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**DRAFT WRITTEN REPRESENTATIONS**

**LICENSING ACT 2003**

**APPLICATION FOR REVIEW OF PREMISES LICENCE PL0019**

**BELOW DECKS, 3–4 BEACON QUAY, TORQUAY, TQ1 2BG**

**WRITTEN REPRESENTATIONS ON BEHALF OF BOLD AYRES LIMITED**

Prepared for the Licensing Sub-Committee

Draft for client and expert approval

## 1. Introduction

**1.** These representations are submitted on behalf of Bold Ayres Limited, the holder of premises licence PL0019 in respect of Below Decks, 3–4 Beacon Quay, Torquay, TQ1 2BG (the "Premises").

**2.** Bold Ayres Limited recognises the importance of the four licensing objectives and takes the concerns raised by the Licensing Authority seriously. It does not contend that every aspect of its historic operation has been beyond criticism. On a limited number of particularly busy occasions, arrangements for managing persons in the harbour roadway and surrounding shared space could have been more effective. The company acknowledges those shortcomings and has already taken practical steps to address them.

**3.** However, the company does not accept that the material relied upon establishes persistent or serious failures by Below Decks, or that every complaint can reliably be attributed to the Premises. Much of the evidence is historic, some allegations are internally inconsistent or unsupported by objective measurements, and the harbour is a busy leisure destination containing several licensed premises, public spaces, marine activity and other potential sources of sound and congregation.

**4.** The Sub-Committee is respectfully invited to distinguish between established facts, uncorroborated allegations, historic matters which have already been addressed, and activity caused by other businesses or members of the public in the wider harbour area.

**5.** The company has engaged constructively with the Licensing Authority and Harbour Authority, introduced additional supervision and record-keeping, engaged SIA-licensed security for all major music nights, and intends to submit further noise evidence in advance of the hearing. It is also willing to volunteer further clear, proportionate and workable conditions where these are shown to be necessary for the promotion of the licensing objectives.

**6.** The company respectfully submits that suspension, revocation, a general prohibition of outdoor entertainment, removal of off-sales, or other onerous restrictions are neither necessary nor proportionate on the evidence presently available.

## 2. The Premises, management and location

**7.** Below Decks is operated by Bold Ayres Limited. Kevin Shadbolt is the director most closely involved in the day-to-day and operational management of the Premises. Julie Shadbolt is the Designated Premises Supervisor.

**8.** The Premises is situated within a busy harbour and leisure area. It is not located within a conventional residential street or predominantly residential neighbourhood. The surrounding environment is used by tourists, ferry passengers, boat owners, neighbouring hospitality businesses, visitors and members of the public. That context does not relieve the company of its responsibilities, but it is material when considering the source, character and attribution of alleged noise or public-area activity.

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**9.** The area is multi-use and publicly accessible. Other licensed venues and leisure activities operate around the bay. Persons may purchase alcohol from other businesses, arrive with their own drinks, gather in public areas, or be present for reasons unconnected with Below Decks. It would therefore be unsafe to infer, without supporting evidence, that every person, glass, noise source or incident observed in the wider harbour area originated from the Premises.

**10.** Bold Ayres Limited has held the premises licence since 27 July 2021. The review material records no complaints between July 2021 and June 2023. The current licence authorises live and recorded music indoors and outdoors, with outdoor music ending by 22:00, together with the sale of alcohol for consumption on and off the Premises.

**11.** Live bands ordinarily perform between approximately 19:00 and 21:00 on Fridays and Saturdays. During winter, music is generally held indoors. The company's experience is that, when music is indoors, it cannot be heard outside the Premises. The company intends to provide witness and/or expert evidence in support of that position in advance of the hearing.

## 3. Overall response to the review

**12.** The company accepts that there have been isolated occasions when the roadway was not kept as clear as it should have been, and that historic arrangements sometimes relied too heavily on staff reacting when vehicles approached. It also accepts that particular events attracted more people than anticipated and placed pressure on the shared external space.

