

---

**FILE NO:** A19/0015756

**COMPLAINANT:** [REDACTED]

**LICENSED PREMISES:** Stars Palace, Fairfield - LIQO660010559

**ISSUES:** Whether the quiet and good order of the neighbourhood of the licensed premises is being unduly disturbed.

**LEGISLATION:** *Liquor Act 2007*

## SECTION 81 DECISION

Under Section 81 of the *Liquor Act 2007* (the Act) I, John Coady, Manager Regulatory Interventions Team, a delegate of the Secretary, Department of Customer Service, in relation to the complaint made in respect to the Stars Palace, Fairfield – LIQO660010559 (the venue) have decided to **issue a warning** to the licensee in the following terms:

*Under section 81(d) of the Liquor Act 2007, I, John Coady, Manager Regulatory Interventions Team, Liquor & Gaming NSW, a delegate of the Secretary, Department of Customer Service, warn Mr Ammar Kejer, the licensee of Stars Palace, that it must ensure that no future undue disturbance is caused by the venue's operation.*

---

## REASONS FOR DECISION

### Legislative framework

1. Section 79 of the Act provides that a prescribed person may complain to the Secretary, that the quiet and good order of the neighbourhood of the licensed premises is being unduly disturbed because of the manner in which the business of the licensed premises is conducted, or the behaviour of persons after they leave the licensed premises (including, but not limited to, the incidence of anti-social behaviour or alcohol-related violence).

2. For the purpose of section 79 of the Act, a person who has standing to make a complaint includes a person who is a resident in the neighbourhood of the licensed premises and is authorised in writing by two or more other residents.
3. Section 80 of the Act enables the Secretary to deal with a complaint by way of written submissions from the licensee and any other person the Secretary considers appropriate.
4. After dealing with the complaint, section 81 of the Act provides that the Secretary may decide to impose, vary or revoke licence conditions, issue a warning, or take no action.
5. In exercising functions under the Act, the Secretary must have regard to the Objects set out in section 3 of the Act and must have regard to the matters set out in section 3(2) which are:
  - the need to minimise harm associated with the misuse and abuse of liquor;
  - the need to encourage responsible attitudes and practices towards the promotion, sale, supply, services and consumption of liquor; and
  - the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

### **The complaint and background information**

6. On 15 August 2019, [REDACTED] (the complainant) of [REDACTED] [REDACTED] lodged a complaint with Liquor & Gaming NSW (L&GNSW) alleging undue disturbance by excessive noise from activities inside the venue. The complainant lodged the complaint as a resident authorised by three other residents. The complainant resides in a unit complex located approximately [REDACTED] from the venue and is separated by a four-lane road on Barbara Street.
7. The complainant alleges undue disturbance is being caused by excessive noise emanating from within the venue in the form of both loud amplified music and traditional drums. The undue disturbance occurs whenever the venue holds a function or event. This occurs at least twice a week, typically on Saturdays and Sundays. Furthermore, the complainant indicates that functions on Sunday nights tend to continue longer than on Saturdays, with events hosted during Summer months occurring more regularly and continuing past midnight.
8. The complainant refers to a specific incident of disturbance occurring on Sunday 21 July 2019, where the complainant states music stopped at 1:00am after she had contacted

Police several times. The complainant submits the disturbance has impacted on her psychological wellbeing and her ability to function at work.

9. The complainant notes that she contacted the venue on 22 July 2020 regarding working hours for a wedding and was advised their functions are available until 2:00am. This is despite the venue's website indicating working hours are from 11:00am until 7:00pm. Additionally, the complaint refers to communication with Fairfield City Council on the same date. Council advised the complainant that they have no authority to act on working hours. Further advice from Council included writing to a member of parliament with evidence of contact with Police. The complainant also submits that all interactions she has had with Police have been documented on their system.
10. The complainant's desired outcome is for the venue to cease excessive noise levels by midnight or to install improved soundproofing measures inside the venue to minimise disturbance to neighbouring residents.

#### *The venue, licence details, compliance history*

11. The venue holds an on-premises liquor licence with catering service business type. The venue is located at 15 Railway Parade, Fairfield, in the centre of Fairfield CBD, close to the railway station and in a dense residential area. The venue has authorised trading hours of Monday to Saturday 10:00am to 12:00am midnight and 10:00am to 10:00pm on Sundays. Mr Ammar Kejer commenced as licensee of the venue on 11 May 2018.

#### **Submissions**

12. Between 15 August 2019 and 14 February 2020, submissions were lodged by all parties, including the complainant, NSW Police, Fairfield City Council (Council) and Mr Craig Murray of CDM Lawyers on behalf of the venue. A list of the material before the delegate is set out in **Annexure 1**.

