included within the Conservation zone of the 2018 Douglas Shire Planning Scheme version 1.0. There are no planning concerns with regard to the approved use on the site. The request to change the subject condition has no bearing on the Material Change of Use development Approval for a Hotel existing over the site.

Discussion/Comments

Comments in relation to the proposed condition were received from Council's Community and Economic Development Officer and Council's Environmental Health Officer.

Council is afforded the opportunity to comment on the reasonable requirements of the public and/ or object to the grant of the request.

Any comments or objections should include the full particulars the grounds upon which the objection is made and the facts, evidence or reasons upon which it is based.

The initial consideration by officers is the question of why such a request would be made. The applicant has advised that the request to remove the condition is to allow for families to continue to utilise the venue after 10pm. The applicant advises that the Cow Bay Hotel is set in the context of the small Daintree coast community and is utilised for many community based fund raising events which the community benefits from.

The premises host events which raise funds for the local primary school, medical centre, Leukaemia foundation and individual community members in need. The applicant advises that the subject condition is often in conflict with the spirit of the community and that the hotel provides a community hub. For example, conflict would arise where a band is put on for an event where, after 10pm, persons under the age of 18 are required to leave the premises.

This would generally require that a whole family attending an event with live entertainment, which may be for fund raising, would need to leave the premises.

The applicant has advised that in seeking to have the condition removed from the Hotel license, that the requirement for the management of minors will be removed from the hotel. The Hotel *Risk Assessment Management Plan* (RAMP), required as part of the liquor license, will be updated to ensure that there is sufficient management of small children on the premises.

The Office of Liquor and Gaming regulation has advised that this type of condition is no longer imposed on Commercial Hotel licenses. Rather than apply for a new license, the applicant has requested to remove the condition which would allow persons under 18 to be present where entertainment is being provided up until 12pm consistent with the licensed trading hours for the premises.

Council's Community & Economic Development Officer

The request for comment was forwarded to the Community and Economic Development Officer to provide comments on behalf of the CEO Unit.

The Community and Economic Development Officer has no objection to proposal as it is a relatively old condition no longer imposed on new licenses.

Environmental Health Officer

Environmental Health & Regulatory Services has assessed this application and offers no objection to the proposal, as the operators have obtained a food business license to prepare and sell food.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

Comments are made under the *Liquor Act 1992*.

ATTACHMENTS

1. Attachment 1- Request to change Liquor License for Cow Bay Hotel **[5.1.1]**



Queensland
Government

Please quote: 984041 / LAB08
Contact officer: Customer Support Team
Contact telephone: 07 3224 7131

Office of Liquor and Gaming Regulation

Department of
Justice and Attorney-General

Chief Executive Officer
Douglas Shire Council

Email: enquiries@douglas.qld.gov.au

Dear Sir/Madam

COW BAY HOTEL - COW BAY

Real Property Description: Lot 458 on RP 738178

**Applicant's Contact Details: Ms Kelene Jenkinson, Phone: 0418 258 444,
Email: kel@robinson.com.au**

An application for a variation of liquor licence for a licensed premises within your area of authority has been received at this office. Details of the application are as follows:

Applicant:	Cow Bay Pub Pty Ltd
Name of Premises:	Cow Bay Hotel
Street Address:	Lot 458 Baileys Creek Road, Cow Bay
Propose Variation:	Removal of Condition LL003 – Persons under the age of 18 years shall not be in areas of the licensed premises where entertainment is being conducted at any time after 10:00pm.

Type of Licence: Commercial Hotel.

Please find attached a copy of the Liquor Licence Premises Details report which outlines the current details of the liquor licence.

You are now afforded the opportunity to comment or object to the granting of the application on the grounds that the amenity, quiet or good order of the locality would be lessened.

Office of Liquor and Gaming Regulation
63 George Street
BRISBANE QLD 4000
Locked Bag 180
CITY EAST QLD 4002

Telephone +61 7 3224 7131
Facsimile +61 7 3227 7047
Email OLGRlicensing@justice.qld.gov.au
Website www.business.qld.gov.au/liquor-gaming
ABN 13 846 673 994

Ordinary Council Meeting - 7 May 2019

Please advise whether you have any comments on, or objections to, the grant of the application. In accordance with section 117 of the *Liquor Act 1992* your comments or objection must be given to this office on or before the last day for filing objections. To comply with section 117 of the Act, your comments or objection should be received by 30 April 2019.

If you do not support the application, your comments or objection should include full particulars of:

- The grounds upon which the objection is made.
- The facts, evidence or reasons upon which it is based.

