

# QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Meissner v Commissioner for Liquor and Gaming & Anor* [2020] QCAT 378

PARTIES: **DONALD MEISSNER**  
(applicant)  
v  
**COMMISSIONER FOR LIQUOR AND GAMING**  
(first respondent)  
  
**and**  
  
**CROWE AND NEVILLE PTY LTD TRADING AS  
ROLLINGSTONE BEACH CARAVAN RESORT**  
(second respondent)

APPLICATION NO: GAR064-19

MATTER TYPE: General administrative review matters

DELIVERED ON: 28 September 2020

HEARING DATE: 24 March 2020

HEARD AT: Townsville

DECISION OF: Member Pennell

ORDER: **The decision of the Commissioner for Liquor and Gaming made on 9 January 2019 to grant a variation to the liquor licence issued to Crowe and Neville Pty Ltd trading as Rollingstone Beach Caravan Resort is confirmed**

CATCHWORDS: GAMING AND LIQUOR – LIQUOR – GENERALLY – PREMISES TO WHICH LICENCE EXTENDS – variation to liquor licence – applicant opposed a variation to license’s licence – minimising harm or adverse effects on the amenity of the community – whether steps taken by licence mitigated any adverse effects

*Liquor Act 1992 (Qld), s 3, s 3(a), s 30(1)(a)(i), s 33, s 105, s 107, s 121*

*Queensland Civil and Administrative Tribunal Act 2009 (Qld), s 18, s 19, s 20(1), s 20(2), s 21, s 24(1), s 28(2), s 28, s 28(3)(a), s 28(3)(b), s 28(3)(c)*

*Kioa v West* (1985) 159 CLR 550  
*Meissner v Commissioner for Liquor and Gaming and Anor* [2019] QCAT 338

*Staddon and Ors v Chief Executive, Department of Employment, Economic Development and Innovation and Anor* [2011] QCAT 258  
*The King v The War Pensions Entitlement Appeal Tribunal and Another; ex parte Bott* (1933) 50 CLR 228

**APPEARANCES &  
REPRESENTATIONS:**

Applicant: B Rix of Counsel instructed by D Morton, Wilson Ryan Grose Solicitors.

First Respondent: D Robinson, Principal Legal Officer with M Chen

Second Respondent: A W Collins of Counsel instructed by S Naylor, Macrossan & Amiet Solicitors

**REASONS FOR DECISION**

**Introduction**

- [1] The applicant in this matter is Donald Meissner ('the applicant'). He is the owner of a property located approximately 60 kilometres north of Townsville at Hencamp Creek Road, Rollingsstone. This area was developed in the early 1960s with the allocation of large allotments designed to take advantage of the natural values of the area and the coastal location. Located within the same area is the Rollingsstone Beach Caravan Resort, which is owned by Crowe and Neville Pty Ltd, trading as the Rollingsstone Beach Caravan Resort ('the licensee'). Separating the properties belonging to those parties is a tract of land that is also owned by the licensee.
- [2] The licensee applied to the Commissioner for Liquor and Gaming ('the Commissioner') to vary the conditions of its liquor licence ('the licence').<sup>1</sup> That application was successful with the removal of two of the noise conditions from the licence.<sup>2</sup>
- [3] The applicant objected to the Commissioner's decision and applied to the Tribunal for a review of that decision. He contends that the amplified output of noise from the licensee's premises changed the tranquillity, ambience and value of the residential properties in the area. He further argued that the amplified noise should be managed by the adding of certain conditions to the licence. These conditions are explained later in these reasons.<sup>3</sup>
- [4] Both the Commissioner and the licensee disagree and suggest the existing measures are appropriate and compatible with minimising any harm or adverse effects on the amenity of the community.

**The Tribunal's role**

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<sup>1</sup> The application was made on 20 August 2018.

<sup>2</sup> Commissioner's decision made on 9 January 2019.

<sup>3</sup> See paragraph [14] of these reasons.

