

FILE NO: A19/0014974

COMPLAINANT: [REDACTED]

LICENSED PREMISES: Lennox Head Community Sports & Recreation Club Ltd,
Lennox Head - LIQC300235262

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, Sean Goodchild, Director Compliance Operations, Liquor & Gaming NSW a delegate of the Secretary, Department of Customer Service, in relation to the complaint made in respect of Lennox Head Community Sports & Recreation Club Ltd, Lennox Head – LIQC300235262 have decided to take **no further action**.

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. 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.
4. 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:
 - a) the need to minimise harm associated with the misuse and abuse of liquor;
 - b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, services and consumption of liquor; and,
 - c) 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

5. On 12 April 2019, [REDACTED], the complainant, of [REDACTED] [REDACTED] lodged a complaint in relation to the Lennox Head Community Sports & Recreation Club Ltd (the Club), alleging undue disturbance to the quiet and good order of the neighbourhood. The complainant lodged the complaint as a resident authorised by two other residents, who also reside on [REDACTED].
6. The complainant alleges the disturbance occurs from Wednesday through to Sunday, including Friday and Saturday nights, with Sundays being the worst time for disturbance. The complainant alleges disturbance is caused by excessive noise from amplified music being played in the outside areas of the club, noise from patrons and children in the bowling green area, and from the activities associated with the biannual Craft Beer and Food Festival. The complainant has communicated their concerns and complaints to the manager of the Club, Mr Glen Lloyd.
7. The complainant seeks a variety of remedies. The remedies include the manager having a more open dialogue regarding the complainant's concerns, implementing noise restrictions, requiring the Club to employ security, prohibiting food trucks from parking

around the boundary of the Club which is located near the resident's homes, and no more amplified music outside and signage to prevent disturbance.

8. Between 21 May 2019 and 1 October 2019, various submissions and documents were received by all parties involved.

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

9. The Act requires that the Secretary have regard to the following statutory considerations.
10. *The order of occupancy between the licensed premises and the complainant* – the Club has operated at its present site since 2 December 1960, being almost 60 years. The complainant has lived at their residence for approximately two and a half years. According to the original complaint form, the two authorising residents to the complaint, have lived on [REDACTED] for up to seven years. In the complainant's final submission it is also stated that one of the authorising residents has resided in the [REDACTED] area for "over 27 years". Despite this, the occupancy of the Club predates that of the complainants by a great deal of time. I am satisfied that the order of occupancy is in favour of the Club.
11. *Any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises* – when the complainant purchased their property, the Club was relatively quiet and was operating as a traditional bowling Club. The complainant submits the new operational management of the Club is poor, the bowling green area has now become an outdoor drinking area and children's playground, and there are food trucks and loud bands present every weekend. The complainant also submits no additional staff monitor the outdoor drinking area, patrons/parents do not supervise their children outside, and no security guards are currently being employed to effectively manage noise.
12. The Club submit that since reopening in December 2013, after closing in late 2012 due to financial trouble, the Club has focused on expanding its social functions to include the wider Lennox Head community. The Club acknowledge the most recent changes to facilities have been to the bistro and outdoor alfresco dining area. The Club submit the outdoor alfresco area was originally established in 2001 with development approval to relocate indoor seating to an outdoor area. The area was further enhanced following a 2019 development application approval to renovate the roof located over the patio. The Club has also acquired development consent to construct an outdoor children's playground on the Stewart Street side of the Club in September 2019.

13. *Any changes in the activities conducted on the licensed premises over a period of time* – the complainant alleges the operation of the Club shifted in September 2018, which correlates with the employment of Mr Lloyd. The main changes the complainant has identified are the changing use of the bowling green area, the introduction of a beer garden, the biannual Craft Beer and Food Festival which includes food trucks, and the increase in social events and live bands performing at the Club.
14. The Club states it has become a community hub and strives to ensure it remains financially viable through developing key strategies. The Club prides itself on providing a range of weekly entertainment initiatives to the local community, including activities such as live music, raffles, bingo nights, bowling competitions and barefoot bowls. Since the employment of Mr Lloyd, the Club has hosted “Sundays on the Green” between 4:00pm until 7:00pm on Sunday afternoons, providing live music and one food truck. The Club also holds charity events every six to eight weeks on Saturday nights, and more recently Mr Lloyd introduced the biannual Craft Beer and Food Truck Festival held in April and November, which is organised in consultation with Ballina Shire Council.