It is important to note that less weight will be given to statements that merely indicate that the Chief Executive Officer does not support, or objects to the application. Accordingly, any objection to this application should be supported by documentary evidence on the specific trading history of this venue and include incidents directly linked to the operation of the premises and the conduct of the licensee and their management.

If this application relates to a new licensed premises and there is no trading history to rely on, your objection may be based on anecdotal evidence, particularly in relation to the reasonable requirements of the public.

In the interests of natural justice, any comment or objection you provide may be referred to the applicant.

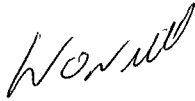
In considering your comments, including the likelihood of adverse health, public safety and amenity issues, the Commissioner for Liquor and Gaming may also impose licence conditions to mitigate any risk posed by the application.

The Commissioner's decision may be subject to review by the independent Queensland Civil and Administrative Tribunal. Substantiating any comments or objections as requested will ensure the Commissioner's decision is appropriately evidence-based and more capable of withstanding scrutiny in any subsequent review.

Compliance with local town planning requirements is requested to be confirmed in your reply to this letter.

If you require clarification on any of these matters, please do not hesitate to contact the Customer Support Team on telephone (07) 3224 7131.

Yours sincerely



/ MICHAEL SARQUIS
Executive Director

15/4/2019

Encl.

Liquor licence premises details

Premise details:

Licence number: 181244
 Licence type: Commercial Hotel
 Status: Issued

Premises description:

MAIN PREMISES:

LOT 458 BAILEYS CREEK ROAD COW BAY HOTEL
 COW BAY QLD 4873
 Phone: 07 4098 9011

Real property description:

LAND DESCRIBED AS LOT 458 ON RP 738178, COUNTY OF SOLANDER, PARISH OF ALEXANDRA

Licensed area description:

Premises situated at Lot 458 Baileys Creek Road, Cow Bay.

Trading hours description:

10:00 AM to 12:00 AM Monday - Sunday

(excluding Christmas Day, New Year's Eve, Good Friday and Anzac Day, the trading hours of which are prescribed in the Liquor Act 1992)

ID Scanner Status:

SNP Region: Rest of State

Licensee(s):

Name	Interim authority?	Start date	To date
COW BAY PUB PTY LTD	No	26-APR-2016	

Condition(s):

Standard Condition(s)

- LL003 Persons under the age of 18 years shall not be in areas of the licensed premises where entertainment is being conducted at any time after 10:00pm.
- LL274 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.
- LL125 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.

Specific Condition(s)

- 4767120 The licensee, approved manager or an employee or agent of the licensee and approved manager must not knowingly sell or supply liquor, of a type or quantity that is prohibited from being carried into the restricted area of Wujal Wujal or Hope Vale, to any person who verbally states or acknowledges in any other manner that the liquor is intended to be carried into the restricted area of Wujal Wujal or Hope Vale.



Liquor licence premises details

Premise details:

Licence number: 181244
Licence type: Commercial Hotel
Status: Issued

Condition(s):

Specific Condition(s)

- 4767122 The sale or supply of cask wine or fortified wine for off premises consumption must not exceed 4 litres (equivalent to 1 x 4 litre cask) per sale to any person (with or without vehicle) or any group of persons travelling in the same vehicle. (The intent of this condition includes prohibiting individual sales of cask wine or fortified wine to a group of people travelling in the same vehicle where the total combined volume of cask wine or fortified wine exceeds 4 litres.) This condition does not apply to cask wine or fortified wine sold by the licensee, approved manager or agent of the licensee or approved manager for the purpose of :
- a) sale or supply to another licensee; or
 - b) sale or supply to a bone-a-fide business or company. However, the licensee, approved manager or agent of the licensee is required to retain a copy of the bone-a-fide business or company official order/approval bearing the business or company stamp or letter head and other relevant documentation of the sale for each order purchased; or
 - c) sale or supply to a person permitted to carry liquor under section 103L and section 168B(2) and (3) of the Liquor Act 1992.

Registered interest(s):

Name	Type	Start date	To date
KELENE MARIE JENKINSON AND WILLIAM JAMES ROBINSON	FREEHOLD OWNER	22-MAR-2016	
COW BAY PUB PTY LTD	LESSEE	18-JAN-2016	

Whilst every care is taken to ensure the accurate compilation of this information, Department of Justice and Attorney-General (Incorporating the Office of Liquor and Gaming Regulation) expressly disclaims all liability for errors or omissions of any kind whatsoever (whether negligent or otherwise) or for any loss, damage or other consequence which may arise from any person relying on this information.

Ordinary Council Meeting - 7 May 2019