
FILE NO: A20/0017084

COMPLAINANT: [REDACTED]

LICENSED PREMISES: Buena Vista Hotel, Mosman– LIQH400100841

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 Buena Vista Hotel (the Hotel) have decided to **take no further action** in relation to this matter.

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 and background information

The complaint

5. On 5 July 2020, [REDACTED] of [REDACTED], Mosman (the complainant) lodged a complaint with Liquor & Gaming NSW (L&GNSW) alleging undue disturbance from the operation of the Hotel. The complaint form is dated 30 January 2020 and has been authorised by two other residents.
6. The complainant alleges disturbance occurs every evening from 6:00pm until past 10:00pm and noise is the loudest between Thursday and Sunday. The disturbance occurs from patrons in the outdoor area who produce excessive noise by swearing, shouting and from intoxicated behaviour. The complainant submits the outdoor area resembles a beer garden as patrons block footpaths and smoke.
7. The complainant contends disturbance arose once the Hotel was approved for a larger outdoor dining area that was previously restricted to 20 patrons and closure by 7:00pm. The outdoor area now caters to up 124 patrons and affects neighbouring residents. Further, the complainant has contacted the Hotel several times, however the phone line rings out.
8. The complainant seeks the removal of all outdoor dining and the Hotel to operate the outdoor area in its previous manner. To support the complaint, photos and videos are provided by the complainant.

The venue, licence details, compliance history

9. The Hotel is located at 76 Middle Head Road, Mosman and has been trading under a full hotel liquor licence since 6 March 1957. When the complaint was lodged, the Hotel's licensee was Mr Lloyd McKerrell. Since 4 June 2021, the Hotel's licensee has been Mr Mitchell Ward. The Hotel's trading hours for the indoor area are 5:00am to midnight, Monday to Saturday and from 10:00am to 10:00pm on Sundays. For the outdoor dining area, the Hotel is authorised to trade from 7:00am to 10:00pm, Monday to Saturday and from 10:00am to 10:00pm on Sundays.
10. The Hotel is situated between Middle Head Road and Bradleys Head Road and is surrounded by residential dwellings, retail and commercial premises. The Hotel operates over two levels with outdoor dining located at the intersection of Middle Head Road and Bradleys Head Road and also adjacent to either side of the Hotel.
11. The Hotel's licence is subject to a number of conditions, including:
 - a requirement that music is to be provided by no more than a three-piece musical ensemble;
 - a requirement that no patron is to be permitted to take glasses or open containers of liquor off the premises;
 - a requirement that the licensee should respond to complaints made to them or their employees by residents in a sympathetic and effective manner;
 - a LA10 noise condition;
 - a requirement for two security guards to patrol specified areas outside the Hotel from 9:30pm until 1:00am (or until the last person has left) on Thursday, Friday and Saturday nights;
 - a condition prohibiting liquor from being sold or supplied in the outdoor dining area, except for table service;
 - a requirement that patrons in the outdoor area may only consume alcohol whilst at a table or during their travel to and from a seat in that area; and
 - a requirement that the licensee and representatives actively seek the co-operation of patrons leaving, especially after 11:00pm, to leave quietly so as not to disturb surrounding residents.
12. L&GNSW records do not reveal any adverse compliance history for the Hotel and no other noise complaints have been received.

Submissions

13. Between 4 September 2020 and 28 April 2021, various material was received from the parties to the complaint, NSW Police and Mosman Municipal Council (Council).
14. The material that is before the delegate is set out in **Annexure 1** and summarised below.

