TO: Development Assessment Panel  
FROM: Manager Planning and Development  
DATE: 6 February 2013  

HINDMARSH WARD  

ITEM 3.05* 5 FIRST STREET, BROMPTON  

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Darabas Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application No</td>
<td>252/1988/12</td>
</tr>
<tr>
<td>Proposal</td>
<td>Variation to hours of operation (currently 9am to midnight Monday to Saturday, and 9am to 11am Sunday) - Proposed hours: 8am until 2am Monday to Saturday and 8am to 11pm Sunday).</td>
</tr>
<tr>
<td>Owner of land</td>
<td>Darabas Pty Ltd</td>
</tr>
<tr>
<td>Zone</td>
<td>Residential Character Zone- Precinct 67 Brompton Park</td>
</tr>
<tr>
<td>Form of assessment</td>
<td>Merit</td>
</tr>
<tr>
<td>Public notification category</td>
<td>Category 3</td>
</tr>
<tr>
<td>Representations</td>
<td>7 representations received, 2 to be heard:</td>
</tr>
<tr>
<td></td>
<td>1. Sue Green, 18 West Street, Brompton (to be represented by Lindsay Holmes); and</td>
</tr>
<tr>
<td></td>
<td>2. Mike van Alphen &amp; Belinda Wood, 17A West Street, Brompton</td>
</tr>
<tr>
<td>Agency consultations</td>
<td>N/A</td>
</tr>
</tbody>
</table>
| Author            | Andrew Lieschke  
|                   | Development Officer – Senior Planner |
| Attachments       | a. Development Plan Provisions Table  
|                   | b. Application documents  
|                   | c. Representations/Applicants response  
|                   | d. Notification map  
|                   | e. Council Liquor Licensing Policy |
| Development Plan  | 5 July 2012 |
| Recommendation    | Refusal |

Masterplan, will appear on behalf of the applicant.
Report

Background

Development application 252/1887/03 was lodged by the then hotel owners for acoustic treatment to the Hotel and to extend the trading hours of the Hotel as follows: from 8am to 11pm on Sundays (currently 11 am to 8 pm) and with No Change from Monday to Saturday (currently 9am until 12 midnight). The application was approved by Council subject to 12 conditions.

In 2005 an application was lodged for additions and alterations to the hotel which was approved on 4 April 2006 under Development Application 252/2163/05. Condition 11 attached to the approval reinforced the existing hours of operation that applied.

- 9:00am to midnight Monday to Saturday; and
- 9:00am to 11:00pm on Sunday.

An application to amend these hours to 1am Monday to Saturday was submitted and considered by Council in 2008 by way of DA 252/0951/08. Eighteen representations were received in response to the Category 3 public notification process. The application was subsequently refused by Council.

Development application 252/2275/11 for relatively minor alterations and additions to the hotel was approved following Category 3 public notification with conditions that reinforced the approved hours of operation.

Proposal

The proposal seeks to vary Development Application 252/2163/05 and 252/2275/11 by extending the approved trading hours of the hotel to the following:

- Monday to Saturday 8am- 2am the next day (an additional 3 hours of trading)
- Sunday 8am to 11pm (an additional 1 hour of trading)

Any variation to the approved trading hours would require the Hotel Licensee to apply to have both the Hotel License (Liquor Licensing Act 1997) and the Gaming Machine License (Gaming Machines Act) amended to reflect the same hours.

As part of the application the applicants have stated that they are prepared to further limit the hotel's operation between midnight and 2:00am by:

- Restricting all access into and out of the hotel by excluding use of doors off Pickering Street and First Street between midnight and 2am.
- Not using any part of the premises for entertainment purposes or for the playing of music by means of amplification after midnight.
- Only operating the gaming room (25 machines) and the associated bar (25 person capacity) between 12 midnight and 2:00am; and
- Not allowing any areas outside of the building to be used for the consumption of alcohol between 12 midnight and 2:00am.

Site/Locality

The subject site, which comprises eight allotments, is located on the corner of First Street and Pickering Street, Brompton.

The Brompton Hotel, a State Heritage listed building that was upgraded in 2006. The main hotel building occupies the western side of the site, at the junction of First and Pickering Streets, with the associated car parking on the eastern side of the hotel.

Adjoining land uses include a window manufacturer on the eastern side adjacent to the hotel car park, an aged care facility opposite First Street to the south, and dwellings on the opposite side of Pickering Street and abutting the northern end of the hotel.

The locality is predominantly residential in terms of its character and land use. The original subdivision pattern remains largely intact which is characterised by narrow streets, some of which are one-way traffic movement only, and single and double fronted workers cottages. These elements give the locality a sense of intimacy and charm. Commercial development in the locality is generally of a piecemeal nature and is more concentrated east of West Street and south and west of the railway line.
Subject Site shown in blue and Locality in red
Summary of Representations and Applicants Response

Representations

The proposal underwent the Category 3 Public Notification process from which the following representations were received:

1.* Mike van Alphen & Belinda Wood, 17A West Street, Brompton
2.* Sue Green, 18 West Street, Brompton
3. Lily de Leo, 32 Pickering Street, Brompton
4. Megan Heitmann, 7 First Street, Brompton
5. Rob Hunter & Oscar Trevisan, 18/2A First Street, Brompton
6. Christine Cholewa, 3/1A Taylor Street, Brompton
7. Jonathon Van Bowman, 9 First Street, Brompton

The representor/s marked with an * wishes to be heard in support of their representation.

Category 3 public notification provides representors with a right of appeal to the Environment Resources and Development Court should they be aggrieved by the decision of Council.

Copies of the representations and the applicant’s response are attached (Attachment C).

The following table provides a summary of these:

<table>
<thead>
<tr>
<th>Representors issue</th>
<th>Applicant’s response</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Noise and disturbance from cars at night time that are parked in residential</td>
<td>Our client has not received any complaints from surrounding residents since purchasing the premises in 2010.</td>
</tr>
<tr>
<td>streets.</td>
<td>Our client is not aware of instances of anti-social behaviour associated with the hotel.</td>
</tr>
<tr>
<td>• Noise and disturbance from patrons leaving the hotel at night time.</td>
<td>The parking survey undertaken over a two week period indicates that most patrons have departed the premises well before closing time.</td>
</tr>
<tr>
<td>• Inadequate parking and overflow to residential streets:</td>
<td>There is sufficient off-street parking will exist to cater for the small number of patrons expected to be using the premises between 12 midnight and 2:00am.</td>
</tr>
<tr>
<td>• On-going traffic congestion due to patrons parking on adjacent streets.</td>
<td>We are unable to comment on assertions regarding driver behaviour and the lack of on-street parking in the streets surrounding the premises.</td>
</tr>
</tbody>
</table>
### Representors issue

<table>
<thead>
<tr>
<th>Representors issue</th>
<th>Applicant's response</th>
</tr>
</thead>
<tbody>
<tr>
<td>We understand from discussions with our client that First Street is regularly used as a short cut by motorists who are not frequenting the hotel, who travel between Chief Street and Coglin Street. In other words, the concerns raised by the representors about anti-social behaviour appear to be unrelated to activities associated with The Brompton.</td>
<td></td>
</tr>
<tr>
<td>• Intensification of land use conflict between residential and commercial land uses.</td>
<td></td>
</tr>
<tr>
<td>• There is already excessive noise from the hotel and the extension of operating hours would exacerbate this problem.</td>
<td></td>
</tr>
<tr>
<td>• Many of the houses near the hotel are located close to the street meaning rooms at the front are subjected to noise.</td>
<td></td>
</tr>
<tr>
<td>Our client is prepared to further limit the hotel's operation between midnight and 2:00am by: restricting all access into and out of the hotel to the entrance doors leading into the hotel building. We are advised that the two sets of doors off Pickering Street and First Street will not be used, but hereby clarify that these doors will be locked between 12 midnight and 2:00am;</td>
<td></td>
</tr>
<tr>
<td>Not using any part of the premises for entertainment purposes or for the playing of music by means of amplification after midnight.</td>
<td></td>
</tr>
<tr>
<td>The intention is for only the gaming room (25 machines) and the associated bar (25 person capacity) to operate between 12 midnight and 2:00am; and not allowing any areas outside of the building to be used for the consumption of alcohol between 12 midnight and 2:00am.</td>
<td></td>
</tr>
<tr>
<td>• Light spill from the eastern façade which is glass enclosure and therefore more impact from extended hours.</td>
<td></td>
</tr>
<tr>
<td>No comment from applicant in regard to light spill.</td>
<td></td>
</tr>
</tbody>
</table>

### Officer's response

The proposed extended hours of operation, notwithstanding the further limitations offered by the applicant with respect to access and use of the gaming room bar only between midnight and 2am, has potential to adversely impact residential amenity.
Development Assessment

A hotel is a Non-complying use within the Residential Character Zone. As the use is an existing one and the application is for variation of hours only with no change to the current use or operations on site, the application can be considered on merit.

The proposal is neither a complying nor non-complying form of development and must be considered on its merits against the relevant provisions of the Development Plan. The Development Act 1993 provides that a Planning Authority is to have regard to the relevant provisions of the Development Plan in assessing development proposals.

Attachment A contains a comprehensive list of all Development Plan provisions considered relevant to the proposal. Where compliance with a particular Development Plan provision requires further discussion, it has been outlined in further detail below.

Land use

The proposal is not seeking to change the existing use on the land as a hotel, but rather alter the current trading hours. Although the lawful use would not change, the extension to hotel trading hours is considered to extend the activity of an existing non-residential use, and as a consequence, affect the suitability of the land use in the locality. Consideration should therefore be given to the activities being conducted on the land, and in this case, whether the intensification of the hotel use by virtue of the proposed extended hours would achieve the objectives for the Zone.

The Desired Character Statement for the Residential Character Zone recognises the important characteristics of the Zone, as follows: ‘The zone embraces areas of historic residential character which have a high level of amenity that produces safe, convenient and distinctive living environments for all residents, along with local community facilities that complement the living environment’. To maintain this quality, it is necessary for any development to be compatible and sensitive to existing housing so as to maintain high levels of amenity and conserve the areas distinct historic character.

It is considered that the hotel, if allowed to operate under the proposed trading hours, would intensify an existing incompatible land use to the detriment of residential amenity in the locality. Such amenity impacts are considered in more detail below.

Therefore, the proposal does not accord with Objective 6 and the Desired Character Statement of the Residential Character Zone as the intensification of the hotel activity by allowing trading into early morning hours will impact unreasonably on appropriate uses in the locality.
Council Liquor Licensing Policy

Council has a Liquor Licensing Policy which aims “to provide a framework for the assessment of liquor Licence applications and the exercise of Council’s powers under the Liquor Licensing Act 1997, to address detrimental impacts on the local amenity”. Although the Liquor Licensing Policy is not a statutory planning document, meaning it holds no legal weight when assessing a development application, it does provide a framework for Council to determine noise sensitive areas and to provide a consistent framework for assessment. The Liquor Licensing Policy is attached (Attachment E).

The Liquor Licensing Policy, which defines a Noise Sensitive Area Premises as those licensed premises which are “located in a residential zone or residential policy area or precinct and adjacent to land which is in a residential zone or policy area or precinct”, states the following:

All licensed premises

1. To ensure harmony between licensed premises (including hired venues with a limited liquor license) and the surrounding residential area, the hours for the sale and supply of liquor on licensed premises are as follows:

   To the General Public for Consumption on the Premises:

   1.1 Sunday to Thursday inclusive, between 8 am and 11 pm.
   1.2 Friday and Saturday, between 8 am and midnight.

It is noted that the approved operating hours of the hotel currently vary from the Liquor Licensing Policy on some days and further extension to operating hours would far exceed the policy.

Amenity/Hours of Operation

The main concerns identified by representors relate to possible noise, anti-social behaviour and general disturbance from hotel patrons when leaving the premises at closing time. Issues of this kind, which affect residential amenity, are quite commonly associated with non-residential uses, such as a hotel, that are located within a noise-sensitive zone or area. In this situation where the hotel is located in close proximity to housing and adjacent to an aged care facility and new residential development, it is important that the operation of the hotel is restricted so it can harmoniously co-exist with noise sensitive uses.

It is reasonable to expect issues associated with late night closing times to involve, but not be limited to, patrons talking or shouting, closing of car doors, starting of car engines, and in more extreme cases, the excessive revving of engines and the squealing of car tyres. The applicant, in their response to representations, highlights the fact that there has been no history of complaints against the operation of the hotel to the current owners and hotel patrons are generally quiet when leaving the premises.
As mentioned above, the applicant has stated that they are willing to implement the following strategies to help alleviate issues arising from the extended trading hours:

- Restricting all access into and out of the hotel by excluding access from doors off Pickering Street and First Street between 12pm and 2am.
- Not using any part of the premises for entertainment purposes or for the playing of music by means of amplification after midnight.
- Only operating the gaming room (25 machines) and the associated bar (25 person capacity) between 12 midnight and 2:00am; and
- Not allowing any areas outside of the building to be used for the consumption of alcohol between 12 midnight and 2:00am.