**13.** Those acknowledgements are not an acceptance of the wider proposition that Below Decks has routinely permitted dangerous overcrowding, caused a statutory or public nuisance, or been responsible for all disorder, glassware or noise reported in the harbour. The evidence must be considered incident by incident and against the physical and commercial context of the bay.

**14.** The company has already taken material steps to mitigate and resolve the matters raised, including:

- engaging an SIA-licensed door supervisor on all major music nights and considering risk-based SIA deployment for other busy or special events;
- monitoring the external area and roadway more actively;
- carrying out sound checks from four separate locations around the area;
- keeping written noise-monitoring records;
- adjusting speaker positioning and direction in response to prevailing conditions and experience;
- using cameras and other monitoring measures;
- preparing a management plan dealing with customers, security, licensed boundaries, furniture, vessels, pedestrian routes and emergency access; and
- preparing to engage a suitable noise expert to carry out a noise assessment and provide expert evidence.

**15.** These are not merely proposed measures. A number are already in operation. The company accepts that the most persuasive evidence will be contemporaneous records and will provide the available noise logs, security records, and relevant photographs with or before the hearing.

## 4. Evidential position on noise

**16.** The company does not dismiss genuine concerns about noise. It accepts that sound can travel differently according to wind direction, weather, speaker orientation, frequency and local topography.

**17.** These factors make objective attribution particularly important. The mere fact that music can be heard somewhere within or beyond the harbour does not, without more, establish that it came from Below Decks, exceeded an appropriate level, or caused a nuisance warranting further restrictions.

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**18.** The opposing case appears to rely in material part upon complaints rather than a consistent body of calibrated acoustic evidence. Some complaints were not supported by completed diaries, recordings, measurements or follow-up information. Some complainants were located a significant distance from the Premises. The material has also acknowledged the possible contribution of other venues.

**19.** The bay contains several potential contributors to ambient and entertainment noise. It is a busy leisure area, rather than a quiet residential enclave. The Sub-Committee is respectfully invited to avoid treating Below Decks as the default source where the available evidence does not identify the source, duration, level or character of the sound with sufficient reliability.

**20.** The company's own checks are undertaken from four locations and are recorded. Earlier measurements supplied to officers were regarded as reasonable or not within the high-end range. The company has also changed speaker positioning and direction where appropriate.

**21.** The company intends to obtain independent expert evidence to consider speaker orientation, sound propagation, wind and topography, suitable monitoring positions, appropriate operating controls, and whether a limiter or alternative technical controls are necessary and workable. This report and, if required, oral evidence will be provided to the Sub-Committee.

**22.** The company is willing to maintain recorded checks at agreed monitoring locations, ensure that an authorised manager can reduce or stop music promptly, control visiting amplification equipment, and retain a record of complaints and responsive action.

## 5. Chronology and response to individual matters

### July 2021 to June 2023

**23.** Bold Ayres Limited became the premises licence holder on 27 July 2021. The review material records no complaints concerning the Premises between July 2021 and June 2023. That period is relevant when assessing whether the later incidents demonstrate an inherent or persistent inability to operate responsibly.

### June 2023

**24.** Events in June 2023 identified areas in which crowd management and the use of external space could be improved. The company does not accept every characterisation placed upon those events, but acknowledges that arrangements could have been more robust. Following discussion with officers, entertainment was repositioned, the use of plastic vessels was addressed and noise checks were commenced.

### 29 July 2023

**25.** The company does not accept that the complaint of 29 July 2023 proves that outdoor music continued until 23:00. Its understanding is that outdoor music was required to end by 22:00 and that this requirement was observed. Given the age of the allegation, the Sub-Committee is asked to place appropriate weight on the absence of contemporaneous objective evidence establishing otherwise.

### 30 March 2024

**26.** The company acknowledges that a mobile bar was used outside the licensed area without the required Temporary Event Notice. This was a mistake arising in the context of an altered event layout and unexpectedly high attendance. The company apologised and took advice. It has not treated that incident as permission to repeat the arrangement.

