Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Public Voice Committee will be held on:

**DATE:** Tuesday 5 December 2017

**TIME:** 5.30pm

**VENUE:** Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

J Bath
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

24 November 2017

**Please note:**

The City of Newcastle Council meetings are webcast. Council accepts no liability for any defamatory, discriminatory or offensive remarks or gestures that are made during the course of the meeting. Opinions expressed or statements made by participants or third parties during the webcast, or included in any presentation, are the opinions or statements of those individuals and do not imply any form of endorsement by the City of Newcastle. Confidential meetings of Council will not be webcast.

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Council meetings are recorded for the purposes of verifying the accuracy of minutes taken. Only the official minutes may be relied upon as an official record of the meeting. Council may be required to disclose recordings pursuant to the Government Information (Public Access) Act 2009, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.
<table>
<thead>
<tr>
<th>Item</th>
<th>Business</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>APOLOGIES/LEAVE OF ABSENCE</td>
<td></td>
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<tr>
<td></td>
<td>DECLARATIONS OF PECUNIARY / NON PECUNIARY INTEREST</td>
<td></td>
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<tr>
<td></td>
<td>PUBLIC VOICE SESSIONS</td>
<td>5</td>
</tr>
<tr>
<td>ITEM-1</td>
<td>PV 5/12/17 - DA2014/1214.01 - 10/569 AND 11/569 HUNTER STREET NEWCASTLE WEST</td>
<td>5</td>
</tr>
</tbody>
</table>
PUBLIC VOICE SESSIONS

ITEM-1 PV 5/12/17 - DA2014/1214.01 - 10/569 AND 11/569 HUNTER STREET NEWCASTLE WEST

APPLICANT: CHRS MILLS
OWNER: SG AVNELL & MW SANDWITH
NOTE BY: PLANNING & REGULATORY
CONTACT: DIRECTOR PETER CHRYS TAL / MANAGER MURRAY BLACKBURN-SMITH
TELEPHONE: 4974 2709 / 4974 2793

PURPOSE

A Section 96(1A) application has been received to modify the approved operating hours at the Star Hotel, to allow trading to extend to 1:00am from Monday to Saturday on a permanent basis. The Star Hotel is located at 10/569 and 11/569 Hunter Street Newcastle West.

A copy of the submitted information for the application is included in Attachment A.

The application has been called in by two Councillors, for determination by the Development Applications Committee.

1.0 THE SITE

The subject site contains a mixed-use development consisting of the Star Hotel at ground floor level and 31 residential apartments above. The site has frontage to both Hunter Street and King Street and is bordered on its eastern side by Devonshire Lane. The Star Hotel is located with frontage to King Street (between Union Street and Steel Street), with approved outdoor dining available at certain times in Devonshire Lane.

Devonshire Lane is a public laneway serving as a vehicular and pedestrian link between King Street and Hunter Street and also for vehicular access into the mixed use development on the subject site. Devonshire Lane also provides a frontage to other properties in this location.
There are several other small bars within this locality and several larger licensed premises, namely Wests City (opposite, in King Street) and the King Street Hotel (corner of King and Steel Streets).

2.0 THE PROPOSAL

The applicant seeks to extend the approved hours of operation of the Star Hotel by modifying condition 13 of the consent issued in respect of DA2014/1214.

Development Consent was originally granted on 22 December 2014 for Alterations, Fit-Out and Change of Use to a Food and Drink Premises (Restaurant and Pub) subject to the imposition of 36 conditions of consent. Condition 13 is as follows:

13 The hours of operation or trading of the premises are to be not more than from:

<table>
<thead>
<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Tuesday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Wednesday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Thursday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Friday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Saturday</td>
<td>7.00am</td>
<td>12:00 midnight</td>
</tr>
<tr>
<td>Sunday</td>
<td>7.00am</td>
<td>10:00pm</td>
</tr>
</tbody>
</table>

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

A Section 96(1A) modification application was previously lodged, seeking extended trading until 1:00am, and was refused under delegated authority.

The applicant subsequently appealed the determination to refuse to modify the consent in respect of the proposed extension to the hours of operation. On 17 August 2015, the NSW Land and Environment Court issued Orders that included a modification to condition 13 that allowed for the proposed extended trading hours to occur on a time-limited trial basis, as follows:

13 The hours of operation or trading of the Premises is for a twelve (12) month trial period which will cease on 14 August 2016. The hours of operation or trading are to be not more than the following as outlined below:

<table>
<thead>
<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday</td>
<td>7.00am</td>
<td>1:00am</td>
</tr>
<tr>
<td>Tuesday</td>
<td>7.00am</td>
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<tr>
<td>Wednesday</td>
<td>7.00am</td>
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<tr>
<td>Thursday</td>
<td>7.00am</td>
<td>1:00am</td>
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<tr>
<td>Friday</td>
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<td>1:00am</td>
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<tr>
<td>Saturday</td>
<td>7.00am</td>
<td>1:00am</td>
</tr>
<tr>
<td>Sunday</td>
<td>7.00am</td>
<td>10:00pm</td>
</tr>
</tbody>
</table>

After the completion of the twelve (12) month trial period, the hours of operation or trading of the premises will revert back to closing at 12:00 midnight on Monday to Saturday.
The use of the outdoor dining area associated with the Premises, must cease at 10:30pm. All patrons within the outdoor dining area must be relocated within the building by 10:30pm (excluding Sundays, when the Premises closes at 10:00pm).