- [5] Subject to the provisions of the *Liquor Act* 1992 (Qld) (*'Liquor Act'*), the *Queensland Civil and Administrative Tribunal Act* 2009 (Qld) (*'QCAT Act'*) and the *Queensland Civil and Administrative Tribunal Rules* 2009 (Qld) (*'QCAT Rules'*), the conduct of Tribunal proceedings is at the discretion of the Tribunal. In the conduct of proceedings, the Tribunal is obliged to apply fair procedures that are adapted to the circumstances of each particular case.<sup>4</sup> In exercising its discretion, the Tribunal can inform itself in any way it considers appropriate,<sup>5</sup> however it must act fairly and according to the substantial merits of the case<sup>6</sup> whilst observing the rules of natural justice.<sup>7</sup>
- [6] Although not bound by the rules of evidence,<sup>8</sup> this does not generally mean those rules should be ignored and the Tribunal resort to methods of inquiry which would favour one party, whilst unnecessarily disadvantaging the other. Even though the *QCAT Act* conveys that the Tribunal is not bound by the rules of evidence, this does not mean that the Tribunal should disregard every effort or attempt to administer substantial justice.<sup>9</sup>
- [7] Returning to the *Liquor Act*, the main purpose of this legislation is to regulate the liquor industry and areas in the vicinity of licensed premises in a way that is compatible with minimising harm and the potential for harm from alcohol abuse and associated violence. It also strives to minimise the effects on the health and safety of members of the public; and minimise the adverse effects on the amenity of the community.<sup>10</sup>
- [8] Because the applicant is aggrieved by the Commissioner's decision to issue a variation to the licensee's licence, the *Liquor Act* affords the applicant the discretion to apply to the Tribunal for a review of that decision.<sup>11</sup> When the Tribunal undertakes a review of the Commissioner's decision, the Tribunal effectively 'stands in the shoes'<sup>12</sup> of the original decision maker,<sup>13</sup> and the Commissioner must use its best endeavours to assist the Tribunal to reach its decision.<sup>14</sup>
- [9] The review is to be undertaken by way of a fresh hearing on the merits of the application<sup>15</sup> and the Tribunal's purpose is to produce the correct and preferable decision.<sup>16</sup> However, any correct and preferable decision reached must be achieved by applying the law that was in place at the time the Commissioner made the

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<sup>4</sup> *Kioa v West* (1985) 159 CLR 550, 585.

<sup>5</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 28(3)(c).

<sup>6</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 28(2).

<sup>7</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 28(3)(a).

<sup>8</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 28(3)(b).

<sup>9</sup> *The King v The War Pensions Entitlement Appeal Tribunal and Anor; ex parte Bott* (1933) 50 CLR 228, 256.

<sup>10</sup> *Liquor Act* 1992 (Qld), s 3(a).

<sup>11</sup> *Liquor Act* 1992 (Qld), s 30(1)(a)(i); *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 18.

<sup>12</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 19.

<sup>13</sup> The Commissioner.

<sup>14</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 21.

<sup>15</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 20(2).

<sup>16</sup> *Queensland Civil and Administrative Tribunal Act* 2009 (Qld), s 20(1).

decision, and any reconsideration must be on evidence which was before the Commissioner at that time.<sup>17</sup>

- [10] In arriving at a conclusion of what is the correct and preferable decision, there is a discretionary authority for the Tribunal to either confirm or amend the Commissioner's decision; or set aside the Commissioner's decision and substitute that decision with its own decision; or set aside the Commissioner's decision and return the matter for consideration to the Commissioner with directions the Tribunal considers appropriate.<sup>18</sup>

### **The applicant's case**

- [11] In 2015, the licensee displayed a sign requesting a licence and indicating that live music was to be performed for three hours on a Saturday evening. The applicant understood that this short timeframe (three hours) was a period in which most people in the area would tolerate given that the music was pleasant and within the EPA guidelines for a rural amenity. The applicant said what became a major concern was the three hour timeframe was not adhered to. Another concern was the excessive noise level of music, including the distorted base emanating from the rear of the speakers.<sup>19</sup>
- [12] For some time now, the applicant has complained that he has had to live with excessive noise levels emanating from Saturday night live events at the licensee's premises.<sup>20</sup> The noise levels were quite annoying, distressing and irritating. The events went on for three hours with the noise levels exceeding the cap limit of 75 decibels. He wanted the noise levels to remain capped at that level.
- [13] The applicant does not accept that the Commissioner's variation to the licensee's licence was justified. He argued that presently, the licensee is not able to control the entertainment noise levels as the licence permits. He said any future increase in amplified entertainment should include requirements for physical electronic noise limiters within the sound system to ensure that levels are suitably controlled and not left to human intervention.<sup>21</sup>
- [14] He went on to say that if the licensee was granted a variation to the licence, and based on what he considered to be an apparent lack of compliance in the past, a fair and reasonable result would be the implementation of three special conditions on the licence. Those conditions included the amplified music to remain capped at 75 decibels, with the exception of three days when the levels could be up to 99 decibels. A noise limiter should be implemented to cap the maximum noise output. He also suggested that the speakers should face towards the ocean, and the rear of the stage be acoustically modified to prevent the noise emanating in the direction towards neighbouring properties, including his.<sup>22</sup>

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<sup>17</sup> *Liquor Act 1992 (Qld)*, s 33.