Police Submission

15. On 4 September 2021, Police provided their submission to the disturbance complaint. Police are of the view that noise from within the Hotel does not cause disturbance. This can be attributed to conditions under Development Consents and Court Orders from the Land & Environment Court that were successful in addressing noise issues from the Hotel and generally prevented undue disturbance.
16. Police submit disturbance is caused by patrons leaving the Hotel and from the outdoor area which operates as a beer garden rather than an outdoor dining area. Police objected to Council's approval of the outdoor dining area and the photos and videos provided in the complaint demonstrate to Police that outdoor areas have generated undue disturbance.
17. Police are unable to provide an accurate number of noise complaints received via phone but submit that between November 2018 and July 2020 they received 23 written complaints. All complaints were noise related and were all from the complainant. Police also detail recent COPS Events relating to the Hotel. A summary of the COPS Events relevant to the disturbance complaint follows:

- **E291437997 – Friday, 21 August 2020 – Licensing breach**

Between 11:50pm and 12:05am several patrons leaving the Hotel were making noise by yelling, singing, and clapping. A patron who had been at the Hotel climbed a water fountain while waiting for a lift. Police submit a breach of two noise related conditions occurred and further enquiries are to be made.

- **E74901540 – Wednesday, 10 July 2020 – Noise complaint/inspection**

Police arrived at the Hotel around closing time due to a noise complaint. Three security guards were spread around the exterior of the Hotel requesting patrons remain quiet. Patrons were observed departing in an orderly fashion and noise was deemed acceptable.

- **E74867232 – Friday, 26 June 2020 – Inspection**

At around 11.00pm, Police conducted an inspection and could hear patrons yelling in the gaming room while the officers were outside.

- **E75660379 – Friday, 19 June 2020 - Covert inspection**

Police made covert observations for four hours, including the outdoor dining areas. Four security guards were outside along with staff. No issues were reported in relation to disturbance, however furniture remained in the outside area outside approved hours. The Hotel's licensing consultant, Mr Pat Paroz was present during the inspection.

- **E77362384 – Friday, 19 June 2020 - Covert inspection**

Police made covert observations for two hours, including the outdoor dining areas. Four security guards and four managers were outside. No issues were reported in relation to noise or disturbance.

- **E145190801 – Saturday, 20 June 2020 – Covert inspection**

Police made covert observations for a period of two hours, including the outdoor dining areas. Three security guards were stationed outside, and no issues were reported. Mr Paroz was present during the inspection.

- **E70480814 – 16 April 2019 - Noise complaint**

Police received a complaint regarding patrons in the outdoor area and footage provided to Police shows nine patrons at a table that can be heard talking loudly and yelling. The complainant advised patrons can be heard inside her residence and Police advised the complainant to lodge a formal disturbance complaint.

18. Police contend noise levels between 7:00pm to 1:30am can be considered to cause undue disturbance. During the late evening to early morning period, background noise subsides significantly, and the only noise is generated from pedestrians and patrons outside or leaving the Hotel.

19. Based on their review of documentation and evidence, Police submit the complainant has experienced undue disturbance in relation to the outdoor dining area and by some patrons leaving the Hotel. Police contend that staff located in the outdoor areas, licence conditions and the Hotel's plan of management have been inadequate in managing the outdoor area that is impacting on residents.

20. Police submit that the Secretary, in dealing with the complaint and to prevent undue disturbance, revoke the ability of patrons to consume alcohol within the outdoor area by reducing the Hotel's licensed boundary. Should the Secretary be of the opinion the outdoor area should be permitted for use, Police recommend the Secretary restrict trading hours of, and public access to, the outdoor area to between 7:00am until 6:00pm. Police have proposed this trading time based on a previous development consent and conditions relating to the previous courtyard area of the Hotel.

Council Submission

21. On 14 September 2020, Council provided their submission to the disturbance complaint. Council advise they recently received representations from residents regarding patron behaviour and noise relating to the outdoor dining area. Council have met with a residents' group and the crux of their concern centres on Council's approval of outdoor dining that came after a Precinct Activation Program, Council's increase in kerb buildouts near the Hotel and approved the area to be used for outdoor dining.
22. Council advised that plain clothed staff have attended the Hotel for a meal and monitored daytime operation. The Hotel was found to have complied with permit arrangements and requirements brought on by COVID-19. However, as a result of the COVID-19 Public Health Orders, use of the outdoor area has been limited and may not be reflective of the impacts described by the residents.
23. Council advised there is no enforcement action against the Hotel in relation to the outdoor dining area. Council submits that while the residents' group seek the cancellation of the outdoor dining approval, Council's observations and responses by Hotel management do not warrant a recommendation to cancel the outdoor dining approval.