The doors that open onto Devonshire Lane must be closed by 10:30pm, with patrons directed back into the building premises and/or directed out onto King Street when leaving the premises and upon closing on Sundays at 10:00pm.

The current Section 96(1A) application proposes to modify the approved hours to enable trading to extend to 1:00am from Monday to Saturday on a permanent basis. Sunday trading hours are proposed to remain unchanged with the premises closing at 10:00pm.

A copy of the submitted information is appended at Attachment A. The various steps in the processing of the application to date are outlined in the Processing Chronology appended at Attachment B.

3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days to adjoining owners, in accordance with Council’s Public Notification Policy. A total of four submissions were received. One submission supported the application, while the other three submissions objected to the proposal to extend trading hours.

The concerns raised by the objectors in respect of the proposed development are summarised as follows:

i. Alleged non-compliance with previously imposed conditions of consent
ii. Breach of the trial period limitations
iii. Safety and security
iv. Noise and anti-social behavior; and
v. Failure to implement the measures agreed to in the Management Plan

Due to the nature of the proposal, the application was referred to NSW Police for consideration and they have also highlighted a number of concerns relating to late night trading of licensed premises.

Key issues of relevance in the assessment of this application include:

i. Non-compliance with conditions of consent
ii. Residential amenity
iii. Acoustic Privacy
iv. Social Impact - safety and security
v. Public Interest and Precedent

ATTACHMENTS

Attachment A: Copy of submitted information - 10/569 & 11/569 Hunter Street Newcastle West
Attachment B: Processing Chronology - 10/569 & 11/569 Hunter Street Newcastle West
Application to modify a development consent
Under Section 96 Environmental Planning and Assessment Act

Office Use - DA No: DA2014/1214

This form

Use this form to modify the terms of development consent (i.e. the plans or the conditions). The application can only be made if the development to which the consent as proposed to be modified will remain substantially the same as the development for which the consent was originally granted. Failure to complete all relevant sections or provide sufficient information/detail in your application may result in your application being returned or its assessment delayed. All information must be legible and all payments must be made on lodgement of the application, otherwise your application will not be accepted.

Part 1: Applicant and site details

<table>
<thead>
<tr>
<th>Title: □ Mr □ Mrs □ Miss □ Ms □ Other</th>
<th>Family name (or company):</th>
<th>CHRISS MILLERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>All correspondence will be sent to this address.</td>
<td>Given names (or ACN):</td>
<td>L.J. LEGAL, PTY LTD</td>
</tr>
<tr>
<td>Postal address:</td>
<td>LEVEL 1, 140 KING STREET NEWCASTLE</td>
<td></td>
</tr>
<tr>
<td>Postcode: 2300</td>
<td>Phone: 02 49291929</td>
<td>Alternative phone:</td>
</tr>
<tr>
<td>Fax: ------------</td>
<td>E-mail: <a href="mailto:grand@legal.com.au">grand@legal.com.au</a></td>
<td></td>
</tr>
<tr>
<td>Contact person: GRANT LONG</td>
<td>Reference no:</td>
<td></td>
</tr>
</tbody>
</table>

2. Location and title description of the property

<table>
<thead>
<tr>
<th>Unit No: 10/11, House No: 569, Street:</th>
<th>HUNTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Locality:</td>
<td>NEWCASTLE WEST</td>
</tr>
<tr>
<td>Lot(s): 32/32</td>
<td>Section:</td>
</tr>
<tr>
<td>Deposited Plan(s):</td>
<td>Strata plan: 901/90</td>
</tr>
<tr>
<td>Other:</td>
<td></td>
</tr>
</tbody>
</table>

3. Who owns the land?

<table>
<thead>
<tr>
<th>Name 1: MARK WILLIAM SMITH</th>
<th>Address:</th>
<th>To Box 206, Oatley, NSW 2223</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone: 02 95462878</td>
<td>Other:</td>
<td></td>
</tr>
<tr>
<td>Name 2: SHERIDA GALE ANNELL</td>
<td>Address:</td>
<td>To Box 206, Oatley, NSW 2223</td>
</tr>
<tr>
<td>Phone: 02 95462878</td>
<td>Other:</td>
<td></td>
</tr>
</tbody>
</table>

Form 04 Modification of consent, issue 18. 7-2-17

RECEIVED
02 MAY 2017
BY: Angie, CCL.
### Part 2: Development details

#### 4. What consent is to be modified?

<table>
<thead>
<tr>
<th>Development Application No.</th>
<th>2014/1214</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Consent issued</td>
<td>22 December 2014</td>
</tr>
<tr>
<td>Description of approved development</td>
<td></td>
</tr>
<tr>
<td>INTERVAL. FIT OUT/CHANGE OF USE TO FOOD &amp; DRINK PREMISES (Motel)</td>
<td></td>
</tr>
<tr>
<td>Is this application the subject of enforcement action by Council's Compliance Services Department?</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

#### 5. Description of the proposed modification

- [ ] Minor modification [section 96(1)]
  - The modification is merely intended to correct a minor error, mis-description or miscalculation.
- [x] Modification involving minimal environmental impact [section 96(1A)].
- [ ] Modification of consents granted by the Court [section 96(1AA)]
- [ ] Other modification [section 96(2)].

