
FILE NO: A20/0017563

COMPLAINANT: [REDACTED]

LICENSED PREMISES: Great Northern Hotel – LIQH400117590

ISSUES: Whether the quiet and good order of the neighbourhood of the licensed premises is being unduly disturbed.

LEGISLATION: *Liquor Act 2007*

SECTION 81 DECISION

Under Section 81 of the *Liquor Act 2007* (the Act) I, John Coady, Manager Regulatory Interventions Team, a delegate of the Secretary, NSW Department of Customer Service, in relation to the complaint made in respect to Great Northern Hotel – LIQH400117590 (the Hotel) have decided to **impose one condition** on the licence in relation to:

1. Noise Limiter

Details of the condition, including the date it becomes effective, is set out 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;
 - b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, services 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 16 October 2020, [REDACTED] (the complainant) lodged a complaint with Liquor & Gaming NSW (L&GNSW) alleging undue disturbance from the operation of the Hotel. The complainant lodged this complaint as a resident authorised by two other residents.
6. The complainant alleges disturbance is a result of loud music and patron noise from both inside the Hotel, as well as excessive noise from patrons leaving the Hotel until after 2:00am. Disturbance allegedly occurs every Wednesday, Friday and Saturday nights and on Sundays over long weekends. The complainant states he has contacted the Hotel via phone calls and emails on multiple occasions concerning noise issues and has been advised to install air conditioning or to shut windows and doors as a solution. The complainant submits there was no noise during the COVID-19 lockdown period however the volume has gradually increased since reopening.

7. On 16 October 2020, an authorising resident to the complaint lodged an additional disturbance complaint to L&GNSW alleging disturbance from the operation of the Hotel. Following an assessment of this complaint and consultation with the authorising resident, the two complaints were merged with the complainant remaining as the principal contact and the number of authorising residents increasing to three.
8. The complaint outlines that a community meeting was held on 26 October 2020, with the complainant, an authorising resident, and Hotel management, including the Director, Mr Ben McBeath, all present. It is submitted that despite this meeting informing residents of measures to “fortify” the Hotel, sound continued to be heard from inside the complainant’s residences.
9. The complaint further states that NSW Police was contacted on Monday 5 October 2020 at 8:30pm due to noise emanating from the Hotel. After Police attended the Hotel, the authorising resident was contacted and advised Police that despite double-glazed windows and wearing ear plugs, low-frequency speaker noise and song lyrics was still audible inside their residence.
10. The complainant seeks a reduction in the volume of the music and for it to not continue after 2:00am. The complainant requests that the Hotel complies with existing noise related conditions on its licence and for independent noise testing to occur in their residences, not just at ground level within the Hotel. They also request that speakers and subwoofers are removed from the Hotel or at least directed away from residential buildings. Additionally, they are seeking better management of patrons queuing to enter the Hotel and similarly patrons being moved on from the Hotel on egress.
11. A number of video files were provided by an authorising resident from their residence from various times on 27 September 2020, 16 October 2020 and 28 October 2020. I note that these videos are of limited quality and unfortunately do not greatly assist in determining the matter.

The venue, licence details, compliance history

12. The hotel is located at 89 Scott Street, Newcastle, situated on the corner of Watt and Scott Streets. [REDACTED]
[REDACTED]. The Hotel’s trading hours for consumption on premises is 05:00am and 03:30am Monday to Saturday and 08:00am to 12:00 midnight on Sundays in its Ground Floor and 1st Floor Lounge areas. On the remainder of the first floor, the Hotel is permitted to sell alcohol from 05:00am to 12:00 midnight Monday to Sunday, and from 05:00am to 12:00 midnight Monday to Saturday, and 10:00am to 10:00pm on

Sundays in other areas within the licensed premises. Consumption on premises in the Hotel's outdoor footway dining is permitted from 07:00am to 10:30pm Monday to Saturday and from 10:00am to 10:00pm Sundays. The Hotel holds an extended trade authorisation and a minors area authorisation.

13. The Hotel is currently subject to a number of licence conditions including an LA10 noise condition, drink restriction and stockpiling drinks condition, lock out restriction, plan of management condition, RSA Marshal condition, and a condition regarding complaint management.
14. The current licensee, Mr Mathew James Orr commenced in this role on 13 June 2019.
15. Since September 2019, L&GNSW has received six complaints concerning noise emanating from the Hotel and alleged breaches of the LA10 noise condition.

