

Office of Liquor and Gaming Regulation



Information Notice

Application Type: Commercial Hotel Licence

Trading Name: The Pearl Resort and Residences

Address of the Premises: Lot 5 Haven Road, Emu Park

Date of the Decision: 21 December 2021

Applicable Legislations: Part 4, Division 2 (*Liquor Act 1992*)

Brief Summary of the Reasons for the Decision

As Commissioner for Liquor and Gaming, I conducted a review of the application for a commercial hotel licence lodged by the applicant on 29 April 2021. In deciding the application, I took into account the following findings of fact:

1. The applicant is eligible to apply for a commercial hotel licence under the *Liquor Act 1992* (Liquor Act).
2. No objections were lodged by the local authority, Queensland Police Service (QPS) or the local Member of Parliament.
3. The Office of Liquor and Gaming Regulation's (OLGR) Compliance Division, who are responsible for ensuring compliance of premises under the provisions of the Liquor Act, offered no objection to the application (subject to conditions to be endorsed on the licence).
4. Twenty public objections were received from the community as a result of advertising the applications.
5. Appropriate conditions have been imposed on the licence to reduce the likelihood of amenity issues being linked to the operation of the premises.
6. A full community impact statement (CIS) was lodged. The applicant conducted community consultation in compliance with Guideline 38.
7. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
8. The decision is reasonable and demonstrably justifiable under the Human Rights Act as impact on the amenity of the locality will be minimised if the applicant complies with its licence conditions and statutory obligations under the Liquor Act.

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

I have taken into account the objections received as relevant to amenity and safety matters which outlined the following concerns:

9. There is only one way into the estate, so there will be a significant increase in traffic.
10. There is a beach access located in front of the premises, and there are concerns

for the safety of residents when walking to the beach.

11. There will be parking issues for local wanting to use the beach.
12. Takeaway liquor will impact the area, with people drinking on the beach and leaving rubbish in the area.
13. Noise levels will increase at the site.
14. The community impact statement appears to be out of date.
15. The hotel is being built in the middle of the estate, which will affect the amenity of the area.
16. If patrons get out of hand, the police are about 20 minutes away.

In response to the objections received, I am satisfied the granting of the commercial hotel licence will be unlikely to have an adverse effect on the amenity of the locality as:

17. Council, police, local Member of Parliament and OLGR compliance offered no objection to the application.
18. The decision is reasonable and demonstrably justifiable under the Human Rights Act as impact on the amenity of the locality will be minimised if the applicant complies with its licence conditions and statutory obligations under the Liquor Act.
19. The applicant has a responsibility to ensure its activities do not impact 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.
20. Without any substantiated evidence, it would be unfair to deny the applicant the opportunity to trade under a liquor licence.
21. The Liquor 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.
- Liquor may be sold for consumption off the main licensed premises in the course of the licensee providing catering services for a function to persons genuinely attending the function for consumption by those persons at the function. This approval is subject to the condition that liquor must not be sold to a person who is unduly intoxicated. Catering to public functions is subject to approval of a

commercial public event permit.

- 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.
- LL159 - This provisional licence does not allow the sale or supply of liquor under the authority of the provisional licence.
- LL164 - The issue of the licence is subject to a final inspection of the premises by an officer of the Office of Liquor and Gaming Regulation and the completion of any further requirements of the Commissioner as a consequence of that final inspection or photos submitted in lieu of a final inspection.
- LL165 - The issue of the licence is subject to the lodgement of an acoustic report of which, the content and recommendations satisfy the Commissioner that any noise from the premises will not create a noise nuisance.
- LL166 - The issue of the licence may be subject to the imposition of further conditions relating to noise, based on the submitted acoustic report.
- All the stated evidence must be produced to the Commissioner within four years of the issue of the provisional licence