#### *Police*

13. On 24 September 2019, Police provided a submission in relation to the complaint. Police submit the venue has operated as a licensed function centre for some time, with functions held at the venue often being alcohol free due to the religious and cultural principles of patrons hiring the venue.
14. A review of the COPS and CAD systems for the past 12 months indicates six occasions where Police have been called to the venue, with one occasion being in response to a noise complaint received on 22 July 2019. The remaining five occasions relate to parking

complaints. Police further provide that on 14 September 2018, the venue was subject to signage breaches with both breaches finalised by way of compliance notice.

15. On 31 May 2018, Police note that they lodged an objection against Mr Kejer holding the venue's liquor licence due to concerns relating to his ability to reasonably manage the venue. Police provide that after lengthy consideration the application was granted despite such objection.
16. Police submit that following their inquiries, issues of disturbance are mostly related to noise emanating from patrons departing the venue and the lack of parking facilities available, rather than being caused by alcohol related reasons.
17. Police are supportive of any conditions deemed necessary to limit the impact the location has on surrounding residents and ensure the licensee and staff adhere to those conditions. Police suggest imposing conditions on the licence relating to restricting patron numbers, employing security guards to prevent patron congregation outside the venue, restricting operating hours to prevent noise emissions after midnight, implementing a smoking area that prevents patrons congregating outside and ensuring the licensee record and display processes of dealing with complaints and do so in a timely manner.
18. On 22 November 2019, Police provided additional information by way of email. Police reiterated concerns about traffic and parking offences that have occurred near the venue over the past 12 months. Police also repeated submissions about patrons congregating outside the venue to smoke and socialise. Police submit that when such patrons socialise in large groups at late hours, their conversations can travel long distances. Police submit that if L&GNSW are able to assist with this issue, it would go a long way in preventing future disturbance complaints.
19. Police submitted that since it is not a requirement to create an event or report in the COPS computer systems when responding to noise complaints, on some occasions no details are recorded. Police state they have no additional supporting information relating to material raised in their September submission concerning noise complaints.

#### *Council*

20. On 1 November 2019, Council provided submissions in relation to the complaint. Council submit that on 22 July 2019, the complainant contacted Council raising similar concerns to those outlined with L&GNSW.
21. On 25 July 2019, Council advised the venue of the complaint received. Council outlined to the venue that the approved hours of operation are to be limited to 5pm to 12 midnight

from Monday to Sunday and that all patrons leave the venue by 11:00pm and all staff leave by 12:00 midnight thereafter. Council also advised that there is a need to implement measures and staff training to ensure the approved hours of operation are complied with. Additionally, immediate review and action are required by the venue to ensure continued compliance with the conditions of approval. Council submit that no further noise complaints have been received by Council in relation to the venue since the 22 July 2019.

22. On 31 January 2020, Council advised L&GNSW there have been two development applications made at the venue since 2007. DA 1273.1/2007 was for the use of existing commercial building as a wedding reception centre and restaurant and was approved on 22 April 2008. Council advise that various applications have been made to modify this consent and that the hours of operation were approved following an appeal to the Land & Environment Court of NSW. DA 1075.1/2009 was for the use of the existing first floor terrace/veranda as an outdoor smoking area and was approved on 17 June 2011. The development consent also states the approved hours for use of the first-floor terrace shall be in accordance with the approved operating hours of the reception centre.

*Venue response to complaint*

23. On 6 December 2019, Mr Craig Murray of CDM Lawyers provided a submission in response to the complaint on behalf of the licensee. In this submission, the following points were made:
- the venue sits in a dense residential area adjoining an overhead bridge connecting one side of Fairfield to the other;
  - the licensee understands that the complaint relates not to issues emanating from within the venue but from issues occurring on the street outside the venue;
  - the licensee encourages patrons to leave the venue quietly and that adequate systems and procedures are in place to resolve any issues pertaining to neighbours; and
  - the event held on Sunday 21 July 2019, which the complainant specifically refers to, was a christening that concluded at 10:00pm and not 1:00am as suggested by the complainant.
  - The venue trades until midnight Mondays-Thursdays, 1am on Fridays and Saturdays, and until 11.00pm on Sundays.

