



DOC24/090192

A23/0027803

COMPLAINANT:	██████████
LICENSED PREMISES:	Greyhound Social Club Limited – LIQC300227545
ISSUES:	Whether the quiet and good order of the neighbourhood of the licensed premises is being unduly disturbed.
LEGISLATION:	<i>Liquor Act 2007</i>

SECTION 81 DECISION

Under Section 81 of the *Liquor Act 2007* (the Act) I, Jane Lin, Executive Director, Regulatory Operations & Enforcement, a delegate of the Secretary, Department of Enterprise, Investment and Trade, in relation to the complaint made in respect to the Greyhound Social Club Limited, Yagoona – LIQC300227545 (the Club) have decided to **impose a condition** on the licence in relation to LA10 noise criteria.

The details of this condition, including effective date, is outlined in **Annexure 1**.

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 (including harm arising from violence and other anti-social behaviour),
 - b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - 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, and;
 - d) the need to support employment and other opportunities in the -
 - (i) live music industry, and
 - (ii) arts, tourism, community and cultural sectors.

The complaint and background information

The complaint

5. On 12 December 2023, [REDACTED] (the Complainant) of [REDACTED] [REDACTED] lodged a complaint with Liquor & Gaming NSW (L&GNSW) alleging undue disturbance from the operation of the Club. The Complainant lodged the complaint as a resident authorised by three other residents.
6. The Complainant alleges that the Club holds events with extremely loud music and bass that can be heard from any room within neighbouring households. The Complainant submits these events are nightclub style in nature and are so loud they cause doors and windows to shake. Further, the sound from these events is alleged to cause sleep disruption, anxiety, and stress to neighbours. The Complainant alleges disturbance occurs every week, predominantly on Wednesday, Friday, and Saturday nights.
7. The Complainant submits that after contacting the Club in November 2023 to raise the issue of the loud bass and music, staff advised they are now hosting Vietnamese karaoke every Wednesday, Friday, and Saturday and that they would monitor noise from the Club. In the days following this advice from the Club, however, the Complainant submits that the disturbance was noticeably worse and continued later into the evening.

8. The Complainant states they met with a member of Bankstown Council (Council) who agreed the noise from the Club was offensive. This Council member advised the issue should be raised with L&GNSW, as the Club's development consent does not contain any noise control measures that Council can enforce.
9. To support the complaint, the Complainant provided videos of noise emanating from the Club and a logbook of dates and times of alleged disturbance between 25 September 2023 and 10 December 2023. The Complainant's desired outcome from this complaint is that events involving loud music and bass are no longer held at the Club and that music and bass from the Club is no longer heard by neighbouring residents.

The Club licence details, compliance history

10. The Club is located at 140 Rockwood Road, Yagoona. The Club Secretary is Mr Michael Ekert, who commenced in his role on 22 December 2015. The Club holds unrestricted consumption on premises trading hours and has three licence conditions relating to the Club's non-restricted area authorisation and club functions authorisation. Conditions 210 and 220 concern use of the club functions authorisation and relate to security and patrols when the authorisation is used.
11. L&GNSW records indicate that prior to this complaint, the Club last received noise complaints in late 2018 and early 2019. Between mid-December 2018 and February 2019, L&GNSW received multiple complaints from residents residing on [REDACTED] [REDACTED] alleging disturbance from loud music at the Club every Friday and Saturday night and anti-social behaviour from patrons leaving the Club, including patrons consuming liquor in the Club's carpark until the early morning.
12. In response to the complaints, the Club undertook acoustic testing to assess levels of noise during events held on Friday and Saturday nights between 10:00pm and 3:00am. On 8 March 2019, the Club Secretary provided L&GNSW with an acoustic report titled *Arena Sports Club Late Night Events – Acoustic Assessment Report*, prepared by Pulse Acoustic Consultancy and dated 6 March 2019 (the 2019 Acoustic Report).
13. In addressing the above complaints, L&GNSW inspectors attended the Club on 9 March 2019 and conducted a covert inspection. On the night of the inspection two nightclub style events, including a DJ set up, were held. Inspectors observed that loud bass music emanating from the Club was audible from 50 metres away. Due to an incident involving patrons being refused service and a police officer assaulted, the Police riot squad was called to the Club to manage patrons.

