

Information Notice

Application Type:	Variation of Conditions
Trading Name:	Ricky's River Bar + Restaurant & Wood Fire Grill
Address of Premises:	Tenancy 2, 3, 8, 9 & Part of 1, The Sound Shopping Place, 2 Quamby Place, Noosa Heads
Date of the Decision:	11 July 2024
Applicable Legislation:	Section 111 - <i>Liquor Act 1992</i>

Brief Summary of the Reasons for the Decision

As a delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for a variation of conditions lodged on 11 October 2023. In deciding the application, I took into account the following findings of fact:

1. The applicant is eligible to apply for a variation of conditions under the *Liquor Act 1992* (Liquor Act).
2. Two (2) valid letters of objection were received from the community, one of which was accompanied by an independently prepared acoustic report.
3. The Office of Liquor and Gaming Regulation's (OLGR) Compliance Division, who are responsible for ensuring compliance of premises under the provisions of the Liquor Act, did not object to the application.
4. Further, OLGR's Compliance Division advised that the acoustic report submitted by the applicant complies with Liquor guideline 51: Preparing an acoustic report, whereas the report submitted by the objector does not.
5. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer are to be imposed.
6. The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is 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 Liquor Act.

I took into account the objections received which centred on allegations of noise and patron nuisance currently associated with the operation of the business.

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

1. OLGR compliance, council and police offered no objection to the application.
2. The decision is reasonable and demonstrably justifiable under the *Human Rights Act* as impact on the amenity of the locality will be minimised if the applicant complies with its licence conditions and statutory obligations under the *Liquor Act*.
3. The applicant has a responsibility to ensure its activities do not impact neighbouring residents. If issues cannot be resolved directly with the applicant, there is a complaint process available for the community and for OLGR to take appropriate action if it is required.
4. Without any substantiated evidence, and particularly in the instance where the applicant has lodged a compliant acoustic report, it would be unfair to deny the applicant the opportunity to trade under the noise levels in the report. Those limits are prepared in accordance with noise limits set out in the *Liquor Act*, which are designed to minimise unduly adverse impact on the amenity of the surrounding community.
5. The *Liquor Act* does not contemplate nil impact on the amenity of the locality. The presumption is in favour of, rather than against, granting of the application unless community impact cannot be minimised.

After considering all the relevant factors and information, both positive and negative, and the aforementioned findings on material questions of fact, I decided to grant the variation of conditions application to effect the following changes to the licence:

Removal of condition:

- *LL250 - Noise emanating from the premises including amplified and/or non-amplified noise and/or patron noise must not exceed 75dB(C), fast response, when measured approximately 3 metres from the primary source of the noise.*

Imposition of conditions:

- *Unless otherwise conditioned on this licence, noise emanating from all areas of the premises including amplified and/or non-amplified noise and/or patron noise must not exceed 75dB(C), fast response, when measured approximately 3 metres from the primary source of the noise.*
- *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.*
- *Alterations or changes to the premises or landscape that could vary the location of any CEML's or make their location unidentifiable are to not be undertaken without the authority of the Office of Liquor and Gaming Regulation.*

- *Noise emanating from the premises, including amplified and/or non-amplified noise and/or patron noise, must not exceed the following limits, fast response, when measured at the following close external monitoring locations (CEML's):*
CEML 1 - *Located external to the premises, in the park, on the eastern side of the building, 1 metre south-east of the light pole closest to the river and the premises outdoor area. This has approximate coordinates of (-26.39096°S, 153.07877°E).*
69 dB(A) between 10.00am and 10.00pm
65 dB(C) between 10.00pm and 12:00am
CEML 2 - *Located external to the premises near the main entrance doors accessed from the car park, directly over a yellow circular metal sewer cap adjacent to the garden. This has approximate coordinates of (-26.39119°S, 153.07844°E).*
60 dB(A) between 10.00am and 10.00pm
59 dB(C) between 10.00pm and 12:00am