

DOC16/065942

FILE NO: A15/0005947

COMPLAINANT:



LICENSED PREMISES: Woollahra Hotel, Woollahra – LIQH400106610

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 and Gaming NSW (L&GNSW) a delegate of the Secretary, Department of Justice, in relation to the disturbance complaint made against the Woollahra Hotel located at 116 Queen Street, Woollahra have decided to close the complaint with no further action.

REASONS FOR DECISION

Legislation

1. Section 79 of the Act permits a person to complaint 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 satisfies the Secretary that their interests (financial or otherwise) are adversely affected by the disturbance detailed in the complaint.
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 10 August 2015, [REDACTED] Woollahra (the complainant) lodged a disturbance complaint under section 79 of the Act concerning the hotel. The complainant alleged undue disturbance on all days of the week, in particular on Fridays, Saturdays and Sundays, predominantly from excessive music and patron noise from the first floor balcony. The complainant lodged the complaint as a person residing in the neighbourhood who is authorised by four other residents.
6. The complainant stated that he engaged with the then licensee, Mr James Ryan and managers of the hotel on a number of occasions about the disturbance. The complainant alleged no action was taken by venue staff to alleviate the level of disturbance. The complainant attached a diary documenting a pattern of disturbance and attempts to resolve the complaint over numerous weeks with the hotel.
7. Between 22 September 2015 and 1 June 2016 various submissions were lodged by affected parties. A list of the material that is before the delegate of the Secretary is set out in Annexure 1.

Considerations and findings

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

8. 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 hotel 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.
9. *The order of occupancy between the licensed premises and the complainant* – The hotel's liquor licence indicates that the hotel has operated under the current licence at its present site since 30 September 1957. The hotel predates the complainant who has lived at their residence for 25 years. This fact is not in dispute and I consider that the order of occupancy consideration is in favour of the hotel.
10. *Any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises* – The complainant advised that his residence had undergone renovations, in particular the first floor verandah and an extension to the rear of the building. The renovations to the front of the house have not been completed due to ongoing disturbance from the hotel.
11. *The hotel has undergone extensive renovations since operating at the site from 1957. In 2013, the hotel redesigned an outdoor gaming room to accommodate a patron smoking deck.*
12. *Any changes in the activities conducted on the licensed premises over a period of time* – The hotel had been purchased on 4 July 2011 by J M Ryan's Hotel Pty Ltd. On 7 December 2015, the hotel was sold to Hopetoun Kembla Holdings Pty Limited.

Summary and conclusion

13. I have considered the submissions from the complainant, licensee and NSW Police. The local council was invited to make a submission and elected not to do so. I have also had regard to the particular context in which the hotel operates (including the statutory considerations mentioned above).
14. I am satisfied the material before me is sufficient to support a finding that the hotel has, at times, caused undue disturbance to the neighbourhood.
15. On 3 September 2015, NSW Police provided a submission to L&GNSW. Police advised that a review of their systems substantiated the allegations of undue disturbance

emanating from the first floor balcony of the hotel and from patrons loitering in the immediate vicinity on at least three occasions. Police raised concerns with the lack of procedure in moving patrons out of the vicinity in a quiet and orderly manner. Police recommended the hotel update its plan of management to address these issues and that a condition be imposed on the hotel's liquor licence requiring adherence to the plan of management. Police recommended specific provisions for the use of the outdoor area, times when the windows and doors should be closed, cessation of live entertainment and closing procedures.