Other Considerations

Undue disturbance

15. I am not satisfied there is sufficient material to support a finding that the premises has caused undue disturbance to the neighbourhood. In making this finding, I have balanced the submissions made by the complainant, NSW Police, Ballina Shire Council (Council) and the Club
16. The Club holds a club licence, which commenced on 2 December 1960. Lennox Head Community Sports & Recreation Club Ltd is the corporate licensee since 20 December 2013, with Mr Lloyd listed as the general manager since 16 October 2018. The Club’s liquor licence is not subject to any noise related or live entertainment conditions. The Club currently has four conditions on its licence relating to non-restricted area authorisations and participation in liquor accords. The premises owner is Ballina Shire Council.
17. The Club is located at 10 Stewart Street, Lennox Head. The Club supports and sponsors 17 affiliate clubs in the local area, and as of 30 June 2019 comprises 2,185 members. The Club is overseen by a voluntary board comprising of a chair and six members, with Mr Lloyd being responsible for the day to day operations. The Club employs 30 staff members.

18. The Club has unrestricted on premises hours with take away sales permitted between 05:00am to 11:00pm Monday to Saturday, and 10:00am to 10:00pm on Sundays. The Club is open seven days a week with operating hours that can vary by 30 minutes to one hour according to seasons and patronage present at the Club. Currently, the Club hosts a range of activities from Tuesday to Sunday including raffles, bingo, trivia nights, live music, children's face painting and member's draws. The Club also holds private functions, as well as functions for a range of community groups.
19. The Club's bowling green area, which is situated on King Street, is located approximately ■ metres away from the complainant's residence. The complainant's residence is approximately ■ metres away from the entrance of the Club. The Club sits on its own square block with frontages on adjoining residential streets of Gibbon, King, Lennox and Stewart Streets. The Club estimates it has around 40 - 100 immediate neighbours and has only received disturbance complaints from the complainant and authorising residents to this complaint.
20. The Club submits that in its almost 60 years of operation, it has always acted in accordance with the terms of its licence and has not previously received any formal complaints which require the assistance or consideration of L&GNSW.
21. The complainant and authorising residents have submitted material including additional noise complaints, email correspondence between themselves, Council and the Club, photographs of the Club, and video footage of the alleged disturbance. The noise complaints and concerns have been documented in submissions and email correspondence from approximately November 2018 until August 2019. The photographs provided appear to be taken from the complainant's residence and nearby residential area, and include photographs of the new children's playground facing Stewart Street, an advertisement of the Street Food & Craft Beer Festival held on Saturday 13 April 2019, and an aerial image of the Club and surrounds during the festival. The video footage is recorded from the complainant's residence and generally includes footage of the Club's bowling green area during the evening, footage of patrons and children in the Club's outdoor alfresco dining area, and footage during one of the festivals held at the Club.
22. The Club has submitted additional material in support of their submission including community supporting statements of the Club's operation through signed petitions, letters and copies of social media posts and comments. The Club has also provided a copy of its "Grievances and Complaints Management Policy", photographic evidence of signage displayed concerning patron noise, copies of outgoing community notifications

regarding supervision of children at the Club, a copy of the Club's Children Policy dated November 2018, copies of community magazine articles demonstrating the Club's success with its recent initiatives, and correspondence from members and affiliated Clubs in support of the Club and its operation.

