

Information Notice

Application Type: Variation of licence

Trading Name: Southport Yacht Club Inc

Address of the Premises: Macarthur Parade, Main Beach

Date of the Decision:

Applicable Legislation: Section 111 - *Liquor Act 1992*

Brief Summary of the Reasons for the Decision

As a delegate of the Commissioner for Liquor and Gaming, I conducted a review of the application for variation of licence lodged by the applicant on 24 November 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) to the application (subject to conditions to be endorsed on the licence).
3. No objections were lodged by the Council of the City of Gold Coast.
4. 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).
5. 24 objections were received from the community in response to advertising of the application.
6. Restrictive noise mitigation conditions are to be imposed in support of the application based on an acoustic report prepared in accordance with the requirements of the *Liquor Act 1992* and *Liquor Regulation 2002*.
7. The community impact statement was prepared in accordance with Commissioner's Guideline 38. The community impact assessment process did not identify any significant issues of concern in relation to the application.
8. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
9. A decision to grant the application is justifiable and reasonable under the Human Rights Act 2019.

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:

1. The complex the premises is situated within is a mixed-use commercial and residential strata community.
2. There are concerns regarding potential adverse noise impacts associated with the perceived increased use of the outdoor speakers, noting the community is generally very supportive of the club and current noise from light entertainment conducted at the club on Fridays to Sundays.
3. Residents also raised concerns in relation to possible ramifications from a change in management, particularly regarding potential non-adherence to current arrangements and a lack of communication with them in relation to future activities.

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

- OLGR Compliance, council and the QPS raised no objection in respect of the application, subject to conditions.
- All six objectors who attended a meeting with the licensee subsequently confirmed they no longer had any objections to the application, as their concerns were allayed by the applicant. This was based on the licensee assuring residents nothing will change in terms of current entertainment offerings and the club will continue to communicate with residents regarding any future applications. Consideration was also given to the need for any potential future licensee entity to similarly abide by the conditions of licence implemented by the current licensee.
- The noise levels recommended in the acoustic report take into account the premises' proximity to residential premises/moorings and the conditions imposed on the licence are of a restrictive nature to mitigate any concerns.
- OLGR also notes while there is the potential for additional amenity impacts from higher noise levels being permitted, the proposed noise levels are supported by a report from a qualified acoustic engineer. In the matter of *Meissner v Commissioner for Liquor and Gaming & Anor* [2020] QCAT 378 (Rollingstone Beach Caravan Resort), QCAT found 'it is reasonable to assume amplified entertainment can be adequately controlled at the licensee's premises provided the acoustic engineer's recommendations are complied with'.
- 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:

- 4236255 – Speakers used to amplify entertainment, music noise, public address system or non-amplified entertainers must not be located in any outdoor/verandah/patio/pontoon areas of the premises.

Endorsement of the following conditions:

- Management must purchase and maintain in good working order, a noise meter. The noise meter is to be utilised for the purpose of taking readings at any external, internal or close monitoring location. The noise meter must be capable of reading in both dB(A) and dB(C) weighting fast response.
- Noise emanating from the outdoor entertainment area located at the eastern end of the premises 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 the primary source of the noise:
 - a) 75dB(A) between 10:00am and 10:00pm
 - b) 77dB(C) between 10:00pm and 12:00am
 - c) 75dB(C) between 12:00am and 10:00am
- All amplified noise emanating from the outdoor entertainment area must be conducted via the in-house fixed speakers and a portable speaker positioned at the southern end of the outdoor entertainment area facing in a north westerly direction towards the marina.
- In all other areas, 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.
- With the exception of the outdoor entertainment area located at the eastern end of the premises, non-amplified entertainers or speakers used to amplify noise must not be located in any outdoor, verandah, patio or footpath area of the premises.