Whilst the implementation of the above strategies may potentially provide some benefit in terms of reducing noise and disturbance, the behaviour of patrons is an issue that cannot be controlled with any level of certainty. In any event, the most appropriate means of minimising amenity impacts caused by patron behaviour is to restrict the operating times of the hotel.

In such a closed, intimate and sensitive environment even relatively well behaved patrons will be talking, closing car doors, starting engines and driving away through the narrow streets creating a volume of late night traffic and activity that would not otherwise be likely to occur in the locality within a concentrated timeframe. It is considered that extending the activities to 2am even with limiting them to the gaming room and only the one bar are not appropriate in such a distinctly residential locality.

Given the nature of the hotel use, its closeness to housing and all vehicle access being gained from narrow residential streets, it is considered that the proposed extension of trading hours beyond the current approved hours would have the potential for increased noise, annoyance and disturbance to residents in the locality. As a consequence, the amenity and character of the locality would be detrimentally impacted upon, contrary to General Section, Interface between Land Uses Objective 1 and Principles of Development Control 1 & 2 as well as General Section, Orderly and Sustainable Development, Objectives 1 & 4.

**Traffic Management and Parking**

The existing street pattern and width of carriageways around the hotel contributes to the conflict between noise associated with vehicles and their occupants and residential properties. Cars parked on the street are in close proximity to dwellings and the noise from moving vehicles is channelled rather than dissipated.
The applicant has stated that there is sufficient off-street parking to cater for the small number of patrons expected to be using the premises between 12 midnight and 2:00am. The assumption is that all patrons that remain in the building after 12 midnight have parked in the carpark at the commencement of their attendance and will therefore leave from the carpark. In reality the hotel cannot guarantee this outcome just as they cannot guarantee the behaviour of patrons or the direction of travel once they leave the hotel.

Traffic impacts associated with movements to and from the site are unreasonable with the additional operating hours proposed.

**Conclusion**

This application has been assessed against the Charles Sturt Development Plan dated 5 July 2012.

The Brompton Hotel is located in an area that is primarily residential in terms of land uses and character. The dwellings are located in close proximity to the hotel on the opposite sides of narrow residential streets creating an intimate living environment.

A hotel is a use which is not envisaged for the zone. Moreover it is listed as a non complying form of Development within the Residential Character Zone. This indicates that the hotel is considered to have the potential to create conflict with residential uses in the locality.

It is acknowledged that the hotel has existed at the site for over a hundred years and for all intents and purposes will continue to exist for as long as the use is economically viable. The continued use of the hotel has been supported by Council in the past as witnessed by approvals granted for various refurbishments and upgrades over the years.

However, it must also be acknowledged that the hotel by its very nature is a source of great conflict being located within a residential area in close proximity to dwellings, which needs to be tempered with measures such as a restriction on hours of operation. Such a restriction goes some way to minimising the time within which conflicts occur but not the conflicts themselves.

The proposed extension of trading hours of the Brompton Hotel has the potential to create a level of noise and activity at hours that are not considered compatible with the residential properties in the locality. The proposal would detrimentally impact upon the amenity of what is predominantly a residential area, which is otherwise relatively quiet at night and where dwellings are established along narrow streets in very close proximity to the hotel. Current hours of operation adequately limit the hours of use and therefore the period of conflict and are considered appropriate.

In order to achieve the high levels of amenity sought for the zone it is necessary to place reasonable limitations on those kinds of activities which may if not operated in a compatible manner be adverse or not conducive to the attainment of the level of amenity and distinctive living environment as sought for the Zone.

Accordingly, it is recommended that Development Plan Consent be refused.
Recommendation

A. Reason for Decision

The Panel has read and considered the report prepared by the Development Officer - Senior Planner dated 6 February 2013 and agrees with the assessment outlined in that report:

B. That pursuant to Section 35 (2) of the Development Act, 1993, the proposal is seriously at variance with the relevant provisions of the Charles Sturt (City) Development Plan consolidated 5 July 2012.

C. That pursuant to Section 33 of the Development Act, 1993, Development Application Number 252/1988/12 be REFUSED Development Plan Consent for the following reasons:

The development is seriously at variance with the following Development Plan Objectives, Desired Character statements and Principles of Development Control:

1. Residential Character Zone, Objective 6, PDCs 1 & 7
2. Precinct 67 - Brompton Park, PDC 15
3. General Section, Orderly and Sustainable Development, Objectives 1 & 4
4. General Section, Interface between Land Uses, Objective 1 & PDCs 1-2

In that the proposal is detrimental to the existing high level of amenity and safe, convenient and distinctive living environment of residents within the locality. The proposal is also considered to be detrimental to the provision and maintenance of safe pleasant and convenient residential neighbourhoods, adversely impacting upon the amenity of the locality in which the subject land is situated due to the hours of operation of the hotel and late night activity, noise and late night traffic.
APPENDIX A

[Appendix A consists of 4 pages]
### Development Plan Provisions - Consolidated 5 July 2012

#### Land Use

#### Residential Character Zone

**Desired Character**
The zone embraces areas of historic residential character which have a high level of amenity that produces safe, convenient and distinctive living environments for all residents, along with local community facilities that complement the living environment. It recognises 15 individual precincts, each having a distinctive historical character formed by the interaction between buildings, spaces, topography, vegetation and landscaping, general street pattern and layout of the area. It is the collective integrity of the built form that shapes the nature of each precinct.

Many areas have streets lined with mature street trees and have attractive landscaped public spaces both of which complement residential development, and collectively form a strong part of the character of the area. New development needs to respond to the special attributes of the respective precinct, including views, vistas, existing vegetation and landmarks.

An increase in the density of housing may take place on corner sites or where dwellings replace a non complying use or an existing building not listed as a contributory item. Existing industrial or commercial uses in the zone ought to be replaced with residential uses as development opportunities arise.

A home business, being a dwelling where no more than 50 per cent of the total floor area of the dwelling is used for a business purpose, will be encouraged in contributory places along South Road and Port Road. It will be important to retain the amenity and character of the area by respecting the existing development pattern of the precincts.

| O 1  | Preservation of the existing development patterns and built form. | Complies. |
| O 6  | Development that contributes to the desired character of the zone. | Does not comply |
| PDC 1 | The following forms of development are envisaged in the zone:  
  - domestic outbuilding in association with a dwelling | Does not comply |

**PDC = Principle of Development Control**

---
- domestic structure
- dwelling
- dwelling addition
- small scale non-residential uses that serve the local community, for example:
  - child care facilities
  - health and welfare services
  - open space
  - primary and secondary schools
  - recreation areas
  - shops, offices or consulting rooms
- supported accommodation.

PDC4
Non-residential development should be of a nature and scale that:
(a) serves the needs of the local community
(b) is consistent with the character of the locality
(c) does not detrimentally impact on the amenity of nearby residents.

PDC 7
Development should not be undertaken unless it is consistent with the desired character for the zone.

Precinct 67 Brompton Park
Desired Character
The Brompton Park subdivision precinct accommodates some of the City of Charles Sturt’s oldest houses and buildings, dating to the earliest years of European Settlement in the region. The Brompton Park subdivision pattern, dating from 1876, is one of very small, narrow allotments designed for typically early inner-city residential living. The existing significant buildings are primarily small, single-storey, detached and attached, single and double fronted workers’ cottages dating from the 1870’s-1890’s period. They are characterised by red brick and bluestone walls, gable and hipped corrugated iron roofs and small setbacks from the street. The predominant urban character remains that of the Victorian era, with an intimate and small-scale character which has considerable charm and interest. This precinct also includes more recent commercial and industrial premises which detract from the older.

O = Objective
PDC = Principle of Development Control
<table>
<thead>
<tr>
<th>Objective</th>
<th>Principle of Development Control</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victorian character of the area.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>PDC 15 Development should not be undertaken unless it is consistent with the desired character for the precinct.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>Orderly and Sustainable Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>O 1 Orderly and economical development that creates a safe, convenient and pleasant environment in which to live.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>O 4 Development that does not prejudice the achievement of the provisions of the Development Plan.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>PDC 1 Development should not prejudice the development of a zone for its intended purpose.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>PDC 9 Development in localities having a dysfunctional or unsatisfactory layout, or unhealthy or obsolete development should improve or rectify those conditions.</td>
<td>Does not comply</td>
<td></td>
</tr>
<tr>
<td>General Section - Interface between Land Uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>O1 Development located and designed to prevent adverse impact and conflict between land uses.</td>
<td>Does not comply.</td>
<td></td>
</tr>
<tr>
<td>PDC 1 Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following: (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants (b) noise (c) vibration (d) electrical interference (e) light spill (f) glare (g) hours of operation (h) traffic impacts.</td>
<td>Does not comply.</td>
<td></td>
</tr>
<tr>
<td>PDC 2 Development should be sited and designed to minimise negative impact on existing and potential future land uses desired in the locality.</td>
<td>Does not comply.</td>
<td></td>
</tr>
<tr>
<td>General Section - Residential Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>O1 Safe, convenient, pleasant and healthy-living environments that meet the full range of needs</td>
<td>Does not comply.</td>
<td></td>
</tr>
</tbody>
</table>

O = Objective  
PDC = Principle of Development Control
and preferences of a diverse community.

<table>
<thead>
<tr>
<th>General Section: Transportation and Access</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Objective</strong></td>
</tr>
<tr>
<td><strong>PDC 12</strong></td>
</tr>
<tr>
<td>Development should be designed to discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive land uses.</td>
</tr>
<tr>
<td><strong>PDC 38</strong></td>
</tr>
<tr>
<td>Development should provide off-street vehicle parking and specifically marked accessible car parking</td>
</tr>
</tbody>
</table>

O = Objective
PDC = Principle of Development Control
APPENDIX B

[Appendix B consists of 25 pages]
COUNCIL: CITY OF CHARLES STURT

APPLICANT: DARABAS PTY LTD
Postal Address: C/- MASTERPLAN SA PTY LTD
33 CARRINGTON STREET ADELAIDE SA 5000

OWNER: FIRST STREET HOLDINGS PTY LTD
Postal Address: C/-129 NORTH TERRACE
ADELAIDE SA 5000

CONTACT PERSON FOR FURTHER INFORMATION:
Name: GRAHAM BURNS- MASTER PLAN SA PTY LTD
Telephone: 8221 6000
Facsimile: 8221 6001
Mobile: 0413 832 602

EXISTING USE:
HOTEL AND ASSOCIATED CAR PARK

DESCRIPTION OF PROPOSED DEVELOPMENT: VARY APPROVED HOURS OF OPERATION

LOCATION OF PROPOSED DEVELOPMENT:
House No: 1-5 Lot No: 313-318, 320 Street: FIRST STREET Town/Suburb: BROMPTON
Section No (full/part): Hundred:
Volume: 5288 Folio: 251
Section No (full/part): Hundred:
Volume: 5892 Folio: 414
Volume: 5113 Folio: 183

BUILDING RULES CLASSIFICATION SOUGHT:
If Class 5, 6, 7, 8 or 9 classification is sought, state the proposed number of employees: Female: Male:
If Class 9a classification is sought, state the number of persons for whom accommodation is required:
If Class 9b classification is sought, state the proposed number of occupants of the various spaces at the premises:

DOES EITHER SCHEDULE 21 OR 22 OF THE DEVELOPMENT REGULATIONS 2008 APPLY?
YES: ☐ NO: ☑

HAS THE CONSTRUCTION INDUSTRY TRAINING FUND ACT 1993 LEVY BEEN PAID?
YES: ☐ NO: ☑

DEVELOPMENT COST (Do not include any fit-out costs): $nil

I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Development Regulations 2008.

SIGNATURE: ________________________________
FOR: DARABAS PTY LTD

FOR OFFICE USE
Development No: 252/1988/12
Previous Development No: MH 5/10/12
Assessment No: 166 289

☐ Complying Application forwarded to DA
☐ Non-complying Commission/Council on:
☐ Notification Cat 2 Decision:
☐ Notification Cat 3 Type:
☐ Referral/Concurrence Date:
☐ DA Commission Decision Fees Receipt No Date

Planning:

Building:

Land Division:

Additional:

Dev Approval:

Dated: 2 OCTOBER 2012
2 October 2012

Planner – Development Assessment
City of Charles Sturt
72 Woodville Road
WOODVILLE SA 5011

Dear Sir/Madam

Re: Extension of Trading Hours – The Brompton

We act for Darabas Pty Ltd, trading as The Brompton Hotel ('Darabas').

Darabas is the licensee of The Brompton Hotel at the corner of First Street and Pickering Street, Brompton. The Brompton Hotel operates in accordance with the terms and conditions of a Hotel Licence and a Gaming Machine Licence (Licence Number 50100575) pursuant to the Liquor Licensing Act 1997 and the Gaming Machines Act 1992. We attach copies of the Hotel Licence and Gaming Machine Licence. The licences allow the hotel and the associated gaming room to trade from 9:00am to 12midnight Monday to Saturday, and from 9:00am to 11:00pm Sunday.