23. The complainant alleges disturbance is caused by a number of factors, including:
 - a) loud, amplified music performed in the outdoor alfresco dining area during the Club's recent initiative "Sundays on the Green";
 - b) patron noise and anti-social behaviour in the outdoor alfresco dining area;
 - c) noise from children playing in the outdoor alfresco dining area and on the bowling green; and
 - d) noise from the Craft Beer and Food Festival held biannually in April and November.
24. On 20 May 2019, L&GNSW provided the Club with a two month extension. The extension was granted following the Club's request for additional time for the acoustic consultant and town planner to complete their respective reports. The Club submitted they had commissioned Mr Tim Fitzroy of Tim Fitzroy & Associates to conduct sound monitoring of the Club. However, due to Mr Fitzroy's availability and unsuitable weather conditions, there has not been an opportunity to conduct testing, which is supported by a letter from Mr Fitzroy dated 12 July 2019. The Club submitted that Mr Fitzroy would endeavour to conduct sound monitoring or undertake predictive sound modelling prior to the submission of their second response. In the Club's second submission, it was stated that Mr Fitzroy had still been unable to complete sound monitoring due to availability and unfavourable weather conditions. This was supported by a letter from Mr Fitzroy dated 6 September 2019. The Club submits that due to its location, it is rare that there are minimal wind conditions in the evening for the monitoring to occur. As a result of these difficulties, the Club has commissioned Mr Fitzroy to complete sound testing through predictive modelling as an alternative.
25. The Club also commissioned town planner Ms Kate Singleton of Planners North to provide advice in relation to planning and building approvals. In correspondence dated 12 July 2019, Ms Singleton advises that in 2001 the Club received development approval to establish and operate an outdoor alfresco dining area with prescribed hours of operation. In the Club's second submission, it was stated that Ms Singleton believes the Club is currently in a position now to meet with Council to discuss current development approvals and future activities, with a meeting scheduled for 12 September 2019.

26. Police provided a submission on 21 May 2019. Police note disturbance complaints commenced when there was a change in management at the Club. Police submit one business inspection was conducted at the Club in the past 12 months, which coincided with the Craft Beer & Food Festival held on Saturday 13 April 2019. Police report there were approximately 1,500 people present at the festival, with most being outside on the bowling green area with multiple food and bar stalls set up. The event was staffed by approximately 40 bar staff and five security guards. Police submit there were no reported complaints regarding noise or disturbance from the event.
27. Police have received two noise complaints for the Club in the past 12 months, being Sunday 16 December 2018 at around 7:50pm and Saturday 2 March 2019 at around 10:57pm. The first complaint referred to loud noise coming from the bowling green area and surrounding areas for a four hour period. The other complaint referred to excessive noise and people standing outside the Club drinking. Police attended the Club and took no action in both complaints. Police submit that during the past 12 months, there have been 51 people in Lennox Head linked to incidents involving licensed premises, with none of these being linked to the Club. On the basis of Police reports, statistics and data, Police submit there is insufficient evidence to support a complaint that the Club unduly disturbs the quiet and good order of the neighbourhood.
28. Council provided a submission on 24 May 2019. It is important to note that Council is the premises owner of the Club, according to the liquor licence. While the Club owns the dwelling, Council owns the land, which is leased to the Club through two separate leases. One lease is for the King Street area, which was recently renewed in May 2019; and the other lease is the land parcel on Stewart Street, that contains the building and the majority of the bowling green area and car park.
29. Council has received several complaints relating to various aspects regarding the Club. These complaints relate to amplified music, patron behaviour and noise, activities outside of the Club building (including the presence of food trucks and outdoor seating), development activity, car parking in King Street and the lease of public land in King Street. Council have referred noise complainants to L&GNSW. Council has requested information about the nature and extent of activities being undertaken on the bowling green area of the Club, including any future plans for food truck events or similar activities. This information was requested to assist Council in considering whether or not development consent is required for the Club's activities.
30. Council confirm that approval was granted on 14 March 2019 for a development application from 2018. This consent relates to an extension to an existing deck area,

construction of a roof over the deck area, provision of a new children's play area, erection of a shade way between the bowling green areas and the removal of one tree. Council submit that potential noise impacts were considered throughout the development application process.

31. Council also included an additional report relating to the King Street Lease proposal between Council and the Club for a portion of the road reserve in King Street, Lennox Head. In the report, Council refer to ensuring the "right balance" is achieved between the Club operating effectively and being financially sustainable, while at the same time minimising impacts on adjoining properties. In granting the lease approval and due to resident concerns, Council committed to a number of safeguards including:

- ensuring all appropriate planning consent conditions for the operation of events at the Club be maintained;
- work with L&GNSW to monitor the operation of the Club, and
- monitor the level of compliance by the Club with lease conditions and planning consent, with the level of compliance to form part of Council's evaluation for any future lease.

Additional material contained within Council's submission included submissions from members of the Lennox Head community both in support of and objecting to the Club's recent activities.

