



**FILE NO:** A14/0004315

**COMPLAINANT:** [REDACTED]

**LICENSED PREMISES:** Beach House Café & Bar Port Macquarie – LIQO624007927

**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* I, Sean Goodchild, Director Compliance & Enforcement, Office of Liquor Gaming & Racing (OLGR) as a delegate of the Secretary, Department of Justice have decided to take no further action on the basis of the following undertaking given by Royal Bayside Pty Ltd, licensee, of the Beach House Café & Bar, Port Macquarie:

***Effective from 24 September 2015***

***Noise limiter undertaking***

*The licensee is to maintain a noise limiter in accordance with the recommendation set out in the assessment of Amenity Acoustics dated March 2015.*

# REASONS FOR DECISION

## Legislation

1. Section 79 of the Act permits a person to 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 resident who is authorised by two or more other such 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 14 August 2014, [REDACTED] (the Complainant) submitted a disturbance complaint under section 79 of the Act concerning the Beach House Café & Bar, Port Macquarie. The complainant resides in residential apartments located above the licensed premises and was authorised by two other residents. The complainants alleged they are being affected by loud amplified music and vibration noise from an outdoor area of the licensed premises and from mechanical plant noise emitted from the operation of an exhaust fan at the licensed premises.

## Background

6. The licensed premises is a restaurant with public entertainment and operates from 2 Horton Street, Port Macquarie, and has operated from this location since 3 December 1999. The trading hours are 5.00 am to 3.00 am Monday to Saturday and 10.00 am to 12.00 midnight on Sundays. The premises has both primary service and extended trading authorisations and the current licensee Royal Bayside Pty Limited commenced operation on 12 March 2014.
7. On 12 September 2014, after a review of the material contained in the complaint, this Office wrote to the licensee, NSW Police and the local council inviting submissions on the complaint.
8. Between 3 October 2014 and 3 August 2015, various submissions were lodged by all parties. A list of the material that is before the delegate of the Secretary is set out in Annexure 1. A summary of key information obtained during the submission period is set out in Annexure 2.

## Considerations and findings

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

9. The Act requires that in certain cases the Secretary have regard to three statutory considerations being the order of occupancy between the licensed premises and the complainant; any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises; and, any changes in the activities conducted on the licensed premises over a period of time.
10. *The order of occupancy between the licensed premises and the complainant* – The licensed premises commenced operation at its present site on 3 December 1999 and pre-dates the complainant's arrival who has occupied his residence for three years and two months at the time of making the complaint. This fact is not in dispute and I consider that the order of occupancy consideration is in favour of the licensed premises.
11. *Any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises* – The complainant advised that there have been no changes to the licensed premises or the residential premises.
12. *Any changes in the activities conducted on the licensed premises over a period of time* – The complainant asserts there was a change of operator at the licensed

premises in December 2013 and the focus of entertainment has generated significant noise disturbance. I have considered this change in activities in this decision.

### **Summary and conclusion**

13. I have considered the submissions of the complainant, the licensee, NSW Police and the local council. I have had regard to the particular context in which the licensed premises operates (including statutory considerations mentioned above) and the response by the licensee to the issues of disturbance that was reported by the complainant. In this regard, the licensee engaged an acoustic consultant to conduct acoustic monitoring and installed a market-leading sound limiting system to ensure compliance with the LA10 noise condition imposed on the licence. The acoustic report sets out that following acoustic monitoring on 8 February 2015 the noise limiter was adjusted and locked to remove the potential for non-compliance in the 31.5 Hz octave band. I note the issue with mechanical noise from the exhaust fan operated at the licensed premises has been rectified.
14. The acoustic report detailed that the new limiting system had been configured zonally and allows the licensed premises to only have active speakers within a certain area or zone as required and overall reduces emitted noise levels. Fold-back speakers brought onto the site by performers are required to be plugged into the limiting system and are monitored and controlled separately by the system. The licensee instigated operational limits to reduce the emitted noise by an overall 6 dB(A) from 9:00 pm.
15. The acoustic report stated that compliance monitoring undertaken at the balcony of apartment 604 immediately below the complainant's balcony indicated that the current noise limiting threshold setting of 76 dB(A) for pre 9:00 pm and 70 dB(A) for post 9:00pm indicates compliance with the LA10 noise criteria condition imposed on the licence.
16. I have also considered the positive actions of the licensee who undertook noise amelioration work to enclose the northeast corner of the ground floor verandah to prevent noise intrusion to the residences located above. I note the introduction of other measures to limit patron arrival/departure noise along the northern Town Green boundary by removing an entry/egress point requiring patrons to enter via the western entrance.
17. The liquor licence of the licensed premises is endorsed with a number of conditions to prevent undue disturbance. These conditions include the LA10 noise criteria, the requirement for security guard patrols and their attendance within the licensed premises when the nightclub operates. Further controls are imposed relating to the