Describe the proposed modification/s and expected impacts of the modification/s.

TO PERMANENTLY EXTEND HOURS OF OPERATION TO 1:00 AM MONDAY TO SATURDAY (IN LIEU OF MIDNIGHT)

Are any conditions of the development consent proposed to be amended? If so, please list the numbers and required changes.

**CONDITION 13 - HOURS OF OPERATION**

AS NOTED ABOVE, FINISH TIME TO BE 1:00 AM MONDAY TO SATURDAY (IN LIEU OF MIDNIGHT)

In case of a development involving the use of a building as an entertainment venue, function centre, pub, registered club or restaurant, please specify the maximum number of persons proposed to occupy, at anyone time, that part of the building being used for the specified use.

150 PERSONS (NO CHANGE TO APPROVAL)
6. Required documents

☐ 1 electronic of amended plans, elevations and site plan
☐ 1 electronic copy of Notification plan* (A4) – where required
☐ 1 electronic copy of Amended Statement of Environmental Impacts*

☐ A pdf copy of the application form, all documents and plans contained in the application are to be copied onto a non-returnable CD or USB stick. The pdf copies should be prepared in accordance with the specification detailed in the document titled "Plan Standards" available on Council's website.

☐ Other (please specify) SEE ATTACHED SUBMISSION

Plan reference numbers ............................................
..................................................................................
..................................................................................
..................................................................................

Other document reference number ..................................
..................................................................................
..................................................................................

* Amended Storm water Plan - 25 City Street Newcastle

7. Cost of the development

Does the S96 application increase the cost of development?

☐ Yes Revised cost of development $..........................

☐ No

Additional cost (as a result of the modification) $............... 

The cost of the development is the genuine estimate of: (a) the cost associated with the construction of the building, and (b) the cost associated with the preparation of the building for the purpose for which it is to be used (such as the cost of installing plant, fittings, fixtures and equipment). Owner builders will need to include a full cost of labour.

8. Have you discussed the plans with a Council Officer?

☐ Yes Whom did you speak to? (if known) JAMES MARSHALL

☐ No

Part 3: Owner's consent and applicant's declaration

9. Owner's consent

Must be completed by the owner(s) of the land. If more than one owner, every owner must sign.

If the owner is a company or owners' association, must be signed by a director, secretary or authorised delegate.

As owner(s) of the land to which this application relates, I/we consent to this application. I/we also give consent for authorised Council officers to enter the land to carry out inspections.

Signatures: 

[Signature] [Signature] [Signature]

Names: [Surname], [Surname], [Surname]

Please Print: [Surname], [Surname], [Surname]

Capacity: Owner, Owner, Owner

Date: 19/4/2017, 19/4/2017, 19/4/2017

If the property is strata title, the form must be signed by the authorised delegate of the body corporate.

*If signing on the owner's behalf as the owner's legal representative, you must state the nature of your legal authority and attach any available evidence (eg, power of attorney, executor, trustee, company director).
10. Probity

Parties include owners, applicants, developers and companies:

Are parties with pecuniary or non-pecuniary interest:

a) a staff member, councillor, contractor or related to someone who is a staff member, councillor, contractor of The City of Newcastle? or,

b) a State or Federal Member of Parliament?

☐ Yes. If yes, state the relationship...................................

☐ No

11. Political Donations and Gifts

Section 147 of the Environmental Planning and Assessment Act 1979 requires a person to disclose reportable political donations and gifts made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined.

The following information is to be included on the statement:

(a) all reportable political donations made to any local Councillor of Council; and

(b) all gifts made to any local councilor or employee of that council.

Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two-year period before the date of this application?

☐ Yes. If yes, the statement must be attached. All disclosure statements of reportable donations and gifts will be made publicly available on Council's website.

✓ No, but in signing this application I undertake to disclose to Council in writing, within seven days, any reportable political donation or gift made after the lodgement of the application and prior to its determination.

Council has prepared a Political Donations and Gifts Disclosure Statement, incorporating explanatory information, which is available on Council's website www.newcastle.nsw.gov.au or at Council's Customer Enquiry Counter.

Note: Failure to disclose relevant information, or make a false disclosure statement is an offence under the Act. The maximum penalty for the offence is currently $22,000.

12. Applicant's declaration

☐ I apply for consent to carry out the development described in this application.

☐ I declare that all the information given is true and correct.

☐ I declare that any electronic data provided is a true copy of all plans and associated documents submitted with this application.

☐ I understand that if incomplete, the application may be delayed, rejected or returned.

☐ I understand that the information supplied on this form and any related document may be made available to the public for inspection both at Council and on Council's website, and will be available for copying at Council. I indemnify all persons using the development application and documents in accordance with the Environmental Planning and Assessment Act, 1979 against any claim or action in respect of breach of copyright.

Signature.......................................................... Date: 25/1/17
### Protecting your privacy

Newcastle City Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council’s Privacy Management Plan.