32. In a meeting on 26 September 2019, Council agreed to enable the Club to lodge the required development applications for events on public land relating to "Sundays on the Green" initiatives, and Craft Beer and Food Festivals. This rectifies some of the concerns of the complainants, who submitted that these events were organised and implemented without consultation with Council and the community. An amendment to the motion was made by a councillor to restrict the "Sundays on the Green" initiative to one event a month, however the motion did not pass.
33. The Club submits its purpose is to remain a sports club for the community with an objective to "responsibly develop a venue in which delicious food, live music and entertainment can be enjoyed by multi-generational families and the wider community". In order to achieve this, and remain financially viable, the Club's management has implemented new initiatives to become more community and family friendly. These initiatives include the Craft Beer and Food Festivals, "Sundays on the Green", themed charity events and weekly entertainment activities. The Club submits these activities have been extremely popular with the community and have contributed to the amenity of community life in Lennox Head.

34. A certain level of disturbance is to be expected from the normal operation of a licensed premises, including noise from live entertainment, patrons and pedestrian traffic. Whilst it is noted that the Craft Beer and Food Festivals, which attract approximately 5,000 people, would most likely result in a higher level of noise, measures have been implemented by the Club to mitigate any disturbance. The Club submit each festival event operates between the appropriate hours of 2pm - 8pm on a weekend, only occur twice per year, have suitable security present to monitor patrons, and notification of the upcoming events are provided to the community well in advance. It is not unreasonable for the Club to hold these festivals twice a year, especially considering the financial benefit it provides to the Club and the positive affect it has on the community. I note that the lack of an acoustic report, which the Club endeavoured to have completed, does make it difficult to properly assess whether or not the Club has caused undue disturbance on certain occasions. In consideration of the material and having regard to the Club's shifting operational model to attract families and patrons, and the submissions of Council and Police, I have determined that there is insufficient evidence to substantiate that the Club has caused undue disturbance.

Action taken to mitigate disturbance

35. In considering whether to impose conditions on the liquor licence, I have balanced the submissions of all parties, having specific regard to any action taken by the Club in response to the complaint and the effectiveness of any measures that have been implemented to address disturbance.
36. Since the complaint, the Club has implemented the following measures to control disturbance, including:
- a) Commissioning an acoustic consultant, town planner and a solicitor, indicating the Club's seriousness in investigating the complaint;
 - b) Erecting signage at the entry/exit, bar, and on each table in the Club in relation to being mindful and respectful of neighbours, the supervision of children, and staying off the bowling green area;
 - c) Increasing the number of employees on duty per shift;
 - d) Changing the type of music for "Sundays on the Green" from bands to acoustic soloists or duos;
 - e) All acoustic soloists or duos have been relocated from the outdoor alfresco dining area to inside the Club;
 - f) Ensuring that doors are closed when there is live music;
 - g) Restricting the volume of live music;

- h) Prohibiting the broadcasting of raffles and members draws in the outdoor area;
- i) Employing security guards for major events and festivals, and have trialled security during peak hours on the weekends;
- j) Promoting the Club's expectations (regarding being mindful and respectful of neighbours and supervising children) on social media and by email;
- k) Actively engaging with parents, in one-on-one discussions, to relay the Club's expectations in regards to supervision of children;
- l) Reviewing the original 9:30pm curfew submitted in the Club's first submission to a new mandate of a 9:00pm curfew instead; and
- m) Providing additional staff training in relation to noise, supervision of children and the Club's expectations.

37. The Club submits it has actively engaged with the complainants through meetings, emails, telephone conversations, legal correspondence and through the Director's personal mobile phone. The complainant has provided evidence of email correspondence between [REDACTED] and the Club from November 2018 to August 2019. The Club submits correspondence has been regular and ongoing between the parties, with the Manager communicating with the complainant multiple times per day at times. The Club has also provided evidence of text messages between the complainant and the Director of the Club in relation to allegations of noise disturbance.

38. The complainant alleges the Club has attempted to character assassinate [REDACTED] in a personal attack. The Club strongly denies this claim and submits they have never exposed the identity of any of the parties to the complaint, and refer to letter drops the complainant has initiated [REDACTED] to local residents to gain support. It is clear from the material provided that the Club has been an active participant in communicating with the complainant regarding the matter.

39. The remedies proposed by the complainant in the original complaint relate to:

- a) the employment of security to monitor noise from patrons and children;
- b) the introduction of noise restrictions on weekdays and Sundays;
- c) the removal of food trucks;
- d) the removal of amplified music outside and alternatively make it acoustic only; and
- e) the introduction of permanent signage around the Club regarding parental supervision of children and noise.