*Complainant final submission and further complaint material*

24. On 23 December 2019, the complainant provided a submission in response to the submissions received by Police, Council and the venue. The complainant states that the venue's submission contains deeply disturbing inaccuracies, which are a misrepresentation of the facts in the matter. The complainant strongly asserts that the event of 21 July 2019 crossed over into Monday 22 July 2019 and refers to a Police report about the noise disturbance. Additionally, the complaint of 21 July 2019 relates to noise disturbance from both inside the venue and excessive noise on the street.
25. The complainant also provides allegations of two other incidents of undue disturbance where the noise level was unacceptable after midnight. The first incident occurred on Sunday 13 October 2019 where Police were called. This resulted in Police taking quick action so that around 12:30am the venue was quiet. The second incident occurred on Sunday 20 October 2019. The complainant submits that they called Police several times after midnight complaining about noise, however no action was taken by Police. The noise continued until around 1:17am on Monday 21 October 2019. The complainant states that Police were unhelpful in this instance and were wondering why only the complainant was complaining.
26. The complainant submits that the reason complaints have not been received from other residents is because many of the neighbouring residents are vulnerable due to their socio-cultural characteristics and therefore unwilling and/or unable to make reports to Police. The complainant submits the ongoing disturbance from the venue has impacted on her psychological well-being and ability to function at work. The complainant asserts she has developed sleep anxiety, a heightened sensitivity to noise and suffers from panic attacks. The complainant concludes by submitting she hopes the venue can be more sensitive and pay more attention to time keeping and the noise levels for functions and be aware of the impact their action has on local residents and the community.

*Venue final submission and other material*

27. On 14 February 2020, Mr Craig Murray of CDM provided a final submission. The submission asserts that the submissions from Council and Police show no direct allegations against the venue and suggests proposed measures under consideration. The licensee seeks to fully co-operate with the authorities to address the concerns raised by the complainant. Copies of the venue's diary bookings were provided in support of their submission.

28. Mr Murray asserts that the complainant's email to Council on 23 December 2019 makes several wide-reaching statements without evidence nor any foundation in support by any third parties as alleged. Mr Murray states that the event on 13 October 2019 was for a Holy Communion Dinner. 100 guests were in attendance who all left around 11:30pm doing so quietly and respectfully, and that there appears to be no record of a formal complaint to Police as alleged by the complainant.
29. Mr Murray outlines that the event on 20 October 2019 was for an Islamic wedding where no alcohol was served or consumed. There were 120 guests and the wedding concluded at 11:30pm. Again, Mr Murray submits that there appears to be no formal complaint to Police regarding the event in the material provided by them. Whilst the complainant alleges the function was extended until 1:17am, which is refuted by the licensee, there is no evidence supporting this allegation provided by the complainant. Whilst music was playing in the venue at both functions, Mr Murray states that it did not emanate outside. Mr Murray asserts that the venue has not breached any requirements or conditions pursuant to liquor licence laws, nor under its development application with Council. Furthermore, no disciplinary action has been taken against the venue by either L&GNSW or Council.

**Statutory considerations of section 81(3) of the Act:**

The Act requires that the Secretary have regard to the following statutory considerations.

*The order of occupancy between the licensed premises and the complainant –*

30. The venue has operated under its current liquor licence at its present site since 23 October 2009. This does not predate the complainant, who has resided at her current address for 23 years. This fact is not in dispute and I consider the order of occupancy is in favour of the complainant.

*Any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises.*

31. There is no indication that there have been any structural changes to the complainant's residence. With respect to the venue, licensing records indicate that an application was lodged on 4 May 2018 to transfer the venue's liquor licence to the new business owner, A&S Holdings (Aust) Pty Limited, which was provisionally approved on 11 May 2018. Based on the material provided, there have been no further relevant changes to the venue, which has been operating as a licensed function centre since its inception.

*Any changes in the activities conducted on the licensed premises over a period of time*

32. Based on the material provided, there have been no relevant changes in the activities conducted at the venue. For historical context, Council advised the existing commercial building was first approved as a wedding reception centre and restaurant on 22 April 2008. Council advise that various applications have been made to modify this consent and that the hours of operation were approved following an appeal to the Land & Environment Court of NSW. Further, approval to use the existing first floor terrace/veranda as an outdoor smoking area was approved on 17 June 2011.

**Findings and Decision**

*Undue disturbance*

33. In making my decision, I have considered the submission of the complainant, NSW Police and the venue. I have also had regard to the particular context in which the venue operates. I am satisfied there is sufficient material to support a finding that the venue has caused undue disturbance to the neighbourhood.
34. A level of disturbance from the normal operation of a licensed premises is to be expected, including noise from amplified entertainment, patrons, and pedestrian traffic caused by the venue. However, taken as a whole, there is sufficient material from the complainant, Police, and Council to support the allegations of undue disturbance caused by the venue.
35. The nature of the submissions by the venue focus on refuting the allegations of the complainant and do not suggest any disturbance is being caused by the venue's operation. This has included a review of the complainant's allegations concerning specific functions held at the venue, the venue's diary entries made upon making bookings for those dates, and that no further action has been taken by authorities. I also take note of the venue's submissions concerning its trading hours. The submission states that the venue trades until 1am on Fridays and Saturdays and 11pm on Sundays, this exceeds the authorised hours under the venue's liquor licence and according to the council submission may not be compliant with the venue's authorised hours under its development consent and would also have an impact on disturbance caused to the neighbourhood.
36. Police raise submissions relating to disturbance caused by patrons departing the venue and by the lack of parking facilities nearby. Police proposed potential conditions that could be placed on the licence to alleviate disturbance issues with patrons congregating outside. The Police submission supports my view that the venue has at times caused undue disturbance by allowing patrons to congregate and loiter outside, and from the lack of



parking facilities near the venue. I am encouraged by Police trying to propose measures to reduce this disturbance, however while there is evidence of this type of disturbance, I am not persuaded that conditions are needed to address the disturbance at this time.