<table>
<thead>
<tr>
<th>Purpose of collection:</th>
<th>To enable Council as the consent authority to assess your proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intended recipients:</td>
<td>Council staff and other government agencies that may be required to assess the proposal</td>
</tr>
<tr>
<td>Supply:</td>
<td>The information is a statutory requirement related to the assessment of the application.</td>
</tr>
<tr>
<td>Consequence of non-provision:</td>
<td>Your application may not be accepted or processed due to a lack of information.</td>
</tr>
<tr>
<td>Storage and Security:</td>
<td>Newcastle City Council, 282 King Street Newcastle 2300 will store details of the application. Individuals can access the details of the application under the Government Information (Public Access) Act 2009.</td>
</tr>
<tr>
<td>Access:</td>
<td>Your information can be checked for accuracy by calling (02) 4974 2000.</td>
</tr>
</tbody>
</table>

### How to lodge your application

Applications can be lodged either:

1. **In person** at the Customer Enquiry Centre, located on the ground floor of 282 King Street, Newcastle. We are open for business from 8.30am to 5.00pm, Mondays to Fridays. Payments are only accepted between 8.30am and 4.00pm. It is recommended that an appointment be made with the duty officer when lodging your application. A duty officer is available to provide basic information in relation to development applications, until 4pm daily by phoning (02) 4974 2036 or visiting Council’s Offices.

2. **By mail** - Postal address The General Manager, The City of Newcastle, PO Box 489 Newcastle 2300.

### Fees

Fees are calculated on a scale based on the contract value of the work or number of lots. Fee quotes can be obtained by contacting Council on (02) 4974 2000.

### Payment Methods

You can pay by cash, cheque or the following debit cards using EFTPOS: American Express, Visa or Mastercard. Make cheques payable to ‘Newcastle City Council’. Do not send cash in the mail.

A credit card processing fee applies to credit card transactions, reflecting bank fees charged to the ‘Newcastle City Council’ for card payments.

### Acknowledgement

Once your application has been received and accepted you will receive a letter and receipt specifying the amount of fees paid, and the registered number of the application.

### How to contact us:

- **Phone:** (02) 4974 2000
- **Fax:** (02) 4974 2222
- **E-mail:** mail@ncc.nsw.gov.au
<table>
<thead>
<tr>
<th>Fee type</th>
<th>Amount</th>
<th>Receipt No</th>
<th>Date</th>
<th>Planning Controls</th>
<th>Documents/Plans Lodged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Fee</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>DA Fee Concurrence</td>
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<tr>
<td>DA Fee - Signage</td>
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<tr>
<td>Notification</td>
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</tr>
<tr>
<td>Designated/ Adv dev.</td>
<td></td>
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<td></td>
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<tr>
<td>Integrated dev.</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Long Service Levy Fee</td>
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<tr>
<td>Additional Plan 1st Fee</td>
<td></td>
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</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

**Description**

**Notification**
- [ ] Simple
- [ ] Complex
- [ ] Not Required

**Political Donations & Gifts**
Has a political donation/gift been disclosed by a person with a financial interest in the application? i.e. the form filled out in the positive or a separate disclosure received.
- [ ] Yes (if yes, register and scan into ECM)
- [ ] No

Accepted by .......................................................... Date ..........................................................

Registered by ........................................................ Date ..........................................................

Form 04 Modification of consent, Issue 18. 7-2-17
26 September 2017,

Ms Amanda Gale
Senior Development Officer (Planning)
Newcastle City Council
PO Box 489
Newcastle NSW 2300

Dear Ms Gale,

Re Modification Application No: DA2014/1214.01

We are writing in response to your letter dated 13 September 2007 requesting additional information in relation to Modification Application Number DA2014/1214.01. This application relates to the amendment of development consent condition 13 – extension of trading hours.

We understand that Council has raised a number of concerns in relation to our proposal to extend the operating hours of The Star Hotel until 1.00 am Monday to Saturday, these being:

1. Non-compliance with conditions of development consent
2. Residential amenity
3. Acoustic privacy
4. Social Impact – safety and security
5. Public Interest and precedent

1. Compliance with the existing conditions of Development Consent DA2014/1214

The information provided in this letter is to supplement the information already provided in the Section 96 Modification Application lodged with Council on 2 May 2017.

This letter does not address those issues raised by Council in relation to non-compliance with the conditions of the current development consent. Compliance issues are separate to merit assessment issues and should be dealt with by Council on a separate basis altogether.
2. Residential Amenity

It is critical to the assessment of this application to have regard to the context in which it was lodged. Previous Court proceedings considered merit issues and it was agreed to a trial period. This trial has been a success.

The Star Hotel has a strict Plan of Management in place to manage any adverse impacts the venue may have on residents and the local community.

Complaints from Residents in the Complex

In the event that a resident of the complex should wish to make a complaint about excessive noise or anti-social behaviour occurring at the venue, all residents within the complex have been given the manager's private mobile phone number and are encouraged to use this at any time.

Every complaint received by the venue manager or any other venue staff is carefully recorded, including the complainants' details, the nature of the complaint and what action is to be taken by the venue to address the complaint.

To date however, no complaints in relation to antisocial behaviour or excessive noise generated by patrons have been received by venue management either during the trial period for extended trading hours or since its conclusion.

Objections to the Application for Extended Trading Hours

Further, we note that Council has stated that its recommendation that the modification application be withdrawn is "due to the number of key concerns raised". We are puzzled by this as the letter from Council clearly states that only 3 objections to the modification application were received. Given there are 31 residential units in the complex, 3 objections do not constitute a large number of complaints.