Submissions

16. Between 9 November 2020 and 14 May 2021, various material was received from parties to the complaint, including the complainant, the Hotel, NSW Police (Police) and Newcastle Council (Council). The material that is before the delegate is set out in **Annexure 2** and is summarised below.

Hotel response to complaint

17. In response to the complaint, the Hotel provided a submission on 9 November 2020. The submission contends the Hotel has taken significant steps to discuss and meet with local community members and implemented measures to attend to the mechanical management of sound leaving the internal boundary of the Hotel.
18. The Hotel submits performers are predominantly acoustic with a DJ or band occasionally operating as support. The Hotel states they were provided with an opportunity with the COVID-19 lockdowns to make mechanical and operational improvements to the Hotel. The hotel has installed triple glazing and double glazing along the Watt Street facing windows and doors and are awaiting installation of the last two glass panels for doors. Acoustic foam has been installed to make air barriers to potential noise escaping and door skirts have been installed on all Watt Street facing doors. The Hotel has directed all speakers away from the windows as instructed by an audio engineer, and all doors and windows on the Watt Street boundary are closed by 9:00pm. The Hotel further submits that no subwoofers are installed as they were removed at the start of 2020.
19. The Hotel advises they have modified the patron line direction to reduce the queue and wait along Watt Street and have installed exterior signs to notify patrons and passers-by

to be mindful of residents and remain quiet. Security also monitor and patrol the proximity of the Hotel up to 50 metres, directing patrons to move on when required. Additionally, the Hotel has implemented a mobile phone 'hotline', which is with a manager when any entertainment is hosted at the Hotel after 9pm. The hotline number is made clearly available on the Hotel's website.

20. The Hotel provided a copy of the Sound Management Plan which was updated in June 2020 and created to specifically cater to and manage any potential issues that could be considered a breach of conditions. Sound readings are taken at 15-minute intervals at the boundary of affected receivers outside the Hotel every night entertainment is hosted and recorded in the noise complaint register. The Hotel submits that although it is impossible to distinguish between ambient sound and that of sound emanating from the Hotel, they believe the sound levels recorded do not demonstrate a breach of the LA10 condition. They also believe that noise from trams, vehicles and rain noise were all 30-60% higher than any noise emitting from the Hotel. The sound reading data, as referenced in the Hotel's submission, was provided as supporting material with a sample of readings taken from January 2020 until November 2020.
21. The Hotel advises a community meeting was held on 26 October 2020 to provide information on the Hotel's sound amelioration efforts thus far and also provide a platform for community to raise any concerns. The minutes of the meeting was also attached to the Hotel submission. The Hotel submits only two people have raised direct complaints with the Hotel since it reopened in November 2018 and no contact has been made directly from the complainant since March 2020.
22. In response to the video files provided by the complainant as supporting evidence, the Hotel questions the validity and admissibility of the recordings noting the time, date, location and nature of the captured footage was not provided. The Hotel maintains that the sound data recorded at regular intervals at the boundary of the Hotel and on the opposite side of Watt Street, as outlined in the Sound Management Plan, is well under required levels.
23. The Hotel submits that with the significant investment, the implementation of sound management plans and the mechanical barriers that have been solidified since issues were raised by the complainant, the Hotel operates more so within compliance requirements than previously. The Hotel submits they will continue to work with the community and encourage involvement and feedback in addressing local amenity and concerns. The Hotel provides they are a quality offering that hosts respectful patrons and performers to support the local and wider community.

Police

24. In response to the complaint Police provided a submission on 18 November 2020. Police advise that during the previous twelve months commencing 1 January 2020, they have attended the Hotel on 10 occasions as a result of phone calls for assistance. Of these 10 occasions, one was in relation to a noise complaint. This occurred on 19 July 2020 and involved a number of people on the street outside the Hotel making noise. Police conducted a walkthrough of the Hotel with no issues detected.
25. A further six COPS events of interest were recorded during that time period concerning the Hotel, two of which are related to noise complaints;
 - [REDACTED] - On 4 October 2020 at 11:10pm, Police conducted a walkthrough of the Hotel in relation to a noise complaint and COVID-19 complaint. At the time of the walk through there was a DJ playing which was the subject of the initial complaint. Police state they could hear the music from outside the Hotel but did not believe the noise to be of an offensive level.
 - [REDACTED] – On 14 November 2020, Police received a complaint in relation to ‘extremely loud music and voices’ and conducted an inspection of the Hotel at 11:10pm. A live band was playing until 11:30pm followed by a DJ until closing. Police submit that they could hear music outside the Hotel that would be at a normal level for a Hotel premises.