37. The complainant's second submission highlights support for the Police submission regarding concerns with noise emanating from outside of the venue. The licensee submits that the two October 2019 functions raised by the complainant had music playing within the confines of the venue. However, the venue asserts that noise did not emanate outside patrons left quietly and there is insufficient evidence to suggest otherwise. Council does not possess similar noise complaints relating to disturbance caused by patrons outside the venue at these two referenced times or other times. While there is some conjecture over whether there has been disturbance outside the venue, I find the Police submission quite persuasive and I accept there is evidence of disturbance being caused outside the venue.

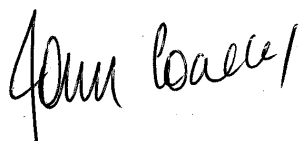
#### *Regulatory Outcome*

38. In deciding the appropriate regulatory outcome in this instance, I have considered the statutory consideration and the material set out in Annexure 1. As such, I am satisfied that there is sufficient evidence of undue disturbance, however, I am of the view that it is not necessary to impose conditions on the venue's liquor license at this time.
39. I acknowledge the order of occupancy is in favour of the complainant. I note that there have been no substantive changes in the venue, the premises occupied by the complainant, or the activities conducted on the licensed premises which impact my decision. Noting the position of the venue within Fairfield, I find it reasonable to expect some form of noise will be generated from the ongoing operation of the venue.
40. I am encouraged with the venue's submission that they will fully cooperate with authorities to address the concerns raised by the complainant. Other than that, there is no material before me to show that any steps in mitigation have been taken by the venue. This is unsurprising given the venue does not agree that excessive noise presently emanates from within the venue.
41. I am satisfied that there is evidence of undue disturbance from the operation of the venue, including from noise levels and patron conduct. I note that the venue in its submission seems to state trading hours that is not consistent with its licensed trading hours under its liquor licence or its Council approved operating hours. I stress that the venue must be

aware of its authorised hours and must operate within those hours, this will also address issues of disturbance.

42. As such, having carefully considered the material before me, I have decided to issue the licensee a formal warning under section 81(d) of the Act. In issuing a warning, I will provide to the venue an opportunity to rectify disturbance issues relating to patrons congregating outside the venue and when they leave, along with parking issues, understanding that allegations have been made by the complainant and that future complaints and evidence may potentially result in action being taken. In reaching this decision, I have taken into account the supporting submissions of Council and Police.
43. Finally, I am satisfied that the above action is a proportionate, measured and appropriate regulatory response to the identified risks of undue disturbance in this case. I firmly encourage the venue to continue to be proactive in the management of disturbance. The venue should be aware that if fresh and direct evidence be presented demonstrating undue disturbance, or disregarding their responsibility in relation to mitigating noise, it is open for the matter to be reconsidered and for formal regulatory action to be taken.

**Decision Date:** 6 July 2021

A handwritten signature in black ink, appearing to read 'John Coady'.

**John Coady**

**Manager, Regulatory Interventions Team**

Liquor & Gaming NSW

Delegate of the Secretary of the Department of Customer Service

**Application for review:**

Should you be aggrieved by this decision, you may seek a review by the Independent Liquor & Gaming Authority by an application which must be lodged within 28 days of the date of this decision, that is, by no later than 3 August 2021. A \$500 application fee applies. Further information can be obtained from Authority Guideline 2 published at

In accordance with section 36C of the Gaming and Liquor Administration Act 2007 this decision will be published on the Liquor & Gaming NSW website at [www.liquorandgamingnsw.nsw.gov.au](http://www.liquorandgamingnsw.nsw.gov.au)



**The material before the delegate of the Secretary in making this decision comprises:**

1. Copy of the liquor licence dated 22 June 2021.
2. Section 79 Noise Disturbance Complaint lodged by the complainant on 15 August 2019.
3. Submissions from NSW Police dated 24 September 2019 and 22 November 2019.
4. Submission from Fairfield City Council dated 1 November 2019.
5. Email from NSW Police containing additional information dated 22 November 2019.
6. Submission from CDM Lawyers on behalf of the venue dated 28 November 2019.
7. Final submission from complainant dated 23 December 2019.
8. Email from Council containing additional information dated 31 January 2020.
9. Final submission from CDM Lawyers on behalf of the venue dated 14 February 2020.