provision of transport at closing time and for video surveillance monitoring of both the inside and outside areas of the nightclub.

18. I consider that the existing liquor licence conditions, in addition to the undertaking given by the licensee, as appropriate safeguards to prevent issues of disturbance from occurring in the future.
19. Accordingly, I have decided to take no further action in relation to this complaint.

Date of decision:

18/9/15



**Sean Goodchild**

*A/* Director Compliance & Enforcement  
Office of Liquor, Gaming & Racing  
Delegate of the Secretary, Department of Justice

#### NOTES

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 21 days of the date of this decision, that is, by no later than 9 October 2015. A \$500 application fee applies. Further information can be obtained from Authority Guideline 2 published at [www.ilga.nsw.gov.au](http://www.ilga.nsw.gov.au)

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

**Material before the Director Compliance & Enforcement as delegate of the Secretary:**

- Section 79 Disturbance Complaint lodged by [REDACTED] on 14 August 2014.
- Letter from [REDACTED] Strata Manager, Strata Professionals managing agents on behalf of the Owners Corporation of Strata Plan 67839 dated 23 April 2014.
- Submission from Mr Tim Atherton Group Manager Regulatory Services, Port Macquarie Hastings Council dated 30 September 2014.
- Letter from Hatzis Cusack Lawyers dated 3 October 2014.
- Email from the complainant dated 4 October 2014.
- Submission from Senior Constable Magennis Mid North Coast Local Area Command Licensing Unit dated 3 October 2014.
- Letter from Hatzis Cusack Lawyers dated 4 November 2014.
- Email from an OLGR case officer to Hatzis Cusack Lawyers dated 10 November 2014.
- Letter from Hatzis Cusack Lawyers dated 17 November 2014.
- Letter from the complainant dated 19 November 2014.
- Letter from Hatzis Cusack Lawyers dated 2 December 2014.
- Various emails between the complainant and licensed premises representative dated 7 December 2014 and 9 December 2014.
- File note by OLGR inspectors in respect to their observations at the licensed premises on 28 and 29 November 2014.
- Letter from Hatzis Cusack Lawyers dated 24 March 2015 and attached acoustic report prepared by Amenity Acoustics Pty Limited dated March 2015.
- Email response from the complainant dated 2 April 2015.
- Email response from Senior Constable Magennis dated 2 April 2015.
- Email response from Ms Michelle McLennan, Environmental Health Officer, Port Macquarie-Hastings Council dated 8 April 2015.
- Emails from the complainant dated 15 May 2015 and 25 May 2015.
- OLGR case officer file note dated 1 June 2015 of conversation with the complainant.
- Letter from Hatzis Cusack lawyers dated 16 June 2015.
- Emails from the complainant dated 8 June 2015, 16 June 2015 and 8 July 2015.
- Letter from Hatzis Cusack lawyers dated 3 August 2015.

