

Information Notice

Application Type:	Variation of conditions – Commercial other subsidiary on premises (meals) licence
Trading Name:	The Vault Bar & Tapas
Address of Premises:	The Phoenician Health & Spa Resort, Shop 21, 90-110 Surf Parade, Broadbeach
Date of the Decision:	4 July 2023
Applicable Legislation:	Section 111 of the <i>Liquor Act 1992</i>

Brief Summary of the Reasons for the Decision

As delegate, I conducted a review of the application for a variation of conditions for a commercial other subsidiary on premises licence lodged by the applicant on 14 March 2023. 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* (the Act).
2. The Queensland Police Service and local authority have no objection to the application.
3. Sixteen objections and three petitions with a total of 32 unique and valid signatures were lodged.

I have considered the relevant matters outlined in section 111 of the *Liquor Act*. I took into account the objections received which centred on allegations of noise and patron nuisance currently associated with the operation of the business.

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

4. An acoustic report has been prepared in compliance with Guideline 51 and suitable noise conditions, based on professional acoustic testing, have been recommended.
5. 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*.
6. 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.

7. Purpose of this application is to not to increase noise levels at the premises. It is to undertake a proper acoustic assessment according to Guideline 16 in order to determine the appropriate noise levels that can emanate from the premises, without resulting in unreasonable noise. The nature of the application is not to increase the noise levels of the premises.

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 application to:

Remove the following condition

- *Noise emanating from entertainment, music or related activities must not exceed 75dB(C), fast response, when measured approximately 3 metres from the source of the noise.*

Substitute with the following conditions

- *Between 10am and 10pm, 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 primary source of the noise:*

81 dB(A), with doors and windows open.

87 dB(A), with all main doors and windows closed, one entry door open.

- *Between 10pm and 12am, 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 primary source of the noise:*

83 dB(C), with doors and windows open.

89 dB(C), with all main doors and windows closed, one entry door open.

- *Between 12am and 10am, 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.*

- *Between 10:00am and 10:00pm, noise emanating from the premises including amplified and/or non-amplified noise and/or patron noise must not exceed the following levels, fast response, at the following Close External Monitoring Locations (CEML):*

62dB(A) CEML 1, situated at boundary line of adjacent premises outdoor seating area to the south.

61dB(A) CEML 2, situated at boundary line of adjacent premises outdoor seating area to the north.

- *Between 10:00pm and 12am, noise emanating from the premises including amplified and/or non-amplified noise and/or patron noise must not exceed the following levels, fast response, at the following Close External Monitoring Locations (CEML):*

64dB(C) CEML 1, situated at boundary line of adjacent premises outdoor seating area to the south.

64dB(C) CEML 2, situated at boundary line of adjacent premises outdoor seating area to the north.

- *The licensee must purchase and maintain in good working order, a noise meter. The noise meter is to be utilised noise meter is to be utilised for the purpose of taking noise readings to ensure noise does not exceed the levels prescribed on the licence. The noise meter must be capable to reading in both dB(A) and dB(C) weighting fast response.*