The Development Assessment Commission granted approval on 29 June 2006 (DA 252/2163/05) to alter and extend the hotel premises. This approval also provided for complete refurbishment of the hotel with new dining and kitchen facilities, a relocated gaming room and a new off-street car park.

The approval was granted subject to a number of conditions, including Condition 11 which reads:

"That the hours of operation of the hotel activity shall be between 9:00am to midnight Monday to Saturday and between 9:00am to 11:00pm on Sunday."

An earlier application (DA 252/1887/03) was approved on 8 December 2004 for acoustic treatments to allow for extended trading from 8:00am to 11:00pm on Sundays, with no change to trading times from Monday to Saturday (9:00am to 12 midnight). These extended hours were specified in Condition 4 of that consent.

The current owners purchased the hotel in August 2008 and in that time have not received any complaints from neighbouring venues about the running of the venue or patron behaviour.
The Application

Darabas now seeks Development Plan Consent and Development Approval to vary the hours of operation to allow for the hotel to trade Monday to Saturday from 8:00am until 2:00am the next day and from 8:00am to 11:00pm Sunday.

In support of the application, Darabas is prepared to further limit the hotel's operations between midnight and 2:00am by:

- restricting all access into and out of the hotel to the entrance doors leading from the car park into the hotel building. Specifically, the two entrance doors off Pickering Street and First Street will not be used;
- not using any part of the premises for entertainment purposes or for the playing of music by means of amplification after 12 midnight; and
- not allowing any areas outside the building to be used for the consumption of alcohol.

Car Park Survey

The car park is line marked for 44 vehicles (including two disabled spaces). Ingress and egress is available from two entrances onto First Street. The car park driveway entrances are secured by gates which are locked outside of the hotel's prescribed operating times.

The hotel car park was surveyed over a two week period to determine its capacity at peak times. The results of the survey are shown in Table 1 below, and reveal that the car park is at or close to capacity only on certain days of the week, but never any later than 10:00pm. Indeed, between 10:00pm and midnight the car park was either empty or close to empty.

The periods when the car park is at or close to capacity (between 40 and 44 spaces occupied) are highlighted in Table 1.
<table>
<thead>
<tr>
<th></th>
<th>6pm</th>
<th>7pm</th>
<th>8pm</th>
<th>9pm</th>
<th>10pm</th>
<th>11pm</th>
<th>12midnight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday 10 September</td>
<td>20</td>
<td>29</td>
<td>29</td>
<td>15</td>
<td>8</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Tuesday 11 September</td>
<td>24</td>
<td>40</td>
<td>43</td>
<td>41</td>
<td>34</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Wednesday 12 September</td>
<td>36</td>
<td>32</td>
<td>29</td>
<td>25</td>
<td>33</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Thursday 13 September</td>
<td>20</td>
<td>22</td>
<td>22</td>
<td>20</td>
<td>12</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Friday 14 September</td>
<td>31</td>
<td>43</td>
<td>43</td>
<td>34</td>
<td>26</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>Saturday 15 September</td>
<td>22</td>
<td>22</td>
<td>44</td>
<td>44</td>
<td>30</td>
<td>15</td>
<td>6</td>
</tr>
<tr>
<td>Sunday 16 September</td>
<td>12</td>
<td>20</td>
<td>35</td>
<td>15</td>
<td>6</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Monday 17 September</td>
<td>11</td>
<td>14</td>
<td>11</td>
<td>10</td>
<td>6</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Tuesday 18 September</td>
<td>32</td>
<td>43</td>
<td>41</td>
<td>34</td>
<td>26</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Wednesday 19 September</td>
<td>12</td>
<td>20</td>
<td>15</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Thursday 20 September</td>
<td>36</td>
<td>40</td>
<td>40</td>
<td>35</td>
<td>25</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Friday 21 September</td>
<td>44</td>
<td>44</td>
<td>41</td>
<td>36</td>
<td>24</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Saturday 22 September</td>
<td>15</td>
<td>30</td>
<td>44</td>
<td>35</td>
<td>20</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>Sunday 23 September</td>
<td>38</td>
<td>38</td>
<td>21</td>
<td>10</td>
<td>4</td>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: The Brompton Hotel
The survey shows that the car park is at or near capacity only between 7:00pm and 9:00pm on Friday and Saturday evenings. From 9:00pm to midnight, when the hotel is required to close, vehicle numbers fall significantly, such that by closing time the car park is either empty or close to empty.

With a car park capacity for 44 vehicles, it is obvious that the car park will have sufficient capacity to accommodate patrons who wish to use the hotel’s facilities between 12 midnight and 2:00am.

Comparisons with other Licensed Premises

We have compared The Brompton Hotel’s hours of operation with other hotels in the vicinity. The results of our review are summarised in Table 2.

<table>
<thead>
<tr>
<th></th>
<th>TRADING TIMES</th>
<th>CAPACITY</th>
<th>ZONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brompton Hotel</td>
<td>Midnight</td>
<td>300</td>
<td>Residential Character</td>
</tr>
<tr>
<td>Hope Inn Hotel</td>
<td>3:00am</td>
<td>270</td>
<td>District Centre</td>
</tr>
<tr>
<td>Hotel Excelsior</td>
<td>Midnight</td>
<td>Not Shown on Licence</td>
<td>Residential Character</td>
</tr>
<tr>
<td>Gaslight Tavern</td>
<td>2:00am</td>
<td>100</td>
<td>Residential</td>
</tr>
<tr>
<td>Land of Promise Hotel</td>
<td>3:00am</td>
<td>375</td>
<td>District Centre</td>
</tr>
<tr>
<td>Lady Daly Hotel</td>
<td>3:00am</td>
<td>244</td>
<td>District Centre</td>
</tr>
<tr>
<td>The Ovingham Hotel</td>
<td>3:00am</td>
<td>370</td>
<td>Residential Character</td>
</tr>
</tbody>
</table>

Source: Liquor and Gambling Commission

Table 2 shows that the most comparable hotels to The Brompton Hotel are:

- The Gaslight Tavern at 36 Chief Street, Brompton, located at the corner of Chief Street and Second Street in the Residential Zone, and surrounded on three sides by residential development; and
- The Ovingham Hotel (Bombay Bicycle Club) at 29 Torrens Road, Ovingham in the Residential Zone, and surrounded on three sides by residential development.
Planning Assessment

The Brompton Hotel is located in the Residential Character Zone, the Historic Conservation Area and Brompton Park Precinct 67 of that Zone. The Brompton Hotel is not explicitly recognised by the Zone, Area or Precinct provisions, other than a general reference in the Zone’s Desired Character to “community facilities that complement the living environment” and Zone Principle 4 which specifies that non-residential development should be of a nature and scale that:

“(a) serves the needs of the local community;

(b) is consistent with the character of the locality;

(c) does not directly impact on the amenity of nearby residents.”

The hotel lawfully exists and functions generally as a community facility. Furthermore, no alterations or extensions are proposed to the building. It is therefore reasonable to conclude that The Brompton Hotel will continue to complement the surrounding living environment.

Moreover, as the car park will clearly have sufficient capacity to accommodate the handful of patrons likely to be at the hotel between 12 midnight and 2:00am, it is also reasonable to conclude that the extended hours of operation will not impact, either directly or indirectly, on the amenity of nearby residents. Indeed, as no variation is sought to extend the hotel’s entertainment consent hours (currently Monday to Saturday until midnight and Sunday until 11.00pm) and no entertainment, music or other amplified sound will be played in the premises after midnight, it is also reasonable to conclude that no noise or other disturbance will be generated in the two hour extended period from midnight until 2:00am.

The Brompton Hotel is surrounded by residential and non-residential development, with a community reserve associated with new residential development to the immediate north. Ian George Court is situated at 2-10 First Street Brompton, directly opposite the hotel car park, and backs onto the Outer Harbour railway line. Ian George Court is run by Anglicare Incorporated and provides high quality services for up to 40 socially and financially disadvantaged persons who are either homeless or are at risk of becoming homeless. Darabas is not aware of any concerns or complaints from Anglicare about the operations and activities of The Brompton Hotel. Indeed, we note from the approved plans of Ian George Court that the living quarters of this facility are located well away from the hotel proper and the car park — see Ground Floor Plan and Level 1 Floor Plan dated 7 December 2001 attached. We also note that the approval granted to Anglicare’s facility by the City of Charles Sturt included Condition 10 which specified that “the acoustic measures recommended in the letter of 6 February 2002 from Peter Maddern and Associates be installed in the development prior to the occupation of the development.” In other words, Ian George Court has been designed, sited and constructed having regard to its surrounding environment, including the surrounding acoustic environment.
The hotel car park is surrounded on all other sides by commercial warehouse premises, the community reserve to the north and the hotel building itself.

The proposed extension of trading times is in our opinion reasonable having regard to the nature and character of surrounding development, as well as the above-cited provisions of the Residential Character Zone, the Historic Conservation Area and Brompton Park Precinct 67.

We have also assessed the proposal against the relevant Council-wide provisions of the Development Plan, particularly Objective 2 and Principles 1, 2, 8 and 10 under the heading 'Interface between Land Uses'. The hotel was carefully designed and sited having regard to surrounding sensitive uses as part of its major refurbishment approximately seven years ago, including the existence (by then) of Ian George Court which itself was designed and sited having regard to its own proximity to The Brompton Hotel. Since no alterations are proposed to the hotel built form, the car park has sufficient capacity to accommodate patrons, no use will be made of external areas after midnight, no entertainment or amplified music will be played after midnight and all access into and out of the hotel between midnight and 2:00am will be confined to the main entrance from the car-park, it can be reasonably concluded that:

- community health and amenity in the immediate locality will not be adversely impacted;
- there will be no conflict between the activities in the hotel and surrounding land uses; and
- there will be no unreasonable interference to the locality from noise, light spill, glare, the hours of operation or traffic impacts.

Conclusion

We have concluded that the application by Darabas to extend the hours of operation of The Brompton Hotel would not be in conflict with the relevant provisions of the Development Plan and is therefore deserving of Development Plan Consent.

After Development Plan Consent and Development Approval has been obtained, Darabas will apply to the Liquor and Gambling Commissioner for approval to alter the terms and conditions of its Licence, including limits on the use of external areas, noise and entertainment restrictions and limits on access into and out of hotel.

We enclose:

- an application for Development Plan Consent;
- copies of the Hotel Licence and the Gaming Machine Licence;
- a plan showing the layout of the hotel;
• a plan of nearby Ian George Court; and
• a Site and Locality Plan.

Would you please advise the fees owing in relation to the application and we will arrange for immediate payment.

Yours sincerely,

Graham Burns
MasterPlan SA Pty Ltd

enc: Documents as Listed.
REGISTER SEARCH OF CERTIFICATE OF TITLE  * VOLUME 5288 FOLIO 251  *

COST  : $25.00 (GST exempt )
REGION : EMAIL
AGENT : BTPL BOX NO : 000
SEARCHED ON : 28/09/2012 AT : 10:09:46

PARENT TITLE : CT 2170/55

DATE OF ISSUE : 23/08/1995

CLIENT REF 13716

REGION : EMAIL AUTHORITY :

CONVERTED TITLE :

EDITION : 6

REGISTERED PROPRIETOR IN FEE SIMPLE

FIRST STREET HOLDINGS PTY. LTD. OF C/- LEVEL 4/81 FLINDERS STREET ADELAIDE
SA 5000

DESCRIPTION OF LAND

ALLOTMENTS 317 AND 318 DEPOSITED PLAN 459
IN THE AREA NAMED BROMPTON
HUNDRED OF YATALA

EASEMENTS

NIL

SCHEDULE OF ENDORSEMENTS

11441155 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

REFER TO ROADS GROUP RE PRELIM. PLAN 06/0030
AMENDMENT TO DIAGRAM VIDE DKT 1/07

END OF TEXT.
DISTANCES ARE IN FEET AND INCHES
FOR METRIC CONVERSION
1 FOOT = 0.3048 metres
1 INCH = 0.0254 metres
REGISTER SEARCH OF CERTIFICATE OF TITLE

VOLUME 5892 FOLIO 414

COST: $25.00 (GST exempt)
REGION: EMAIL
AGENT: BTPL BOX NO: 000
SEARCHED ON: 28/09/2012 AT: 10:11:51

PARENT TITLE: CT 5712/80
AUTHORITY: SC 9490317
DATE OF ISSUE: 04/04/2003
EDITION: 5

CLIENT REF: 13716

REGISTERED PROPRIETOR IN FEE SIMPLE
FIRST STREET HOLDINGS PTY. LTD. OF C/- LEVEL 4/81 FLINDERS STREET ADELAIDE SA 5000

DESCRIPTION OF LAND
ALLOTMENT 20 FILED PLAN 119438
IN THE AREA NAMED BROMPTON HUNDRED OF YATALA

EASEMENTS
NIL

SCHEDULE OF ENDORSEMENTS
11441155 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS
DOCUMENTS AFFECTING THIS TITLE
NIL