40. In the complainant's final submission, they requested that L&GNSW impose a new updated licence on the Club with noise restrictions due to its proximity to a residential

area and lack of environmental noise. The complainant also requested that L&GNSW advise the Club they are in breach of their lease in relation to the outdoor activities which are to cease, enforce a 'no live amplified music' condition on the Club, and to enforce a provision of extra staff and security to patrol the outdoor alfresco dining area and bowling green areas.

41. The Club strongly opposes the allegations brought by the complainant and the proposed remedies sought. The Club refutes that it has changed its purpose, reiterating that it has always remained a sports club for the community, despite changing from a bowling club to a sports club in 2013. The Club also finds the complainants comment that the Club has "exploited its intended purpose" as inaccurate and exaggerated. The Club reaffirms its position that the outdoor area was established in 2001 with development approval, and as such are operating in accordance with the development consent.
42. The Club submits the "Sundays on the Green" events have been very popular with members and the local community, and to cease these events would result in the financial viability of the Club being compromised to the point where the Club would either need to close or be relocated. Moreover, the Club states the festivals are organised by professional event organisers, are family friendly events and are generally praised by the wider community. The Club submits that on 28 August 2019, it briefed Council regarding Club activities, in which the Council mayor and councillors provided overwhelming support to continue the festivals onsite.
43. At this stage, it appears that the Club has taken measures to mitigate disturbance. This has come primarily in the form of the 13 alternative measures listed above as well as reasonable attempts to engage with the complainant. These alternative measures demonstrate the seriousness by which the Club is taking the disturbance allegations and exhibits proactive remedial engagement.
44. It remains to be seen whether the process of the Club lodging development applications for the festivals or the "Sundays on the Green" events will make an impact on noise from the Club. With regard to submissions received, it appears both Council and Police support the Club in their initiatives to diversify offerings to patrons, families and the community. Further, it is noted that Police submit there is insufficient evidence to support the complainants allegations that the Club is continually causing undue disturbance due to the recent activities provided by the Club. Ultimately, there needs to be further evidence as to whether these mitigating measures make an impact regarding noise, and as such the Club should continue being vigilant in ensuring no undue disturbance is caused as a result of these new initiatives. As for the Club's intentions,

the material indicates the Club is taking the complaint seriously and making reasonable and ongoing attempts at mitigating any further noise disturbances.

Decision

45. In making my decision, I have considered the submissions of the complainant, Police and Council.
46. I have taken the statutory considerations into account and acknowledge the order of occupancy is in favour of the Club. I acknowledge that a certain level of disturbance is to be expected from the operation of any licensed premises. Noting the position of the Club within the Lennox Head community, I find it reasonable to expect some form of noise will be generated from the ongoing operation of the Club. However, the complainant must be aware that living [REDACTED] from the Club will result in noise disturbance given the usage of the Club by members of the community.
47. Considering the material presented by the parties to the complaint, I conclude that the measures sought by the complainant to be unduly burdensome on the Club. I have reviewed the Club's current liquor licence and have determined that the licence is not outdated and does not need to be updated with noise restriction conditions due to its proximity to residential dwellings. The Club has been in operation for almost 60 years and has had a long standing existence at its present site within the local community. It is not for me to make comment on whether the Club is in breach of their lease, nor is it my duty to take any action in relation to it. I have noted Council's submission and final decision regarding the lease renewal between Council and the Club, and am satisfied with the recommendations and commitments made by Council in respect of this matter.
48. With regard to the material before me, I do not think it is appropriate to enforce a "no live amplified music" condition on the Club's licence. In making this determination I have considered the mitigating measures willingly implemented by the Club to address the ongoing issues and concerns, particularly in regard to the provision of live music and monitoring noise levels. I have also considered the potential effect and ramifications such a condition may have on the current operation and future of the Club. I have taken into account the efforts made by the Club in communicating with the complainants, and implementing additional measures such as employing additional staff and trialling security on busier nights in order to manage and reduce noise from both patrons and live music. This is a proactive response by the Club which again demonstrates the seriousness by which the Club is taking this complaint. I accept the above actions taken by the Club to be collectively positive efforts and strongly encourage the Club to continue pursuing the voluntary alternative measures.

