

Information Notice

Application Type: Permanent variation of licence

Trading Name: Langfords Hotel

Address of the Premises: Cnr Alfred Street and Tennyson Street, Mackay.

Date of the Decision: 23 March 2022

Applicable Legislations: Section 111 - *Liquor Act 1992*

Brief Summary of the Reasons for the Decision

On 23 March 2022, as delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for permanent variation of licence lodged by the applicant on 16 September 2021. In deciding the application, I took into account the following findings of fact:

1. The applicant is eligible to apply for a variation of licence under the *Liquor Act 1992* (Liquor Act).
2. No objections were lodged by the Queensland Police Service (QPS).
3. The Office of Liquor and Gaming Regulation's (OLGR) Compliance Division, who are responsible for assessing compliance of premises under the provisions of the Liquor Act, offered no objection to the application (subject to conditions to be endorsed on the licence).
4. Six comments were received from the community during the advertising period. The comments were in opposition to OLGR allegedly decreasing the noise levels at the premises, which at the time of the decision, did not have any noise conditions endorsed on its licence.
5. The premises is surrounded by both commercial and residential properties and is zoned as 'mixed use' by the Mackay Regional Council.
6. The Mackay Regional Council objected to the application.
7. Appropriate noise mitigation conditions will be imposed on the licence based on the recommendations of an acoustic report from a qualified sound engineer.
8. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance should be substantiated.
9. A decision to grant the application is justifiable and reasonable under the *Human Rights Act 2019*.

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

I took into account the objection received from council which outlined the following concerns:

10. Limited information was able to be provided by OLGR regarding the application.

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

11. Additional information was provided to council regarding the recommended noise levels from the acoustic report.

12. No objections were received from QPS or OLGR Compliance.

13. Appropriate noise conditions have been determined and imposed on the licence following assessment of an acoustic report.

14. In line with the QCAT decision of *Meissner v Commissioner for Liquor and Gaming & Anor [2020] QCAT 378* the tribunal was of the view it is reasonable to assume amplified entertainment can be adequately controlled provided the acoustic engineer's recommendations are complied with.

15. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance should be substantiated.

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 permanent variation of licence application, subject to the imposition of the following conditions:

- Noise emanating from the premise including amplified and / or non-amplified noise must not exceed the following levels, fast response, when measured approximately 3 metres from the source with all doors and windows open:
 - 87dB(A) between 10:00am and 10:00pm
 - 88dB(C) between 10:00pm and 12:00am
- Noise emanating from the premises including amplified and / or non-amplified noise must not exceed the following levels, fast response, when measured 3 metres from the source with all doors and windows closed excluding the emergency exit to the carpark:
 - 89dB(A) between 10:00am and 10:00pm
 - 91dB(C) between 10:00pm and 12:00am
- The licensee must purchase and maintain in good working order, a noise meter. The noise meter is to be utilised for the purpose of taking readings at any external, internal or close monitoring location. The noise meter must be capable of reading noise in both dB(A) and dB(C) weighting fast response.