

NSW Independent Liquor & Gaming Authority

Our ref: DF24/019586

Mr Josh Ungaro

HTA Legal

11 September 2024

Dear Mr Ungaro

Application No.	SR0001215032 and SR0001243227
Applicant	IMPY HOTEL PTY LTD
Application for	Change of boundaries, variation to a minors' area authorisation and temporary change of boundaries
Application date	8 May 2024
Decision date	21 August 2024
Licence name	The Imperial Hotel Murwillumbah
Trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Take away sales</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Premises	115 Murwillumbah Street Murwillumbah NSW 2484
Legislation	Sections 3, 11A, 12, 14, 15, 40, 44, 45, 48, 53, 121 and 123 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for a change of boundaries, variation to a minors' area authorisation and temporary change of boundaries – The Imperial Hotel Murwillumbah

We **approve** the application above under section 94 of the *Liquor Act 2007* – with the conditions set out in Schedule 1.

Statement of reasons

We are satisfied that the overall impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our main findings

The local community for the purposes of this decision is Murwillumbah. The broader community is the Local Government Area (LGA) of Tweed.

Positive social impacts

The purpose of the application is to enable the hotelier to host functions/hold events there without having to apply for a Function on Other Premises Authorisation (FOOPA) as they currently do. A FOOPA allows a hotelier to sell/supply liquor at events away from their licensed premises and must be applied for, for each event. The venue has had three FOOPA applications approved since January 2024.

The application therefore seeks a change of boundaries to include all the land of the hotel within the licensed area, including the driveway and carpark areas, and to vary the minors' area authorisation to include the proposed additional interior ground floor areas of the premises but excluding Shop 2 and back of house areas. It also seeks a temporary change of boundaries to incorporate a footpath outdoor dining area into the premises to reflect the current council approval.

In light of the agreement reached with local police that advance notification of events in the driveway and carpark will be provided, we are satisfied that the proposal will not detract from the amenity or well-being of the local and broader communities and will support the hotel's continued contribution to the responsible development of related industries (such as entertainment/live music and community markets).

Negative social impacts

We have taken into account the objections from Police, the Local Aboriginal Land Council and local council and accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities due to:

- crime rates in the suburb for alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct being higher than the NSW average
- crime maps for the year ending December 2023 indicating the premises was in a high-density hotspot for malicious damage offences; within a medium density hotspot for non-domestic assault; and a low-density hotspot for alcohol-related assault
- the suburb and LGA having a higher than average population of ATSI people compared to other communities in NSW, particularly in the context of the objection from the Tweed Byron Local Aboriginal Land Council
- the rate of alcohol-attributable deaths in the LGA being higher than the NSW average
- SEIFA data indicating that the community in the suburb may be considered disadvantaged compared to the rest of NSW.

However, we are satisfied that these risk factors are reduced by the:

- crime rates in the LGA being lower than the NSW average for all offence categories we considered
- crime rate in the suburb for alcohol-related domestic assault being below the NSW average
- liquor licence density being unchanged with approval of the application

- experienced operator
- premises having no incidents reported by police or complaints received regarding any of the functions or events held in the carpark under existing Function on Other Premises Authorisation (FOOPA) arrangements
- imposition of two conditions requested by Police requiring advance notification of any events and preventing the consumption of liquor in the carpark areas unless such written notification is provided
- rate of alcohol-attributable hospitalisations in the LGA being lower than the NSW average
- SEIFA data indicating that the community in the LGA may be considered no more advantaged or disadvantaged compared to the rest of NSW
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered Guideline 6 to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

Opportunity for review

The applicant and anyone who was notified of the application and made a submission, may apply to NCAT for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the website. There is a fee to lodge the application.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

If you have any questions

Please contact the case manager, Andrew Whitehead, at Liquor and Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

Independent Liquor & Gaming Authority

Schedule 1: Licence conditions to be imposed – The Imperial Hotel Murwillumbah

No.	Condition	Description
1.	Plan of management	The premises is to be operated at all times in accordance with the Liquor Plan of Management dated July 2024 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
2.	Minors' area	Minors' Area Authorisation: All interior and shop areas on the ground floor of the premises excluding: kitchen facilities, bathroom facilities, office, cool room and storage areas.
3.	Carpark areas	The sale, supply and consumption of liquor in the carpark areas of the licensed premises is prohibited, unless written notification has been provided to local police and local council.
4.	Notification of functions and events	The licensee must provide to local police and local council written notification of, a minimum of fourteen [14] days prior, any proposed use/function/event in the carpark areas of the licensed premises. Written notifications must include: the type of function/event, the expected number of patrons, the date of function/event and the hours of the function/event.

Schedule 1: Licence conditions to be revoked – The Imperial Hotel Murwillumbah

Condition	Description
Condition 3000 <i>(to be replaced by condition 1 above)</i>	The premises is to be operated at all times in accordance with the Liquor Plan of Management dated November 2022 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
Minors' Area <i>(to be replaced by condition 2 above)</i>	Minors Area Authorisation: the whole of the licensed premises.