

Information Notice

Application Type:	Commercial other subsidiary on premises licence
Trading Name:	Austinvilla
Address of Premises:	31 Austinville Road, Mudgeeraba
Date of the Decision:	25 November 2021
Applicable Legislation:	Part 4, Division 4, Subdivision 2 of the <i>Liquor Act 1992</i> (the Act)

Brief Summary of the Reasons for the Decision

As Principal Licensing Officer, I conducted a review of the application for a commercial other subsidiary on premises licence lodged by the applicant on 7 April 2016. In deciding the application, I took into account the following findings of fact:

1. No objections were lodged the Queensland Police Service or the OLGR compliance.
2. The operation of a function facility and short-term accommodation is permitted by a judgement of the Planning & Environment Court, subject to additional restrictions on the number of guests and limits on the hours and days of operation.
3. Twenty five letters of objection and one petition were received from the community.
4. Appropriate conditions will be imposed on the licence to mitigate any potential amenity impacts.
5. The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance is substantiated
6. Human rights are not limited by my decision to approve the application.

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

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

7. The outdoor deck will cause noise disturbance to the surrounding amenities.
8. There is an amphitheatre type geography.
9. The noise and intoxication of patrons exiting the premises and property after functions due to the remoteness of the Hinterland and the condition of the roads.
10. The premises will become a 'Pub' due to the trading hours of 10:00am to 12:00am Monday to Sunday.
11. An open bar at the venue would be used for functions or events.

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

12. There are no objections to the application from Police or OLGR Compliance.
13. Council objected to the application and advised the town planning consent lists that restaurants and other uses are to be ancillary to the units and for guest use only. As a result, the applicant has withdrawn all aspects of public dining for the premises.
14. Council has taken into consideration concerns regarding parking, the nearby roads and traffic and have been conditioned on the town planning consent. It is therefore the applicant's responsibility to ensure compliance with the town planning consent.
15. OLGR Compliance is satisfied that the business is suitable for a commercial other subsidiary on premises licence with the main activity being the provision of accommodation and the application provided is reflective of the business activity at the premises.
16. The applicant has supplied acoustic evidence and the OLGR is reasonably entitled to rely on an acoustic report prepared by a qualified acoustic engineer which demonstrates lawful noise limits that amplified entertainment is allowed at certain times and under specific circumstances.
17. This application is for a subsidiary on premises licence (accommodation) which indicates that liquor is a subsidiary aspect of the premises.
18. The premises was previously licensed until 2009 when the licence was cancelled and OLGR has no record of any complaints.
19. Due to the restrictions on patronage, the conditions recommended to be imposed on the licence, and the principal activity of the premises being accommodation, the concerns regarding the premises turning into a loud and rowdy pub like premises should be eliminated.
20. The area is considered sensitive due to the topography of the land and proximity to the neighbouring residence. However, provided adequate noise controls are in place, it would be reasonable to expect that noise will be controlled and noise nuisance issues prevented from occurring.
21. It is the responsibility of the licensee to make every effort to ensure patron and other venue related noise does not negatively impact on local residents.
22. The Act provides avenues to complain and empowers OLGR to address issues in the event non-compliance can 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 grant the licence, subject to the following conditions:

- *Liquor may be sold or supplied only whilst the premises adheres to its principal activity of provision of accommodation.*
- *Approved after hours consumption areas for residents and their guests are the residential accommodation units or rooms only.*

- *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.*
- *Catering for functions away from the licensed premises must involve the provision of food prepared by the licensee when liquor is supplied.*
- *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 Register of Complaints is to be made available to OLGR Investigators for inspection immediately upon request.*
- *Management must install, and maintain in good working order, a sound limiting device and ensure that all amplified noise at the Function Centre 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 have a locking mechanism, which is to be locked at all times except for inspection or maintenance work on the device.*
- *Access to the sound limiting device, except for maintenance work, is restricted to the licensee, approved manager and the person in charge of the premises at any time.*
- *The licensee 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 noise in both dB(A) and dB(C) weighting fast response.*
- *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 at the external monitoring location situated 3 metres from the main entry of the Function Centre:*
 - a) *74 dB(A) before 10:00pm*
 - b) *61 dB(C) between 10:00pm and 12:00am.*
- *Amplified entertainment is only permitted between 10:00am and 10:00pm.*
- *Amplified entertainment at the Function Centre is restricted to the in-house speakers only.*
- *Functions after 6:00pm are restricted to using speakers within the confines of the building and roofed outdoor function area (bifold doors).*
- *Outdoor speakers or amplified noise are not permitted after 6:00pm.*
- *The two outdoor speakers at the swimming pool are only to be used for background music between 10:00am and 6:00pm and are not to be used when functions are being held.*
- *Any non-amplified noise is to be managed by venue staff to adhere to operational noise limits, and the use of drums/ drum kits is not permitted.*
- *The Conference Centre must only be used for receptions or functions with a maximum of 35 guests and six staff between 10:00am and 6:00pm.*

- *The Function Centre is restricted to:*
 - a) *Three events per week with a maximum of 35 guests and 6 staff members from 10:00am to 6:00pm, Monday to Thursday*
 - b) *Two events per week with a maximum of 100 guests and 6 staff members from 10:00am to 10:00pm, Friday to Sunday*
 - c) *Six events per year with a maximum of 150 guests and 6 staff members on a Friday, Saturday, or Sunday by prior arrangement with the Gold Coast City Council.*
- *All staff and guests who are not using the on-site short-term accommodation must leave the premises by 6:30pm, Monday to Thursday, and by 10:30pm, Friday to Sunday.*
- *Operation of the outdoor wedding chapel area is only permitted between 10:00am and 4:30pm.*
- *No more than two weddings are permitted per week.*
- *The on-site short-term accommodation is limited to a maximum of 98 guests.*
- *A courtesy bus is to be made available for the transportation of guests to and from the premises.*

Glenn Wegener

Principal Licensing Officer

25 / 11 / 2021