14. As a result of this incident, a meeting was held on 15 March 2019 between the Club Secretary and L&GNSW inspectors at the office of L&GNSW. The Club Secretary informed inspectors that no further late-night disco events would be held due to the difficulty in managing patrons attending these events.
15. No further action was taken in relation to the complaints as the Club ceased holding the nightclub style events that were the source of noise complaints. Following the Club's decision, no further noise complaints were lodged until this complaint was made.

The 2019 Acoustic Report

16. The 2019 Acoustic Report details the result of noise monitoring at the Club when a late-night event was held. It also provided context to the Club's layout and location, being in a low-density residential zone with the nearest affected residences located along [REDACTED] [REDACTED] which borders the Club on one side. The Club also borders the greyhound racing course which falls under public recreation zoning.
17. It noted that on the night of testing (16 February 2019) approximately 350 patrons attended the event, and a speaker system was used to play dance music. It also noted these events were routinely held on Friday and Saturday nights and included dance parties that typically attracted approximately 350 patrons.
18. Noise levels were assessed at the neighbouring residences of [REDACTED] [REDACTED] against the standard LA10 noise criteria adopted by L&GNSW.
19. The 2019 Acoustic Report identified that noise emissions from the nightclub event resulted in exceedances of both the pre- and post-midnight LA10 noise criteria at all three measurement locations. It was noted that noise emissions from this event mostly consisted of noise break-out from the building envelope of the Club due to dance music played inside the club lounge area.
20. The 2019 Acoustic Report provided measures to be considered by the Club:
 - Installation of a noise limiter to mitigate noise break-out emissions through the building envelope of the sports Club.
 - Architectural treatment of the building envelope aiming to improve its existing sound insulation.
 - Conducting all late-night events in the club lounge.

- Doors and windows should remain closed during the operational hours of the Club, particularly if music is played back through a PA/speaker system and during late night events.

Submissions

21. Between 13 January 2024 and 7 April 2024, various material was received from the parties to the complaint, including the Complainant, the Secretary, Police, and Council. The material before the delegate is set out in **Annexure 2** and is summarised below.

Council submission

22. A submission was received from Council on 13 January 2024.
23. Council advised the site on which the Club is located has a history of non-residential uses, including operating as a greyhound social club. The site benefits from existing use rights under the provisions of 4.65 of the *Environment Planning and Assessment Act 1979* and Council has no record of a development consent issued for the operation of the premises as a club. As such, Council submits there are no development conditions relating to the manner in which the Club trades and operates, including noise restrictions and operating hours.
24. Council advised the last noise complaint it received was on 20 October 2023. The complaint concerned nightclub style events on Friday and Saturday nights, with some events also on Monday and Thursday nights, and extremely loud music and bass that emanated from the Club until the early hours of the morning.
25. A Council compliance officer raised these concerns with Club management on 31 October 2023. In response, the Club Manager refuted allegations the Club was having nightclub style events and advised karaoke nights were behind held on Saturday nights from 7:30pm to 11:30pm and boxing classes on Friday nights from 6:30pm to 10:30pm.
26. In addition, the Club Manager advised that over the previous few weeks cultural events were taking place on Friday and/or Saturday nights that involved amplified music, however this music was not considered to be excessive. They advised these events finished around midnight.
27. Council submits that on 6 November 2023, Council forwarded an email to the Club Manager requesting information on how the Club manages amplified music during events and any noise management policies. Council advised that, as of 3 June 2024, no response has been provided to Council.

