

Patrick Jensen

From: Patrick Jensen
Sent: Wednesday, 15 January 2020 10:29 AM
To: sch.4/3/3
Subject: OLGR - FRN229275 - Howard Smith Wharves
Attachments: 20200115 - Letter to [redacted]

Dear [redacted]

Please find attached response to your correspondence dated 9 December 2019.

If you require any further information in relation to this matter, please contact me on (07) 3738 8416 or at Patrick.Jensen@justice.qld.gov.au

Kind regards



Patrick Jensen

Acting Senior Investigator
Investigations Unit – Compliance Division
Office of Liquor and Gaming Regulation
Department of Justice and Attorney-General
Level 2, 63 George Street, Brisbane Qld 4000
Locked Bag 180, City East Qld 4002
t: 07 3738 8416 e: Patrick.Jensen@justice.qld.gov.au

Please quote: FRN229275
Contact officer: Patrick Jensen
Contact telephone: (07) 3738 8416



Office of Liquor and Gaming Regulation

Department of
Justice and Attorney-General

sch.4/3/3

Dear

I refer to your correspondence dated 9 December 2019 regarding Howard Smith Wharves (premises). I apologise for the delay in responding to your enquiry.

As you would be aware, the Office of Liquor and Gaming Regulation (OLGR) is generally responsible for the regulation of noise emanating from licensed premises. OLGR is currently conducting an investigation in response to complaints regarding noise emanating from the premises.

The *Liquor Act 1992* provides OLGR with the powers necessary to take action where noise emanating from a licensed premises results in residents or businesses in the locality experiencing unreasonable noise. Unreasonable noise means noise exceeding the limits prescribed by regulation, or that contravenes a compliance order or a condition that applies to the licence for the premises. Section 40 of the *Liquor Regulation 2002* prescribes the levels for what is considered unreasonable noise. I have enclosed a copy of section 40 of the *Liquor Regulation* for your reference.

I note your comments about the definition of amenity under Section 4 of the *Liquor Act*. I can advise that OLGR regularly imposes noise conditions on liquor licenses aimed at preventing unreasonable noise and are intended to minimise the impact of noise on the amenity of the area.

Prior to being able to take legislative action against a liquor licensee, OLGR must first establish that noise is unreasonable. To do this, investigators must undertake noise testing and obtain measurements to prove the noise is unreasonable noise. As part of the recent investigations, OLGR has undertaken noise testing at the premises and at selected complainants' properties. An analysis of noise readings taken during the investigation has indicated the noise emanating from the premises during the testing was within the allowable limits and unreasonable noise was not produced.

OLGR will continue its investigations into complaints received. This may include a range of activities such as further noise testing and enquiries relating to how the licensee is conducting business at the premises, to ensure the licensee is complying with the noise levels imposed on the licence and not causing unreasonable noise.



I note your enquiries regarding the process by which the premises' liquor licence was varied to amend the originally imposed noise conditions. I can advise that as the licensed premises was not yet completed prior to the issue of the liquor licence, a provisional licence was issued subject to the later submission of an acoustic report prepared by a qualified acoustic engineer. This is standard practice and allows appropriate noise conditions to be recommended in accordance with OLGR's publically available acoustic report guidelines.

In determining to grant the provisional licence, OLGR took into account the fact that the licensee provided a compliant Community Impact Statement (CIS) in conjunction with their original liquor licence application, and undertook significant public consultation as part of the impact assessable material change of use application for the Brisbane City Council town planning approval.

In consideration of the community consultation already undertaken, the delegate of the Commissioner for Liquor and Gaming determined that separate advertising of the liquor licence application was not required.

As the subsequent submission of the acoustic report and resulting noise conditions informed the original (provisional) granting of the licence, their imposition did not constitute a variation of licence as contemplated by the Liquor Act, and therefore, did not require the lodgement of a further CIS or undertaking of additional community consultation.

If you require any further information in relation to this matter, please contact A/Senior Investigator Patrick Jensen, OLGR, Department of Justice and Attorney-General on (07) 3738 8416 or at Patrick.Jensen@justice.qld.gov.au

Yours sincerely

Michael Sarquis
Executive Director
15 / 01 / 2020

Encl.



Liquor Regulation 2002

Section 40 – Prescription of limits for noise that if exceeded constitute unreasonable noise

For the definition unreasonable noise in section 4 of the Act, the limits for noise are as follows—

- (a) between 6a.m. and 10p.m.—the adjusted maximum sound pressure level LA10, plus adjustments for tonal and impulse components, exceeding the background level LA90 by more than 10dB(A);
- (b) between 10p.m. and 6a.m.—the sound pressure level LOCT10, in a full octave band with centre frequencies from 63HZ to 2000HZ, exceeding the background level LOCT90 by more than 8dB in any octave band.



	1	2	3	4
1	Device type	SVAN 977		
2	Serial No.	36885		
3	Internal software version	1.21.3		
4	Filesystem version	1.21		
5				
6	Original file name	HSW61		
7	Measurement time	21:23:10		
8	Measurement date [d/MM/yyyy]	31/12/2019		
9	Device function	1/1 Octave		
10				
11	Leq/RMS Integration	Linear		
12	Statistics detector	Linear		
13	Start delay	0.0s		
14	Integration period	15 m		
15	Repetition cycle	Infinity		
16	LAeqLF freq range	20Hz-200Hz		
17	Start synchronization	OFF		
18				
19	Pre Calibration type	By measurement		
20	Pre Calibration date	31/12/2019		
21	Pre Calibration time	21:07:46		
22	Post Calibration type	Not performed		
23				
24	Logger step	1 s		
25	Logger records count	162		
26	Markers	Whole data marker	Wave	
27	Split mode	Measurement cycle		
28				
29	Events			
30	Recording mode	OFF		
31				
32	Wave			
33	Recording mode	Continuous		
34	Sampling rate	48000.0 Hz		
35	Bits per sample	24		
36	Filter	Z		
37				
38	Measure Trigger mode	Off		
39				
40	Logger Trigger mode	Off		
41				
42	ExtIO mode	Analog out		
43				
44	Channel input	Mic.		
45	Measurement range	High		
46	Mic. compensation filter	Diffuse field		
47	Windscreen	ON		
48	Pre Calibration factor	0.4 dB		
49	Post Calibration factor	-		
50	Calibration drift	-		
51	Octave 1/1 In logger	Leq		
52	Octave 1/1 filter	Z		
53	Octave 1/1 lowest freq	31.50 Hz		
54	Octave 1/1 RMS detector	Fast		
55	Profile	Profile 1	Profile 2	Profile 3
56	Weighting filter	C	A	Z
57	Detector type	Fast	Fast	Fast
58				
59	Logger contents	LCpeak	LApeak	LZpeak
60		LCFmax	LAfmax	LZFmax
61		LCFmin	LAfmin	LZFmin
62		LCeq	LAeq	LZeq



HSW61 : Main results

1/1

	1	2	3	4	5
1	Main results for sound		Day	d/MM/yyyy	31/12/2019
2	31/12/2019 21:25:52		Hour	h:mm:ss tt	21:23:10
3			Profile		P1
4			Filter		C
5			Detector		Fast
6			Elapsed time	hh:mm:ss	00:02:42
7			OvT	%	0.0
8			Underrange		0
9			Units		dB
10			LCeq		92.0



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