Venue response to complaint

24. On 8 September 2020, the Hotel's solicitors, Hatzis Cusack Lawyers, provided a submission in response to the complaint. The submission notes the complaint is dated 30 January 2020 and contends the complainant's primary concern is the approval of the extension to the outdoor area, which was granted by the Independent Liquor & Gaming Authority (the Authority) on 13 December 2019 and that the complainant is the sole resident objector. Further, much of the material provided by the complainant was provided in her objection to the Hotel's change of boundary application.
25. Included with the submission is a report from Mr Steven Cooper from The Acoustic Group, dated 28 August 2020 (the Acoustic Report). The Acoustic Report relates to an acoustic

assessment on the night of Saturday 15 August 2020 between 9:15pm and 10:45pm and found noise levels from the Hotel to be well below the criteria set out in the conditions of liquor licence. The Hotel was found to comply with the noise criteria on the liquor licence and the report advises there was no evidence of undue disturbance.

26. Mr Cooper submits they have been familiar with the Hotel since 2013 regarding a modification of a Development Consent. Mr Cooper has conducted previous noise assessments and expresses difficulty in comprehending the complaint in light of the heavy fixed glazing installed in the Hotel and the provision of noise limiters for the control of music. However, there is the possibility that pedestrian traffic in the area that is not associated with the Hotel could be incorrectly attributed to the Hotel.
27. The Hotel does not trade past midnight and the Acoustic Report highlights that prior to midnight, the noise criteria allows noise emissions from the Hotel to be audible at residential boundaries at measurable increases above the background level. Further, the inaudibility criteria of the LA10 noise condition, which requires that noise from the Hotel not be audible inside a habitable room of a residential dwelling, is only applicable after midnight. Ultimately, Mr Cooper concluded that he was unable to find any material to support the disturbance complaint that has been lodged with L&GNSW.
28. The submission from the Hotel includes the submission made by the Hotel's solicitors in support of the Hotel's change of boundaries application dated 9 December 2019. Included within this submission are letters from two Mosman Councillors supporting the use of the outdoor area to improve the ambiance of Mosman Village and overall amenity to the community.
29. The Hotel argues that allegations relating to Uber drivers illegally parking are a matter for Police. Additionally, patrons cannot smoke in the dining area. Prior to the complaint, letters were provided to residents on a quarterly basis with the licensee's landline and mobile phone. However, the licensee has not been contacted by the complainant and welcomes any communication.
30. The submission contends that as the Acoustic Report evidences the Hotel operates within the LA10 noise condition and as there is no ground to find that there is undue disturbance to the quiet and good order of the neighbourhood, no further action should be taken.

Inspection by L&GNSW

31. On Sunday 7 February 2021 at 7:15pm, two L&GNSW Inspectors attended the Hotel and made covert observations. Inspectors observed two security guards patrolling the

entrance/exit and immediate vicinity of the Hotel and approximately 50 patrons in the outdoor dining area.

32. Inside the Hotel, background music was being played at a low level. In the outdoor dining area, noise consisted of chatter from patrons. Noise was not deemed excessive, with the predominant noise coming from traffic. On two occasions however, a group of patrons were observed to linger while saying goodbye and were not moved on by security before they departed.

Complainant final submission

33. On 7 March 2021, the complainant provided their final submission. The submission states there is a loud bass sound from the inside of the Hotel every Thursday night that goes past midnight. During the previous afternoon of 6 March 2021, there was excessive shouting and intoxicated patrons could be heard for over two hours in the back beer garden. Additionally, on the day of the submission, there was a live jazz band in the outdoor beer garden, however the noise was not audible inside their residence. The complainant submits that live music in the outdoor area contravenes a ruling by the Land & Environment Court.
34. The complainant reaffirms their view that the Hotel had harmony with the neighbouring area prior to the extension of the outdoor area, which has interrupted surrounding homes. The complainant submits that if the outdoor area is reduced, a more equitable solution for residents and management would be achieved. Further, the complainant questions why the inspection of the Hotel occurred on a Sunday evening and queries if further inspections would be appropriate as they believe a Sunday evening would not be the best indicator for Hotel patronage.