Police submission

28. On 24 January 2024, Bankstown Police Area Command provided a submission outlining the following.
29. Police submit a review of licensing files located an acoustic report from 2019 prepared by Pulse Acoustic Consultancy. Also located was a letter from the Club addressed to neighbours in 2019 that advised of steps taken to manage noise and a plan of management from 2022 that indicated karaoke events would be held at the Club until 11:15pm on Saturday nights.
30. Police submit that following a review of the Police COPS and CAD systems for noise related issues at the Club over the last 12 months, only two incidents were identified. A business inspection was conducted in November 2023 with no noise concerns raised. Also in November 2023, a complaint was made to Police regarding loud noise from the Club. When Police were able to attend the Club it was closed and no noise was heard.

Club submission

31. On 30 January 2024, the Secretary of the Club provided a submission.
32. The Club Secretary advised the Club was founded and built on the current premises site in 1964 and operates greyhound racing through Greyhound Racing NSW as well as other activities including 'Karaoke Saturday Nights', functions in the auditorium for Vietnamese cultural events, boxing, and kick boxing. Current trading hours for the Club were advised to be 11am to 1am, Tuesday to Saturday, and the Club is closed on Sunday and Monday as has been the case since early 2020.
33. The Club Secretary stated the Club had engaged acoustic engineers (██████████) to conduct acoustic testing and to assess noise levels as suggested by L&GNSW. They further stated that once the engineer's final report is completed it would be provided to L&GNSW.
34. The Club Secretary also advised the Club would maintain a complaint noise register to help identify the source of any disturbance and timely remedial action.
35. On 26 February 2024, L&GNSW sent an email to the Club Secretary requesting an update on the planned acoustic testing mentioned in the Club Secretary's submission and timeframe for the provision of an acoustic report.

Complainant additional material

36. On 1 March 2024, the Complainant advised that there had been no improvement in noise since the disturbance complaint was lodged. Further, the Club was continuing to host events involving very loud bass. A major concern raised by the complainant was the noise disturbance on Wednesdays, which continued until after 11pm and impacted residents' sleep before work or school the next day. The loud bass was noted as being audible in all rooms, even with windows and shutters closed.
37. The Complainant provided three additional videos and an updated log of alleged disturbance from Friday 12 January 2024 to Wednesday 28 February 2024.

Further submission from the Club

38. L&GNSW sent two further follow up emails to the Club Secretary on 1 March 2024 and 14 March 2024 requesting information regarding any results of planned acoustic testing.
39. On 14 March 2024, the Club Secretary provided an update, stating that three quotes had been requested and that one of the companies had already completed an assessment for the Club in 2019. The Club Secretary provided a copy of the 2019 Acoustic Report and stated that due to Covid, the Club hasn't had any activity until last year.
40. The Secretary further advised there may already be a way to 'improve the situation on page 17 (Conclusion)'. This page of the 2019 Acoustic Report details acoustic measures the Club may consider implementing.
41. On the same day, L&GNSW emailed the Club Secretary with the additional complaint information received from the Complainant on 1 March 2024, including the videos and disturbance log provided. L&GNSW requested the Club Secretary provide confirmation by 21 March 2024 on whether any of the acoustic measures listed in page 17 of the 2019 Acoustic Report had been implemented or were intended to be implemented as well as any other comments in relation to the complaint.
42. On 21 March 2024, a follow up email was sent to the Secretary as no response was received to the previous email sent on 14 March 2024.
43. As of the date of this decision, the Secretary has not provided any further submissions and not advised whether any of the measures listed in the 2019 Acoustic Report were implemented or are to be implemented.

Further complaint material/social media review

44. On 12 April 2024, the Complainant contacted L&GNSW advising there were still no signs of improvement from the Club with continued disturbance and loud bass. The Complainant provide a log of alleged disturbances from 6 March 2024 to 10 April 2024.
45. The Complaint also provided links to Facebook pages advertising events at the Club, including a band advertised to perform.
46. A review of the Club's Facebook page indicates events held in 2023 included performances by live bands and involving amplified music. A video uploaded to the Club's Facebook page on 20 October 2023 depicts a live band performing on a stage with a number of speakers used. Further, there is an area for patrons to dance in front of the stage and there is also a seated area for patrons to consume meals and drinks. Another post uploaded on 12 November 2023 advises of a weekly live music event, every Wednesday night, with a Vietnamese band starting from 7.30pm. While there have been no posts in 2024 advertising live music, the page has advertised bingo every Wednesday and karaoke every Saturday night.