Complainant final submission and further supporting material

26. In response to the Hotel submission, the complainant provided a final submission on 1 December 2020 and supporting material on 2 December 2020. The complainant disputes the claim that the Hotel directs speakers away from the windows. The complainant asserts that there is a long-standing issue where entertainers set up in the corner at the Hotel between Scott Street and Watt Street with speakers pointing south instead of away from Watt Street.
27. The complainant agrees the Hotel has made genuine attempts to limit noise being generated and that some of the soundproofing measures have worked to a certain extent. The introduction and publication of the mobile hotline has been appreciated by the complainant and authorising residents but submit at times they’ve had trouble connecting to the line and with no resolution of their complaints when notifying the Hotel. The complainant also submits they have had no recent interaction from the Hotel to resolve complaints.

28. The complainant submits that exterior signs requesting patrons exit the Hotel quietly is appreciated however it is not effective in reducing disturbance from patrons. Video footage supplied from an authorising resident depict patrons arguing outside the Hotel in the early morning hours on 15 November 2020 without any intervention by staff or security. The complainant also states they have been woken a number of times after 12:00am midnight by noisy groups of patrons congregating and loitering on the footpath adjacent to the Hotel, with vomit evident on the surrounding footpaths. The complainant further submits they have not observed security or Hotel staff intervene with patrons in these instances to reduce noise.
29. The complainant stresses that it is wrong to draw the conclusion that they have only been disturbed by noise when they have lodged complaints with the Hotel. The complainant submits they have been repeatedly exposed to excessive, intrusive and debilitating noise from the Hotel that has interrupted sleep patterns and caused great stress and negatively impacted their lives. The complainant states eight residents of the same apartment building attended the community meeting on 26 October 2020, which is indicative of the considerable level of concern held by residents concerning the Hotel.

Global Acoustics Pty Ltd Memorandum (The Report)

30. As part of the complainant's final submission, a memorandum was provided by Global Acoustics Pty Ltd dated 30 November 2020 presenting the findings and review of compliance of noise monitoring by the Hotel. The Report considered the applicable LA10 noise criteria, the methodology implemented by the Hotel in monitoring noise levels and evaluated the sound reading measurements captured by the Hotel as provided in the Hotel's first submission.
31. The Report raised a number of issues with the monitoring methodology conducted by the Hotel, as referenced below:
- Personnel conducting noise measurements should have some form of noise monitoring training.
 - No details provided of the instrumentation used or calibration status. No pre or post measurement calibration verification is recorded.
 - No information provided of the noise descriptor being used to evaluate compliance.
 - Duration of measurements taken are not recorded.

32. The Report outlines that there is no evaluation of background noise levels by the Hotel, against which an evaluation of compliance should be made. This suggests that monitoring is only a token effort by the Hotel to attempt to record measured noise levels and not evaluate compliance with noise criteria.
33. The Report concludes that upon review of the noise monitoring field sheets, the Hotel's noise monitoring is most likely meaningless and no evaluation of compliance with the LA10 noise condition can be made using the methodologies employed. The report submits that it appears no evaluation of compliance is made at the time of monitoring which suggests the Hotel does not implement noise controls to maintain noise amenity at neighbouring residential locations.

Hotel final submission

34. On 18 January 2021, the Hotel provided a final submission to L&GNSW. The submission notes that the Hotel has taken significant steps to improve their sound management. The Hotel asserts that the self-initiated Sound Management Plan, detailing the extent of the mechanical and system procedures, mitigates and manages sound complaints and sound in general. The Hotel aims to follow the Sound Management Plan as strictly as possible and submit that their actions go beyond what is required by their DA or licence conditions with no evidence being produced to demonstrate a breach of any condition.
35. The Hotel maintains that only two persons have made formal complaints regarding noise disturbance and are unaware of any other complaints of a similar nature. Attached to the Hotel's submission are emails and letters from three neighbouring residents outlining their support of the Hotel and the efforts implemented in managing noise.
36. In response to concerns raised regarding patron noise on egress, the Hotel emphasised the efforts by staff and security to manage this. The Hotel states they have held meetings with management and security and have made direct requests to Police when they cannot resolve patron dispersal issues. The Hotel evidence several new licensed premises in the area with late night trading hours that have created intoxication issues in the vicinity of the Hotel. This has resulted in people loitering around the Hotel, whether or not they are related to the Hotel itself.
37. In response to the Report provided by the complainant, the Hotel refutes that the sound recording results are inaccurate or have been doctored. They maintain the recordings are the peak sounds recorded and are taken at regular intervals, regardless whether entertainment is provided, to provide external ambient sound. The Hotel states the complainant has not provided any data contrary to the Hotel's recordings and submits the

Report aims to discredit their efforts. The Hotel asserts that they believe they have not been in breach since the current management has been in place from November 2018 and welcome professional input from Global Acoustics to demonstrate factual contradictions of their findings and recorded figures. The Hotel is supportive of an independent body undertaking noise testing.