REGISTRAR-GENERAL'S NOTES
NIL

END OF TEXT.
REGISTER SEARCH OF CERTIFICATE OF TITLE * VOLUME 5113 FOLIO 183 *

COST : $25.00 (GST exempt )
REGION : EMAIL
AGENT : BTPL BOX NO : 000
SEARCHED ON : 28/09/2012 AT : 10:12:29

PARENT TITLE : CT 871 /9
AUTHORITY : CONVERTED TITLE
DATE OF ISSUE : 22/03/1993
EDITION : 11

REGION : EMAIL AUTHORITY : CONVERTED TITLE

CLIENT REF 13716

REGISTERED PROPRIETOR IN FEE SIMPLE

FIRST STREET HOLDINGS PTY. LTD. OF C/- LEVEL 4/81 FLINDERS STREET ADELAIDE
SA 5000

DESCRIPTION OF LAND

ALLOTMENTS 313, 314, 315 AND 316 DEPOSITED PLAN 459
IN THE AREA NAMED BROMPTON
HUNDRED OF YATALA

EASEMENTS

NIL

SCHEDULE OF ENDORSEMENTS

11441155 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

AMENDMENT TO DIAGRAM VIDE DKT 1/07
ON S.A. HERITAGE REGISTER VIDE GAZ 23/11/1989

END OF TEXT.
Hotel Licence

50100575

Liquor Licensing Act 1997

PENDING LICENCE REFER ORDER 155140

PREMISES NAME: BROMPTON HOTEL

PREMISES ADDRESS: 5 First Street, Brompton 5007

LICENSEE: Darabas Pty Ltd

LICENSED PREMISES: Outlined in red on the approved plan

AUTHORISATION: To sell and supply liquor in accordance with Section 32 of the Liquor Licensing Act 1997 and any other conditions of this licence

EXTENDED TRADING AUTHORISATION: Outlined in pink on the plan and shown as Areas 1 to 8

For consumption ON the licensed premises:
Refer Page 2

For consumption OFF the licensed premises:
Refer Page 2

ENTERTAINMENT CONSENT: Outlined in blue on the plan and shown as Areas 2 to 3, 6 & 8

Entertainment to cease:
Monday to Saturday midnight
Sunday 11 pm

No amplified music is to be played in Area 1

Noise emanating from the premises shall not exceed 5dB(A) above the ambient background noise level when measured in any octave, such measurement is to be taken at the boundary of any nearby residential premises.

DESIGNATED AREAS: Dining: Outlined in green on the plan and shown as Areas 2 to 6 & 8

CAPACITIES: Refer Page 2

DISBURSEMENT OF FUNDS: Refer Attachment A

CONDITIONS: Refer Page 3

IMPORTANT: The licensee is obliged to maintain all essential safety provisions as required by Regulation 76 of the Regulations made under the Development Act 1993.

Date of issue: 10 JULY 2012

LIQUOR AND GAMBLING COMMISSIONER
EXTENDED TRADING AUTHORISATION

For consumption ON the licensed premises:

**Areas 1 to 4 & 6 to 8** (including the entry foyer of the licensed premises)
- **Sunday**: 9.00am to 11.00am and 8.00pm to 11.00pm

**Area 5**
- **Sunday**: 9.00am to 11.00am and 8.00pm to 10.00pm

For consumption OFF the licensed premises:

**Areas 1 to 8**
- **Sunday**: 9.00am to 11.00am and 8.00pm to 9.00pm

**CAPACITIES:**

<table>
<thead>
<tr>
<th>Area</th>
<th>Capacity</th>
<th>Capacity with all furniture removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area 1</td>
<td>85 persons</td>
<td></td>
</tr>
<tr>
<td>Area 2</td>
<td>60 persons</td>
<td></td>
</tr>
<tr>
<td>Area 3</td>
<td>160 persons</td>
<td></td>
</tr>
<tr>
<td>Area 4</td>
<td>75 persons</td>
<td></td>
</tr>
<tr>
<td>Area 5</td>
<td>95 persons</td>
<td></td>
</tr>
<tr>
<td>Area 6</td>
<td>40 persons</td>
<td></td>
</tr>
<tr>
<td>Area 7</td>
<td>Bottle Shop</td>
<td></td>
</tr>
<tr>
<td>Area 8</td>
<td>30 persons</td>
<td></td>
</tr>
<tr>
<td>Area 9</td>
<td>8 persons</td>
<td></td>
</tr>
</tbody>
</table>

Area 9 shall trade within the current approved hours. The total number of patrons on the premises shall not exceed 300 persons at any one time.

Date of issue: 10 JULY 2012

LIQUOR AND GAMBLING COMMISSIONER
CONDITIONS:

Under Section 43(1) of the Act, I impose the following conditions on the licence:

The hotel shall operate between the following hours:
(New Year's Eve shall not exceed these hours)

Areas 1 to 4 & 6 to 8

For consumption ON the licensed premises

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Saturday</td>
<td>9am to midnight</td>
</tr>
<tr>
<td>Sunday</td>
<td>9am to 11pm</td>
</tr>
</tbody>
</table>

Area 5

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Sunday</td>
<td>9am to 10pm</td>
</tr>
</tbody>
</table>

For consumption OFF the licensed premises

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Saturday</td>
<td>9am to midnight</td>
</tr>
<tr>
<td>Sunday</td>
<td>9am to 9pm</td>
</tr>
</tbody>
</table>

1. That deliveries and waste removal shall only take place between the hours of:

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Friday</td>
<td>8.30am to 8.00pm</td>
</tr>
<tr>
<td>Saturday and Sunday</td>
<td>9.00am to 6.00pm</td>
</tr>
</tbody>
</table>

Date of issue: 10 JULY 2012

LIQUOR AND GAMBLING COMMISSIONER
ATACHMENT A
(This page need not be displayed)

DISBURSEMENT OF FUNDS:

While the licence is held by DARABAS PTY LTD proceeds of the business conducted under the licence shall not be disbursed pursuant to the D & T BROMPTON TRUST except to DAVID NADEEM BASHEER; to the R & M BARNES FAMILY TRUST except to REBECCA ANNETTE PRITCHARD; to the R & T BASHEER (BROMPTON) TRUST except to RICHARD MAXWELL BASHEER & TANIA CHRISTINE BASHEER; to the S & P BROMPTON TRUST except to SONIA BASHEER & PETER CRAIG WOOLLEY without the prior approval of the licensing authority.

Date of issue: 10 JULY 2012

LIQUOR AND GAMBLING COMMISSIONER
"THE PLAN MUST BE KEPT ON THE PREMISES AT ALL TIMES AND BE PRODUCED TO AN AUTHORIZED OFFICER UPON REQUEST."
(NEED NOT BE DISPLAYED)
Gaming Machine Licence

50100575

Gaming Machines Act 1992

PREMISES NAME: BROMPTON HOTEL
PREMISES ADDRESS: 5 First Street, Brompton 5007
LICENSEE: Darabas Pty Ltd

AUTHORISATION: The licensee is authorised to possess approved gaming machines on the premises designated in the licence and to conduct gaming on these machines subject to the Gaming Machines Act, 1992 and the conditions of the licence.

GAMING LICENCE GRANTED: 15 March 1996
GAMING AREA: Outlined in purple on the approved plan and shown as Areas 1
LAYOUT: The gaming machine layout is depicted on the approved plan.
MAXIMUM MACHINES APPROVED: Area 1 30 machines
NUMBER OF ENTITLEMENTS: 25 entitlements
HOURS OF OPERATION: Monday 9am to midnight, Tuesday 9am to midnight, Wednesday 9am to midnight, Thursday 9am to midnight, Friday 9am to midnight, Saturday 9am to midnight, Sunday 9am to 11pm, Christmas Day nil, Good Friday nil

DISBURSEMENT OF FUNDS: Refer Attachment C

CONDITIONS: The licence is subject to those conditions imposed by the Gaming Machines Act, 1992 as set out in Schedule 1 (refer Attachment A) and the conditions imposed by the Liquor and Gambling Commissioner (refer Attachment B).

Date of issue: 3 AUGUST 2010
LIQUOR AND GAMBLING COMMISSIONER
ATTACHMENT C

(This page need not be displayed)

DISBURSEMENT OF FUNDS:

While the licence is held by DARABAS PTY LTD proceeds of the business conducted under the licence shall not be disbursed pursuant to the D & T BROMPTON TRUST except to DAVID NADEEM BASHEER; to the R & M BARNES FAMILY TRUST except to REBECCA ANNETTE PRITCHARD; to the R & T BASHEER (BROMPTON) TRUST except to RICHARD MAXWELL BASHEER & TANIA CHRISTINE BASHEER; to the S & P BROMPTON TRUST except to SONIA BASHEER & PETER CRAIG WOOLLEY without the prior approval of the licensing authority.

Date of issue: 3 AUGUST 2010

LIQUOR AND GAMBLING COMMISSIONER
Locality Plan
THE BROMPTON HOTEL
5 First Street
BROMPTON
for Darbas Pty Ltd

Subject Land
Ian George Court (Anglicare)
Site Plan
THE BROMPTON HOTEL
5 First Street
BROMPTON
for Darabas Pty Ltd

Subject Land

Ian George Court (Anglicare)
APPENDIX C

[Appendix C consists of 21 pages]
Statement of Representation

Pursuant to Section 38 of the Development Act 1993

Under the Development Act 1993, any person may, in accordance with the regulations, make a representation in writing to the relevant authority in relation to the granting or refusal of consent for a Category 2 or Category 3 development application. To submit a statement of representation please complete ALL 7 sections of this form and send to council.

Please note that pursuant to section 38(17) of the Development Act 1993, if the application involves a Category 2 notification and you were not entitled to receive notice of the application in accordance with the Development Act 1993 and Development Regulations 2008 you cannot make a representation in relation to the application.

1. Development Number 252 / 1988 / 112

2. Person(s) making representation:
   Name: SUE GREEN
   Street Address: 18 WEST STREET BROMPTON
   Postal Address (if different to above):____________________________________________________________
   Email: 
   Phone: 08 83461099 Mobile: — Fax: —

3. Nature of interest in development (eg adjoining resident, owner of land in vicinity or on behalf of organisation or company):
   RESIDENTIAL PROPERTY OWNER

4. Issues that I/we would like to raise:
   PLEASE REFER TO ATTACHED SHEET

5. These issues would be overcome by (state action sought):
   REFUSAL OF THE APPLICATION
6. Please indicate whether you wish to personally present your statement to the Development Assessment Panel. Your written statement will be provided to the Development Assessment Panel and to the applicant, and will be considered in making an approval decision. You may choose to present your statement verbally.

☐ I do not wish to make a verbal presentation.
☐ I will appear personally to make a verbal presentation.
☒ I authorise LINDSAY HOLMES to make the verbal representation on my behalf.

7. Privacy

I acknowledge that copies of this representation and supporting documentation may be provided to interested persons in accordance with the Development Regulations 2008 may be made available on Council’s website.

Written representations form part of the reports attached to Council agendas. The agenda, minutes and accompanying report is made available on Council’s website. Information, including names and addresses recorded in these documents can therefore be searched by the various website search engines.

Authorised: ____________________________  Date: 21 DEC 2012

Representations

Representations must be made in writing, and a Statement of Representation form must be completed and supplied. The Statement of Representation form requires persons making a representation to state their name and address, and describe the reasons for their representation and how the issues would be overcome.

The written statement is more likely to be effective if it refers to the provisions of The Charles Sturt Development Plan this can be accessed at the City of Charles Sturt website, www.charlessturt.sa.gov.au

Copies of representations are forwarded to the applicant, and the applicant is given the opportunity to respond in writing to the representation.

It is not necessary to attend a Development Assessment Panel meeting, but you may chose to do so to make a verbal presentation of your concerns. Please note that the time for making a verbal presentation will be limited to approximately 5 minutes.

For Category 2 development, the council may determine to allow a representor to appear before council to present their representation. For Category 3 development, Council must allow a representor to appear to make their representations. The applicant is also allowed to appear in order to respond to any representations.

Council advises representors with notice of its decision. In the case of a Category 3 development, representors have the right to lodge an appeal against the decision with the Environmental Resource and Development Court.

Development Information Guides are intended to help applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to the City of Charles Sturt Development Plan and to seek professional advice if necessary. This information is subject to frequent updates. This version last updated 3 November 2009. Access the Development Plan and current versions of information guides at www.charlessturt.sa.gov.au
1. The survey conducted by the Hotel staff gives no objective data relating to the impact of changed trading hours on the surrounding residents. The data is not the result of a professionally conducted survey, and consequently the case for the development which has been constructed from it should be heavily discounted by Council.