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

47. The Act requires that the Secretary or delegate have regard to the following statutory considerations:

The order of occupancy between the licensed premises and the Complainant

48. The Club has operated under the current liquor licence since 13 September 1967. The Complainant has resided at their current address for approximately 33 years before making the disturbance complaint. These facts are not disputed, and I consider the order of occupancy is in favour of the Club, though acknowledge the Complainant has resided at their address for a significant period.

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

49. The Complainant advised of their home [REDACTED] as the only change to their residence.
50. There is no material to suggest changes have been made to the Club premises, including structural changes.

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

51. The Complainant claims the Club has introduced events involving amplified music. It appears events involving music and amplified entertainment were previously held, as far back as in 2018. These events appeared to be cultural in nature but also consisted of amplified entertainment. In 2019, the Club Secretary determined to cease holding these types of events.
52. The Club Secretary's submission advised that 'activity' has resumed following Covid and it appears the Club has recently resumed hosting amplified entertainment, including karaoke nights and cultural events. The Club Secretary has provided limited information on how these events operate. Based on the material provided by the Complainant and review of the Club's Facebook page it appears this entertainment extends to live bands and performers.

Findings and Decision

Undue disturbance

53. In deciding whether the Club has unduly disturbed the quiet and good order of neighbourhood, I have balanced the submissions made by the Complainant, the Secretary, Police, and Council.
54. It is to be expected that a certain level of noise will be generated from the normal operation of the Club, including noise from entertainment, patrons, and pedestrian traffic. I do not regard this type of disturbance as undue in a general sense. However, I am satisfied that there is sufficient evidence before me to reasonably conclude the Club has, at times, unduly disturbed the quiet and good order of the neighbourhood.
55. I acknowledge there is a lack of objective evidence from Police and Council regarding undue disturbance. However, in reaching a conclusion that there has been undue disturbance, I have considered the complaint material, the nature of the entertainment offered by the Club and its close proximity to residences. I have also considered the findings of the 2019 Acoustic Report which identified exceedances of the LA10 noise criteria when the Club held amplified entertainment. No evidence has been provided to suggest that any measures, including those recommended in the report, have since been undertaken to mitigate noise.
56. While the acoustic report is several years old and relates to acoustic testing during nightclub style events which have ceased, I find its results are still relevant in the context of the current entertainment offered at the Club. While the Club claims to have ceased

holding nightclub style events following the 2019 Acoustic Report, activities of a similar sound profile have more recently resumed, including karaoke nights and cultural nights that involve live bands and amplified music. I also note this complaint, like previous noise complaints relating to nightclub events, concerns bass noise emanating from the Club. Therefore, it is appropriate that the exceedances noted in the 2019 Acoustic Report be taken into consideration here.

57. On the balance of the material before me, I am satisfied the Club has at times caused undue disturbance to the neighbourhood.

Regulatory Outcome

58. In deciding the appropriate regulatory outcome in this instance, I have considered the statutory considerations, the material set out in Annexure 1, and the above finding of undue disturbance. I acknowledge the order of occupancy is in favour of the Club and that the Club has resumed entertainment activities following a pause attributed to Covid. It is evident the resumption of entertainment activities involving live and amplified music coincides with noise complaints again being lodged.

59. While it was encouraging that the Club Secretary initially indicated acoustic testing would take place, there is no evidence that further testing has occurred. Instead, the Club Secretary has presented the 2019 Acoustic Report and referred to the acoustic measures within as offering a solution to the disturbance complaint. However, it appears that none of those measures have been implemented by the Club despite the passing of some five years since the report was provided.

