

Information Notice

Application Type:	Variation of licence
Trading Name:	Ten 06
Address of Premises:	The Beach Place, Lot 2, Ground Floor, 79 Sims Esplanade, Yorkeys Knob
Date of the Decision:	18 August 2023
Applicable Legislation:	Section 111 of the <i>Liquor Act 1992 (the Act)</i>

Brief Summary of the Reasons for the Decision

As Manager, Licensing, I conducted a review of an application to permit amplified entertainment within and without the licensed premises, lodged by the applicant on 3 April 2023. In deciding this application, I took into account the following findings of fact:

- 1) The application was advertised for public comment with no objections being received.
- 2) No response was received from Far North District Police.
- 3) Cairns Regional Council hold concerns that noise emanating from the premises will affect the amenity of adjoining residential properties and request this impact is taken into consideration during the assessment of the application.
- 4) An acoustic report, prepared by a qualified sound engineer, was submitted with the application and used by OLGR compliance to determine noise conditions to minimise the impact of entertainment and patron noise on the locality.
- 5) Appropriate conditions will be imposed on the licence to mitigate any potential amenity impacts.
- 6) The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance should be substantiated
- 7) Human rights are not limited by my decision to approve the application.

I have considered the relevant matters outlined in Section 111 of the Act.

I took into account the Council concern with prospective deterioration of amenity of the residential properties adjoining the licensed premises.

In response to the objections received, I am satisfied the granting of the application would not necessarily have an adverse effect on the amenity of the locality as:

- 8) There are no objections raised by Far North District police, OLGR compliance or the general public.

- 9) Council concerns about the impact of amplified entertainment on the amenity of adjoining residential properties is taken into consideration during the assessment of the application.
- 10) An acoustic report, prepared by a qualified sound engineer, was assessed by OLGR compliance and suitable noise conditions proposed to minimise the impact of entertainment and patron noise on the locality.
- 11) 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 grant the application, subject to imposition of the following additional licence conditions:

- *Noise emanating from the premises including amplified and/or non-amplified noise and patron noise must not exceed the following levels, fast response, when measured at external monitoring location one metre from the entry/exit gate at the boundary:*
 - a) *60 dB(A) between 3:00pm and 10:00pm*
 - b) *62 dB(C) at any other time.*
- *Noise emanating from the premises including amplified and/or non-amplified noise and patron noise must not exceed the following levels, fast response, when measured approximately 3 metres from the primary source of the noise:*
 - a) *84 dB(A) between 3:00pm and 10:00pm*
 - b) *78 dB(C) at any other time.*