16. On 22 September 2015, the former licensee's legal representative, Mr Andrew Wennerbom advised that the hotel had amended its plan of management and adopted specific provisions for the first floor balcony. The plan of management included limiting use of the first floor balcony for dining on most occasions, closing the balcony to patrons no later than 10:30pm, and closure of all windows and doors facing Queen and Moncur Streets during live entertainment. The hotel consented to the imposition of a plan of management condition on the liquor licence.
17. Mr Wennerbom also submitted two acoustic reports by The Acoustic Group, who conducted testing at the hotel. The reports, (dated 29 April 2015 and 15 May 2015 respectively) indicated the Hotel was compliant with the LA10 noise criteria, a condition already imposed on the hotel's liquor licence.
18. On 24 September 2015, following discussions between the complainant, the previous licensee and NSW Police, Mr Wennerbom withdrew the hotel's consent to impose the plan of management condition on the liquor licence.
19. On 23 October 2015, Mr Wennerbom advised that the complainant contacted the licensee on 1 October 2015, about disturbance from the first floor balcony on the night of 30 September 2015. Mr Wennerbom submitted that this was the first instance of disturbance since the updated plan of management had been implemented.
20. A copy of the licensee's response to the 1 October 2015 complaint was attached to Mr Wennerbom's submission, dated 14 October 2015. The response contained a log of CCTV footage of the balcony from the night complained about and an acknowledgement that the disturbance from 30 September 2015 had caused the licensee to review their management of the balcony, including reminding staff that patrons should not be on the balcony for an extended period of time following completion of their meals.
21. Mr Wennerbom advised L&GNSW that despite the impending sale of the hotel, the licensee and proprietors were committed to resolving the complaint and that implementation of the plan of management will greatly assist this process.

22. On 29 October 2015, the complainant provided a response to the licensee's submission, advising that the plan of management does not address the ongoing issues of disturbance or compliance with the *Smoke-Free Environment Act 2000*, and that the plan needs to be refined.
23. On 7 December 2015, the purchase of the hotel by Hopetoun Kembla Holdings Limited was finalised. Mr Benedict Lawler was appointed as licensee of the hotel.
24. L&GNSW inspectors conducted observations of the premises on three occasions between 7 August 2015 and 12 December 2015. On each of these occasions, minimal noise was detected from the first floor balcony from the complainant's residential boundary or the immediate vicinity of the licensed premises.
25. The complainant advised L&GNSW of further disturbance emanating from the first floor balcony on 12 December 2015, 5 May 2016 and 10 May 2016.
26. On 7 March 2016, L&GNSW attended a meeting with the new proprietors of the hotel. The licensee advised that they were committed to adherence with the plan of management. They advised they had implemented additional measures, including making the outdoor balcony a smoking only area, which is monitored every 30 minutes to ensure patrons are being respectful of the neighbourhood, and had transformed the courtyard from a dining area into a smoking area, encouraging patrons to smoke there instead of on the balcony or on Queen and Moncur Streets.
27. The hotel's liquor licence is already subject to a number of existing conditions relating to disturbance. I have considered whether a condition should be imposed on the licence requiring the hotel to comply with their plan of management. Allowing for the change in licensee, their stated commitment to adhere with the plan of management, and their advice that they have implemented additional measures, I am satisfied that no further conditions are required on the liquor licence at this stage.
28. Observations by L&GNSW Inspectors support the operation of the plan of management and its outcomes at the premises. The complainant has acknowledged that disturbance from the balcony has diminished since the application was lodged.
29. If the licensee ensures strict compliance with the plan of management, the amenity of the neighbourhood will be maintained. For these reasons, I have determined the complaint can be finalised and no further action is required under section 81 of the Act.

30. The licensee should note that if instances of non-compliance with the plan of management are detected at the hotel, I may revisit my decision not to impose a plan of management condition.

Date of decision: 29 July 2016



Sean Goodchild
Director Compliance & Operations
Delegate of the Secretary, Department of Justice

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 21 days of the date of this decision, that is, by no later than **19/8/2016**. A \$500 application fee applies. Further information can be obtained from Authority Guideline 2 published at www.liquorandgaming.justice.nsw.gov.au

In accordance with section 36C of the Gaming and Liquor Administration Act 2007 this decision will be published on the Liquor and Gaming NSW website at www.liquorandgaming.justice.nsw.gov.au