3. Acoustic Privacy

We note that Council has stated that the police have attended the venue as a result of noise complaint(s) from residents. The venue management has not been made aware of any such complaints either by residents or the police nor is there any record of the police attending the venue to respond to any such incident. It is standard procedure for our security personnel to log any such attendance by police. No such incident has been logged.
4. Social Impact – Safety and Security

The Star Hotel is very conscious of its responsibility to minimise any potential adverse social impact upon the residential amenity in the locality.

Security personnel are at the venue from 7pm on both Friday and Saturday nights and all possible measures are employed to control patron behaviour both while attending and leaving the premises. We are instructed that the that the venue has not had an incident requiring police or ambulance to attend since its opening, a strong indication that the current measures are successful.

Further, we note that Council has stated that there have been "regular conversations with the operator expressing concerns around operating behaviour, noise, trading hours and anti-social behaviour". Venue management maintain that they had not been approached by Council in relation to these concerns prior to Council's letter dated 13 September 2017.

5. Precedent and Public Interest

We dispute Council's position that an extension to The Star's trading hours will set a precedent for other small bars in the vicinity to seek similar approvals.

The Star Hotel is not a small bar and does not operate with a Small Bar Licence. A small bar licence applies to small intimate venues which are limited to a maximum capacity of 100 patrons.

The Star Hotel operates with a full hotel licence and is not subject to the same conditions as a small bar. Extension of the venue's trading hours therefore cannot set a precedent for other small bars in the area. Further, other venues in the vicinity have much later closing times. For example, Wests City trades until 3.00am on Friday and Saturday nights, the King Street Hotel trades until 3.30am and Finnegan's Hotel trades until 2.30am on Friday and Saturday nights.

As mentioned earlier, The Star Hotel has implemented a comprehensive Plan of Management for the premises. This plan is available to any resident in the locality and their input in relation to any improvements is welcomed by management. This, together with the other measures already successfully implemented by management of the venue, should assist in avoiding or minimising any adverse impacts on the amenity of the residential locality and on the public interest.

Yours Faithfully,

Grant Long
Principal Lawyer
Amanda Gale
Senior Development Officer
Newcastle City Council

5 September 2017

Development Application No: 2008/0644.01

Police have reviewed the Development Application to modify a development consent, ‘Extend trading hours of hotel on Thursday, Friday & Saturday from midnight to 2am the following day’ by the applicant. Police object to this application for the following reasons:

Hours of Operation;
Police recommend that the proposed operational hours of trade be restricted to those outlined below.
Monday to Saturday – 7am to 12am
Sunday – 7am to 10pm

The premises’ is located within a dining and entertainment precinct on Darby Street, Cooks Hill which is also surrounded by a number of residential apartments and houses. Of particular note, the majority of other commercial enterprises surrounding the Hotel have a closing time of 12 midnight with the latest closing time being 12.30am. If the Hotel was to extend trading and close at 2am it would force patrons to be competing for public transport with those wishing to make the ‘lock out’ times of other venues located within the Newcastle City LAC. A delay in available transport will not only cause an increase in pedestrian traffic but potentially an increase in public disharmony.

Furthermore, current research states that Australian jurisdictions should consider imposing trading hour restrictions. The rationale behind this is, the research evidence covered in the review, “Interventions for reducing alcohol supply, alcohol demand and alcohol-related harm” shows that alcohol-related intoxication and harm increases by between 15 and 20 percent every hour of trading after midnight (Chikritzhs & Stockwell, 2002, 2006; Chikritzhs & Stockwell, 2007; Pennay et al., In press). This review has also found that the most evidence-based approach to reducing intoxication levels is through closing all venues earlier (Kypri et al., 2011; Kypri et al., 2014; Miller et al., 2012c). Research has also shown that when trading hour restrictions are applied widely, they can lead to positive changes in drinking culture (Miller et al., 2012c).

The most comprehensive study of late-night trading hour changes comes from Norway and is cited in ‘Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005-2015, where Rossow and Norström examined the impact of small changes (<2 hours) in allowable late-night trading for bars in 18 Norwegian cities. They found that each 1-hour change in trading hours was associated with a change of 16% in recorded assaults. This study is
directly related to this application where they are wishing for a 2 hour extension of their trade 3 nights per week.

Since restrictions were enforced within the Newcastle precinct in 2007 in relation to closing times, the introduction of lock outs and drink restrictions, the data clearly shows a reduction in incidents of non-domestic assault recorded by NSW Police in Newcastle and Newcastle West on Friday and Saturday between 10pm to 6am as can be seen in the below graph.

Police are fearful that if closing times are relaxed there is a high risk of these assaults increasing. A series of robust, well-designed studies from Australia demonstrate that reducing the hours during which on-premise alcohol outlets can sell alcohol late at night can substantially reduce rates of violence. The evidence of effectiveness is strong enough to consider restrictions on late-trading hours for bars and pubs as a key approach to reducing late-night violence in Australia.
As is shown in the above graph taken from "http://crimetool.bocsar.nsw.gov.au/bocsar/" Newcastle and particularly Cooks Hill is predominantly located within a high density ‘hotspot’ for non domestic assaults. Allowing the Hotel to trade for a longer period of time can only be detrimental in further escalating the number of assaults occurring whilst restricting trading hours tends to reduce harm.