Venue final submission and other material

35. On 16 April 2021, the Hotel's solicitors provided a final submission in response to the submissions by Police, Council and the complainant.
36. The submission contends the Hotel is not located in a residential zone and the number of licensed restaurants and a registered club in close proximity to the Hotel is consistent with the commercial nature of the area. The submission refers to Mosman Council's Development Control Plan that describes a combination of commercial, retail and residential uses in the Mosman Junction Business Centre.

37. The submission provides context to the outdoor dining approval and states Council approved the outdoor dining in 2018 as part of the Precinct Activation Program to improve facilities of Mosman Village and this approval could be revoked in the event of substantiated complaints or objections against the use of the outdoor area. Consequently, the Hotel applied to change its licensed boundary to incorporate the 62-seat outdoor dining area and this was approved by the Authority, despite objection by Police.
38. The submission goes on to state that in late 2019, the Hotel applied to Council to further extend the trial period for the outdoor area, and this was not only approved but also enlarged to allow for 124 seats. A change of boundary application was again lodged with the Authority to increase the licensed boundary of the additional outdoor areas and was granted despite the objection by Police.
39. The submission contends the disturbance complaint appears to be a collateral challenge to the previous approvals granted by Council and the Authority and contends much of the factual material relied upon by Police and the complainant predates the approvals.
40. The submission highlights the number of controls and limitations the Hotel operates under, either through liquor licence conditions or development consents. This includes an LA10 noise condition, use of noise limiters, limiting the size of music ensembles, the closure of the outdoor area by 10:00pm and restrictions on amplified music. The Hotel submits these controls have been expressly designed to mitigate any potential for undue disturbance.
41. The submission argues there is no objective evidence of noise levels being problematic and there is evidence that the Hotel has complied with the LA10 noise condition. The submission refers to the Acoustic Report that found noise levels were compliant and Council's submission advising they had no reason to take any enforcement action after monitoring the Hotel's operations. The submission also refers to the inspection by L&GNSW that found noise of patrons and music emanating from the Hotel did not rise above traffic noise and general street noise.
42. The Hotel disputes specific video recordings provided by the complainant demonstrates undue disturbance. The Hotel was advised by the Acoustic Engineer that microphones on mobile phones can be particularly sensitive and can exaggerate actual noise levels. Further, there is no substitute for the measurement of noise through properly calibrated equipment that objectively establishes actual decibel levels.
43. The submission states Police concede noise from within the Hotel is not causing undue disturbance and Police's submission suggests undue disturbance only occurs in the

outdoor areas between 7:00pm and 10:30pm. The submission contends Police's evidence of undue disturbance relies on complaints made by residents and cannot be relied upon to establish undue disturbance to an objective standard.

44. The submission contends that loud patron conversations and occasional yelling between 7:00pm and 10:30pm, as purported in Police's submission, is not sufficient to establish undue disturbance. The submission highlights the LA10 noise condition does not require inaudibility at residential receiver locations prior to midnight and allows a certain noise level above background levels prior to midnight.
45. The submission contends undue disturbance conveys an objective test of what could reasonably be tolerated, and regard must be given to the context of the Hotel. Further, residents living near a hotel must expect a certain amount of noise and disturbance which naturally occurs, including patrons going to and from a hotel and patrons socialising in outdoor areas.
46. Included in the submission is a report prepared by Mr Paroz, dated 28 March 2021. Mr Paroz's report details his observations of the Hotel on eight occasions from Friday 19 June 2020 until Friday 19 March 2021 where Mr Paroz spent anywhere from three to five hours observing the Hotel, especially the outdoor dining area. The report contends licence conditions and development consents for the Hotel provide a robust framework to ensure the amenity of the neighbourhood. Further, the Hotel's control measures are effective in ensuring compliance with these requirements and noise from the Hotel was at a reasonable level.
47. The submission goes on to dispute several claims or assertions made by the complainant, that since the complainant lodged this complaint on 30 January 2020 until the date of this submission, they have at no time contacted the Hotel to report any further instances of disturbance. Additionally, inadequacies with the complainant's submission, in particular their complaint regarding jazz music being played, although they state that "you cannot hear anything inside my apartment". The submission contends that the complainant will not be satisfied with anything less than the complete shutdown of the outdoor area and forcing all patrons to remain within the walled areas. The Hotel submits this is unreasonable.
48. The submission concludes by remarking that all the objective evidence, being the Acoustic Report, the evidence of Mr Paroz, correspondence and approvals from Council and the inspection by L&GNSW Inspectors on 7 February 2021 clearly demonstrates that the use