**27.** The company also acknowledges that the event placed pressure on stewarding and the available supply of plastic vessels. It does not, however, accept that the incident establishes an ongoing

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disregard for the licensing objectives. Contemporaneous noise readings supplied by the company were considered reasonable by the licensing officer.

### 6 July 2024

**28.** The company disputes that the complaint relating to 6 July 2024 establishes that outdoor music continued beyond the permitted time. The company maintains, consistently with its earlier statement, that the music did not exceed the permitted sound levels or continue beyond the permitted time. The Licensing Authority subsequently thanked the company for its response and due diligence. The original log and any available event records should be considered alongside the complaint.

### 3 August 2024

**29.** The company accepts that people were present in the road and on public seating. It does not accept that all persons, alcohol or vessels in the public area were attributable to Below Decks. At that time the licence authorised off-sales, customers had been supplied with plastic vessels, and the wider area remained open to customers of other venues and members of the public.

### August 2024 noise complaints

**30.** Complaints associated with Livermead and Park Hill Road were not supported by completed noise diaries or adequate follow-up evidence and were closed. The company does not suggest that no concern could have been experienced, but submits that these historic, uncorroborated complaints cannot safely establish a breach by Below Decks, particularly given the distance, wind effects and other potential noise sources.

### April 2025

**31.** A SWISCo officer reported hearing music near the Princess Theatre which was believed to emanate from Below Decks. The company does not challenge that the officer heard music, but notes that the supplied material does not include a calibrated measurement or a technical assessment demonstrating that the licence condition was breached or that the sound amounted to a nuisance.

### May 2025

**32.** The company disputes that the May 2025 complaints, taken without sufficient objective measurements or completed diaries, establish a breach. The Licensing Authority itself raised questions about attribution from the locations concerned. The company's monitoring did not indicate readings in the high-end range.

### 11 May 2025

**33.** The company accepts that persons were present in the roadway when an incident involving a skateboarder occurred and recognises the seriousness of keeping access routes clear. It does not accept, on the present evidence, that the accident was caused by a Below Decks customer or any act of the company. It nevertheless accepts that more active supervision could have reduced the general risks associated with persons congregating in the roadway. However, responsibility for policing or managing the wider harbour area does not rest with Below Decks, particularly where individuals are not customers of the premises or their presence and conduct cannot reliably be attributed to its operation.

### 23 July 2025

**34.** Following engagement with the Licensing Authority, a minor variation was granted on 23 July 2025 requiring a nominated member of staff to monitor customers outside, keep the road clear, and monitor

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and record noise. The company's agreement to that variation demonstrates a willingness to respond constructively rather than resist reasonable regulation.

### July 2025

**35.** A photograph taken in July 2025 showed persons standing in the road. The company acknowledges that the result was not satisfactory, while noting that a still image cannot establish duration, customer origin, staffing action before or after the image, or the overall scale of the event.

### August 2025

**36.** The company attempted to identify a managed area within the widened portion of the roadway as a means of reducing unmanaged congregation. The proposal was intended to relieve road pressure, not evade conditions. The company now recognises that the road must remain clear and does not rely upon that attempted arrangement as compliance. It does rely upon it as evidence that management was actively seeking a practical solution in a difficult multi-use space.

**37.** The company also explored placing tables and chairs outside neighbouring buildings after their operating hours to draw people away from the roadway. That proposal was not accepted by the relevant authority. The company does not contend that the proposal determines this review, but it is relevant to its willingness to explore solutions rather than ignore the problem.

### 25 April 2026

**38.** The Licensing Authority's review of approximately 30 minutes of CCTV showed smaller groups in the road rather than the extensive overcrowding alleged. Staff were seen serving and collecting vessels. The footage also showed a vehicle manoeuvring around a group and staff not directing that group away at the relevant moment. The company accepts that supervision could have been more effective, but disputes broader allegations not borne out by the footage and reiterates that responsibility for policing or managing the wider harbour area does not rest with Below Decks, particularly where individuals are not customers of the premises or their presence and conduct cannot reliably be attributed to its operation.