60. I note the Club Secretary's response to this matter has been limited and delayed. The submissions do not address any of the allegations in the complaint, nor dispute them. Further, the Club Secretary has not advised how noise from live and amplified music is managed and whether any of the acoustic measures listed in the 2019 Acoustic Report have been implemented or are to be implemented. Similarly, Council in its submission note that at the time of its submission, the Club was yet to provide a response to its enquiries as to how the Club manages amplified music during events and if any noise management policies in place.

61. While I acknowledge the need to support live music at licensed premises, I am not satisfied the Club has taken this complaint seriously or attempted to implement any measure to manage and mitigate disturbance. Since this complaint was lodged, L&GNSW continues to receive complaints relating to noise from the Club with the Complainant

submitting there have been no changes to noise levels emitted from the Club and disturbance continues on a weekly basis.

62. Given the finding of undue disturbance and my concerns of continued disturbance to the neighbourhood, I find the imposition of a licence condition to be a reasonable and appropriate measure in the circumstances.
63. In my opinion, an LA10 noise condition is appropriate in the circumstances and will help ensure the Club does not continue to unduly disturb the neighbourhood. This condition does not prohibit or limit the type of entertainment or events that can be held at the Club. Instead, this condition sets a limit which noise from the Club cannot exceed. The 2019 Acoustic Report demonstrated exceedances of this criteria and imposing an LA10 noise condition will provide consequences for future exceedances. This includes the potential for enforcement action and further regulatory intervention to be taken.
64. I have also considered imposing a noise limiter condition. This condition would require any amplified entertainment is under the control of a limiter and serves to ensure noise levels are within the LA10 noise criteria. I have considered this alongside the 2019 Acoustic Report which presents a variety of acoustic measures for the Club to consider implementing in order to ensure compliance with the LA10 noise criteria. Such measures include hosting late night events in the Club lounge, closing doors and windows when music is played, treatment of the building to improve sound insulation and the installation of a noise limiter.
65. It is reasonable to consider that the implementation of these measures would assist the Club in reducing noise emissions to appropriate levels without the cost of installing a noise limiter. On this occasion, I have therefore determined not to impose a noise limiter condition, but instead provide the Club with the opportunity to voluntarily implement measures to manage and mitigate noise from amplified and live music. I also urge the Club to engage with an acoustic consultant once measures have been implemented to further assess noise emissions from the Club.
66. The Club should be aware that if fresh and direct evidence is presented demonstrating continued disturbance and poor management of noise, it is open for regulatory intervention to occur, including in relation to any breaches of the LA10 condition or the imposition of additional licence conditions.

67. I am satisfied this decision is a proportionate and appropriate regulatory response to the complaint and the strength of evidence on hand.

Decision Date: 4 June 2024

A handwritten signature in black ink, appearing to read 'Jane Lin', is positioned below the decision date.

Jane Lin

Executive Director, Regulatory Operations & Enforcement

Liquor & Gaming NSW

Delegate of the Secretary of the Department of Enterprise, Investment and Trade

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 **2 July 2024**. 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

Under section 81 of the *Liquor Act 2007* a delegate of the Secretary of the Department of Enterprise, Investment and Trade has imposed the following conditions on the liquor licence of:

Greyhound Social Club Limited - LIQC300227545

LA10 Noise Criteria

The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.

The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence.

*Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.

Date condition effective: 5 June 2024

Annexure 2

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

1. Section 79 Disturbance Complaint lodged by the Complainant on 12 December 2023.
2. Acoustic Report prepared by Pulse Acoustic Consultancy and dated 6 March 2019.
3. Submission from Council received on 13 January 2024.
4. Submission from NSW Police received on 24 January 2024.
5. Submission from the Club's Secretary received on 30 January 2024.
6. Additional information received from the Complainant on 1 March 2024.
7. Further information from the Club's Secretary received on 14 March 2024.
8. Further information received from the Complainant on 12 April 2024.
9. PDF prints of the Club's Facebook page ken on 2 May 2024.
10. Copy of the liquor licence for the Club dated 2 May 2024.