38. The Hotel highlights the Police submission noting that on the two occasions Police attended the Hotel, the exterior noise levels were not deemed offensive and were considered to be consistent with the normal operation of a licensed premises. Further, no recommendations were made by Police to improve or change the Hotel's operations, specifically in relation to sound.
39. The Hotel reiterates that physical modifications to the building, combined with mechanical fixtures and their Sound Management Plan are working effectively and that sound coming from the Hotel is negligible. The Hotel highlights their efforts in engaging with the community, Police and Council and exemplifies a well-run operation with regular and positive entertainment by management.

Inspection by L&GNSW

40. On Saturday 6 February 2021 at 8:21pm, L&GNSW Inspectors attended the Hotel and observed live entertainment with two performers. Inspectors observed the music to be loud and struggled to speak to each other whilst seated approximately 4 meters away from the performers.
41. On Sunday 7 February 2021 at 12:33am and whilst stationed directly opposite the Hotel [REDACTED] Inspectors could hear music from the Hotel. Inspectors could clearly distinguish the song being played and also observed bass noise coming from the Hotel. Inspectors confirmed that they could not hear noise originating from other licensed premises in the area and did not observe any premises trading in the area around the complainant's residence. Inspectors also noted it was raining on and off during the inspection.
42. Inspectors then entered the complainant's residence to conduct noise testing and could hear noise from the Hotel inside two habitable rooms. In the living room with the doors to the balcony open, music was clearly audible above road and vehicle noise. With the doors closed to the living room, a very low level of music and some patron noise was audible. Inspectors observed the closed doors appeared to block out the majority of the sound emanating from the Hotel. In the bedroom, with doors and windows closed, Inspectors were able to hear music and bass coming from the Hotel as well as patron noise. This

became significantly louder when the doors were open. Inspectors noted that noise levels in the bedroom were much clearer and louder compared to the living room.

43. Inspectors concluded the noise testing and departed the complainant's residence at 1:06am. On exiting the complainant's building, Inspectors noted it was raining however music, bass and patron noise could be heard emanating from the Hotel despite the rain. Inspectors then re-entered the Hotel at 1:10am and observed a DJ performing. Inspectors observed the music to be very loud and struggled to hold a conversation. Inspectors engaged with the manager on duty concerning the management of noise complaints and were advised of the use of the mobile hotline. When Inspectors asked to sight the mobile phone, the manager stated it was on charge in the office.
44. On 13 September 2021, the licensee was issued a Warning Notice for the identified breach of the LA10 noise condition detected on 7 February 2021.

Council submission and reply from the Hotel

45. On 12 February 2021, Council provided a submission in relation to the complaint. Council submit they have received two separate requests concerning alleged noise disturbances from the Hotel since 2016. These requests had been received in the recent months and concerned amplified entertainment within the Hotel, as well as patron noise from both inside and outside the Hotel.
46. Council advised that they could not immediately identify if there were any conditions of consent limiting the operations of the Hotel and there were no pending development applications currently being assessed for the Hotel.
47. Council submit that a development application from 2007 (DA2007/1962), and most recently modified in 2018, contained consent conditions however Council records indicate that the development has not been completed by the Hotel. DA2007/1962 includes alterations and additions to the Hotel, including an 8-storey addition to include 21 new hotel suites and a rooftop restaurant. This development was conditional on the Hotel's Construction Certificate being accompanied by a comprehensive noise report prepared by an acoustic consultant to address the likely impact of noise generated from a rooftop restaurant.
48. On 16 February 2021, the Hotel responded to Council's submission and submit that as Council do not appear to have any recommendations or advice for the Hotel's current operations, they believe they are operating within their development confines. The Hotel further outline their preference to not comment on the future development approvals for

the proposed rooftop restaurant and potential rooftop noise is not relevant to the current complaint issues.

49. On 14 May 2021, Council provided a second submission enclosing a copy of Development Application DA2007/1962, conditionally approved on 20 January 2009 and the Modification of Development Consent DA2007/1962.03 determined on 20 September 2018.