<sup>18</sup> *Queensland Civil and Administrative Tribunal Act 2009 (Qld)*, s 24(1).

<sup>19</sup> Applicant's letter to the Commissioner dated 1 November 2018. Commissioner's bundle of documents, pages 68 – 69.

<sup>20</sup> The applicant's application filed on 8 February 2019.

<sup>21</sup> Applicant's submissions, paragraph 27.

<sup>22</sup> Applicant's submissions, paragraph 31.

- [15] The applicant has since filed an application in the Planning and Environment Court.<sup>23</sup> The respondents to that application are the Townsville City Council ('the Council') and the licensee. Those proceedings formed part of the applicant's earlier interlocutory application before the Tribunal, with the Tribunal refusing to make the directions sought by the applicant.<sup>24</sup> It is unknown when the Planning and Environment Court proceedings will be finalised.

### **Background information**

- [16] Situated towards the north-east boundary of the licensee's premises is an established entertainment area called the Cro-Bar. The Cro-Bar consists of a covered stage area facing south-west. The area able to accommodate 150 patrons, including seating and a dance floor. The closest residential dwellings are located 350 metres to the west-south-west and 275 metres to the north-west.<sup>25</sup>
- [17] For a number of years, amplified entertainment has been conducted on the premises. The entertainment has consisted of live performers every Friday and Saturday night, and an annual Rock 'n' Roll Music Festival. The entertainment is provided by a small band or soloist/duo with pre-recorded backing on stage or background music played through the in-house entertainment system. Typically the entertainment is conducted between 4:00pm and 11:00pm on Saturday nights with live entertainment provided between 4:30pm and 7:00pm.<sup>26</sup>
- [18] The licensee has been subjected to a number of targeted compliance inspections, along with other risk assessments by the Commissioner. The licensee has also responded to complaints made by members of the public, including the applicant, about noise emanating from the premises.
- [19] On 6 December 2017, the Commissioner received a complaint from the applicant. The basis of the complaint was that although the licensee generally played music on Saturday nights until 7:30pm, it had never been an issue until the weekend of 24 November 2017. On that occasion, the music was 'booming' until midnight. The applicant approached the licensee to complain about the noise level, however the applicant felt that instead of the noise level being abated, the volume was increased.<sup>27</sup>
- [20] There appears to be some 'history' between the applicant and the licensee, as the applicant told the Commissioner that previously the licensee tried to open a reception centre, however the applicant objected to the proposal. The applicant considered that since then, the licensee has played the music louder on the Saturday nights.
- [21] On 15 January 2018, the Commissioner's investigators went to the licence premises where they spoke to the licensee about the applicant's complaint. The licensee told investigators that the music was never played too loud or too late. This was because not all of the guests staying at caravan resort appreciated loud music, and as such he did not want to have those guests disturbed. In regard to the music being played

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<sup>23</sup> Filed on 18 September 2019.

<sup>24</sup> *Meissner v Commissioner for Liquor and Gaming and Anor* [2019] QCAT 338.

<sup>25</sup> Commissioner's Statement of Reasons, paragraph 17.

<sup>26</sup> Commissioner's Statement of Reasons, paragraph 18.

