

Information Notice

Application Type: Variation of Licence

Trading Name: Earth Espresso Bar

Address of the Premises: Shop 1, 50 Landsborough Parade, Golden Beach

Date of the Decision: 24 August 2021

Applicable Legislations: Section 111 - *Liquor Act 1992*

Brief Summary of the Reasons for the Decision

On 24 August 2021, as delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for variation of licence lodged by the applicant on 23 December 2020. 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) or OLGR Compliance.
3. 50 objections were received from the community.
4. The premises is located within a strip shopping centre. The premises is near other licensed venues and businesses. There are residential buildings across the road from the premises, being approximately 30 metres from the front outdoor area of the premises where the outdoor entertainment will be conducted. There is no sensitive sites identified within 200 metres of the premises.
5. Appropriate noise mitigation conditions will be imposed following assessment of the acoustic report submitted in support of the application.
6. The Liquor 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 Liquor Act.

I took into account the objections received which outlined the following concerns:

8. The noise level sought (90 dB(C)) is too loud and is equivalent to the sound of a freight train.

9. The area is a retirement area and residents do not want their environment disrupted.
10. Bottle noise being dumped in bins is already an issue and the noise could be clearly heard at neighbouring residences.
11. People in carparks saying goodbye is an existing issue and could get worse if entertainment attracts more people.
12. Who will be measuring noise levels to ensure the levels do not go over the limits?
13. Patrons at this venue will be drinking and can be excessively loud. This is not the type of people the residents want wandering about at midnight in a quiet residential community.

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

14. OLGR compliance and police have no objection.
15. A compliant acoustic report has been lodged and assessed by OLGR compliance. The report recommends detailed conditions to be endorsed on the licence.
16. There is no history of complaints made against the premises.
17. The licensee has a responsibility to ensure the entertainment and activities do not impact neighbouring residents. If issues cannot be resolved directly with the licensee, there is a complaint process available for the community and for OLGR to take appropriate action if it is required.
18. A decision to grant the application will likely be reasonable and justifiable in accordance with the *Human Rights Act 2019*, as detailed conditions will be endorsed on the licence.

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 variation of licence application, subject to the following:

Removal of the following conditions:

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.

LL253 - Non-amplified entertainers or speakers used to amplify noise must not be located in any outdoor, verandah, patio or footpath area of the premises.

And the imposition of the following conditions:

- *Unless otherwise conditioned on this licence, noise emanating from the internal area 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.

- *Unless otherwise conditioned on this licence, non-amplified entertainers or speakers used to amplify noise must not be located in any outdoor, verandah, patio or footpath area of the premises.*
- *Non-amplified entertainers and speakers used to amplify entertainment in the outdoor area must only be located at the northern end of the premises under the fixed verandah, with speakers facing in a south east direction.*
- *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, at the point where the street-side edge of the footpath meets the middle of the pedestrian crossing (south of the premises). This has approximate coordinates of 26.82193°S, 153.11998°E.
55 dB(A) between 10:00am and 10:00pm
CEML 2 – Located external to the premises, midway on the walkway at the boundary between the premises and adjacent tenancy (east of the premises). This has approximate coordinates of 26.82186°S, 153.11977°E.
48 dB(A) between 10:00am and 10:00pm
- *Alterations or changes to the premises or landscape that could vary the location of any CEML's or make their location unidentifiable are not to be undertaken without the authority of the Commissioner for Liquor and Gaming.*
Management 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 a distance of approximately 3 metres from any source of noise, at each one hourly interval while live entertainment is being conducted in the outdoor area of the premises. Each reading must be recorded in a Register, which must be made available to an OLGR investigator on request.

Patricia Leotta

Delegate of the Commissioner for Liquor and Gaming

24 / 8 /2021