

Information Notice

Application Type:	Variation of conditions on a commercial other subsidiary on premises licence
Trading Name:	Caffeine Kings
Address of Premises:	Shop 1, 1920 Gold Coast Highway, Miami
Date of the Decision:	24 January 2023
Applicable Legislation:	Section 111 of the <i>Liquor Act 1992 (the Act)</i>

Brief Summary of the Reasons for the Decision

As General Manager, Licensing, I conducted a review of an application, lodged by the applicant on 22 June 2022, for a variation of licence to permit amplified entertainment on the licensed premises. In deciding the application, I took into account the following findings of fact:

- 1) An acoustic report prepared by a qualified sound engineer was submitted with the application for assessment by the OLGR.
- 2) The application was advertised for public comment and an objection petition with 18 signatures was received.
- 3) A subsequent objection conference was unable to provide a satisfactory resolution of the objectors' concerns.
- 4) The Gold Coast City Council objected to the application on the grounds the increase in level of amplified music will impact upon nearby residential amenity and the dining experience in adjacent restaurants.
- 5) Gold Coast District police did not object to the application.
- 6) OLGR compliance has recommended an increase in noise levels should not be considered based on the licensee's history of non-compliance with the OLGR comprising multiple warnings, advisory letters, and infringement notices issued in relation to substantiated noise complaints.
- 7) The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated
- 8) Human rights may be 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 objections received, which outlined concerns with the licensee's persistent disregard for current noise level restrictions and apparent inability to control disorderly patron behaviour.

In response to the objections received, I cannot be satisfied the granting of a variation of licence to increase noise levels would not have an adverse effect on the amenity of the locality as:

- 9) OLGR compliance and the Gold Coast City Council object to the application.
- 10) A decision to approve the application may be unreasonable and unjustifiable under the Human Rights Act as the impact on the amenity of the locality may not be minimised when considering the licensee's compliance history. This history demonstrates that licence conditions and statutory obligations under the Act have been repeatedly breached and there is nothing to suggest that the licensee will comply with the recommendations of the acoustic report.
- 11) The Act does not contemplate nil impact on the amenity of the locality. However, the evidence of the licensee's poor compliance history suggests that community impact cannot be reasonably minimised.

After considering all of the relevant factors and information, both positive and negative, and the aforementioned findings on material questions of fact, I have decided to refuse this application.