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

1. File note of observations conducted by L&GNSW inspectors on 7 August 2015.
2. Section 79 Noise Disturbance Complaint lodged by [REDACTED] received by L&GNSW on 10 August 2015.
3. Submission by Rose Bay LAC dated 3 September 2015 endorsed by Constable Phillip Street and Superintendent Bradley Hodder.
4. Email correspondence from Lands Legal dated 8 September 2015.
5. Email correspondence with Senior Constable Jamie Zahra, Licensing Supervisor of Rose Bay Local Area Command dated 8 September 2015.
6. File note of telephone conversation with L&GNSW and Lands Legal dated 14 September 2015.
7. File note of observations conducted by L&GNSW inspectors at the Hotel on 20 September 2015.
8. Licensee submissions prepared by Lands Legal dated 22 September 2015 attaching an Acoustic Report prepared by The Acoustic Group dated 15 May 2015, an Acoustic Report prepared by The Acoustic Group dated 29 April 2015 and minutes of a meeting between the licensee and the complainants dated 17 September 2015.
9. Email correspondence from Lands Legal regarding correspondence from complainant dated 24 September 2015.
10. Email correspondence from the complainant dated 16 October 2015.
11. Email from Lands Legal regarding the operation of the first floor balcony dated 23 October 2015.
12. Email correspondence from the complainant attaching further submissions dated 29 October 2015.
13. Email correspondence from Lands Legal attaching further submissions dated 16 November 2015.
14. Email correspondence from Senior Constable Jamie Zahra of Rose Bay Local Area Command dated 7 December 2015.
15. Email correspondence from complainant reporting disturbance on 12 December 2015.
16. File note of observations conducted by L&GNSW inspectors at the hotel on 12 December 2015.
17. File note of meeting conducted at the hotel with the new licensee and management and L&GNSW on 7 March 2016.
18. Email correspondence from the complainant providing an update to his complaint dated 12 May 2016.
19. Email correspondence from the complainant providing further submissions dated 24 May 2016.
20. Email correspondence from complainant dated 1 June 2016.

Annexure 2

Summary of key submissions

File note of covert observations at Woollahra Hotel by L&GNSW inspectors conducted on 7 August 2015

On 7 August 2015 at about 8:40pm, L&GNSW inspectors conducted observations at the Hotel from the boundary of the complainant's residence and advised the following:

- No audible noise could be heard from the boundary of the complainant's residence.
- Inspectors entered the hotel and located themselves a short distance from the first floor balcony.
- There were about 10 patrons on the balcony.
- Upon departing from the hotel, inspectors observed the first floor balcony. From this vantage point, minimal noise could be heard emanating from the first floor balcony.

Submission from Rose Bay Local Area Command dated 3 September 2015

NSW Police submitted after reviewing the COPS system in relation to the Woollahra Hotel there was evidence to substantiate the complainant's concerns regarding the behaviour of patrons, the management of the outdoor balcony area of the hotel and the management of the hotel at closing times.

Police noted that some of the reported incidents of disturbance emanate from a period when a previous disturbance complaint was dealt with by L&GNSW. Police advised that they will not comment on the incidents listed relating to the previous complaint.

Police provided evidence in the form of three COPS events that support the complainant's assertions of undue disturbance from patrons departing the Hotel:

- On 3 May 2013 at about 5:00am, Police attended the hotel in relation to a complaint received regarding noise disturbance. Police observed loud music being emitted from the hotel and staff supplying drinks outside authorised hours. The licensee was unaware of the incident until a neighbour contacted him the following morning.
- On 16 June 2013 at about 12:29am, Police conducted a business inspection and drug dog operation at the hotel. Police observed about 550 patrons in the venue at the time. The level of patron intoxication was judged as moderate. Police advised that at one stage, about 60 patrons departed the hotel.
- On 24 August 2013 at about 11:45pm, about 300 patrons were loitering in the immediate vicinity of the licensed premises. Police noted that they appeared to be moderately intoxicated. The patrons were entirely blocking the footpath outside the hotel and causing partial obstruction to vehicular traffic along Queen and Moncur Street. Police advised that enhanced management of the hotel will assist in preventing injury, alcohol related offences and disruption to nearby residents.

Police provided a further six COPS events between 28 July 2013 and 21 June 2014 that provide similar observations of patrons loitering in the immediate vicinity of the hotel that

support the complainant's observations and may likely cause disturbance to the neighbours of the hotel and local community.

Police advised that the hotel would benefit from an updated plan of management and a condition be imposed on the liquor licence requiring the licensee adhere to the plan of management.

File note of covert observations at Woollahra Hotel by L&GNSW inspectors conducted on 20 September 2015

On 20 September 2015 at 6.00pm, L&GNSW inspectors conducted brief covert observations at the hotel during a busy trading period. At this time, inspectors noted that no patrons were on the outdoor balcony. Inspectors note that signage was in place asking patrons to respect neighbours. Inspectors advise that traffic noise was more offensive.

