

## Information Notice

**Application Type:** Variation of Licence

**Trading Name:** BSKT Cafe

**Address of the Premises:** 4 Lavarack Road, Mermaid Beach

**Date of the Decision:** 10 September 2021

**Applicable Legislations:** Section 111 - *Liquor Act 1992*

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### Brief Summary of the Reasons for the Decision

On 10 September 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 February 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 local authority, Queensland Police Service (QPS) or OLGR Compliance.
3. 24 letters of objection were received from the community.
4. The premises are located in a residential area and there are units and houses in close proximity to the premises. There are no other sensitive facilities identified within 200 metres.
5. Appropriate noise mitigation conditions will be imposed given the applicant's amended proposal.
6. The Liquor Act provides avenues to object 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. Disturbance and annoyance to households and children, greater risk for drunken abuse, damage to property, littering and noise pollution to the normally peaceful community. The community to experience the possibility of constant and unwarranted noise that will affect their daily lives and affect the residential community.

9. The bedrooms of objector's unit/apartments have windows that face the Café, and the amplified noise will cause great discomfort.
10. The area is zoned as a residential area.
11. The neighbourhood tolerates a surf club full of patrons and traffic congestion which is already not desirable.
12. The existing Pilates/Gym business and the ever-increasing music that residents seem to have to tolerate and waking up to pumping music at 5:30am.
13. There are ample venues for entertainment and drinking, 200 metres away in the Nobbys Business area on the highway.
14. Some objectors have resided in the area for 30 years and are concerned about the impacts of this proposal in respect to noise and the increase in patrons loitering in the area.
15. Lack of parking in an area that is significantly busy during peak times on weekends, public holidays, and school vacation periods.
16. BSKT Café has mainly glass frontage to the North, East and West, consisting mainly of doors and bifold windows which are usually open during trade. There are multiple outdoor dining areas all around BSKT Café including dining on the footpath on Albatross Avenue and Lavarack Road.
17. That the noise pollution from the proposed amplified entertainment may reduce the value of objector's properties.

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:

18. No objections were received from the local authority, QPS or OLGR Compliance.
19. The applicant is no longer seeking amplified entertainment and is retaining the standard noise level of 75dB(C) (low levels) but with trading restricted in the outdoor areas until 4:00pm.
20. The Liquor Act provides avenues to object and empowers the 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 variation of licence application, subject to the following:

Removal of condition LL253 - 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.

And replace with the following conditions:

- All amplified entertainment must be conducted through downward or inward facing in-house speakers only, and the use of external speakers are not permitted after 4:00pm.

- The licensee must ensure that 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.

Patricia Leotta

Delegate for the Commissioner of Liquor and Gaming