**Summary of submissions provided to the Office:**

1. On 3 October 2014 a submission was received from Mr Tim Atherton, Group Manager Regulatory Services, Port Macquarie Hastings Council that advised:
  - a. Since September 2011 the council has received three noise complaints received from residents concerning disturbance from outdoor DJ's and bands playing at the licensed premises.
  - b. The premises formerly known as the Royal Hotel was developed into a multi-level building comprising of both commercial and residential development. The licensed premises is located on the ground and first floor levels and residential apartments are located on the upper levels.
2. On 3 October 2014 a letter was received from Mr Grant Cusack, Solicitor Director of Hatzis Cusack Lawyers advising that he acts for the licensee, owner and operator of the licensed premises. In response to the issues raised in the complaint his client was arranging for an acoustic assessment to be undertaken. He also advised that his client had implemented certain measures to reduce noise levels relating to the provision of entertainment in the outdoor area and of a recent meeting between his client and the complainant to discuss the matter and to advise of a proposal to conduct an acoustic assessment. Mr Cusack requested that no further action be taken until such time as his client had obtained the relevant acoustic assessment and considered any recommendations.
3. On 3 October 2014 in a submission the complainant advised that he had attended a meeting on 24 September 2014 with [REDACTED] principals of the licensee (Royal Bayside Pty Ltd), and [REDACTED] Manager, Rydges Port Macquarie to discuss the issues raised in the disturbance complaint. The complainant was also advised by the parties of a plan to sound proof the building and that their lawyer in respect to the complaint was preparing a response to this Office.
4. On 3 October 2014 a submission was received from Senior Constable Dean Magennis Mid North Coast Local Area Command Licensing Unit advising that the licensed premises is located on the site of the Old Royal Hotel, 2 Horton Street, Port Macquarie and adjoins the Hastings River and Town Green Reserve. The layout of the licensed premises has been designed to maximise the use of the outside area which is covered by shade sails. Senior Constable Magennis advised that since the transfer of the liquor

licence to the current licensee incidents requiring police intervention have declined. Notwithstanding, peak trading is during the summer and holiday periods.

5. Senior Constable Magennis also advised that two noise complaints were made to Port Macquarie Police Station on 8 June 2014 and 2 August 2014 however no COPS events were found concerning these matters. In response to the noise complaints he convened a meeting with [REDACTED] Manager Rydges Port Macquarie who advised that as the licensed premises were now under the control of Rydges he was looking at different avenues to reduce noise emissions. In this regard, he had engaged with the complainant and in respect to the allegations of disturbance from amplified entertainment was waiting for a response from an acoustic consultant engaged to undertake monitoring.
6. On 4 November 2014 a letter was received from Mr Cusack advising his client had implemented a number of measures to reduce noise levels from the provision of entertainment in the outdoor area and confirmed the engagement of an acoustic consultant to undertake noise monitoring. Mr Cusack also reiterated that resulting from meetings held between his client and the complainant he was of the understanding that the complainant was satisfied with the measures implemented, sound levels were now considered satisfactory and there was no further need to continue with pursuing instructions from the acoustic consultant. He further advised that in the event that his client provided future entertainment in similar circumstances then they would obtain an acoustic assessment and consider the recommendations to avoid any possible future complaints. Mr Cusack further stated that as the relevant measures had been implemented by his client the matter had been resolved and suggested that the file can be closed.
7. On 10 November 2014 an OLGR case officer advised Mr Cusack that the complainant had reported that in previous weeks the licensed premises had moved the outdoor speakers inside at around 9.00 pm, however on a Saturday night the speakers were not moved inside until around 10.40 pm. The complainant further advised that a live band had been engaged by the licensed premises to perform in the outdoor area on the following Sunday. The complainant was of the view that issues of noise from the outside area could not be resolved without an acoustic assessment which should be undertaken as soon as practicable.
8. In a letter to the Office dated 17 November 2014 Mr Cusack submitted that the following measures had been implemented by his client to reduce noise levels in the outdoor area:



- a. Any live music or music provided by way of a DJ in the outdoor area now ceases at an earlier time and with reduced volume.
  - b. From this time the level of any speakers in the outdoor area is turned down further.
  - c. The sub-woofer has been removed to reduce low end noise.
  - d. There has been a change in setup of the speakers to reduce bass sound.
9. On 19 November 2014 the complainant responded to the submission of Mr Cusack dated 17 November 2014 and advised:
  - a. In general the new measures implemented had shown improvement on the previous difficult ten months, in particular noise reduction after 9.00 pm.
  - b. Before 9.00 pm the levels had not been satisfactory and this was indicated to [REDACTED] at a previous meeting. The noise levels from outdoor entertainment at the licensed premises are such that doors and windows of his residence have to be closed.
  - c. In a previous discussion and agreement concerning later hours in the outdoor area he consented to the dates of 31 October 2014 and 31 December 2014 but not to the date of 8 November 2014.
  - d. Music from the outdoor area remains a problem. On occasions extremely loud music is played below his apartment without sound amelioration measures in place. During an amplified music event on 9 November 2014 he and his wife vacated their apartment for the night. On the following day he contacted [REDACTED] and advised him of the situation.
  - e. He believes that music noise can be contained when speakers are located internally as shown when they are moved inside after 9.00 pm.
  - f. The comments expressed by Mr Cusack in his letter of 17 November 2014 do not accurately reflect resident views.
10. On 2 December 2014 Mr Cusack advised his client was undertaking various works at the licensed premises and had changed the manner in which entertainment is provided. He also reported that the remedial work will be completed by Christmas and an acoustic assessment will be undertaken upon completion of the work. Mr Cusack also advised that the acoustic consultant previously engaged to conduct monitoring was now unavailable and another consultant would be engaged in the new year. Mr Cusack reiterated that his client will continue to liaise with the complainant.
11. On 8 December 2014 the complainant advised in an email that he had asked [REDACTED] to relocate the outdoor speakers to an indoor area to stop music noise disturbance. In response on 7 December 2014, [REDACTED] stated he was seeking

further advice on the basis of the recent installation of new equipment, he was confident that the licensed premises will be compliant with all sound regulations and the complainant will not be further disturbed. [REDACTED] also stated that the licensed premises was working closely with an acoustic consultant and mechanical engineer to find a permanent solution to the issues of disturbance to the residents from a kitchen exhaust fan.

12. On 19 December 2014 OLGR inspectors attended the licensed premises at approximately 10.25 pm on 29 December 2014 and made the following observations:
  - a. A DJ was operating inside of the licensed premises and the music volume levels were deemed not to be excessive and doubted whether the music volume would have caused an issue to the residents residing above the licensed premises.
  - b. Inspectors were advised by a duty manager that on occasions, a DJ or band operate in the outside area, however they can only operate at the southern end of the building. Changes are currently being made to the amplification system to prevent bands and DJ's raising volume levels. During the observations the inspectors noted that approximately 100 persons were occupying the licensed premises.
13. On 14 January 2015 an OLGR case officer emailed the complainant seeking an update of the issues raised in the complaint and whether the measures put in place to reduce disturbance are effective. On 14 January 2015 the complainant responded that in general there had been an improvement in noise levels just prior to Christmas however the licensed premises was noisy over the festive period. The complainant advised of speaking with the manager who appears to be making an effort to improve matters.
14. On 20 February 2015 an OLGR case officer contacted Mr Cusack seeking an update as to whether acoustic monitoring had been undertaken. On 23 February 2015 in an email Mr Cusack advised that acoustic testing had been undertaken and his client was awaiting an acoustic report, a copy of which would be provided to this Office.
15. On 24 March 2015 Mr Cusack in a submission detailed the following information:
  - a. The premises at 2 Horton Street, Port Macquarie have operated as licensed premises for many decades (formerly as the Royal Hotel).
  - b. In December 1999 the Independent Liquor & Gaming Authority granted an on-premises liquor licence and the premises commenced operation as a restaurant with public entertainment.