of the outdoor area does not cause undue disturbance to the quiet and good order of the neighbourhood. The appropriate order to make in these circumstances is to dismiss the complaint and take no further action.

Additional correspondence from the complainant

49. On Monday 26 April 2021, the complainant sent an email to L&GNSW and Police advising that at 5:00am that day, loud music was emanating from the Hotel and people were inside at that time.
50. On 27 April 2021, Police advised they attended a meeting with the departing licensee, business owner and new licensee in relation to noise. Police advised the noise raised by the complainant on 26 April 2021 was attributed to an error from cleaning staff, with management taking measures to avoid a reoccurrence. Further, there was nothing to support the Hotel being open at that time or that a function was being held at the time.
51. On 28 April 2021, the complainant expressed doubt over the reasoning provided by Police and reiterated the noise issues raised in the complaint and submissions.

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

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

The order of occupancy between the licensed premises and the complainant

53. The Hotel has operated under its current liquor licence at its present site since 6 March 1957. At the time of the complaint, the complainant resided at [REDACTED] address for 10 years and this does not predate the Hotel's occupancy. This fact is not in dispute and I consider the order of occupancy is in favour of the Hotel.

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

54. There is no indication that there have been any changes to the complainant's residence. In recent years the Hotel has expanded its outdoor footprint following Council granting the Hotel consent to occupy three distinct areas for outdoor dining. Council provided correspondence to the Hotel granting approval to the consent in September 2018 for a trial period of one year until September 2019 and in November 2019 approved the use of the outdoor area for a further seven years until November 2026. The latter approval also increased the outdoor dining area to include seating areas adjacent to the Hotel.
55. Following the consents granted by Council, the Hotel also sought to change its licensed boundary to include the outdoor dining areas and received approvals from the Authority

in January 2019 and December 2019. In July 2019, the Hotel's licensed area was also amended, as per the Hotel's application, to exclude an area on the first level of the Hotel. More recently on 4 June 2021, Mr Mitchell Ward was approved as the new licensee of the Hotel and remains in that role to date.

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

56. It is evident that in recent years the outdoor area of the Hotel has grown following approvals from Council and the Authority. As a result of these approvals, the Hotel operates a larger dining area that caters for up to 124 patrons. There is no evidence of any other changes in activities at the Hotel over a period of time.

Findings and Decision

Undue disturbance

57. In making my decision, I have considered the submissions of the complainant, Police, Council and the Hotel. I have also had regard to the particular context in which the Hotel operates.

58. After considering the material before me, I am not satisfied that there is sufficient evidence to conclude that the Hotel has caused undue disturbance in relation to allegations raised in the complaint. In reaching this conclusion, I have given weight to the Acoustic Report, the lack of objective evidence from Council, the findings of the Hotel's licensing consultant and observations of L&GNSW Inspectors.

59. I acknowledge Police contend the outdoor area results in undue disturbance during certain hours and object to the use of the outdoor dining area. Police have referred to the complaint material, the volume of complaints received and instances where patrons have been observed to be loud upon leaving the Hotel.

60. It is evident the expansion of the Hotel's outdoor dining area coincides with an escalation of written noise complaints received by Police, with all of them being from the complainant. I accept a certain level of noise will result from the use of the approved outdoor dining area. On this point and noting the outdoor area does not trade past midnight, the Hotel's LA10 noise condition allows for certain noise exceedances above background noise levels at the boundary of a residential premises. I note the Hotel's engagement of the Acoustic Expert, have demonstrated compliance with this condition, albeit from a small sample size of testing.