Following covert observations in the Hotel, inspectors conducted observations in the immediate vicinity. Inspectors advised that at the time, about 6:30pm there were two patrons on the outdoor balcony with no noise detected. Inspectors attended the residential boundary and noted that despite live entertainment in the form of a band; no noise could be heard emanating from the hotel.

Submissions from former licensee Mr John Ryan dated 22 September 2015

On 22 September 2015, Mr Ryan's legal representative, Mr Andrew Wennerbom advised his client would consent to the imposition of a plan of management condition on the hotel's liquor licence.

Attached to the submission was the following:

- An updated plan of management dated June 2014
- The result of acoustic testing conducted at the hotel on 24 April 2015. On 29 April 2015, The Acoustic Group prepared a compliant acoustic report indicating that the hotel was compliant with the standard LA10 noise condition on the hotel's liquor licence.
- The result of acoustic testing conducted at the hotel on 9 May 2015. On 15 May 2015, The Acoustic Group provided a compliant acoustic report indicating that the hotel was compliant with the standard LA10 noise condition.
- Minutes from staff meeting at the Woollahra Hotel on 17 September 2015. In the meeting, staff were advised of the hotel's responsibility with regard to the mitigation of noise and disturbance and its requirements to comply with the LA10 noise condition. Staff were reiterated the requirements contained in the Plan of Management and the need for strict oversight of the management of the first floor balcony and patrons loitering in the immediate vicinity of the hotel.

Submissions from former licensee, Mr John Ryan legal representative dated 24 September 2015

On 24 September 2015, Mr Wennerbom provided further correspondence in relation to the previous submission and the subsequent correspondence with the complainant.

Mr Wennerbom advised that the offer to voluntarily impose a plan of management condition was a mechanism to settle the complaint having regard to the previous meetings and discussions with the parties. Mr Wennerbom advised that there was no intention to convey that the complainant had agreed to the condition, however it has been interpreted that way by the complainant and should not be taken to suggest that they agree with the contents.

Mr Wennerbom withdrew the offer to impose the condition on the liquor licence. Mr Wennerbom advised that the former licensee remained committed to communicating with the complainant to see if the matter could be resolved.

Submissions from former licensee Mr John Ryan legal representative dated 23 October 2015

On 24 October 2015, Mr Wennerbom provided further correspondence in relation to the complaint. Attached to the submissions included a copy of a management plan for the first floor balcony and correspondence with the complainant from 1 October 2015.

The plan of management for the first floor balcony stringent procedures to reduce the noise emanating from the first floor balcony, which include:

- Collect empty glasses and crockery from the area;
- Ensure patrons are aware that the balcony is a break out area and that it must be used quietly without patrons lingering for hours;
- Staff to monitor noise levels and issue warnings where appropriate; and
- Security to liaise with staff if excessive noise is identified.

Mr Wennerbom advised that the hotel received a correspondence from the complainant concerning disturbance on 1 October 2015. The Hotel believed that apart from the incident identified by the complainant on 1 October 2015, the disturbance from the first floor balcony is properly managed so not to create disturbance for residents. The Hotel continues to monitor the management of the balcony. Mr Wennerbom noted that despite the sale of the Hotel, the management is committed to resolving the issues of disturbance from the first floor balcony. Mr Wennerbom attached his client's response to the complainant regarding the issues of disturbance enlivened on 1 October 2015.

Submissions received from the complainant dated 29 October 2015

On 29 October 2015, the complainant advised his increasing concerns with the complaint moving forward. The complainant raised concerns with the hotel's submissions, in particular:

- Further enhancements to the plan of management are required including amelioration of noise on the balcony and ensure compliance with the Smoke-Free Environment Act 2000.
- The removal of the dining tables and chairs from the first floor balcony has encouraged patrons to loiter in the area, increasing the noise at virtually all times.
- The hotel is in breach of its requirements under the Smoke-Free Environment Act 2000 requirements prohibiting smoking and dining in the same area.
- Amendments are required to the plan of management to ensure the hotel complied with its legal obligations and to ameliorate noise from the balcony. Mr Wennerbom declined.
- All alcohol consumption or dining is prohibited on the balcony. And that the balcony should be solely used for smoking.
- A self-closing door should be installed between the first floor balcony and first floor the internal area to prevent smoke drift and noise.
- Noise emanating from the first floor balcony had diminished and this was a deliberate strategy of the hotel in anticipation of L&GNSW inspections, observations from NSW Police, in relation to the complaint and/or the hotel wanting to eliminate any operational controversy given the impending sale of the Hotel.
- The acoustic reports provided by the hotel do not address the first floor balcony, just the ground floor gaming room.