### 20 June 2026

**39.** The company accepts that the event on 20 June 2026 was unusually busy and that the arrangements did not prevent people from standing, sitting, drinking or dancing in the road. That was a genuine shortcoming. The company does not, however, accept that every person, item of glassware or alcoholic drink shown can be attributed to Below Decks, particularly where the material itself refers to alcohol apparently brought from elsewhere.

**40.** The company accepts that a popular event may attract persons into the wider public area and has treated that as a foreseeable management consideration. Following the incident, it reviewed its arrangements and introduced additional controls, including SIA-licensed security provision for all major music nights and enhanced monitoring.

### 1 July 2026

**41.** A complaint included allegations of drug-taking and fighting. The material presently available does not include the referenced video or other reliable corroboration establishing that the alleged conduct occurred, involved customers of Below Decks, or was caused by the operation of the Premises. The company therefore asks that these allegations are not treated as established facts.

**42.** Notwithstanding that evidential position, the company takes crime, disorder and safeguarding seriously. Since July 2026, it has introduced enhanced incident monitoring and record-keeping,

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installed additional CCTV cameras, taken proactive measures to deter and respond to fighting, and strengthened its controls to prevent underage drinking. These measures form part of the company's commitment to responsible operation and should not be regarded as an admission that the uncorroborated allegations are established. No further incidents have been reported since their implementation.

### 1 August 2026

**43.** The company accepts that tables and chairs obstructed the ferry route. Its understanding is that this arose from the actions of a new member of staff. The company acknowledges that staff training and supervision remained its responsibility and has addressed the need for clear authorised boundaries and management oversight.

### August 2026 and subsequent measures

**44.** Following the August incident and wider discussions, the company prepared a management plan addressing customer supervision, security, authorised boundaries, furniture, vessels, pedestrian routes and emergency access. It has also implemented sound checks from four locations, maintained noise records, engaged SIA supervision on all major music events, and increased the documentation of security and safeguarding measures.

**45.** The company will provide available implementation evidence, including the revised management plan, SIA deployment records, noise logs, policy documents, event risk assessments and photographs of the current layout.

## 6. Current and proposed operating measures

### Event planning and capacity

- Risk assessments will be used and implemented for events.
- Events will be managed so that the anticipated attendance can be accommodated within the authorised areas. Where safe capacity is reached, management will take proportionate steps to restrict entry or service and protect access routes.
- The company disputes historic estimates which it considers exaggerated.

### Roadway, ferry and emergency access

- The roadway, ferry route and emergency access will be actively monitored and kept clear.
- A named external-area supervisor will be identified for relevant events and given sufficient authority and time to perform that role.
- SIA-licensed supervision is already used on major music nights. Further deployment will be risk-based and may be volunteered as a condition if the wording is proportionate, clear and operationally workable.
- The company will continue to engage with the Harbour Authority over practical layout measures which reduce pressure on the shared space.

### Crime, disorder and protection of children

- CCTV and active monitoring will be used to identify and respond to disorder.
- Incidents and management interventions will be recorded.
- Staff will monitor age and apply the Premises' age-verification arrangements to prevent underage alcohol sales and consumption, in accordance with the Challenge 25 procedure.
- SIA personnel and management will be briefed on intervention, refusal, ejection and escalation procedures.

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### Vessels and external alcohol

- During outdoor entertainment, suitable plastic, paper, toughened-glass or polycarbonate vessels will be used in accordance with the final agreed condition and risk assessment.
- Sufficient stocks will be maintained for the anticipated attendance.
- External sweeps and collections will be undertaken.
- The company opposes complete removal of off-sales. Other nearby businesses may continue to supply takeaway alcohol, making a Below Decks-only prohibition both commercially prejudicial and of limited effectiveness in controlling drinks present in the public area.