49. I accept the Club's submission that the initiatives introduced within the past 12 months have been successful both financially and in increasing the amenity of the general community. I accept the Club's submission they have implemented changes to the live entertainment offered, namely, restricting entertainment to acoustic soloists or duos, relocating performances to inside the Club, and closing doors when there is live music. I also note it is not uncommon for licensed premises to feature a live performer or band to provide entertainment for patrons or provide such entertainment as background music.
50. In regards to the Craft Beer and Food Festivals, I am satisfied the Club has implemented suitable measures in the management of the overall operations of the festivals to mitigate any undue disturbance that may occur. I note the festivals are infrequent, occurring twice per year, and are held during appropriate day time hours with advance notification provided to residents. I am also satisfied the Club provides suitable security to manage patron behaviour and noise at such events. I also acknowledge the Police submission which featured no complaints in relation to the most recent festival, and I look favourably upon its frequency and duration, and that it attracts approximately 5,000 people to the Club.
51. While I appreciate the complainant's submission that the noise of children may cause undue disturbance, I am satisfied the Club has taken suitable action to mitigate and manage the concerns raised. Further, there are no relevant licence conditions which I could impose to restrict the noise of children playing at the Club with their families. Whilst the complainant has provided multiple videos of the bowling green area with patrons socialising and children playing, this evidence is insufficient to prove that these activities are causing undue disturbance. Given the actions taken by the Club, and after carefully considering all the material before me, I have formed the view that there is insufficient evidence to determine that the Club has caused undue disturbance due to its operation. I encourage the Club to continue to mitigate noise disturbance and remain vigilant in ensuring that undue disturbance is not caused by the ongoing operation of the Club or patron behaviour.
52. I note that the lack of an acoustic report does make it difficult to ascertain an objective finding regarding noise emanating from the Club. I do, however, appreciate and accept the difficulties faced by the Club and the acoustic consultant in trying to undertake testing due to unfavourable weather conditions and the availability of the consultant. I strongly encourage the Club to still undertake acoustic testing or predictive noise testing at some point to assist them in their ongoing operation.

53. I have determined to take no further action in this matter. This decision reflects my conclusion that there is insufficient evidence of undue disturbance emanating from the Club. I am satisfied the mitigating measures the Club is implementing to improve the management of disturbance are suitable and effective. In taking no further action, I will provide the Club an opportunity to continue implementing its mitigating measures, understanding that allegations have been made by the complainant and that future complaints and evidence may potentially result in action been taken. In reaching this decision I have taken into account the absence of any recent evidence of undue disturbance and the supportive submissions of Police and Council.

54. 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 Club to continue to be proactive in the management of disturbance, in particular by implementing the mitigating measures contained within submissions. The Club should be aware that if fresh and direct evidence be presented demonstrating further undue disturbance or disregarding their responsibility in relating to mitigating noise, it is open for the matter to be reconsidered and for formal regulatory action to be taken.

Decision Date: 22/10/19



Sean Goodchild

Director Compliance Operations

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 19/11/19. A \$500 application fee applies. Further information can be obtained from Authority Guideline 2 published at www.liquorandgaming.nsw.gov.au

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

Annexure 1

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

1. Copy of the liquor licence dated 1 October 2019.
2. Section 79 Noise Disturbance Complaint lodged by the complainant dated 28 March 2019.
3. Email from complainant containing newspaper article relating to the Club dated 19 April 2019.
4. Email from complainant containing video dated 19 April 2019
5. Email from complainant containing aerial photograph of Craft Beer and Food Festival dated 19 April 2019.
6. Submission from NSW Police dated 16 May 2019.
7. Submission from Ballina Shire Council dated 24 May 2019.
8. Submission from S+P Lawyers Ballina on behalf of the Club dated 15 July 2019.
9. Submission from complainant dated 19 August 2019.
10. "Club Lennox Summary" from authorised resident to the complaint dated 19 August 2019.
11. Email correspondence between the complainant and the Club dated between 13 November 2018 and 19 August 2019
12. Email correspondence between the complainant and Council dated between 4 April 2019 and 6 July 2019.
13. Final submission from S+P Lawyers Ballina on behalf of the Club dated 9 September 2019.
14. Copy of the Minutes of the Ordinary Meeting of Ballina Shire Council dated 26 September 2019.
15. A total of six (6) videos provided by the complainant on 19 April 2019 and 19 August 2019 contained in the USB annexed to this document.