Police cannot in the foreseeable future, identify any positive reasons for extended hours of operation for the Hotel however if Council was to support this application Police would request the following conditions be added to their development application.

a) Except in the event of an emergency, all egress from the public areas of the hotel after midnight on Friday, Saturday and Sunday mornings shall be confined to the doorway opening onto Darby Street which is located between the restaurant and the lounge bar;

b) The operations of the hotel shall be conducted in accordance with the provisions of the approved Venue Management Plan created in consultation with Newcastle Licensing Police;

c) No patron will be admitted to the hotel after midnight;

d) Police would request that Council set patron numbers;

e) The provision of live entertainment must cease at midnight;

f) The licensee shall install and maintain a CCTV system satisfactory to the Commander of the Newcastle Local Area Command of the NSW Police Force;

g) After 8pm, patrons shall only be admitted through the doorway off Darby Street which is located between the restaurant and the lounge bar;
14 October 2016

MAC160331LR1

Attention: Chris Mills
Star Hotel
410 King Street
Newcastle NSW 2300

Dear Chris,

Noise Assessment – Star Hotel Live Entertainment.

Introduction

Muller Acoustic Consulting Pty Ltd (MAC) has been commissioned by the Star Hotel (the ‘Hotel’) to prepare a Noise Assessment (NA) to quantify emissions from live entertainment/music from the Hotel and compare results against relevant criteria.

This assessment has been completed in accordance with the following policies and guidelines:

- Environment Protection Authority (EPA) 2000, NSW Industrial Noise Policy (INP); and
- The Office of Liquor, Gaming and Racing (OLGR) criteria related to licensed premises.

The following letter report presents the results, findings and recommendations following a noise monitoring assessment at 410 King Street on the evening of 7 October 2016.
Criteria

The NSW EPA’s Noise Guide for Local Government (NGFLG) (2013) summarizes criteria related to licensed premises. The OLGR criteria are reproduced from NGFLG below and have been adopted as the principle criteria for residential receivers in this assessment:

*The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in an Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7:00am and 12:00midnight at the boundary of any affected residence.*

*The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in an Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00midnight and 7:00am 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 12:00midnight and 7:00am.*

The relevant OLGR criteria was derived by analysing single octave LA90 statistical levels from background data obtained at 7:04pm on the evening of 7 October 2016. It is noted that during the assessment patron noise was a contributing factor to ambient levels, therefore background noise measurements were conducted within the car park at 426 King Street away from the Hotel and free from any project influence. The background noise monitoring position was selected to replicate that of the receiver at 410 King Street and had the same offset distance to road traffic noise on King and Hunter Streets which controlled ambient levels. Table 1 reproduces the calculated OLGR noise criteria.

<table>
<thead>
<tr>
<th>Table 1 OLRG Criteria</th>
<th>LA10 Noise Criteria, Octave Band Centre Frequency (Hz), dBA</th>
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<tbody>
<tr>
<td></td>
<td>31.5 63 125 250 600 1k 2k 4k 8k</td>
</tr>
<tr>
<td>Octave Background (LA90)</td>
<td>22 35 41 41 43 43 43 33 21</td>
</tr>
<tr>
<td>LA10 criteria (background 5dB)</td>
<td>27 40 48 46 48 52 48 38 28</td>
</tr>
</tbody>
</table>
Results

An attended noise measurement of fifteen minutes in duration was completed externally at an elevated position adjacent to the first floor window of the residence directly above the entertainment space of the hotel. The measurement location was in Devonshire Street approximately 22m from King Street using a Class 1, SVANTEK 971 environmental noise analyser to quantify emissions with respect to the OLGR criteria.

The noise survey was conducted at the monitoring location in general accordance with the procedures described in Australian Standard AS 1055-1997, “Acoustics - Description and Measurement of Environmental Noise”. Calibration of all instrumentation was checked using a Class 1, SVANTEK SV-33 calibrator, prior to and following measurements. Drift in calibration did not exceed ±0.5dBA. All equipment carried appropriate and current NATA (or manufacturer) calibration certificates.

It is noted that some external patron noise influenced the reading which was unavoidable. Notwithstanding these periods were excluded from the analysed data set to ensure that live entertainment noise was the primary source of the assessment. It is noted that during the noise measurements, the ground floor doors remained closed.

Noise assessment measurements during live entertainment have been compared against the OLGR criteria with results presented in Table 2. It was noted that during attended measurements that live entertainment noise remained inaudible at the external measurement location with the Hotel doors closed.

Table 2 OLGR Noise Assessment Results

<table>
<thead>
<tr>
<th>LA10 Noise Criteria, Octave Band Centre Frequency (Hz), dBA</th>
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<tbody>
<tr>
<td>31.5</td>
</tr>
<tr>
<td>------</td>
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<tr>
<td>Received level</td>
</tr>
<tr>
<td>Criteria</td>
</tr>
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<td>Exceedance</td>
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</table>

Note 1: It is noted that higher frequencies between 500Hz to 8KHz were influenced by road traffic noise and entertainment noise.

Measurements identify that octave bands between 500Hz and 8KHz were above the relevant OLGR criteria, although it is noted that these levels were due to extraneous sources not associated with the Hotel (ie traffic and general public emissions). Frequencies where associated with live entertainment are primarily at lower frequencies between 31.5Hz and 250Hz. It is evident from attended measurements that low frequency noise emissions due to live entertainment were below the OLGR criteria.
This was verified by a five-minute internal validation measurement, conducted while live entertainment was occurring. The internal measurement location was adjacent to the northernmost doors of the Hotel adjacent to Devonshire Street and was completed to gain a relationship between internal and external noise levels. The maximum sound pressure level during live entertainment was 80dB. Analysis confirmed that low frequency emissions were prevalent, in particular at the octave band centre frequencies of 80Hz and 200Hz.

