

## Information Notice

**Application Type:** Variation of Licence

**Trading Name:** The Local Raby Bay

**Address of the Premises:** Shops 5 & 6, 152 – 166 Shore Street, Cleveland

**Date of the Decision:**

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

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### 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 June 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).
3. No comments were lodged by the Redland City Council.
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. One objection was received from the public.
6. Appropriate noise mitigation conditions supported by an acoustic report from a qualified sound engineer are to be imposed in support of the application.
7. A community impact statement was prepared in accordance with Guideline 38. The community impact assessment process identified similar issues of concern as identified in response to advertising of 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:

10. The complex the premises is situated within is a mixed-use commercial and residential strata community.
11. Three specific licensed venues have been identified as the major source of disruptive noise affecting nearby apartments, of which the Local Raby Bay is one.
12. There is no effective acoustic barrier between the building occupied by the premises and the closely located apartments.

In response to the objection 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:

13. No objections were received from the local authority, QPS, or OLGR Compliance (subject to suitable conditions being applied to the licence).
14. The premises is located in an established mixed commercial/residential precinct with other licensed premises operating in close proximity.
15. The noise levels recommended in the acoustic report took into account the fact the location of the premises and that no change to noise levels will occur after 10:00pm.
16. If the applicant complies with the recommendations of the acoustic report, it is unlikely that local residents will be affected by unreasonable noise.
17. 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.
18. 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 condition:

- 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.

Endorsement of the following conditions:

- Noise emanating from 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 source of noise:
  - a) 72dB(A) between 10:00am and 10:00pm
  - b) 75dB(C) between 10:00pm and 12:00am
- Entertainers, such as soloists and performers must only be located in the internal dining area of the premises.