Car park numbers do not provide hard data on the existing number of Hotel customers, or intensity of use of present operations of the hotel, let alone the potential future operations with extended hours of trading.

The applicant wrong-headedly implies that the Hotel's onsite car parking capacity gives a true indication of the number of hotel patrons, should extended trading hours be granted: "With a car park capacity for 44 vehicles, it is obvious that the car park will have sufficient capacity to accommodate patrons who wish to use the hotel's facilities between 12 midnight and 2:00am" One could equally argue that patrons will move their cars on-street, prior to gates being locked, the better to enjoy their "last drinks". An extension of trading hours may well mean an exodus of vehicles from the car park between 12 and 2 am, rather than 10 pm to midnight, and thereby result in a more acute impact on neighbours.

The Council should assess the development application on the potential impact, rather than an estimate of customer numbers provided by the applicant on this illogical basis.

2. The applicant cites venue capacities and trading hours for a range of hotels in the Brompton-Hindmarsh area, failing to point out that all other venues cited are located on arterial roads, where access does not necessitate the negotiation of narrow residential streets, already dysfunctional.

3. The application gives no details of light spill, which will impact on residents such as myself and which become more destructive of amenity in the early hours of 12pm to 2am. The eastern facade of the hotel consists of a glass enclosure which is floodlit internally, and which is the highest structure in the locality. Extended hours of operation will light up the surrounding area at a time of maximum impact on residential properties.

4. The application ignores entirely the residential building on the corner of First and Pickering Street, which is 3 meters from the gaming rooms and function center.

5. It is clear from my own experience that Hotel staff have not been instructed to inform management of complaints. The applicant states: "The current owners purchased the hotel in August 2008 and in that time have not received any complaints from neighbouring venues about running of the venue or patron behaviour."

Contrary to this statement by the applicant, I complained to the hotel staff in October this year about the very loud music from the hotel. I was told that there was an event which would be closing down shortly. My concern is, that should the hotel remain open till 2am, these events and group bookings will "close down" well into the early morning.

6. The application states: "The Brompton Hotel is located in the Residential Character Zone, the Historic Conservation Area and Brompton Park Precinct 67 of that Zone. The Brompton Hotel is not explicitly recognised by the Zone, Area or Precinct provisions, other than a general reference in the Zone's Desired Character to "community facilities that complement the living environment"

In fact, the hotel is listed on the State Heritage Register and as a State Heritage item on the Overlay Map ChSt/15-Heritage, CCST Development Plan (p543.) Further, the aspect of the sites' land use which could be termed "community facility" is minor and purely incidental to the primary use, which is as licensed premises and gaming rooms. It therefore cannot be said to function as a community facility, and does not "complement the surrounding living environment" in the sense required of a "community facility" usage.
7. The application claims that the nature and impact of the proposed changes will have no impact on the locality within which the hotel is sited. The application states:

"...it can be reasonably concluded that:

- community health and amenity in the immediate locality will not be adversely impacted;
- there will be no conflict between the activities in the hotel and surrounding land uses;
- there will be no unreasonable interference to the locality from noise, light spill, glare, the hours of operation or traffic impacts."

But since the CCSturt DAP, as well as the ERD Court, have adjudicated on a previous application by the Hotel in 2009 for an extension of trading hours to only 1am, and found against the application in that case, I believe that the developers need to put forward new evidence to support what is essentially the same proposal.

I want to draw the Panel's attention to its findings on the previous application:

That pursuant to Section 33 of the Development Act, 1993, Development Approval be REFUSED to Development Application Number 252/0951/08 for the following reasons:

1. The proposal is detrimental to the high level of amenity and safe, convenient and distinctive living environment of residents in the locality that is provided by housing of historic character and local community facilities that complement the living environment, as set out in Objective 1 of the Residential Historic (Conservation) Zone

2. The proposal is detrimental to the provision and maintenance of safe pleasant and convenient residential neighbourhoods, adversely impacting upon the amenity of the locality in which the subject land is situated due to the hours of operation of the hotel and late night activity, noise and late night traffic generation in a manner that is contrary to Council Wide Objective 33 (a) and Council Wide Principle of Development Control 97.

Carried

I am strongly of the opinion that the application before the DAP tonight does not present any new facts which might lead the panel to overturn its previous findings. It ought in my opinion be seen as a frivolous and vexatious waste of Council and resident's time and money.
Hi Andrew

I was just made aware of this application to extend the hotel's hours by other residents this evening. None of us seem to have been notified even though we would be significantly affected by any extension of the hotel's hours of operation, and Mike and I personally have been notified and have made statements of representation on similar previous applications.

Would you please clarify who was notified and - if I am correct - why we were not notified? Has there been any change in the Act or Regs that mean the Council is required to take a narrower view of Cat 3 notifications?

If we have not been notified and other neighbours likely to be affected - see those who have lodged statements previously - have also not been notified, I would request that the application be re-notified to allow residents who will be affected a proper opportunity to view and respond to the application. Concern has been expressed that as residents are only now becoming aware of the application that with only a few pre-Xmas working days before submissions will close that affected residents will not be given the proper opportunity to consider and comment.

This is clearly not the intention of the Act with regards to Cat 3 applications.

Until such time as I am able to make a statement in the standard form please accept this email my Statement of Representation.

There has been a long history of concern about the proprietors of the Brompton Hotel seeking to expand their business in a densely residential neighbourhood. Already there are significant and worsening problems in the area around First, West, Pickering, Taylor and Brown Streets, associated with the operation of the hotel which compounds problems of parking associated with the lack of parking in the 18 townhouses along chief street (each has one carpark for a 3-bedroom house, when there should be two), the Anglicare home (staff and resident parking on the street due to lack of on-site carparking), and event parking spilling into local streets from the entertainment centre and Hindmarsh Soccer Stadium, as well as increased parking pressure due to tram commuters parking in these small streets.

There is already a problem with late night noise associated with hotel parking in surrounding streets, with patrons returning to their cars at closing time often noisily. However, this has been generally tolerable because of the closing time being midnight at the latest. However, this would most certainly not be tolerable if operating hours were extended.

If Council were to contemplate an extension, the only way to deal with the noise and parking issues associated with the hotel would be to identify all surrounding streets as "resident parking only", to issue residential parking permits and for Council to actively enforce these permits. This would also deal with the issues associated with development approvals being given for 18 3-bedroom townhouses with only one carpark each on first street (many of which are rented as share houses with 3 occupants), and for an aged care facility without adequate car parking for residents and staff.

Council must not continue to issue Development approvals that allow for intensification of use in such a densely residential area without taking some responsibility for managing the associated impacts.

Many thanks

Belinda Wood and Mike van Alphen
17a West Street
Brompton 5007
22/01/2013
Hi Chris,

thanks for the heads up on this. Several years ago when I lived in the Merz Co-Op property directly opposite the hotel and before they redeveloped it, the hotel tried to do the same thing. It was in the days when the pub was owned by Alec Russell, and it was a dodgy pub with strippers during friday afternoons, bikies, and generally seedy characters. I fought the application single handedly and was able to stop it going ahead. I had to go to a hearing at the Liquor Lisencing Tribunal. Fortunately I had kept a diary of all the times that the hotel had gone past it's closing date, the drunken hooligans that would have loud verbal arguements in the street, the time that a car exited the original dirt car park on Pickering St and turned in the wrong direction and smashed and broke one of the veranda supports next door to my place. I had the EPA out to measure the volume of the bands that played there.

Although I now live at the opposite end of the street, I am still a member of the co-op in one of their houses. I know for a fact that a lot of the neighbours there would not appreciate people leaving outside their properties that late at night. There is already enough parking issues in the street due to the redevelopment and those bloody townhouses accross from me, a matter which I am still negotiating with council to retain my space outside my house.

If you need any further help on this one I'm more than willing to help. Council needs to realise this is a narrow one way street, and that the impact of the over development of Brompton is eroding the lifestyle and community spirit in the suburb. My new neighbours over the road are loud, seem to live on their balcony over looking into the front of my property, and throw their cigarettes over the railing into the gutter. Their visitors take the few available car parks in the street, and when they leave in the wee hours of the morning they shout their goodbyes back and forth to each other from the car to the balcony with no regard for us at all. Also since council had to change the company that does the waste collection to one that has smaller trucks to accommodate the smaller streetscape there's been rubbish in the gutters and all over the road. It also appears that the new residents don't know what recycling is, because if you walk around Brompton now and look into the front yards and streets directly outside of the new townhouses there is junk mail all over the place. It's stuck against fences, in the plants, in the roads etc. I'm devastated at what's happening here, to be honest if I could afford to move out of the co-op housing I would move to a nearby suburb where the development of 'Leggo Land' hasn't happened. I miss the old neighbourhood, I hate the congested streets, and I'm sick to death of wankers that live on the new side street 'Frost Place' that runs off of Pickering exiting the wrong way. The other day I was coming home when a guy tried to turn in the wrong direction, me being stubborn I stopped my car and blocked his way, rather than go past and allow him to drive up the street the wrong way. I've had too many near misses over the years with people that used to leave the old pub carpark that way and almost had a head on collision as I turned into the street. Because I did not pass, but instead gestured to him that he had to go the other way I got a mouthful of abuse, and when he finally did do the correct way he sped off and then mounted the kerb as he turned left into Second Street. These new residents, mostly renters don't give a damn about the logistics of the suburb, all they want to do is take the shortest route to the main roads, even if it is the wrong way up a one way street. They park on corners, on the yellow lines, wherever they like essentially. Yet when I parked in the laneway one cold, rainy night to unload my car because someone's visitors had taken the few that are available I got a parking ticket. I've noticed the council's van driving around here constantly since the street was redeveloped, obviously with the lack of parking and yellow line marking they're using the opportunity to raise revenue with parking infringements. Yet why are they not doing anything about the lack of footpaths around the new estate between Second Street and Hawker Street? And now I see that the housing around the park is getting new landscaping and footpaths, yet the design is so ridiculous that no-one can put out their bins on the bark chips. They've put new plants right outside of peoples houses, where people will trample them while getting out of cars. The people that plan these things should all be sacked! I have no degree in urban planning, but I know what common sense is and could definitely do a better job than these over paid boffins that sit and play with computer programs. They need to get back out into the suburb and actually look at the situation, talk to the residents, and personally I beleive that anyone who works for a council in that capacity should actually live in the ward they are designing for.

In 10-15 years time, when these pre fab concrete boxes are falling apart at the seams, when the place is full of temporary residents that are renting due to the proximity of the city, young childless couples with no intention of staying once they start a family etc, the place will be a city fringe ghetto. Then the council will be spending money on removing graffitti, repairing vandalism, and other such methods to repair the disintegration of Brompton. They try to tout it all as renewal, but they do not realise that these high density housing estates need a much better infrastructure to sustain them. Painting stobie poles and making mosaic pots is all good, even I am involved in that, but in the end if the majority of a population of a suburb sees itself as transient, as in not here for the long haul, then keeping it a community is neigh on impossible. People need to feel ownership of something, they are not going to spend time on community art projects,
or even really getting to know their neighbours if they are too busy working to pay the exhorbitant rent that these properties cost them. Society as a whole has degenerated to a point where people are self centred and greedy, a sense of community is sadly lacking all over Australia, and these urban jungles are only adding to the problem. When all the standard houses on quarter acre blocks have been subdivided to extinction, when all the green open spaces have high density housing, when people live on top of each other with no privacy, or peace and quiet, we will all reminisce about the 'good old days' and wonder what the hell went wrong.

So Charles Sturt Council needs to wake up to itself and stop taking the cash over the lifestyle of the people and denegration of our suburb.

I'm forwarding this to the person on your email Chris, and please feel free to post it in your blog as well. I think you know I am very outspoken on this issue. I am angry that they are even considering letting the pub stay open longer. What the hell did I fight for all those years ago?!

regards,
Lily de Leo

Lily de Leo

Date: Tue, 18 Dec 2012 23:24:40 +0000
From: chris_brompton@yahoo.co.uk
Subject: Hotel trading extended to wee small hours?
To: richard.tonkin.9@facebook.com ; lilydeleo@hotmail.com ; milliebands@hotmail.com ; nanettesgreen@gmail.com ; imagine@internode.on.net ; lcholmes@meetingsuccess.org

Hi.

I thought people might like to know that Charles Sturt Council is advertising a 'Category 3' development application from the Brompton Hotel for an amendment to the hotel trading hours.

The application - 252/1988/12 - is for an extension of hours to 2am each day except Sunday. Details can be obtained from the Council website here: http://www.charlessturt.sa.gov.au/webdata/resources/files/252%201988%2012%20-%205%20First%20Street%20Brompton.pdf

Closing date for submissions is Friday, December 21st 2012

Council mailed the notice (as far as I can tell) only to the immediate neighbours of the hotel on the 7th of December, even though the impact of this change, if it is agreed to by Council, will affect a wide circle of residents in Brompton Park. Besides this, the period prior to XMAS is notoriously chosen to minimise feedback and public concern, in my experience.

