

## Information Notice

**Application Type:** Commercial hotel licence with extended trading hours

**Trading Name:** Cali Beach

**Address of the Premises:** Level 4, 3197 Surfers Paradise Boulevard, Surfers Paradise

**Date of the Decision:** 8 April 2022

**Applicable Legislations:** Part 4, Division 2 and Part 4, Division 7 (*Liquor Act 1992*)

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### 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 with extended trading hours lodged on 21 June 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 with extended trading hours under the *Liquor Act 1992* (Liquor Act).
2. No objections were lodged by the local authority or Queensland Police Service (QPS).
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. Eight public objections were received from the community in response to public advertising of the application.
5. Numerous noise complaints have been lodged by residents of the surrounding residential/accommodation towers since the issue of the current licence.
6. The licensee is working collaboratively with OLGR in implementing an action plan to address/minimise complaints, with a reduction in complaints already recorded.
7. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer are to be imposed in support of the application.

8. A community impact statement was prepared in accordance with Guideline 38, noting the applicant undertook consultation with residents and businesses within 200 metres of the site, residents in the local community area and key advisers. The community impact assessment process identified similar issues of concern as identified in response to advertising of the application.
9. The Liquor Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated.
10. 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 and 7 of the Liquor Act.

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

11. Amplified entertainment and patron noise.
12. Residual effects (including public drunkenness and urination) from the number of people attending the licensed premises and the effect on families living in and visiting the area.
13. Impact of signs and lights on residents living in high-rise apartments in proximity to the premises.
14. The ability for the applicant to extend their trading hours in future.

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

15. The premises currently operates under a subsidiary on premises (meals) licence with the same trading hours.
16. No objections were received from the local authority, QPS, or OLGR Compliance (subject to suitable conditions being applied to the licence).
17. The premises is located in an established mixed commercial/residential precinct with other licensed premises operating in close proximity.
18. Given the density of the area it is unlikely to eliminate all complaints against the venue, however, the licensee appears to be committed to taking considerable action to rectify any issues raised. An action plan has been put in place by the licensee in cooperation with OLGR to ensure noise complaints are appropriately addressed/mitigated.
19. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer are to be imposed in support of the application. The licensee will adjust existing noise levels and speaker placement based on the report's findings.
20. 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.

21. In line with the QCAT decision of *Meissner v Commissioner for Liquor and Gaming & Anor [2020] QCAT 378* the tribunal was of the view it is reasonable to assume amplified entertainment can be adequately controlled provided the acoustic engineer's recommendations are complied with.
22. The Liquor Act provides avenues to complain and empowers 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 provisionally grant the licence and extended trading hours, subject to the surrender of the commercial other – meals licence and complementary changes in licensed areas occurring to incorporate the function room on level 4 of the premises.

And the imposition of 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.
- All amplified entertainment, music or related activities must be played through an in-house speaker system. No portable speakers are to be used.
- 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 be located in a lockable enclosure, which is to be locked closed at all times except for inspection or maintenance work on the device.
- 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 a distance of approximately 3 metres from any source of noise at regular intervals to ensure that noise does not exceed levels prescribed in the conditions of this licence.
- 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 licensee, manager, or person in control of the premises shall ensure a clear thoroughfare is maintained at all times from the footbridge situated immediately in front of the elevator doors at the Elkhorn Avenue entry and extending via a timber entrance walkway to the commencement of the main dining areas of the premises.

- 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.
- 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.
- 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.
- 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.
- The licensee and approved manager/s must ensure closed-circuit television recordings required by the conditions of this Licence are kept in a secure place for a minimum period of 28 days, or where an incident occurs involving a patron being removed or a person being injured for a minimum period of 365 days, and must be produced immediately on request by an investigator appointed under the Liquor Act 1992.
- This provisional licence does not allow the sale or supply of liquor under the authority of the provisional licence.
- 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.
- 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.