Submissions from former licensee Mr John Ryan legal representative dated 13 November 2015

On 13 November 2015, Mr Wennerbom provided an update to discussions held with the complainants. Mr Wennerbom advised that negotiations between the hotel and the complainants had broken down. Mr Wennerbom contends that his client has undertaken negotiations with the complainant in good faith in relation to the noise emanating from the hotel and implemented the relevant changes.

Mr Wennerbom advised the following:

- The former licensee met with Police to discuss the plan of management. When the Police lodged their submission, they were unaware that the plan of management had been updated by the licensee. Following a review of the updated plan of management, Police were satisfied that its adoption was suitable and would not have been raised if Police knew that it had been updated.
- Whilst Police indicated they would seek the imposition of the condition on the licence, that offer was rejected to the complainant when put to him and the offer withdrawn.
- A number of proposals have been put to the complainant on a meeting conducted on 14 September 2015. Mr Wennerbom advised that highlighted that it has been difficult getting to a position of understanding with the complainant, resulting in letters being withdrawn by Mr Wennerbom.
- The plan of management for the balcony appears to be working, irrespective of whether the hotel has elected to trade for fewer hours and have more intensive scrutiny of the use by the staff.
- The complainant cannot complaint about the fact that he has nothing to complaint about from the operation of the balcony. It is clear the complainant is not being disturbed by the operation of the balcony.
- One instance of undue disturbance in a number of months does not equate to undue disturbance.
- The complaint is no longer valid, as no quorum of independent persons exists. No issues of disturbance have been reported from another party or resident in the area.
- The complainant's were advised to engage an acoustic consultant to complete an acoustic assessment to determine whether or not noise was emanating from the hotel.
- The former licensee has negotiated in good faith with the complainant by providing acoustic reports. Mr Wennerbom advised that if the complainant wished to proceed with the disturbance complaint, they must provide an independent acoustic report.
- There is no evidence to substantiate the complaint.

The hotel will continue to operate the existing plan of management and the proposed plan of management for the first floor balcony.

Submissions received from the complainant dated 27 November 2015

On 27 November 2015, the complainant forwarded email correspondence between himself and NSW Police regarding the plan of management and the amendments to the plan.

Email correspondence between NSW Police and the complainant on 7 December 2015

On 7 December 2015, the complainant requested information from Police regarding the plan of management that was discussed in the meeting with the licensee. Police advised that the plan of management determined by the Land and Environment Court decision and the provisions in relation to noise.

Police advised that a business inspection was conducted at the hotel on 28 November 2015 at 10:37pm. The hotel had about 60 patrons, with about 20 patrons seated at tables in the upper outdoor balcony area. Police note that the noise levels in the area were satisfactory. An external patron was conducted and no noise could be heard emanating from the hotel.

Email correspondence between the complainant and Police on 12 December 2015

On 12 December 2015 at about 6:30pm, the complainant contacted Police in relation to patron noise emanating from the balcony area. The complainant noted there it was "stacked with people drinking". The complainant requested Police conduct attend the hotel.

A short time later, at about 8:30pm, the complainant advised Police that the noise had dissipated and there was no need to attend.

Submissions received from the complainant dated 12 December 2015

On 12 December 2015, the complainant provided email correspondence to NSW Police and L&GNSW advising that there were patrons located on the first floor balcony. In response, NSW Police advised that they had attended the hotel to conduct an inspection on 28 November 2015. Police advised that the noise from the area was satisfactory and no external noise could be detected during an external patrol.