A substantive complaint has already been sent in to Andrew Lieschke of the Council regarding the totally inadequate extent of resident notification, and I suggest that we all add our own complaints, which can be emailed to alieschke@charlessturt.sa.gov.au

I would be particularly interested in Mertz Co-Op's attitude, since they will be impacted not only by the early-hours increase in traffic and noise, but also light spill, homes there being only 12 feet from the hotel.

Cheers
Chris Mueller
22/01/2013
Kindly note that this email (and any attachment) may contain details that are at law, privileged or confidential. The information contained in this email is intended for the exclusive use of the addressee, and is regarded as being strictly confidential. Copying, disclosure or use of the information by any unauthorised person is prohibited.
Warning: No assurance is given that this message or any attachment is free of software viruses and no liability is accepted for any damage caused to computer systems on opening or execution.
Pursuant to Section 38 of the Development Act 1993

Under the Development Act 1993, any person may, in accordance with the regulations, make a representation in writing to the relevant authority in relation to the granting or refusal of consent for a Category 2 or Category 3 development application. To submit a statement of representation please complete ALL 7 sections of this form and send to council.

Please note that pursuant to section 38(17) of the Development Act 1993, if the application involves a Category 2 notification and you were not entitled to receive notice of the application in accordance with the Development Act 1993 and Development Regulations 2008 you cannot make a representation in relation to the application.

1. Development Number 252 / 1988 / 12

2. Person(s) making representation:

Name: (Mr/Mrs/Ms) Ms Megan HEMANN
Street Address: 7 First St, BROMPTON 5009
Postal Address (if different to above):
Email: mjn.megan@gmail.com
Phone: 8340 2944 Mobile: Fax: 

3. Nature of interest in development (eg adjoining resident, owner of land in vicinity or on behalf of organisation or company):

adjoining resident already experiencing problems with noise,
drunken behaviour, parking pressures from hotel patrons

4. Issues that I/we would like to raise:

STRENGTHEN OPPOSITION TO EXTENDED HOURS
DUE TO BREACHES OF PEACE AND QUIET

- Noise, particularly at closing time, is already a serious issue
- Already discussed with council staff - local residents have windows on
- Parking pressures have been a problem for some time as
- The hotel parking lot is too small - pub patrons often park
on yellow lines and access driveways in First St or Reserve St

5. These issues would be overcome by (state action sought):

I have spoken to a council officer in the past asking whether
the area outside nos. 79-9 First St could have a yellow line
or be made residential permits only after 6pm. Have been
told the latter is not possible as there is off-street parking.
(All Fri, 9 St is a communal garage)

Note: This would address parking issues only and not late-night noises

City of Charles Sturt 72 Woodville Road, Woodville, South Australia 5011  T 08 8408 1111  F 08 8408 1122  www.charlessturt.sa.gov.au
6. Please indicate whether you wish to personally present your statement to the Development Assessment Panel. Your written statement will be provided to the Development Assessment Panel and to the applicant, and will be considered in making an approval decision. You may choose to present your statement verbally.

☑ I am unable to attend.
☐ I do not wish to make a verbal presentation. **STRONGLY OPPOSED**
☐ I will appear personally to make a verbal presentation.
☐ I authorise ______________________________ to make the verbal representation on my behalf.

7. Privacy

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Authorised: ____________________________ Date: ______/____/____

ALL 7 Sections of this form must be completed.

Representations

Representations must be made in writing, and a Statement of Representation form must be completed and supplied. The Statement of Representation form requires persons making a representation to state their name and address, and describe the reasons for their representation and how the issues would be overcome.

The written statement is more likely to be effective if it refers to the provisions of The Charles Sturt Development Plan this can be accessed at the City of Charles Sturt website, www.charlessturt.sa.gov.au.

Copies of representations are forwarded to the applicant, and the applicant is given the opportunity to respond in writing to the representation.

It is not necessary to attend a Development Assessment Panel meeting, but you may chose to do so to make a verbal presentation of your concerns. Please note that the time for making a verbal presentation will be limited to approximately 5 minutes.

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Council advises representors with notice of its decision. In the case of a Category 3 development, representors have the right to lodge an appeal against the decision with the Environmental Resource and Development Court.

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1. Development Number 252 / 1988 / 12

2. Person(s) making representation:
Name: Rob Hunter & Oscar Treasure
Street Address: 18/24 First St Brompton 5007
Postal Address (if different to above):
Email: superpersonalisedhair@physend.com
Phone: Mobile: 0405100007 Fax:

3. Nature of interest in development (eg adjoining resident, owner of land in vicinity or on behalf of organisation or company):

   adjoining resident

4. Issues that we would like to raise:

   We would not like to see the change from 12 pm to 2 am because of the high level of noise and drunkenness of the patrons. This is already happening now, add another 2 hours and it will be a nightmare.

5. These issues would be overcome by (state action sought):

   By not allowing the hotel to trade past 12 midnight in residential areas
6. Please indicate whether you wish to personally present your statement to the Development Assessment Panel. Your written statement will be provided to the Development Assessment Panel and to the applicant, and will be considered in making an approval decision. You may choose to present your statement verbally.

☑ I do not wish to make a verbal presentation.
☐ I will appear personally to make a verbal presentation.
☐ I authorise __________________________ to make the verbal representation on my behalf.

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Authorised: __________________________ Date: ____________

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1. Development Number 252 / 1980 / 12

2. Person(s) making representation:

   Name: (Mr/Mrs/Ms) Christine Cholewa
   Street Address: 3/1A Taylor street Brompton SA 5007
   Postal Address (if different to above):
   Email: christinedangue@hotmail.com
   Phone: Mobile: 0404642803 Fax:

3. Nature of interest in development (eg adjoining resident, owner of land in vicinity, on behalf of organisation or company):

   adjoining resident

4. Issues that I/we would like to raise:

   noise, safety, unsafe driving on First Street, crime in the area. Already it can be quite noisy with people leaving the pub by car or on foot. Crime in the area is increasing and 2am closing is more suitable for a city venue, not residential.

5. These issues would be overcome by (state action sought):

   more police presence from the hours of 10pm-2am, ensuring less drinking and loitering in the area. Really no good can come from late night drinking in residential areas, they are in conflict with each other.
6. Please indicate whether you wish to personally present your statement to the Development Assessment Panel. Your written statement will be provided to the Development Assessment Panel and to the applicant, and will be considered in making an approval decision. You may choose to present your statement verbally.

☐ I do not wish to make a verbal presentation.
☐ I will appear personally to make a verbal presentation.
☐ I authorise ___________________________ to make the verbal representation on my behalf.

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1. Development Number 252 / 1988 112

2. Person(s) making representation:
   Name: J VAN BOWMAN
   Street Address: 9 FIRST ST BROMPTON SA 5007
   Postal Address (if different to above):  
   Email:  
   Phone:  
   Mobile:  
   Fax:  

3. Nature of interest in development (eg adjoining resident, owner of land in vicinity or on behalf of organisation or company):
   Proximate resident and victim of increasing street crimes in the Brompton area (car vandalised/bicycle stolen/car stolen/scooter stolen)

4. Issues that I/we would like to raise:
   I do not think it is appropriate to have a public house in a residential area have early morning hours. Issues that I already deal with on a daily basis include:
   (I) Noisy patrons leaving and entering the pub late at night
   (2) Drunken yelling and arguing outside my window
   (3) Cars parking everywhere, blocking the streets
   (4) Hoon driving + revving of engines late at night

5. These issues would be overcome by (state action sought):
   (I) A strong police presence on the streets until closing time
   (2) Have car parking on Port Road and make patrons walk to the pub
   (3) Serve only soft drinks at the pub
   (4) Turn it into a restaurant only
   (5) Move it somewhere else, maybe to the city or Port Road

City of Charles Sturt 72 Woodville Road, Woodville, South Australia 5011 T 08 8408 1111 F 08 8408 1122 www.charlessturt.sa.gov.au
6. Please indicate whether you wish to personally present your statement to the Development Assessment Panel. Your written statement will be provided to the Development Assessment Panel and to the applicant, and will be considered in making an approval decision. You may choose to present your statement verbally.

☐ I do not wish to make a verbal presentation.
☑ I will appear personally to make a verbal presentation.
☐ I authorise ____________________________ to make the verbal representation on my behalf.

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Authorised: ____________________________ Date: ____________________________

ALL 7 Sections of this form must be completed.

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For Category 2 development, the council may determine to allow a representor to appear before council to present their representation. For Category 3 development, Council must allow a representor to appear to make their representations. The applicant is also allowed to appear in order to respond to any representations.

Council advises representors with notice of its decision. In the case of a Category 3 development, representors have the right to lodge an appeal against the decision with the Environmental Resource and Development Court.

Development Information Guides are intended to help applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to the City of Charles Sturt Development Plan and to seek professional advice if necessary. This information is subject to frequent updates. This version last updated 3 November 2009. Access the Development Plan and current versions of information guides at www.charlessturt.sa.gov.au
10 January 2013

Mr Andrew Lieschke
Senior Planner – Development
City of Charles Sturt
PO Box 1
WOODVILLE SA 5011

Dear Andrew

Re: DA 252/1988/12 – Darabas Pty Ltd

We act for Darabas Pty Ltd, the applicant in the above matter.

Our client has asked us to consider and respond to the representations received following Category 3 Notification of its application to extend the hours of operation of The Brompton Hotel from 12 midnight until 2:00am on the following day of each night except Sunday.

The representations have come from:

• Sue Green of 18 West Street, Brompton;
• Belinda Wood and Mike van Alphen of 17A West Street, Brompton;
• Lily De Leo (email only, no address given);
• Rob Hunter and Oscar Trevisan of 18/2A First Street, Brompton;
• Ms Megan Heitmann of 7 First Street, Brompton;
• Christine Cholewa of 3/14 Taylor Street, Brompton; and
• J van Bowman of 9 First Street, Brompton.

The issues which we consider to be relevant and deserving of response are:

• noise from patrons departing the premises especially at closing time;
• on street parking and traffic safety in the locality generally;
• anti-social and drunken behaviour, property damage and crime; and

• appropriateness of a hotel in a residential area.

Noise

The Brompton Hotel operates as a hotel in accordance with a Hotel Licence, and has done so for many years. Following extensive alterations in 2006/2007, The Brompton Hotel now operates primarily as a fine dining establishment with associated bars and gaming. It is not a hotel in the traditional sense involving extensive bar trade, amplified music and associated entertainment.

Some representors claim that there is noise associated with patrons departing the premises at closing time. As our client has not received any complaints from surrounding residents since purchasing the premises (in 2010, not 2008 as incorrectly stated in our letter of 2 October 2012), it is difficult to understand the basis of this concern. Moreover, the parking survey undertaken over a two week period by our client indicates that most patrons have departed the premises well before closing time.

We indicated in our letter of 2 October 2012 that our client is prepared to further limit the hotel’s operation between midnight and 2:00am by:

• restricting all access into and out of the hotel to the entrance doors leading into the hotel building. We are advised that the two sets of doors off Pickering Street and First Street will not be used, but hereby clarify that these doors will be locked between 12 midnight and 2:00am;

• not using any part of the premises for entertainment purposes or for the playing of music by means of amplification after midnight. To clarify, the intention is for only the gaming room (25 machines) and the associated bar (25 person capacity) to operate between 12 midnight and 2:00am; and

• not allowing any areas outside of the building to be used for the consumption of alcohol between 12 midnight and 2:00am.

Thus, while an additional two hours of trading is being applied for, the imposition of the above conditions is such that noise disturbance is unlikely to arise.

We have prepared the attached plan to better understand how the hotel will operate between 12 midnight and 2:00am.

Lack of Parking/Traffic Safety

It is apparent from the results of the car park survey that sufficient off-street parking will exist to cater for the small number of patrons expected to be using the premises between 12 midnight and 2:00am.
Indeed, since nothing but the gaming room and associated bar will trade during these hours, and the doors onto Pickering Street and First Street will be locked at these times, there will be no need or desire to park in the streets surrounding the premises.

We are unable to comment on assertions regarding driver behaviour and the lack of on-street parking in the streets surrounding the premises. However as one representor has stated, it would appear that these problems are not because of the hotel, but for other reasons including recent approvals granted for nearby town-houses and spill-over parking from the Entertainment Centre, Hindmarsh Stadium and tram commuters.

Issues concerning on-street parking and vehicles using the surrounding streets as a short cut are best addressed by Council, for example by the issue of resident permits and the installation of traffic calming devices.

**Anti-social Behaviour**

Our client is not aware of instances of anti-social behaviour associated with the hotel, which we repeat now functions principally as a fine dining venue. Moreover, our client is an experienced hotel operator who is well aware of its responsibilities and obligations concerning the responsible service of alcohol. We understand from discussions with our client that First Street is regularly used as a short cut by motorists who are not frequenting the hotel, who travel between Chief Street and Coglin Street. In other words, the concerns raised by the representors about anti-social behaviour appear to be unrelated to activities associated with The Brompton.