- c. Adjoining the licensed premises is the Rydges Hotel which is the subject of a separate on premises licence that commenced trading in 2002. In addition to the hotel, restaurant and associated facilities the building has eight levels of accommodation rooms and apartments. The top four levels are strata titled apartments, the majority of which are let to Rydges for accommodation. Two apartments are used as holiday units by their owners who attend on an intermittent basis and two other apartments are occupied by their respective owners, one being the complainant.
- d. The licensed premises is owned by the same company that owns the Rydges building and in early 2014 the owner of Rydges took over the operation of the licensed premises and now operates both venues.
- e. A disturbance complaint was lodged in 2014 by the complainant who resides in [REDACTED] Another authorising resident resides in [REDACTED]
- f. The complainant claims that he was disturbed by amplified music being played in a specific area of the venue between the hours of 9.00 pm and 11.00 pm and from an exhaust fan which is not relevant to these proceedings.
- g. The Manager of Rydges continues to communicate on a regular basis with the complainant who resides in the same building.
- h. Resulting from the complaint, Mr Cusack advised that his client has undertaken measures at significant cost to reduce the likelihood of undue noise disturbance and approximately \$100,000 is to be expended and the majority of the works have already been undertaken. The works so far undertaken are:
  - Installation of a market leading amplified music sound limiting system.
  - Noise attenuation to the venue's roof top kitchen extraction fan.
  - Enclosing the north eastern corner adjacent to the edge of the verandah where it adjoins Rydges Port Macquarie.
  - Limiting patron arrival and departing noise along the northern boundary by removing an entry/egress point so that patrons enter via the western entrance.
  - Acoustically treating the rear eastern verandah wall of the licensed premises.
- i. Provided an acoustic report prepared by Amenity Acoustics Pty Limited confirming compliance with the existing LA10 noise condition.
- j. Requests that the complaint now be finalised.

16. On 2 April 2015 in an email the complainant responded to the submission by Mr Cusack and advised that towards the end of last year management of the licensed premises had adopted a practise of moving the external speakers to a location within

the premises which provided a very marked improvement on noise levels. The current situation is that a number of speakers are located externally an arrangement that is much less effective, and may not be in accordance with the licensed premises DA. The complainant advised that disturbance from amplified music at the licensed premises although still quite audible has lessened considerably over recent weeks, and believes that the sound limiting system has played a part in this process though no doubt the end of the summer holiday period may also have been a key factor to the changes we have noticed. Notwithstanding, the complainant requests that either the outdoor speakers be placed inside of the building, or the outdoor area be properly enclosed.

17. On 8 April 2015 Ms Michelle McLennan, Environmental Health Officer, Port Macquarie-Hastings Council submitted that the NSW Industrial Noise Policy is the lead guidance document for councils in noise complaint and impact assessment. Noise levels in or near commercial areas are expected to be higher than in suburban residential areas. The location of the licensed premises and the residence is in the Port Macquarie CBD, a hub of recreational activities which also includes night time activities.
18. The submission also advised that the Council is unable to verify the findings in the Amenity acoustic report as their noise monitoring equipment is unable to isolate the various noise sources in the immediate vicinity and suggested that if considered appropriate the Office consider requiring a compliance noise assessment in respect to the noise amelioration works to ensure compliance with the LA10 noise criteria.
19. On 16 April 2015 an OLGR case officer contacted the complainant concerning the external speakers at the licensed premises. The complainant advised that even though noise emissions had improved because of the installation of a noise limiter, noise was still audible from within his residence. He also sought information of a completion date of the work to reduce noise emissions from a kitchen extraction fan at the licensed premises.
20. On 1 June 2015 an OLGR case officer contacted the complainant to discuss the possibility of conducting a noise assessment from an affected room within his residence. The complainant advised that he was open to such action however such a visit may not be beneficial to the investigation of noise emissions from the licensed premises as noise levels had decreased to an acceptable level on most evenings even though it remained audible from within his residence. The complainant also alleged that on occasions, amplification levels had clearly bypassed the designated noise limiter requirements. In respect to conducting such noise assessment, Senior Constable Magennis in a telephone call with the case officer advised of his availability

to conduct such observations if considered necessary. The complainant was subsequently advised of this proposal.

