

## Information Notice

<b>Application Type:</b>	Commercial hotel licence with extended trading hours
<b>Trading Name:</b>	Eleven Dive Bar
<b>Address of Premises:</b>	19 Duporth Avenue, Maroochydore
<b>Date of the Decision:</b>	3 December 2021
<b>Applicable Legislation:</b>	Part 4, Division 2 and Part 4, Division 7 of the <i>Liquor Act 1992 (the Act)</i>

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### Brief Summary of the Reasons for the Decision

As Commissioner for Liquor and Gaming, I conducted a review of the applications for a commercial hotel licence and extended trading hours lodged by the applicant on 1 December 2020. In deciding the applications, I took into account the following findings of fact:

1. No objection was lodged by the local authority or the Queensland Police Service.
2. One hundred and ninety eight (198) public objections were received from the community.
3. Appropriate conditions will be imposed on the licence to mitigate any potential amenity impacts.
4. The Act provides avenues to complain and empowers the Office of Liquor and Gaming Regulation (OLGR) to address issues in the event non-compliance should be substantiated.
5. A decision to grant the application is justifiable and reasonable under the *Human Rights Act 2019*.

I have considered the relevant matters outlined in Part 4, Division 2 of the Act.

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

6. Noise emanating from the streets when patrons enter or exist the premises.
7. Residents of the locality are generally of a mature age demographic. The premises will cause sleep disruption.
8. Approval of this application will lead to an increase in alcohol consumption, alcohol-fuelled violence and anti-social behaviour.
9. The premises will increase the risk of drink driving.
10. The area is already well serviced with takeaway liquor options.
11. There has been an increase in crime and vandalism in the area for the past few years.

12. The applicant is catering to 'misfits'. This is inconsistent with the area that are regularly booked by families looking for a relaxing and safe holiday.
13. The objectors purchased into this area first, when it was quiet.

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

14. The local authority and Queensland Police Service offered no objection to the application.
15. An acoustic report has been prepared in compliance with Guideline 51 and suitable noise conditions have been recommended.
16. Appropriate CCTV and security conditions requiring crowd controllers to maintain surveillance outside the premises will be endorsed on the licence to allay objector concerns relating to patron dispersal, alcohol-fuelled violence and anti-social behaviour.
17. The applicant has a responsibility to ensure its activities do not cause undue offence, annoyance, disturbance or inconvenience to 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.
18. Without any substantiated evidence, it would be unfair to deny the applicant the opportunity to trade under a liquor licence.
19. The 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 of the relevant factors and information, both positive and negative, and the aforementioned findings on material questions of fact, I decided to grant the licence, subject to the following conditions:

- *Liquor may be sold or supplied only whilst the premises adheres to its principal activity of the sale of liquor for consumption on the licensed premises, or on and off the premises.*
- *Liquor may not be sold for consumption off the licensed premises after 10:00pm or be taken away from the premises after 10:30pm.*
- *Non-amplified entertainers and/or speakers used to amplify noise must not be located in any outdoor area of the premises, including verandah, patio, footpath or beer garden.*
- *At least one set of doors which form part of any sound lock entry or exit and all other doors and windows must be kept closed whenever amplified entertainment or music is in progress at the premises.*
- *Management must install and maintain in good working order, a sound limiting device and ensure that all amplified noise at the premises is conducted through a sound limiting device at all times to ensure that noise does not exceed levels prescribed in the conditions of this licence.*

- *The sound limiting device is to have a locking mechanism, which is to be locked at all times except for inspection or maintenance work on the device.*
- *Access to the sound limiting device, except for maintenance work, is restricted to the licensee, approved manager and the person in charge of the premises at any time.*
- *The licensee must ensure a register of complaints is kept and maintained at the premises to record details of all complaints showing the name of the complainant, time and date of the complaint and the details of any remedial action taken by the management to rectify the problem.*
- *The register of complaints is to be made available to OLGR Investigators for inspection immediately upon request.*
- *LL300 The licensee and approved manager/s must ensure crowd controllers licensed under the Security Providers Act 1993 are employed in the following ratios at all times from 11:00pm until one hour after the premises ceases to supply liquor:*
  - *1 to 100 patrons or part thereof - 1 crowd controller*
  - *More than 100 patrons but not more than 200 patrons - 2 crowd controllers*
  - *More than 200 patrons but not more than 300 patrons - 3 crowd controllers*
  - *More than 300 patrons but not more than 400 patrons - 4 crowd controllers*
  - *More than 400 patrons but not more than 500 patrons - 5 crowd controllers*
  - *Plus at least 1 crowd controller for every 250 patrons (or part) thereafter.*
- *LL302 The licensee and approved manager/s must ensure a minimum of one (1) crowd controller licensed under the Security Providers Act 1993 maintains surveillance outside the premises for at least one hour after the premises closes for business or, if earlier, until all patrons have vacated the immediate vicinity of the premises.*
- *LL305 The licensee and approved manager/s must ensure an incident register is kept on site, in a secure place. The register must be signed by all staff involved in the incident and must include:*
  - a. *Date and time of the incident;*
  - b. *Where the incident occurred;*
  - c. *Full descriptions of persons involved, including names where obtainable;*
  - d. *Reasons for removing persons from the premises;*
  - e. *Any details of injuries to persons.*
- *LL306 The licensee and approved manager/s must maintain closed-circuit television (CCTV) equipment recordings of all patrons entering and leaving the premises via the entrance and exit (including any fire exit used for removing patrons). The CCTV footage must include recordings of all interactions between patrons and crowd controllers or staff, from 8:00pm until one hour after all patrons have left the premises, or close of business, whichever is later.*
- *LL308 The licensee and approved manager/s must keep CCTV recordings in a secure place for at least 28 days after the recording is made. Recordings of incidents where persons are removed or injured must be kept on the premises for 1 year after the recording is made. The recordings must be produced on request by an investigator appointed under the Liquor Act 1992.*
- *LL317 Conditions LL300 and LL302 apply only on nights the premises trades beyond 1:00am.*

- *Close external monitoring locations (CEML's) are defined as:*
  - 1) *CEML1 is located above the drainage grate in the roadway, approximately 14.5 metres from the rear door of the premises (south east of the premises). This has approximate coordinates of (-26.65262, 153.09233)*
  - 2) *CEML2 is located adjacent to and north of the silver lamp post, approximately 12.5 metres from the front entry door to the premises (west of the premises on Duporth Avenue). This has approximate coordinates of (-26.65238, 153.09271).*
- *Noise emanating from the premises, including amplified and/or non-amplified noise and/or patron noise, must not exceed the following levels, fast response, when measured at CEML1:*
  - a) *54 dB(A) between 10.00am and 10.00pm*
  - b) *56 dB(C) between 10.00pm and 3.00am.*
- *Noise emanating from the premises, including amplified and/or non-amplified noise and/or patron noise, must not exceed the following levels, fast response, when measured at CEML2:*
  - a) *55 dB(A) between 10.00am and 10.00pm*
  - b) *54 dB(C) between 10.00pm and 3.00am.*
- *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 75 dB(C), fast response, when measured approximately 3 metres from the primary source of the noise.*
- *Non-amplified entertainers and speakers used to amplify entertainment on the premises must only be located on the stage located at the eastern end of the premises, with speakers facing in a westerly direction.*
- *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 Commissioner for Liquor and Gaming.*