Summary

MAC have completed an assessment of live entertainment/music at the Star Hotel, 410 King Street, Newcastle, NSW. Attended measurements identify that live entertainment/music noise satisfied the relevant CLGR criteria at the external first floor façade of neighbouring residential dwelling. It was noted that compliance was achieved with the northernmost (double doors) closed. Therefore, it is recommended as a minimum that these doors remain closed when there is live entertainment performing at the Hotel and that any remaining doors closer to King Street are closed by 10pm.

We trust this letter report addresses your current requirements, although if you have any further questions, please feel free to call our office.

Yours sincerely,

Oliver Muller
Principal Acoustic Scientist
BSc(REM & HGeo) MAAS
omuller@muelleracoustic.com
NOISE IMPACT ASSESSMENT
410 King St, Newcastle NSW 2300
Prepared for Star Hotel
Prepared by RCA Australia
RCA ref 12570-401/0
August 2016
RCA AUSTRALIA
ABN 53 063 515 711
92 Hill Street, CARRINGTON NSW 2294
Telephone: +61 2 4902 9200
Facsimile: +61 2 4902 9299
Email: administrator@rca.com.au
Internet: www.rca.com.au

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RCA ref 11478-401/0

8 March 2017

Chris Mills
Star Hotel
410 King St
Newcastle, NSW 2300
Attention: Chris Mills

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ACOUSTIC IMPACT ASSESSMENT AT STAR HOTEL
AT
410 KING ST, NEWCASTLE, NSW 2300

---

1 INTRODUCTION

In response to the STAR HOTEL - BREACH OF DEVELOPMENT CONSENT DA 2014/1214 Notice from the Newcastle City Council, dated 3/11/2018, RCA Acoustics has been engaged to undertake an acoustic impact assessment of amplified music from the Star Hotel (the venue) to the residential units situated directly above the venue.

A detailed acoustic assessment was prepared by Spectrum Acoustics (dated November 2014). However, the report has excluded noise assessment from the amplified music on the apartments situated directly above the Star Hotel. The purpose of this assessment is to address the Council's requirement to consider potential noise impacts within these apartments.

2 DESCRIPTION OF THE LICENSED PREMISES

2.1 SITE DESCRIPTION

The Star Hotel is situated at 410 King St, Newcastle, NSW, 2300 and is a two-story building with the music performance space located on the ground floor and residential apartments located directly above the venue. The venue is used for the performance of live and amplified music. Entry and egress are through a doorway located at the corner of the building (King St. and Devonshire St.). The site location is shown in the aerial image of the surrounding area, Figure 1.
3 ASSESSMENT CRITERION

The Newcastle City Council (NCC) adopts the 'Interim Technical Guideline for the Assessment and Control of Low-Frequency Noise from the Development of Musical Entertainment Venues' for assessing the potential for disturbance from licensed premises. The NCC assessment criteria are per 1/3 octave band frequency (31.5 Hz – 250 Hz inclusive) $L_{max, fast} (\text{dBA})$ or Adjusted $L_{eq,sec} (\text{dBA})$. These unweighted levels are consistent with the approach of protecting 90% of the population\(^1\) by adopting the tenth percentile hearing threshold values developed by Kurakata et al.\(^2\) see Table 1.

\(^{1}\) NSW Environment Protection Authority Industrial Noise Policy, January 2000.


4 METHODOLOGY

For the purpose of determining the maximum allowable amplified music level at the performance space, two sound transmission paths for the amplified music to the residential units are identified and assessed in this report. The first path is the sound transmission through the floor system between the venue and the apartments directly above it (Path-1). The second sound transmission path is the outside (flanking) sound reflection from the venue to the apartments above (Path-2). For each sound transmission path, field test measurements were conducted and the sound Transmission Losses (TL) are calculated.

The sound transmission loss through the floor system is calculated by measuring generated pink noise in the source room (the venue) and the transmitted noise to the receiver room (residential units). Two conventional loudspeakers were installed at the geometric centre of the venue and the averaged time-space Sound Pressure Levels (SPL) in 1/3 octave band frequencies were collected using a roving microphone over a 30 second sampling period.

The sound transmission loss associated with the Path-2 (outside reflected sound) was determined by measuring the SPL (in 1/3 octave band) at 2 meters outside of the venue in front of the closed non-fixed window situated at the eastern façade of the building. Calculations were conducted to allow for distance loss via the reflection path). In this calculation, the transmission loss through the awning windows of the residential units, are not taken into account in order to allow for these windows to be kept open.
5 MEASUREMENT

5.1 EQUIPMENT

Equipment used in the unattended noise monitoring is detailed in Table 2 and conforms to Australian Standard AS1259.2-1990 Acoustics - Sound level meters - Integrating – Averaging, Type 1 or 2. The equipment was calibrated with an acoustic calibrator, in accordance with Australian Standard AS1055 Acoustics – Description and Measurement of Environmental Noise, before and after the taking of measurements. In all cases, the requirement for less than 0.5 dB difference was met.