**Appropriateness of a Hotel in a Residential Area**

Some representors consider that the hotel should not even be located in a residential area such as Brompton. Quite apart from the fact that the hotel has existed on this site for well over a century, it is important to appreciate that the hotel has recently been refurbished to provide a very high standard of dining and associated facilities. There is no intention to alter The Brompton's style or standard of services.

We also believe that The Brompton is precisely the kind of facility that contributes to the suburb's attractiveness, vibrancy and character. Indeed many of The Brompton's clientele are residents who live in Brompton and nearby suburbs.
Please be advised that the writer would like to be in attendance at the Development Assessment Panel Meeting to respond to any representors who have expressed a desire to be heard, and to answer any questions from Panel members about the application.

Yours sincerely,

[Signature]

Graham Burns
MasterPlan SA Pty Ltd

Attachment: Hotel Floor Plan
GROUND FLOOR PLAN

- Bar Area
- Gaming Area
- Smoking Area

- Door to be closed at 12.00am
- Door to remain open until 2.00am
[Appendix D consists of 1 page]
DEVELOPMENT ACT 1993
Section 38 (Category 3)
Public Notice and Consultation Authorisation
Pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.
The properties marked with a red dot on the attached map show the occupiers and recorded owners of all properties which have been notified pursuant to Section 38(5) of the act.
Authority to form such opinion and to give notice is delegated to the Team Leader Major Planning Assessment.

Development Application No. 252/11/12
Signed: [Signature]
(Date: 29/11/12)

(Date: 11/2012)
Author:
APPENDIX E

[Appendix D consists of 24 pages]
Liquor Licensing Policy

Reference Number: 5.44
Type: Council
Category: Public – City wide

Relevant Community Plan Outcome:
- A safe and healthy City that supports vibrant community life
- An economically prosperous, attractive and functional City
- A local organisation providing progressive leadership, accountable governance and quality services to the community

Responsible Officer(s): Assistant Manager Planning & Development
First Issued/Approved: September 2003
Minutes Reference: PD 21/7/10 – Item 3.22
Last Reviewed: June 2010
Next Review Due: June 2012

Applicable Legislation:
- Development Act 1993
- Liquor Licensing Act 1997

Related Policies: Outdoor Dining Policy
Related Procedures:

1. Purpose

The City of Charles Sturt recognises the contribution and significant place of licensed premises within the range of business and recreation facilities in the City. It also acknowledges the importance of addressing liquor-related issues to protect and enhance the amenity of the City for the benefit of its residents, workers and visitors. Licensed premises can impact on amenity in many ways. Commentary on these issues is included as Attachment B of this policy.

The aim of this policy is to provide a framework for the assessment of liquor Licence applications and the exercise of Council’s powers under the Liquor Licensing Act 1997, to address detrimental impacts on the local amenity. This will ensure Licence applications and responses to liquor related matters are handled in an effective, timely and consistent manner.

2. Scope

The policy applies in relation to exercise of Council’s powers under the Liquor licensing Act 1997 and affects applicants for licensing approvals and local communities and the public generally.
3. **Policy Statement**

**Guiding Principles**

In supporting the responsible service of alcohol, harm minimisation practices and the protection of the City's amenity, the Council will:

1. Assess applications for liquor Licences using this policy, and the Development Plan where appropriate.

2. Exercise its rights of Objection, Intervention and Complaint under the Liquor Licensing Act 1997, where warranted.

3. Provide information to the public, where appropriate, which discourages the irresponsible service and consumption of alcohol.

4. Act as an advisory body to persons requiring advice and clarification on licensing and related planning issues as they relate to Council.

5. As a response to identified problems, seek to facilitate the development of a Precinct Liquor Licensing Accord where a number of licensed premises are located in a readily defined precinct or hub.

Council will have regard to this policy in assessing applications lodged with the Office of Liquor and Gambling Commissioner for certain licence types. These include:

- Limited Licence
- Club Licence and Limited Club Licence
- Entertainment Venue Licence
- Restaurant Licence
- Residential Licence
- Hotel Licence
- Producer's Licence
- Special Circumstances Licence

Where an application requires development approval, the Development Plan will be used as the basis of assessment. However regard will also be given to the relevant aspects of this policy. All other licence applications will be assessed using this policy. An application for an Outdoor Dining Permit or the hire or use of a Council facility, including a dry area, reserve or a road closure where a liquor licence is required, will also be assessed against this policy.

**Policy Framework**

The policy framework has been developed based on a classification of licensed premises within three distinct zones.
a. **Noise Sensitive Area Premises**

The Noise Sensitive Area Premises encompasses those licensed premises which are located in a residential zone, policy area or precinct and adjacent\(^1\) to land which is in a residential zone, policy area or precinct.

\(^1\) *Adjacent land means land that abuts on the other land or that is no more than 60 metres from the other land and is directly separated from the other land only by—*

a. a road, street, footpath, railway or thoroughfare; or
b. a watercourse; or
c. a reserve or other similar open space.

b. **Noise Tolerant Area Premises**

The Noise Tolerant Area encompasses those licensed premises which are located within an Industry Zone but at least 60 metres from a residential zone, policy area or precinct as defined by the Development Plan for the City.

c. **Transitional Noise Area Premises**

The Transitional Noise Area Premises encompasses those premises which are located in an area which are not within the Noise Tolerant Area or the Noise Sensitive Area.

Each application not requiring development approval will be assessed by:

1. Identifying which of the three areas the licensed premises falls within.
2. Assessing the application for the licensed premises against the specific criteria for that area.
3. Undertaking appropriate consultation and considering feedback.
4. Applying relevant recommended conditions based on the assessment of the application. These conditions relate to hours of operation, noise levels and disturbance, types of entertainment, outdoor activities, refuse storage and collection.
Criteria and Standard Recommended Conditions for each of the three areas are detailed in Attachment A. It is not the intention of this policy that these conditions are applied in a mandatory fashion. Rather, they provide guidance on important matters which require assessment based on individual circumstances. Special consideration will be given to waiving or varying these conditions as appropriate where the application is for a temporary “special event” of a cultural, religious or community celebratory nature.

When a licence application requires development approval, there are a number of policies against which the application is required to be assessed under the provisions of the City of Charles Sturt Development Plan. Issues such as character of the locality, anticipated noise levels, design and layout of the premises, are taken into consideration. In addition, planning staff will contact both the SA Police and the Office of Liquor and Gambling Commissioner to determine the level of complaints received in relation to the licensed premises.

In some situations where a development application is required, regard will also be given to this Liquor Licensing Policy. The effect of the assessment under this policy is to ensure that the amenity of a locality will not be detrimentally affected by a variation in the operation or management of the licensed premises. While amenity considerations are covered by the Development Act and conditions can be applied with certainty as part of the approval process, other conditions that relate to the ongoing operation or management of a premise may be made as recommendations to the licensing authority. eg the use of security and signage.

The primary application of this policy is in situations where the approval is sought under the Liquor Licensing Act, but no application is required under the Development Act, that is, that the matter being applied for does not amount to “development” under the Development Act. However one of the aims of this policy is to ensure that there is adequate co-ordination in decision making and the application of conditions to operation of licensed premises between the Development Act and the Liquor Licensing Act.

It is not the intent of this policy to impact detrimentally on those licensed premises that have been operating successfully over time, including established live music venues which may have had minimal impacts on other land uses because of good management practices and / or the location of the premises away from noise sensitive areas.

Where a licensed premise has been operating as a live music venue for some time, consideration will be given to any recent amendments and requirements of the Liquor Licensing Act, the Environmental Protection Act and to the Development Act when addressing new development or issues around noise and disturbance from music.
Also, the assessment of development applications within the vicinity of live music venues will require special considerations to reduce impacts from any live music venue.

Consideration will also be given to the operating conditions of restaurants to ensure they maintain their primary function as a restaurant and not operate as a late night entertainment venue.

Consultation

Where a Liquor Licence application requires development approval, consultation may or may not be conducted, according to the notification requirements under the Development Act. Where the Development Act does not apply or does not require consultation, the consultation requirements of the Liquor Licensing Policy (Attachment C) will apply in relation to the Liquor Licensing Act application.

The scope of the consultation will include adjoining residences and businesses, and where necessary, properties along pedestrian routes to nearby car parking and other licensed premises. Because of the short lead time available to process the majority of licences, telephone surveys may be appropriate.

Public consultation will not be undertaken where an application is in line with Council’s policy unless particular issues have been previously identified and require attention.

Relevant Ward Councillors will be notified and invited to comment on all matters where officers invoke the use of delegations.

Managing Complaints / Advocacy

Where complaints have been received or Council becomes aware of issues through consultation, Council will undertake an assessment of the situation and determine if further action is required. Further action may include conducting discussions with the licensee, coordinating the formation of an Accord Group, lodging a complaint with the licensing authority or participation in proceedings with the licensing authority.

In responding to amenity consideration regarding licensed premises, it is not Council’s intent to override other parties’ participation in any discussions with licensees or in proceedings with the licensing authority.

Monitoring and Evaluation

Council staff will monitor the processing and determination of liquor Licence applications to evaluate the effectiveness of Council’s policy framework and procedural guidelines in addressing the amenity and crime and safety issues around licensed premises.
4. **Definitions**

List all key terms and acronyms that are used in the policy, and their definition.

<table>
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<th>Key Term - Acronym</th>
<th>Definition</th>
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ATTACHMENT A

CRITERIA AND STANDARD RECOMMENDED CONDITIONS

It is not the intention of this policy that these conditions are applied in a mandatory fashion. Rather, they provide guidance on important matters which require assessment based on individual circumstances.

A. "NOISE SENSITIVE" AREA PREMISES

The Noise Sensitive Area Premises encompasses those licensed premises which are located in a residential zone, policy area or precinct and adjacent\(^1\) to land which is in a residential zone, policy area or precinct.

\(^1\) Adjacent land means land that abuts on the other land or that is no more than 60 metres from the other land and is directly separated from the other land only by –

a. a road, street, footpath, railway or thoroughfare; or
b. a watercourse; or
c. a reserve or other similar open space.

Criteria to be considered when assessing an application:

- Number of complaints lodged with the Office of Liquor and Gambling Commissioner concerning the licensed premises.
- Number and nature of complaints lodged with Council.
- Data and intelligence from SA Police in relation to the licensed premises.
- Number of car parking spaces provided on site, (Refer Car Parking in following section titled Issue Relating to Licensed Premises)
- Location and operation of outdoor dining areas.
- The extent to which the premise has been designed to minimise the impacts of its activities on adjacent residential development. That is:
  - noise attenuation measures as recommended by an acoustic engineer and incorporated into design and construction of premises
  - whether a buffer in the form of landscaping or fencing is provided between any car parking, service area, outdoor storage area and residents
  - any other acoustic buffer has been provided between any excessive noise generating part of the development and residents or other sensitive land uses.
- Level of security to be adopted by the licensed premises.(internal and external)
- Operating hours of nearby licensed premises to avoid setting a precedent for excessive operating hours.
- Membership of any existing Precinct Liquor Licensing ‘Accord’.
Standard Recommended Conditions:

All licensed premises

1. To ensure harmony between licensed premises (including hired venues with a limited liquor licence) and the surrounding residential area, the hours for the sale and supply of liquor on licensed premises are as follows:

To the General Public for Consumption on the Premises:

1.1 Sunday to Thursday inclusive, between 8 am and 11 pm
1.2 Friday and Saturday, between 8 am and midnight

[NOTE: These times are a guide only. Recommended times may vary according to whether or not there is merit in the application when assessed against the criteria. Recommended times for Outdoor Dining Areas may commence an hour later and conclude an hour earlier than these times.]

2. To maintain the amenity for residents in the Noise Sensitive Area:

2.1 There shall be no entertainment on or in any balcony or outdoor area. (The intention is to minimise the impact of noise).

2.2 There shall be no loudspeakers placed on or in the fascia of the premises, balcony or in any adjacent outdoor area or footpath. (The intention is to minimise the impact of noise).

2.3 The Licensee shall at all times ensure that noise levels should be in accord with EPA Guidelines and the Liquor Licensing Regulations.

2.4 All entertainment shall cease one hour prior to closing time. (To reduce disturbance to residents).

2.5 No loudspeaker shall be placed closer than 4 metres from any entrance to or exit from the premises and at all times any such loudspeaker is to be directed away from the entrance to or exit from the premises and into the premises proper. (To minimise the “spill out” of noise emissions).

2.6 All external doors and windows are to be closed when the “in-house” sound system is in use (other than for playing low level background music), live entertainment is being undertaken or a jukebox is available for use. (To minimise the “spill out” of noise emissions).
2.7. No garbage or refuse, including empty bottles and cans, is to be moved from inside the premises to outside storage bins or area between the hours of 11pm and 7am the following morning. (To reduce disturbance to residents).

