

## Information Notice

**Application Type:** Variation of Licence

**Trading Name:** The Barn Restaurant

**Address of the Premises:** 5 Boomerang Road, Mudgeeraba

**Date of the Decision:** 15 October 2021

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

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### Brief Summary of the Reasons for the Decision

On 15 October 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 20 January 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 Queensland Police Service (QPS) or OLGR Compliance.
3. 11 objections and a petition with 51 signatories were received from the public.
4. Noise conditions are to be endorsed on the licence based on an acoustic report prepared in accordance with the requirements of the *Liquor Act 1992* and *Liquor Regulation 2002*.
5. Council's recommendations are incorporated into the conditions to be endorsed on the licence, to the extent those recommendations were not at odds with acoustic testing conducted in support of the application.
6. The premises is located in a rural area. This was factored into the final decision to the extent that the acoustic testing, on which conditions resulting from this application are based, included measuring the background noise levels of the locality.
7. The *Liquor Act 1992* provides avenues to complain about the conduct of a licensee and empowers OLGR to address issues in the event non-compliance is substantiated.
8. Human rights are not unreasonably or unjustifiably 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 relevant concerns:

- The premises is situated in a rural zone, therefore the application for amplified entertainment is inappropriate for the area. The applicant does not have council approval to conduct amplified entertainment.
- Unreasonable noise will impact local residents and residents will experience loss of sleep. Nearby businesses (not related to the applicant) recently held an event which caused significant disturbance to local residents.
- Approval of the application will result in alcohol abuse and misuse.
- Ecostudio Fellini had noisy parties with live bands and public announcement systems. Patrons from these parties generate offensive and intrusive noises.

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:

- OLGR Compliance and the QPS raised no objection in respect of the application.
- The noise levels recommended in the acoustic report took into account the fact that the premises is located in a rural zone.
- If the applicant complies with the recommendations of the acoustic report, it is unlikely that local residents will be affected by unreasonable noise.
- The applicant has a responsibility to ensure its activities do not impact neighbouring residents. If issues arise and cannot be resolved directly with the applicant, there is a complaint process available for the community and for OLGR to take appropriate action if required.

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 to affect the following changes to the licence:

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 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.

Endorsement of the following conditions:

- Noise emanating from "Ecostudio Fellini" 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.
- Non-amplified entertainers or speakers used to amplify noise must not be located in any outdoor, verandah, patio or footpath area of "Ecostudio Fellini".
- Noise emanating from "The Barn" including amplified and/or non-amplified noise and/or patron noise must not exceed the following limits, fast response, when measured approximately 3 metres from a speaker:  
85dB(A) between 10:00am and 10:00pm.  
85dB(C) between 10:00pm and 12:00am
- At all other times, noise emanating from all other 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.
- Amplified noise must only be conducted through in-house speakers. Internal speakers must be oriented to the north and east. Only two in-house speakers are permitted on the outdoor decking area. No other speakers are permitted in the outdoor area.
- 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. The register of complaints is to be made available to OLGR Investigators for inspection immediately upon request.

Glenn Wegener

Delegate for the Commissioner of Liquor and Gaming

15 / 10 / 2021