Table 2 Equipment Information

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<td>55581</td>
<td>26/5/2016</td>
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<td>B&amp;K 4230 Calibrator</td>
<td>1645584</td>
<td>21/10/16</td>
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5.2 MEASUREMENT RESULTS

The Transmission Losses (TL) of the two identified noise paths are calculated in 1/3 octave band frequency (31.5 Hz – 250 Hz inclusive). The transmission loss for the path with the least sound reduction was then added to the levels allowed by the NCC Guideline to determine the maximum allowable sound level in each band within the venue. The results are presented in Table 3.

Table 3 Results

<table>
<thead>
<tr>
<th>Band centre frequency (Hz)</th>
<th>31.5</th>
<th>40</th>
<th>50</th>
<th>63</th>
<th>80</th>
<th>100</th>
<th>125</th>
<th>160</th>
<th>200</th>
<th>250</th>
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<tbody>
<tr>
<td>Path 1-TL</td>
<td>7.8</td>
<td>22.8</td>
<td>17.6</td>
<td>24.1</td>
<td>32.3</td>
<td>34.1</td>
<td>36.2</td>
<td>40.6</td>
<td>43.5</td>
<td>46.6</td>
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<td>Path 2-TL</td>
<td>22</td>
<td>30.9</td>
<td>39.0</td>
<td>38.7</td>
<td>39.7</td>
<td>38.5</td>
<td>40.0</td>
<td>42.4</td>
<td>44.6</td>
<td>45.8</td>
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<td>NCC Assessment Criteria</td>
<td>50</td>
<td>42.8</td>
<td>36.2</td>
<td>30.6</td>
<td>25.6</td>
<td>21.3</td>
<td>17.2</td>
<td>13.1</td>
<td>9.5</td>
<td>6.5</td>
</tr>
<tr>
<td>Maximum allowable SPL at the performance space</td>
<td>57.8</td>
<td>66.6</td>
<td>53.8</td>
<td>54.7</td>
<td>57.9</td>
<td>55.4</td>
<td>53.4</td>
<td>53.6</td>
<td>53.0</td>
<td>52.1</td>
</tr>
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</table>

5.3 RECOMMENDATIONS

RCA Acoustics recommends the implementation of the following in-principle noise attenuation and operational management measures in order to protect the noise amenity of the assessed residential receivers.

Recommended noise mitigation measures include:

- It is noticed that the opening windows and doors at the eastern façade are not appropriately sealed. It is recommended that appropriate acoustic treatment of the

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**Star Hotel**

Noise Impact Assessment

410 KING ST, NEWCASTLE, NSW 2300

RCA ref 12570-0010, August 2015
eastern windows and doors be implemented under the supervision of an appropriately qualified acoustic consultant.

- It is recommended to consider and implement the recommended maximum allowable noise levels at the performance space which are outlined in Table 3 in order to reduce the risk of noise disturbance associated with the conduct of amplified music.

6 DISCUSSION

In New South Wales (NSW), noise from licensed premises can be regulated by both the local consent authority or via the NSW Office of Liquor, Gaming and Racing (OLGR). In accordance with the OLGR condition, internal noise assessments for the case of mixed used buildings with apartment units or upper levels of dwellings are not obtainable. Therefore, the ‘Interim Technical Guideline for the Assessment and Control of Low-Frequency Noise from the Development of Musical Entertainment Venues’ adopted by the Newcastle City Council (NCC) is used as an assessment criteria for the assessment presented in this study. The approach to this assessment is to outline the maximum allowable SPL for low-frequency bands at the performance space rather than specifying for any particular style of music to be played the at the venue.

7 CONCLUSION

RCA Acoustics have been engaged by the Star Hotel to undertake acoustic impact assessment for the amplified music played at the venue. RCA Australia have conducted the acoustic performance testing of the floor system that separates the performance space from the residential property situated directly above the venue. The testing results have been used to set a sound pressure level limit for the amplified music being played in the performance space. These operational limits and In-principle noise attenuation suggested are outlined in Section 0 of this report.

Thank you for the opportunity to provide this assessment. Please do not hesitate to contact the undersigned if you have any questions regarding this or any other acoustic or environmental matter.

Yours faithfully
RCA Acoustics

Ali Ahmadi B.Eng (Mech), M.Eng (Mech), PhD (Mech)
Acoustic Consultant
### Attachment B

**THE CITY OF NEWCASTLE**  
Briefing Note to Public Voice Committee Meeting on 5 December 2017  
Page 1

**PROCESSING CHRONOLOGY**  
DA 2014/1214.01 - 10/569 & 11/569 HUNTER STREET NEWCASTLE WEST

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<th>Date</th>
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<tr>
<td>11 - 25 May 2017</td>
<td>Public exhibition period</td>
</tr>
<tr>
<td>23 May 2017</td>
<td>Application referred to internal and external stakeholders for review and comment</td>
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<tr>
<td>2 August 2017</td>
<td>Council advice to applicant regarding status update and key concerns associated with the application</td>
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<tr>
<td>13 September 2017</td>
<td>Council request for additional information and advising of key concerns associated with the application</td>
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<td>26 September 2017</td>
<td>Application called-in by Councillor</td>
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<td>27 September 2017</td>
<td>Additional Information in response to Council's request received from applicant</td>
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<tr>
<td>4 October 2017</td>
<td>Memo to Councillors regarding application and status update</td>
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<tr>
<td>27 October 2017</td>
<td>Additional information received from applicant</td>
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