21. On 8 June 2015 in an email the complainant notified of further noise intrusion from low frequency bass noise from amplified entertainment held at the licensed premises on 7 June 2015 and on 16 June 2015 and to report complaints from other residents from amplified entertainment held on 14 June 2015.
22. On 16 June 2015 in a detailed submission Mr Cusack from Hatzis Cusack Lawyers provided a further response to the issues raised in the disturbance complaint. In respect to noise attenuation works the submission advised that whilst his clients are permitted to conduct both indoor and outdoor entertainment, outdoor entertainment is not permitted after 12 midnight and generally is not provided after 9.30 pm. Upon take over by Rydges in 2014, various operational changes were implemented and substantial works at significant cost was contributed to reduce the potential for noise disturbance.
23. The submission also detailed that a development application was lodged with Hastings-Port Macquarie Council to replace an existing shade structure in the outdoor area. The new structure costing \$250,000 will provide additional acoustic benefits. He also stated that the complainant's comments confirming the installation of the noise limiter to control volume levels as being quite effective is positive. Mr Cusack also advanced that there is clear evidence before the Secretary, Department of Justice that more than adequate acoustic measures have been implemented at significant cost which have ensured compliance with the noise condition.
24. In respect to the complainants concerns that the noise limiter might be bypassed Mr Cusack advised that there was an instance when this may have occurred at the time when the new measures were being implemented. In support of the measures undertaken to comply with the existing noise condition the licensee is prepared to give an undertaking to the Secretary that a noise limiter will be maintained in accordance with the recommendations of the acoustic report dated March 2015.
25. Mr Cusack further advised that in addition to the noise amelioration works undertaken at the premises his client has made application to the Hastings-Port Macquarie Council to install a mechanically operated shade structure in the outdoor area. The shade structure which will cover a large portion of the outdoor area has the ability to be opened or closed, and will be operated with a view to minimising the potential for disturbance to the complainant when entertainment is being provided in the outdoor area. In closing Mr Cusack submitted that the Secretary can be satisfied that the

issues raised in the disturbance complaint have been adequately resolved and that his client's undertaking should be noted.

26. On 8 July 2015 the complainant in an email submission responded to the claims set out by Mr Cusack. The complainant re-iterated that there were significant problems prior to the end of 2013 and noise issues continued with no change and well after the change of ownership in early 2014. Notwithstanding the complainant is in agreement with a number of points that were raised by Mr Cusack and has been grateful for a number of accommodating actions that the owners of the licensed premises have made as a result of the disturbance complaint, in particular the sound suppression ducting for the exhaust fan, and the amplified music sound limiting equipment. The complainant also expressed his understanding that acoustic compliance of the outdoor area does not rely on the acoustic ability of the shade structure as it is additional to the existing measures.
27. The complainant maintains that there are two fundamental problem areas, namely noise from outdoor uncontrolled amplified music and from patrons in that area. The complainant is of the view that these two issues can be controlled by use of a noise limiter and with the shade structure in the closed position when outdoor amplified music is provided. The complainant supports the licensee's undertaking in respect to the noise limiter and has also requested a further undertaking that the shade structure be kept closed when entertainment is provided of an evening in the outdoor area.
28. The complainants request for the licensee to give an additional undertaking to close the outdoor shade structure when amplified entertainment was forwarded to the licensee's legal representative for consideration. On 3 August 2015 in a submission Mr Cusack advised that the various controls implemented by his client are more than sufficient to protect the amenity of the area and minimise the potential for disturbance to the residents. Compliance with the noise condition is not reliant on the shade structure being closed when amplified entertainment is being provided. The licensee has indicated that he will close the shade structure at times during the provision of amplified entertainment that has the potential to cause disturbance to the complainant and on that basis does not favour giving a further undertaking. Mr Cusack stated that his client has now expended \$300,000 in various works to ensure that the operations of the premises do not result in any frequent undue disturbance to the residents and will continue to operate the licensed premises in a common sense manner to ensure fulfilment of the various controls that have been or in terms of the new shade structure to be implemented.