### Noise management

- Outdoor music will end by 22:00. In practice, bands ordinarily perform between 19:00 and 21:00 on Fridays and Saturdays.
- During winter, music is generally held indoors. The company's position is that indoor music is not audible outside, subject to confirmation by the noise expert and supporting evidence.
- Sound levels will continue to be checked and recorded from four identified locations.
- Speaker position and direction will be managed having regard to wind direction and expert advice.
- A responsible person will have authority to require an immediate reduction in volume or cessation of entertainment.
- Any noise limiter or technical condition should be informed by appropriate expert evidence, including its practicability for amplified, acoustic and visiting performances.

## 7. Voluntary conditions and proportionality

**46.** The company is willing to volunteer further conditions where they are necessary, evidence-based, clear, enforceable and proportionate. Its willingness to do so should not be treated as acceptance that all historic allegations are proved.

**47.** Potential areas for agreement include documented noise checks, defined monitoring locations, management control of amplification, risk-based SIA deployment, recorded external-area inspections, vessel controls during outdoor entertainment, incident recording and a written noise-management plan informed by an expert report.

**48.** The company respectfully opposes conditions which are broader than necessary, including automatic removal of off-sales, inflexible SIA ratios unrelated to event risk, compulsory table service in all circumstances, or a technically unworkable requirement that every sound source be routed through a limiter.

**49.** Before imposing technical noise conditions, the Sub-Committee is invited to consider conclusions from on expert evidence report on speaker placement, background and ambient sound, wind effects, appropriate metrics and locations, calibration, acoustic or unamplified instruments, equipment failure and alternative management controls, which the company intends to submit in advance of the hearing.

**50.** The licensing objectives are paramount. Commercial impact does not displace them. However, where two measures provide equivalent protection, proportionality requires consideration of whether one imposes unnecessary financial harm.

**51.** Below Decks supports employees and purchases goods and services from local and other suppliers who depend upon its continued trading. Unnecessary or onerous restrictions affecting live entertainment, off-sales, staffing models or viable capacity would not affect Bold Ayres Limited alone. They would also have an unfair consequential impact upon the people employed by the business and the suppliers who rely upon it.

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**52.** That impact should be supported by evidence rather than assertion. The company will provide details of employee numbers, relevant suppliers, the proportion of revenue linked to outdoor events and off-sales, security and compliance expenditure, and the practical effect of each proposed condition.

## 8. Requested outcome

**53.** The review should be determined on the quality and relevance of the evidence, not on the number of allegations. Historic incidents should be considered in their proper context and in light of the corrective measures already taken.

**54.** The company respectfully invites the Sub-Committee to:

- decline to suspend or revoke the premises licence;
- decline to impose a general prohibition on outdoor entertainment;
- decline to remove off-sales where more targeted controls would adequately promote the licensing objectives;
- give appropriate weight to the absence of complaints between July 2021 and June 2023, the historic and sometimes contradictory nature of later allegations, and the lack of objective attribution in a number of cases;
- recognise the busy leisure character of the bay and the contribution of other venues and public activity;
- consider the company's sound records, four-location monitoring, SIA deployment, incident monitoring, age controls and revised management arrangements;
- consider expert evidence which the company intends to submit in advance of the hearing, before imposing technical noise conditions;
- accept proportionate voluntary conditions in place of unnecessary or onerous restrictions; and
- permit the Premises to continue operating subject to the existing licence, the revised management plan and any further conditions demonstrated to be necessary and appropriate.

**55.** Bold Ayres Limited remains committed to constructive engagement with the Licensing Authority, Environmental Health Service and Harbour Authority. It seeks to operate a successful and responsible leisure venue while protecting residents, visitors, neighbouring businesses, harbour users, pedestrians and emergency access.

## Statement of truth / confirmation

The company confirms that the facts stated in this representation are true to the best of its knowledge and belief.

Signed: Signed by: Gregory Shadbolt F181CDC26F5B4FA...

Name: Gregory Shadbolt

Position: Director

For and on behalf of Bold Ayres Limited

Dated: 29-10-26