<sup>27</sup> Commissioner's bundle of documents, page 106.

until midnight, the licensee told the investigators that there were only two occasions when that occurred. That was during the annual music festival and on New Year's Eve, which the premises had received a temporary variation to the licence for those occasions.<sup>28</sup>

- [22] On 16 January 2018, the Commissioner's investigators interviewed the applicant regarding his complaint. The applicant confirmed that he could only hear the music coming from the licensee's premises on the previous Saturday when he went outside his premises for a walk. When the applicant asked for a copy of the licensee's licence, this request was rejected. The applicant then indicated he would take the matter to the Ombudsman.<sup>29</sup>
- [23] On 20 January 2018, the applicant, being upset with what he considered was excessive noise from the licensee's premises went to the Cro-Bar where he trespassed to conduct his own 'sound check'. He was confronted by the licensee. The licensee later told the Commissioner's investigators about this incident. The licensee said that all efforts were being made to minimise the impact of music, and a sound engineer was being engaged to complete an acoustic report.<sup>30</sup>
- [24] In that acoustic report,<sup>31</sup> indications were given that entertainment noise levels on 2 June 2018 were recorded between 5:00pm and 7:30pm. This was undertaken during the live set of a duo, with pre-recorded backing music generally described as classic rock. The band dominated the noise levels. Weather conditions were calm with the presence of a temperature inversion shortly after sunset. Source measurements were undertaken continuously at a distance of three metres in front of the speakers.
- [25] To record the sound measurements, receptors were utilised at the Cro-Bar, along with other remote locations well away from the venue. Those remote receptors were to record and measure intrusive noise. One remote location was in the vicinity of the applicant's premises. To comply with the Commissioner's requirements in regard to entertainment noise at the premises, noise levels must not exceed 99 decibels before 10:00pm. It seems that the noise levels recorded at the Cro-Bar exceeded that level when measured at a point three metres in front of the speakers.<sup>32</sup>
- [26] Having regard to the findings of the acoustic analysis, it was recommended that the licensee purchase a sound level meter that was suitable for monitoring noise emission levels.
- [27] On 5 June 2018, the Commissioner's investigation into the applicant's complaint was concluded. The Commissioner noted –

The investigation identified that the venue had been playing live music on Friday and Saturday nights until approximately 8:00pm. The manager did not seem to know there were noise conditions on the licence when we first spoke to him, however he seemed to want to work with OLGR and spoke with the owner about getting an acoustic report in order to have the conditions amended. Throughout our investigation there seemed to be conflict between both parties.

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<sup>28</sup> Commissioner's bundle of documents, page 104.

<sup>29</sup> Commissioner's bundle of documents, page 104.

<sup>30</sup> Commissioner's bundle of documents, page 103.

<sup>31</sup> Acoustic Report dated 15 June 2018. Acoustic assessment undertaken by Dedicated Acoustics, Commissioner's bundle of documents, pages 9 – 25.

<sup>32</sup> Acoustic Report. Commissioner's bundle of documents, page 20.

Further calls to the complainant have gone unanswered so it is unknown if the noise is still an issue.

In line with the Liquor Enforcement Guideline I recommend that the Licensee be sent an advisory letter for breach of licence conditions. The manager and the owner appear to want to work with OLGR to have the conditions removed by getting an Acoustic Report.

In determining the appropriate enforcement action, I have considered the matters outlined in Section 3.1 of the Liquor Enforcement Guideline. The reasons for the recommended action are as follows:

1. The manager and licensee did not seem to know they were in breach of their licence conditions and the entertainment they were playing was ending by 8:00pm on Friday and Saturday nights, as they had people camping at the grounds and they did not want to disturb them (3.1.2. intent).
2. They have never had a complaint made against them prior to this complaint (3.1.4. Compliance History).<sup>33</sup>

- [28] On 20 August 2018, the licensee applied to the Commissioner for a permanent variation the liquor licence for the premises.<sup>34</sup> The licensee sought to vary the existing conditions of LL250 and LL253, with the removal of condition LL250. At this time, the licensee was in possession of a new acoustic report.<sup>35</sup>
- [29] In September 2018, an appraisal was undertaken of the licensed premises and a Risk Assessment Report submitted to the Commissioner. The Commissioner later approved that report.<sup>36</sup>
- [30] On 21 November 2018, the Commissioner's investigators contacted the applicant to discuss the music festival being held on that weekend. After what had occurred the previous year, the applicant was concerned about the event being held. It was explained to the applicant that the Commissioner had conditioned the licensee's license to ensure that controls were in place for the management and regulation of the entertainment noise. The applicant was not happy with that approach and said he would be monitoring and recording the noise over that weekend, which he will use in court.<sup>37</sup>
- [31] On 26 November 2018, the Commissioner's investigators attended the music festival at the licensee's premises. As a measure to ensure that limited noise could be heard by the applicant, the licensee had arranged for the stage to be pointing in a direction away from the applicant's house. It was noted by the Commissioner's investigators that the event was very much a family one, with parents sitting in camping chairs listening to music while their children played nearby. There were a number of food trucks, and one bar servery. Liquor did not appear to be a primary reason for the patrons being at the event with little liquor appearing to be consumed. For those patrons who were consuming alcohol, intoxication was very low.

