



# Policy

## Extended Trading Permits - Ongoing and Indefinite

### Disclaimer

This Policy is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

### Introduction

On application by the licensee, the licensing authority may, under section 60 of the *Liquor Control Act 1988* ('the Act'), grant an extended trading permit authorising the licensee to sell and supply liquor under the licence, according to the tenor of a permit, in circumstances to which that licence would not otherwise apply.

This document provides guidance on extended trading permits that are sought for ongoing (i.e. longer term) or indefinite circumstances and the factors that the licensing authority may have regard to when considering applications for these permits.

Where appropriate, this document should be read in conjunction with the Director's policy '*Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal*' or '*Extended Trading Permits – Sunday Trading: Non-metro Liquor Stores*' and '*Public Interest Assessment*'.

### Extended Trading Purposes

Section 60(4) of the Act outlines the purposes for which extended trading permits may be issued. Ongoing and indefinite permits may be sought for the following purposes:

Section	Purpose
60(4)(b)	Where a hotel, nightclub or producers licence includes a specified dining area and the serving of liquor (ancillary to a meal) is required in this area outside of the normal licence trading hours. The dining area must be controlled by the licensee (not a third party) during the extended trading permitted hours. Provided these terms continue to be met, this type of permit may be granted for an indefinite period.
60(4)(c)	Where a restaurant is located within guest accommodation (operated by the licensee) and the licensee wishes to sell liquor to a lodger at any time, ancillary to a meal or otherwise. Liquor can be served to lodgers in any area reserved for the private use of lodgers. In this circumstance, the Director must be satisfied that the predominant purpose of the premises within which the restaurant is located is to provide guest accommodation. Provided the accommodation continues to be operated by the licensee, this type of permit may be granted for an indefinite period.

- 60(4)(ca) For a restaurant to serve liquor to patrons that is not ancillary to a meal (see Director's Policy '*Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal*'). Permits such as these can only be granted for up to 5 years.
- 60(4)(d) To enable a liquor store licensee to deliver or supply liquor after permitted trading hours have ceased (but before 12 midnight), provided the liquor was sold or agreed to be sold during permitted trading hours. This type of permit can be granted for an indefinite period.
- 60(4)(e) To enable the licensee of a club or special facility licence to sell liquor to a member (or the guest of a member) of an association of persons attending the licensed venue together by reason of a common interest. Each member of the visiting association is permitted to bring up to 5 guests. These types of permits can be granted for an indefinite period, provided the terms remain current.
- 60(4)(g) To allow the licensee to extend the trading hours of the premises. Such permits can be granted for a maximum of 5 years.
- 60(4)(h) To allow a licensee to sell liquor in a specified area or premises, that would not otherwise be authorised under the licence. The duration of these permits are specified on approval and subject to the particular circumstances of that case.

## **Public Interest**

An application for an extended trading permit is required to be dealt with on its merits, after such inquiry as the licensing authority sees fit. In support of the application, licensees seeking an extended trading permit under section 60(4)(ca) or 60(4)(g) will be expected to demonstrate that the grant of the permit is in the public interest as set out in section 38 of the Act. Please refer to the Director's policy titled "*Public Interest Assessment*".

In terms of the public interest, under section 33(1) of the Act, the licensing authority has an absolute discretion to grant or refuse an application on any ground or for any reason the licensing authority considers to be in the public interest.

The licensee is required to lodge a written submission in support of all other extended trading permit applications.

## **Other Considerations**

Applications for permits issued under sections 60(4)(ca) and 60(4)(g) of the Act will not be considered in conjunction with a licence application. For example, if an applicant wishes to apply for both a restaurant licence and an extended trading permit to enable the sale of liquor without a meal, the restaurant licence will be determined before the extended trading permit application will be permitted to be lodged.

## **Permit/Approval Conditions**

Where applications for extended trading permits are approved under section 60(4)(g), (i.e. extended hours) those approvals will generally have , but are not limited to, the following conditions imposed where appropriate:-

### **1. UNACCOMPANIED JUVENILES PROHIBITED**

Only juveniles accompanied and supervised by a responsible adult (as defined by Section 125(2)(b) of the *Liquor Control Act 1988*) are permitted to enter and remain on the licensed premises.

### **2. PACKAGED LIQUOR PROHIBITED**

The sale and supply of packaged liquor for consumption off the licensed premises is prohibited during the hours covered by the permit/licence.

**3. CONTAINERS AND QUANTITIES**

No liquor is to be sold or supplied for consumption on the premises in any of the following ways:-

- a) In any vessels with a measurement capacity exceeding 750ml, except vessels containing premixed drinks (e.g. RTDs) which shall not exceed 375ml;
- b) in non-standard measures of spirits (i.e. no more than 50mls of spirits is permitted in any vessel).

**4. RESPONSIBLE DRINK PRACTICES**

The licensee is prohibited from selling and supplying beverages in such a way that would encourage rapid consumption of liquor (e.g., but not limited to, unadulterated spirit or liqueur in a shot glass); or drinks known as 'laybacks', 'shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs' or any other emotive title.

**5. ENERGY DRINKS**

No liquor is to be supplied mixed with energy drinks.

*(For the purposes of this condition **energy drinks** has the same meaning as **formulated caffeinated beverage** within the Australia New Zealand Food Standards Code with a composition of 145mg/l of caffeine or greater.)*

**6. LOCK-OUT**

Persons (other than an "authorised person") are prohibited from entering or re-entering the licensed premises 30 minutes prior to the close of trading prescribed on the licence or permit.

**7. LICENSED SECURITY REQUIREMENTS**

Crowd controllers licensed under the *Security and Related Activities (Control) Act 1996*, must be on duty during the hours covered by the permit. A ratio of two (2) crowd controllers for the first one hundred (100) patrons and one (1) crowd controller for each additional one hundred (100) patrons or part thereof must be on duty.

**8. LOCAL AUTHORITY REQUIREMENTS**

The licensee is required to comply with all requirements of the local authority.

Additionally, licensees wishing to trade beyond 1am will be required to comply with standard conditions relating to security and CCTV systems. For further information, please refer to the Director's policy "*Security at Licensed Premises*".

In addition to the above conditions, it is open to the licensing authority to impose conditions on a licence or permit in order to:

- Ensure that the premises trades in accordance with the tenor of the licence or permit;
- Minimise alcohol-related harm;
- Reduce the likely or potential impact on the amenity of the area; or
- For any other reason considered by the licensing authority to be in the public interest.

The licensing authority may also grant an application for extended hours in whole or in part; that is, reduce the extended hours sought by an applicant.

Consequently, an applicant may wish to lodge submissions in respect of the above matters as part of their application.

## **Non-compliance**

Licensees should be aware that the approval of an extended trading permit can be withdrawn. If a licensee fails to comply with the conditions of the permit, the licensing authority may:

1. cancel the permit under section 60(8a) of the Act. Permits may be cancelled, at the absolute discretion of the licensing authority, if it is satisfied that the permit is no longer appropriate nor in the public interest;
2. cancel the approval given under section 63(a) of the Act in respect of a special facility licence;
2. issue an infringement under section 167 of the Act to the licensee and approved manager;
3. require the licensee to show cause why more restrictive conditions should not be imposed on the licence (section 64); and/or
4. lodge a section 95 complaint for disciplinary action against the licensee.

## **Application kits**

Application kits containing the lodgement guide and all the required forms can be obtained from the Department's website at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au) or by contacting the Department on (08) 9425 1888.

**DIRECTOR OF LIQUOR LICENSING**