

Decision Notification

Application Details

Application no.	217648, 217647, 217646
Licence No.	57001780
Licence Class	General & Hotel
Premises Name	Hotel Elliot
Premises Address	35 The Strand PORT ELLIOT SA 5212
Licensee	Four K Nominees Pty Ltd
Application Type	Variation to Conditions (Upgrade), Application for Redefinition, Application for Alterations
Representative	Caderyn McEwen - Eckermann Lawyers

Outcome

Decision	Conditional Grant
Effective Date	27 Oct 2022

Procedural

I allow the applicant to vary their application as follows:

- reduce proposed capacity from 720 persons to 470 persons

Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

Premises

Capacity

I approve the proposed capacity of 470. The proposed change in capacity will become effective from the effective date of the order approving the use of the new area.

Alterations/Redefinition

I approve the proposed alterations to the premises in accordance with the plan lodged with the application subject to a certificate of occupancy being provided to the licensing authority by 27 Oct 2023 and an order being issued for the use of the new area.

The proposed alterations and redefinition to the premises are to make way for a new function area.

Determination Details

I exercise my absolute discretion under s 81(1)(a) of the Act to determine this matter without a hearing.

I note that 42 submissions were received from nearby residents in relation to the application to increase the capacity

from 420 to 720. The common themes raised in the submissions were:

1. The increase to capacity will exacerbate the existing issues with car parking and traffic flow
2. The noise and disturbance more patrons will cause to those living nearby

I note that since the advertising period concluded, the applicant has sought to vary their application and now only seeks an increase of 50 patrons to 470. The applicant has provided the relevant approvals from local council which reflect that, upon the new functions space being completed, the premises will be able to accommodate up to 470 patrons. I note that, in comparison to the original increase sought, this is now a moderate increase, and appears relative to the additional licensed area that will be included once the new function space is included in the licensed area.

In relation to the main issue of car parking, as this is a planning matter it is outside the scope of the Liquor and Gambling Commissioner and is not an area in which we can regulate. However, in saying that I do note that it appears from condition 2 of the planning consent that council has considered the issue of parking when making their decision on the development approval sought for the additional space and consequential increase to capacity.

As mentioned previously, I consider the revised increase to be a moderate increase to the overall capacity and do not consider that an increase of approximately 12% to the overall capacity is likely to create *undue* noise and disturbance to those in the vicinity of the premises.

I have taken into consideration the submissions lodged but determine to grant the application to increase the capacity to 470 persons.

I also note some of the submissions make reference to glasses being found in neighbouring streets and yards and remind the licensee of their obligations under the Act to ensure that open containers of liquor are not removed from the licensed premises.

Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

The licensee shall notify the Liquor and Gambling Commissioner within seven days of any changes to the approved plans submitted with this application.

Under Delegation from the Liquor and Gambling Commissioner



Ashleigh Hughes
A/Team Leader
27 Oct 2022