File note of covert observations at Woollahra Hotel by L&GNSW inspectors conducted on 12 December 2015

On 12 December 2015 between 7.45pm and 8.10pm L&GNSW inspectors attended the hotel for the purpose of conducting observations. Inspectors observed the following:

- On exit of the vehicle 100 metres away, inspectors could hear 10 patrons chattering, laughing and smoking at the side of the hotel on Moncur Street.
- Some patrons were seen on the outdoor balcony area smoking and drinking.
- Two Security guards were patrolling the front of the hotel.
- There were about 100 patrons downstairs and 150 patrons upstairs in the licensed premises.
- A private function was being conducted in the upstairs area that limited access to the outdoor balcony. However, some patrons still frequented the balcony.
- Inspectors positioned themselves next to the complainant's residence.
- Inspectors noted that noise from patrons exiting the hotel could be heard from the boundary of the complainant's residence and a further 100 metres down the street.
- Vehicular noise from traffic on Moncur Street drowned out the noise from the patrons.

File note of meeting conducted with neighbouring licensed premises and L&GNSW on 7 March 2016

On 7 March at about 11am, a L&GNSW inspector attended a meeting with the licensee and manager of the Hotel as well as the licensees of two neighbouring licensed premises. The licensee of the Hotel advised that since the new proprietors took over in December 2015, the management has made further amendments to the outdoor balcony area including:

- The outdoor balcony is strictly for smoking.
- The balcony area is monitored every 30 minutes to ensure patrons are being respectful to the neighbourhood.
- The courtyard area is now utilised for a smoking area to encourage patrons to smoke in this area, away from the complainant.

The licensee advised he was adhering to the plan of management that was completed by the previous proprietor's, Ryan's Hotels. The hotel has not received any further issues of disturbance since taking over the hotel.

Further issues of disturbance from the complainant dated 12 May 2016

On 12 May 2016 the complainant advised that further disturbance emanating from the Hotel was experienced on 5 May 2016 and 10 May 2016. On 5 May 2016 at about 10:00pm, the complainant noted a large crowd of people screaming and swearing on the balcony. On 10

May 2016, the complainant noted 6 people talking loudly on the balcony at about 10:41pm. The complainant attempted to contact the Hotel on numerous occasions in relation to noise and swearing from the hotel. The telephone calls were ignored by the staff and went straight to the message machine. The complainant had to walk across the street and complain to hotel staff. The complainant noted that he observed a patron bringing drinks onto the balcony area at 10:45pm, contrary to the requirement of the plan of management to close the area by 10:30pm.

The complainant asserted his intention to provide a comment on the submission from Mr Wennerbom dated 13 November 2015.

Submissions received from the complainant dated 23 May 2016

On 23 May 2016, the complainant addressed the points raised in Mr Wennerbom's letter of 13 November 2015. The complainant contested the information contained in the letter advising the following:

- Mr Wennerbom's letter was to "poison the well" with respect to the complainant in the eyes of the L&GNSW, in particular, in the event that further complaints were lodged sometime in the future.
- The condition plan of management requires approval by Woollahra Council.
- The claims that the complainant's comments on the plan of management are out of date are baseless and incorrect as a matter of fact.
- The plan of management for the first floor balcony are elementary practices that if implemented in the first place, the Police submission would not have been so caustic in their comments and the complaint would not have been lodged.
- The Police submissions substantiate a level of disturbance emanating from the hotel from the COPS events.
- There has been no correspondence between the complainant and Mr Wennerbom in relation to obtaining an independent acoustic report. In fact, the acoustic reports provided by the hotel address the ground floor gaming room and not the problematic first floor balcony.

The complainant attached correspondence he had with NSW Police from 7 December 2015. In the correspondence, the complainant reiterated his concerns regarding noise emanating from the first floor balcony and the plan of management.

Submissions received from the complainant dated 1 June 2016

In 1 June 2016, the complainant forwarded correspondence from fellow resident advising of disturbance from patrons congregating in the immediate vicinity of the hotel. The correspondence advises the Hotel that on 27 May 2016, the resident observed one security guard attempting to deal with patrons in the immediate vicinity. The resident notes this is contrary to the plan of management provisions.

The complainant notes that other residents experienced noise from patrons of the hotel after midnight on 27 May 2016. Residents in the immediate hotel vicinity experience noise from patrons spilling out onto the road at closing time. The complainant and the fellow resident raised concerns on the security requirements in the plan of management and the hotel's compliance with them. The complainant and resident question the ability of security to handle patrons.