61. It is evident from the inspection of 7 February 2021 by L&GNSW Inspectors that on two occasions, groups of patrons were allowed to linger in the immediate vicinity of the Hotel while leaving. This resulted in the patrons to linger while saying goodbye, singing, dancing and shouting. These patrons were not moved on by security, who instead remained in the pathway between the Hotel's main entrance and main outdoor dining area. I do consider that this has the potential to cause some disturbance to neighbouring residences and I remind the Hotel of their obligation to seek the cooperation of patrons leaving the Hotel so they do not disturb surrounding residents.

62. In reaching my decision, I have also considered Police's observations from inspections at the Hotel. During three covert inspections, each of considerable duration, Police did not identify issues with noise including from the outdoor dining area. While Police contend the Hotel was better managed on these occasions due to the presence of the Hotel's licensing consultant Mr Paroz, I do not consider that this would have greatly affected the noise produced by patrons in the outdoor dining area which is the subject of this complaint. Additionally, Police attended the Hotel in response to a noise complaint and found patrons departing in an orderly manner. In considering the observations by Police with the balance of the material received, I am of the view any disturbance relating to patrons leaving the Hotel is not commonplace and do not consider this to be undue disturbance.

Regulatory Outcome

63. I have taken the statutory considerations into account and acknowledge the order of occupancy is in favour of the Hotel. I also acknowledge that the Hotel expanding its outdoor dining area is a significant change and requires careful planning and management from the Hotel.

64. Having considered all available material before me and the statutory considerations, 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 Hotel. I do consider that there is potential for undue disturbance to arise given the proximity of the Hotel to nearby residences. The complainant must also be aware that living across from a hotel, a level of noise and disturbance from the general operation of a hotel, including from patrons departing, is to be expected from time to time.

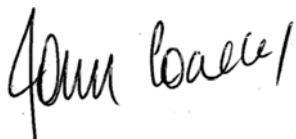
65. Due to there being insufficient evidence of undue disturbance, the outcomes requested by the complainant and Police in resolving the complaint are unreasonable and are not supported in the circumstances. The totality of the evidence does not support a

cancellation of the outdoor dining approval. Nor does the evidence support a reduction of the licensed boundary to restrict alcohol consumption or restricting trading hours for the outdoor area from 7am until 6pm.

66. In reviewing the Hotel's current liquor licence, I have determined there are sufficient conditions that act as a safeguard to ensure that the quiet and good order of the neighbourhood is not unduly disturbed by the operations of the Hotel. This includes an LA10 noise condition, a condition that patrons may only consume liquor outside whilst at a table or travelling to and from a table and conditions around security patrols and management of patrons leaving the Hotel. I am satisfied compliance with these conditions will minimise noise levels and ensure the Hotel does not cause undue disturbance to neighbouring residents.

67. While I have determined to take no further action in this matter, I strongly remind the Hotel of its obligation to comply with these conditions and of its ongoing obligation to minimise levels of disturbance to the community. I particularly remind the licensee of the conditions relating to security patrols and management of patrons leaving the Hotel to ensure they leave in a quiet manner. The Hotel should be aware that if fresh and direct evidence is presented demonstrating undue disturbance, it is open for the matter to be reconsidered and for formal regulatory action to be taken.

Decision Date: 20 October 2021

A handwritten signature in black ink, appearing to read 'John Coady', is positioned above the printed name.

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 17 November 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

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

1. Section 79 Disturbance Complaint lodged by the complainant on 5 July 2020.
2. Submission received from NSW Police on 4 September 2020.
3. Hotel's first submission received on 8 September 2020.
4. Submission received from Mosman Municipal Council on 14 September 2020.
5. File note by L&GNSW Inspectors relating to an inspection on 7 February 2021.
6. Final submission from the complainant received on 7 March 2021.
7. Final submission from the Hotel received on 16 April 2021.
8. Email from complainant on 26 April 2021, reply email from NSW Police on 27 April 2021 and complainant's reply email on 28 April 2021.