Additional complaints to L&GNSW

50. It is noted that between December 2020 and November 2021, the complainant and an authorising resident to the complaint regularly contacted L&GNSW to advise that the Hotel continues to disturb the neighbourhood via loud music and patron noise.

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

51. The Act requires that the Secretary have regard to the following statutory considerations.

The order of occupancy between the licensed premises and the complainant –

52. The Hotel has operated under the current liquor licence since 27 November 1952. This predates the complainant, who has resided at his current address for 5 years. This fact is not in dispute and I consider the order of occupancy is in favour of the Hotel.

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

53. Whilst development application DA2007/1962 was last modified in 2018, approving alterations and additions to the Hotel, Council records indicate that the Hotel has yet to complete these developments.
54. The hotel ceased to trade on 9 March 2017 for refurbishments and then recommenced trade under Cicada Group Pty Limited on 12 June 2019. On 13 June 2019, Mr Mathew James Orr commenced as licensee and remains as the current licensee. The hotel has advised some acoustic amelioration work has been made, namely that triple glazing and double glazing has been installed along the Watt Street facing windows and doors, and acoustic foam has been installed to make air barriers to potential noise escaping.
55. There is no indication structural changes have been made to the complainant's residence.

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

56. The original complaint material indicates that there was no noise emanating from the Hotel during the COVID-19 lockdown period of 2020, but as restrictions lifted and operations returned to normal, the volume and activities at the Hotel increased. There is no other information to indicate there have been changes in the activities at the Hotel over a period of time.

Findings and Decision

Undue disturbance

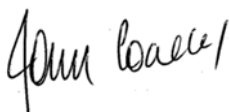
57. In deciding whether the Hotel has unduly disturbed the quiet and good order of the neighbourhood, I have balanced the submissions made by the Hotel, the complainant, NSW Police and Council. I have also had regard to the particular context in which the Hotel operates.
58. It is reasonable to expect some level of noise will be generated from the normal operation of a hotel. In this case it is clear the close proximity of the Hotel to dense residential dwellings is a significant factor to any potential disturbance that arises. Based on the available material before me, I am satisfied that there is sufficient evidence to reasonably conclude that the Hotel has, at times, unduly disturbed the quiet and good order of the neighbourhood.
59. The Hotel is currently subject to an LA10 noise condition. The condition sets a limit to which background noise at a residential boundary cannot be exceeded. Furthermore, the condition requires that noise from the Hotel must not be audible within any habitable room of a residential premises between midnight and 7:00am. While there is a lack of detailed objective evidence from local enforcement agencies, in making this decision, I have placed weight on the L&GNSW inspection and noise testing conducted at the complainant's residence on 7 February 2021. Relevantly, the findings of the noise testing concluded that the Hotel breached the more stringent post-midnight criteria of the LA10 noise condition. Similarly, the Report by Global Acoustics Pty Ltd identifies that the Hotel appears in breach of the LA10 noise condition pre-midnight criteria based on the Hotel's provided sound readings.
60. In making a finding of undue disturbance, I have also been persuaded by the close proximity of the Hotel to the complainant and authorising residents. Based on the above factors, I am satisfied that the complainant and authorising residents have been impacted by undue disturbance.

Regulatory Outcome

61. In deciding the appropriate regulatory outcome is in this instance, I have considered the statutory considerations, the material set out in Annexure 2, and the above finding of undue disturbance. I have also had regard to the particular context in which the hotel operates, noting that it is located [REDACTED] complainant's residence and am aware of the complexities in addressing noise concerns.
62. I acknowledge the order of occupancy is in favour of the Hotel and that it is reasonable to expect some form of noise will be generated from the Hotel's ongoing operation. However, the fact remains that the Hotel operates in very close proximity to residential properties. The Hotel has proactively engaged with the complainant and authorising residents to implement methods to mitigate and address concerns with noise. It is abundantly clear that the Hotel is taking the complaint seriously and is acting in a positive manner to proactively address the issues raised. There can be no doubt about the Hotel's intentions to reach a satisfactory remedy for all involved.
63. On this point, I acknowledge the noise mitigation strategies the Hotel has adopted over time to reduce its noise impact. I am particularly encouraged by the adoption and implementation of the Sound Management Plan and the efforts by the Hotel to consult with the community. I acknowledge the Hotel has been responsive to the complainant and residents in a proactive attempt to address and resolve their concerns and is willingly implementing mitigating measures. Noting conditional approval for future developments to the Hotel has been granted by Council, including rooftop terrace dining, I strongly recommend the Hotel continue to explore noise mitigating options with a qualified acoustic engineer.
64. I note under the Sound Management Plan Hotel staff are briefed to monitor noise levels using an in-house sound level meter to verify compliance with noise limits. While I acknowledge this measure implemented by the Hotel, there is no evidence before me to demonstrate that this ensures compliance with the LA10 condition and in my view is not a long-term solution. The LA10 noise condition currently imposed on the Hotel's licence is an important and valuable condition to mitigate the risk of disturbance, however it relies on the Hotel to act appropriately to ensure that undue disturbance is not experienced by local residents. Unfortunately, the Hotel has demonstrated an inability to comply with this condition despite the strategies enacted. In my view, this indicates there is a risk that similar non-compliance with the LA10 condition may occur in the future and in this regard I am satisfied a regulatory response is warranted.