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<sup>33</sup> Commissioner's bundle of documents, pages 102 – 103.

<sup>34</sup> Commissioner's bundle of documents, pages 4 – 8.

<sup>35</sup> Commissioner's bundle of documents, page 36.

<sup>36</sup> Approved on 9 January 2019.

<sup>37</sup> Commissioner's bundle of documents, page 100.

[32] When standing near the stage, the Commissioner's investigators noted that the noise was not excessive. Even when they walked the surrounds of the venue, they still did not consider the noise excessive or intrusive. The investigators visited the entrance to the applicant's premises where they listened for the music at that location. Although some noise could be lightly heard, it was in no way excessive.<sup>38</sup>

[33] On 20 December 2018, a Community Impact Assessment Report was completed.<sup>39</sup> In that report, it was observed that –

There is always an element of risk when premises proposed to conduct amplified entertainment in proximity to residential areas. The objector's concerns are understandable, particularly as the premises includes outdoor entertainment areas which have limited abilities to contain sound. However, it is reasonable to assume that amplified entertainment can be adequate (sic) controlled provided the acoustic engineer's recommendations are complied with.

Rather than condition the license in accordance with Council's request to limit to the times (sic) requested by the applicant, I believe that the standard conditions from the Liquor and Wine Licence Conditions Manual should be imposed. In the event the application is considered favourably condition LL253 should be removed, condition LL250 may be retained in the following condition endorsed on the licence (together with condition LL266).

- Noise emanating from the Cro-Bar area 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:
  - I. 10:00am to 10:00pm – 99dB(C)
  - II. 10:00am to 10:00pm – 76dB(C)

If any noise issues arise should this application be successful, then it is encouraged that the residents utilise the complaint system available with OLGR.<sup>40</sup>

[34] In making the recommendation, the Community Impact Assessment Report went on to suggest that –

A further requirement to restrict the applicant from conducting amplified entertainment at certain days and times is not supported by acoustic evidence, complaint or local planning laws. The requirement to use a sound meter to monitor amplified entertainment and record measurements in a register should ensure that all forms of entertainment that have been assessed for at this premises will be adequately controlled.<sup>41</sup>

[35] On 9 January 2019, the Commissioner issued the licensee with the varied liquor licence. A condition of that licence was the licensee must purchase and maintain in good working order, a noise meter. That noise meter was to be utilised for the purpose of taking readings, at a distance of approximately three metres from any source of amplified noise. Those readings were to be taken at one hour intervals

<sup>38</sup> Commissioner's bundle of documents, pages 99 – 100.

<sup>39</sup> Completed by Kurt Metcalf, Principle Licensing Officer, Office of Liquor and Gaming Regulation. Commissioner's bundle of documents, pages 80 – 84.

<sup>40</sup> Community Impact Assessment Report, Commissioner's bundle of documents, page 82.

<sup>41</sup> Community Impact Assessment Report, Commissioner's bundle of documents, page 82.

when entertainment was being conducted at the premises. Each of those readings must be recorded in the register, and that register made available to the Commissioner upon request.<sup>42</sup>

### **The issuing of the licence**

- [36] Upon the decision to issue the variation to the licensee's licence, there were three objections.<sup>43</sup> These were from the applicant, along with two objections from a married couple who owned a property on the same street as the licensee's premises. The objection raised by the married couple suggested the possibility of unreasonable inconvenience or annoyance to the occupiers of adjoining properties because the hours sought on the licence were anti-social. They maintained there was a propensity for the noise levels to exceed the appropriate levels, which would result in continuous disturbance and sleep deprivation for them.<sup>44</sup>
- [37] The nature of the applicant's complaint and the subsequent investigation and assessment undertaken by the Commissioner has already been discussed in these reasons.
- [38] The Commissioner invited the Council to provide comments in support of, or objection to, the licensee's application for a variation to the licence.<sup>45</sup> The Council advised that after undertaking a review of the site, it was supportive of the licensee's application.
- [39] The Council went on to advise that given the close proximity of the adjoining residential properties and the findings of the acoustic report, the Council's support of the variation to the licence was on the proviso that conditions be placed upon the licence to limit the amplified noise.<sup>46</sup> To achieve this, the Council suggested that the licensee be restricted to operating the amplified entertainment to a time between 4:30pm to 8:00pm on Saturdays; until midnight on the last Friday and Saturday in November each year;<sup>47</sup> and until midnight on New Year's Eve.
- [40] The Commissioner also provided the Queensland Police Service ('the police') with information relating to the licensee's application. The police were invited to comment.<sup>48</sup>
- [41] Both the Council and the police have raised no objection, and the Council took a further step by offering support for the variation to the licence, and there was no history of the licensee being non-compliant with the conditions of the licence. A further mitigating feature was the conclusion drawn that the licensee was a fit and proper person.<sup>49</sup> All of those factors were persuasive and weighed in favour of the Commissioner making the ultimate decision.<sup>50</sup>

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<sup>42</sup> Commissioner's bundle of documents, page 36.

<sup>43</sup> Commissioner's Statement of Reasons, paragraph 31.

<sup>44</sup> Commissioner's Statement of Reasons, paragraph 35.

<sup>45</sup> Commissioner's bundle of documents, pages 53 – 62.

<sup>46</sup> Letter dated 22 November 2018 from the Townsville City Council to the Commissioner.

<sup>47</sup> This is the scheduled weekend for the annual Rock 'n' Roll music festival.

<sup>48</sup> Letter dated 20 September 2018. Commissioner's bundle of documents, pages 51 – 52.

<sup>49</sup> *Liquor Act* 1992 (Qld), s 107.

<sup>50</sup> Email from Sergeant Sands, Townsville Police District Liquor Unit. Commissioner's bundle of documents, page 63.

## Conclusion and decision

- [42] The aim of the *Liquor Act*<sup>51</sup> is to regulate the liquor industry in a way to minimise harm in the vicinity of licensed premises and minimise adverse effects on the amenity of the community. The starting point is the proposition that a community is entitled to access premises having a general liquor licence within that locality. The legislation does not contemplate that the grant of a licence will have no adverse impact on the amenities of the locality, and the presumption remains in favour of, rather than against, the granting of a variation to the licensee's licence on the proviso that the community impacts are minimised.<sup>52</sup>
- [43] This is a matter where great attention has been paid to, and serious consideration given to all the features of the applicant's complaint, along with the issues relating to the amenity of the community. I concur with the position arrived at in the Community Impact Assessment Report that there will always be an element of risk when premises propose to conduct amplified entertainment in reasonable proximity to residential areas. In considering that, I acknowledge the concerns raised by the applicant, particularly given that the licensee's premises consists of an outdoor entertainment area that has limited abilities to contain sound.
- [44] However, notwithstanding my acknowledgment of the applicant's concerns, I am of the view that it was reasonable to assume that amplified entertainment could be adequately controlled at the licensee's premises provided the acoustic engineer's recommendations are complied with, and the licensee maintain the monitoring regime as provided for in the provisions of licence condition LL266.
- [45] Having given due consideration to the facts and circumstances of this matter, I am not persuaded that the Commissioner's decision should be set aside, or that the conditions proposed by the applicant should be applied to the licensee's licence. In arriving at that position, I am satisfied that the evidence shows the licensee has met all the requirements on making the application and there are no concerns over the licensee's suitability and compliance history, and nor is any objection raised by the Council or the police.
- [46] Furthermore, I am convinced that it is reasonable to accept that amplified entertainment at the licensee's premises can be contained to minimise disturbance in accordance with the acoustic engineer's recommendations, and additional restrictions on any amplified entertainment at the premises is not supported by those factors as indicated by things such as the acoustic evidence, compliance history or local planning laws.<sup>53</sup> Therefore, the licence in its present form appropriately accommodates for the control of noise emanating from the licensee's premises.
- [47] In conclusion, I am satisfied that the correct and preferable decision is to confirm the Commissioner's decision made on 9 January 2019 to grant a variation to the licensee's liquor licence.

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<sup>51</sup> *Liquor Act* 1992 (Qld), s 3.

<sup>52</sup> *Staddon and Ors v Chief Executive, Department of Employment, Economic Development and Innovation and Anor* [2011] QCAT 258, [31].

<sup>53</sup> Commissioner's Statement of Reasons, paragraphs 66 – 70.