65. I consider it necessary to impose a condition on the Hotel's licence requiring the installation of a noise limiter. A noise limiter, when installed and calibrated in conjunction with a qualified acoustic consultant, will ensure amplified entertainment is controlled to a level that is compliant with the LA10 noise condition. The use of a noise limiter provides assurance to residents, as well as removing any uncertainties for the Hotel, given entertainment providers can vary from one event to another.
66. While the complainant contends patrons cause undue disturbance upon leaving the Hotel and loitering in the vicinity of the Hotel, there is insufficient evidence in this regard. I also note there are several late trading licensed premises within proximity to the complainant's residence and the Hotel. I acknowledge the Hotel's stated efforts to manage patrons and noise upon their exit. This includes the deployment of security guards to monitor patrons and noise around the building and up to 50 metres from the Hotel, security advising patrons to leave in quiet manner and erecting exterior signage. I strongly urge the Hotel to continue to implement these measures in accordance with the Sound Management Plan and ensure security guards continually patrol the vicinity of the Hotel and proactively move on patrons to minimise any noise and disturbance. Such patrols are to continue until the last patron has left the Hotel and the vicinity of the Hotel. I am of the view that strict compliance with these measures will maintain the amenity of the neighbourhood and do not consider it to be overly burdensome to the Hotel.
67. I consider the imposition of a noise limiter condition to be a measured and appropriate regulatory response to address the finding of undue disturbance at the Hotel and to mitigate future disturbances. I am satisfied that this decision is a proportionate regulatory response to the identified risks of undue disturbance identified in the complaint and the strength of the evidence at hand. Noting the area in which the Hotel is located, I again remind the Hotel that it has a strong obligation to take all disturbance complaints seriously and minimise levels of disturbance to the community.

Decision Date: 26/11/2021



John Coady

Manager, Regulatory Interventions Team

Liquor & Gaming NSW

Delegate of the Secretary of the Department of Customer Service

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 **24 December 2021**. A \$500 application fee applies. Further information can be obtained from Authority Guideline 2 published on the Liquor & Gaming NSW website.

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 Customer has imposed the following conditions on the liquor licence of:

Great Northern Hotel - LIQH400117590

Noise Limiter

The licensee must ensure a noise limiter is installed to control all amplified music and entertainment at the licensed premises. All amplifiers or noise generating equipment must be under the control of the noise limiter that has been calibrated by a qualified acoustic consultant to ensure compliance with the LA10 noise criteria. The noise limiter must be contained within a locked container or secure area and is to be only accessible by hotel management and qualified acoustic consultants.

Date condition effective: 22 December 2021

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

1. Copy of the liquor licence dated 25 November 2021.
2. Section 79 Disturbance Complaint lodged by the complainant on 16 October 2020 (including video files from an authorising resident recorded on 27 September 2020, 16 October 2020 and 28 October 2020).
3. Hotel submission in response to the complaint received on 9 November 2020, including Sound Plan of Management and Sound Reading Scans.
4. NSW Police submission received on 18 November 2020.
5. Final submission from complainant received on 1 December 2020 and further complaint material received on 2 December 2020.
6. Global Acoustics Pty Ltd Memorandum dated 30 November 2020.
7. Hotel's final submission in response received on 18 January 2021.
8. File Note and observations for the Great Northern Hotel by L&GNSW Inspector [REDACTED] received on 9 February 2021.
9. Council submission received on 12 February 2021 and supplementary documents received on 14 May 2021.
10. Hotel's submission in response to Council's submission received on 16 February 2021.