2.8. Garbage or refuse, including empty bottles and cans, is not to be available for collection by waste disposal or similar operators (other than operators employed or organised by the City of Charles Sturt) between the hours of 11pm and 7:00 the following morning. (To reduce disturbance to residents).

2.9. The Licensee shall have display at all exits from the premises clearly visible signs in the form of:

"Please Leave These Premises As Quietly and Quickly As Possible to Reduce Disturbance to Nearby Residents" (Wording discretionary)

2.10. The premises or entertainment to take place within the premises shall not be advertised or promoted by the licensee or any of its entertainers by way of posters or other advertising material fixed, attached or marked on any Council property without the authorisation of the City of Charles Sturt or any private property without the authorisation of the landlord. (To prevent unauthorised bill-posting)

Restaurants Only

2.11. The premises shall be used primarily as a licensed restaurant with food being available to patrons at all operating times. Any entertainment is to be ancillary to this prime use. (To ensure that entertainment is ancillary to the premises' use as a restaurant)

2.12. Entertainment shall be limited such that music noise shall not be audible at the nearest sensitive location.

3. Any entertainment provided shall not:

3.1 be advertised or promoted to the general public in any fashion which promotes the premises as an entertainment venue;

3.2 incur a door charge whereby monies are collected from persons as they enter the premises;

3.3 result in queuing at the front of the premises by persons waiting to gain entry. (To ensure that entertainment is ancillary to the premises' use as a restaurant)
D. NOISE TOLERANT AREA PREMISES

The Noise Tolerant Area encompasses those licensed premises which are located within an Industry Zone and at least 60 metres from a residential zone, policy area or precinct as defined by the Development Plan for the City.

Criteria to be considered when assessing an application:

- The number of complaints lodged with the Office of Liquor and Gambling Commissioner concerning the licensed premises.
- The number and nature of complaints lodged with Council.
- Relevant data and intelligence from SA Police in relation to the licensed premises.
- Level of security measures to be adopted by the licensed premises (internal and external)
- Membership of any existing Precinct Liquor Licensing ‘Accord’
Standard Recommended Conditions:

All licensed premises

1. For those licensed premises located in a Noise Tolerant Area the recommended hours for the sale and supply of liquor on licensed premises will be:

To the General Public for Consumption on the Premises:

1.1 Monday to Thursday inclusive, between 7am and 2am the following day;

1.2 Friday and Saturday, between 7am and 3am the following day;

1.3 Sunday, between 8am and 1am the following day.

[NOTE: These times are a guide only. Recommended times may vary according to whether or not there is merit in the application when assessed against the criteria.]

2. To maintain the amenity for residents in or adjacent to a Core area and where the venue is not an established live music venue

2.1 There shall be no entertainment on or in any balcony or outdoor area. (The intention is to minimise the impact of noise).

2.2 There shall be no loudspeakers placed on or in the fascia of the premises, balcony or in any adjacent outdoor area or footpath. (The intention is to minimise the impact of noise).

2.3 The Licensee shall at all times ensure that noise levels are in accord with EPA Guidelines and the Liquor Licensing Regulations.

2.4 All entertainment may be required to cease one hour prior to the specified closing time (to reduce disturbance to residents from patrons departing en masse).

2.5 No loudspeaker shall be placed closer than 4 metres from any entrance to or exit from the premises and at all times any such loudspeaker is to be directed away from the entrance to or exit from the premises and into the premises proper. (To minimise the “spill out” of noise emissions).
2.6. All external doors and windows are to be closed when the “in-house” sound system is in use (other than for playing low level background music), live entertainment is being undertaken or a jukebox is available for use. (To minimise the “spill out” of noise emissions).

2.7. Depending on the location and circumstances, the Licensee shall display at required exits from the premises clearly visible signs in the form of:

"Please Leave These Premises as Quietly and Quickly as Possible to Reduce Disturbance to Nearby Residents" (Wording discretionary)

2.8 The premises or entertainment to take place within the premises shall not be advertised or promoted by the licensee or any of its entertainers by way of posters or other advertising material fixed, attached or marked on any Council property without the authorisation of the City of Charles Sturt or any private property without the authorisation of the landlord. (To prevent unauthorised bill-posting)

Restaurants Only

2.9. The premises shall be used primarily as a licensed restaurant with food being available to patrons at all operating times. Any entertainment is to be ancillary to this prime use. (To ensure that entertainment is ancillary to the premises' use as a restaurant).

2.10 Entertainment shall be limited such that music noise shall not be audible at the nearest sensitive location.

3. Any entertainment provided shall not:

3.1 Be advertised or promoted to the general public in any fashion which promotes the premises as an entertainment venue;

3.2 Incur a door charge whereby monies are collected from persons as they enter the premises;

3.3 Result in queuing at the front of the premises by persons waiting to gain entry. (To ensure that entertainment is ancillary to the premises' use as a restaurant)
C. "TRANSITIONAL NOISE" AREA PREMISES

The Transitional Noise Area Premises encompasses those premises which are located in an area which are not within the Noise Tolerant Area or the Noise Sensitive Area.

Criteria to be considered when assessing an application:

- Number of complaints lodged with the Office of Liquor and Gambling Commissioner concerning the licensed premises.
- Record of complaints lodged with Council.
- Data and intelligence from SA Police in relation to the licensed premises.
- Number of car parking spaces provided on site. See Car Parking in Attachment B – Issues Relating to Licensed Premises.
- Location and operation of outdoor dining areas.
- The extent to which the premises has been designed to minimise the impacts of its activities on adjacent residential development. That is:
  - noise attenuation measures as recommended by an acoustic engineer and incorporated into design and construction of premises
  - whether a buffer in the form of landscaping or fencing is provided between any car parking, service area, outdoor storage area and residents.
  - any other acoustic buffer has been provided between any excessive noise generating part of the development and residents or other sensitive land uses.
- Level of security to be adopted by the licensed premises. (internal and external)
- Operating hours of nearby licensed premises to avoid encouraging a poor precedent of excessive operating hours or encouraging the displacement of patrons from one licensed premises to another
- Membership of any existing Precinct Liquor Licensing ‘Accord’.

**Standard Recommended Conditions:**

All licensed premises

1. To ensure harmony between licensed premises (including hired venues with a limited liquor licence) and the surrounding residential area, the hours for the sale and supply of liquor on licensed premises are as follows:

**To the general public for consumption on the premises:**

1.1.1 Sunday to Thursday inclusive, between 8 am and midnight

1.1.2 Friday and Saturday, between 8 am and 1 am the next day;
To maintain the amenity for residents in nearby areas and where the venue is not an established live music venue:

2.1. There shall be no entertainment on or in any balcony or outdoor area. (The intention is to minimise the impact of noise).

2.2. There shall be no loudspeakers placed on or in the fascia of the premises, balcony or in any adjacent outdoor area or footpath. (The intention is to minimise the impact of noise).

2.3. The Licensee shall at all times ensure that noise levels should be in accord with EPA Guidelines and the Liquor Licensing Regulations.

2.4. All entertainment shall cease one hour prior to closing time. (To reduce disturbance to residents).

2.5. No loudspeaker shall be placed closer than 4 metres from any entrance to or exit from the premises and at all times any such loudspeaker is to be directed away from the entrance to or exit from the premises and into the premises proper. (To minimise the “spill out” of noise emissions).

2.6. All external doors and windows are to be closed when the “in-house” sound system is in use (other than for playing low level background music), live entertainment is being undertaken or a jukebox is available for use. (To minimise the “spill out” of noise emissions).

2.7. No garbage or refuse (including empty bottles and cans) is to be moved from inside the premises to outside storage bins or area between the hours of 11pm and 7am the following morning. (To reduce disturbance to residents).

2.8. Garbage or refuse (including empty bottles and cans) is not to be available for collection by waste disposal or similar operators (other than operators employed or organised by the City of Charles Sturt) between the hours of 11pm and 7am the following morning. (To reduce disturbance to residents).
2.9. The Licensee shall display at all exits from the premises clearly visible signs in the form of:

"Please Leave These Premises As Quietly and Quickly As Possible to Reduce Disturbance to Nearby Residents” “Failure to respect the rights of residents when leaving this area may result in patrons receiving a barring order”... “You are able to enjoy additional trading hours by the goodwill of residents. You may impact on our ability to trade to this time if you do not respect the rights of residents when leaving this area.” (Wording discretionary)

2.10. The premises or entertainment to take place within the premises shall not be advertised or promoted by the licensee or any of its entertainers by way of posters or other advertising material fixed, attached or marked on any Council property without the authorisation of the City of Charles Sturt or any private property without the authorisation of the landlord. (To prevent unauthorised bill-posting)

Restaurants Only

2.11. The premises shall be used primarily as a licensed restaurant with food being available to patrons at all operating times. Any entertainment is to be ancillary to this prime use. (To ensure that entertainment is ancillary to the premises' use as a restaurant)

2.12 Entertainment shall be limited such that music noise shall not be audible at the nearest sensitive location.

3. Any entertainment provided shall not:

3.1 be advertised or promoted to the general public in any fashion which promotes the premises as an entertainment venue;

3.2 incur a door charge whereby monies are collected from persons as they enter the premises;

3.3 result in queuing at the front of the premises by persons waiting to gain entry.

(To ensure that entertainment is ancillary to the premises use as a restaurant)
D. SPECIAL EVENTS

The current delegations allow for liquor licence applications of a temporary and one off special nature to be delegated to designated staff.

Criteria to be considered when assessing an application:

- Number of complaints lodged with the Office of Liquor and Gambling Commissioner concerning the licensed premises.
- Number and nature of complaints lodged with Council.
- Data and intelligence from SA Police in relation to the licensed premises.
- Number of car parking spaces provided on site, (Refer Car Parking in following section titled Issue Relating to Licensed Premises)
- Location and operation of outdoor dining areas.
- The extent to which the premise has been designed to minimise the impacts of its activities on adjacent residential development. That is:
  - noise attenuation measures as recommended by an acoustic engineer and incorporated into design and construction of premises
  - whether a buffer in the form of landscaping or fencing is provided between any car parking, service area, outdoor storage area and residents
  - any other acoustic buffer has been provided between any excessive noise generating part of the development and residents or other sensitive land uses.
- Level of security to be adopted by the licensed premises.(internal and external)
- Operating hours of nearby licensed premises to avoid setting a precedent for excessive operating hours.
- Membership of any existing Precinct Liquor Licensing 'Accord'.

The following Standard Recommended Conditions are applied or waived as appropriate to the circumstances of the application.

Standard Recommended Conditions:

All licensed premises

1. To ensure harmony between licensed premises (including hired venues with a limited liquor licence) and the surrounding residential area, the hours for the sale and supply of liquor on licensed premises are as follows:

   To the General Public for Consumption on the Premises:

   1.1 Sunday to Thursday inclusive, between 8 am and 11 pm
1.2 Friday and Saturday, between 8 am and midnight

[NOTE: These times are a guide only. Recommended times may vary according to whether or not there is merit in the application when assessed against the criteria. Recommended times for Outdoor Dining Areas may commence an hour later and conclude an hour earlier than these times.]

2. To maintain the amenity for residents in the Noise Sensitive Area:

2.1 There shall be no entertainment on or in any balcony or outdoor area. (The intention is to minimise the impact of noise).

2.2. There shall be no loudspeakers placed on or in the fascia of the premises, balcony or in any adjacent outdoor area or footpath. (The intention is to minimise the impact of noise).

2.3. The Licensee shall at all times ensure that noise levels should be in accord with EPA Guidelines and the Liquor Licensing Regulations.

2.4. All entertainment shall cease one hour prior to closing time. (To reduce disturbance to residents).

2.5. No loudspeaker shall be placed closer than 4 metres from any entrance to or exit from the premises and at all times any such loudspeaker is to be directed away from the entrance to or exit from the premises and into the premises proper. (To minimise the “spill out” of noise emissions).

2.6. All external doors and windows are to be closed when the “in-house” sound system is in use (other than for playing low level background music), live entertainment is being undertaken or a jukebox is available for use. (To minimise the “spill out” of noise emissions).

2.7. No garbage or refuse, including empty bottles and cans, is to be moved from inside the premises to outside storage bins or area between the hours of 11pm and 7am the following morning. (To reduce disturbance to residents).

2.8. Garbage or refuse, including empty bottles and cans, is not to be available for collection by waste disposal or similar operators (other than operators employed or organised by the City of Charles Sturt) between the hours of 11pm and 7:00 the following morning. (To reduce disturbance to residents).
2.9. The Licensee shall have display at all exits from the premises clearly visible signs in the form of:

"Please Leave These Premises As Quietly and Quickly As Possible to Reduce Disturbance to Nearby Residents" (Wording discretionary)

2.10. The premises or entertainment to take place within the premises shall not be advertised or promoted by the licensee or any of its entertainers by way of posters or other advertising material fixed, attached or marked on any Council property without the authorisation of the City of Charles Sturt or any private property without the authorisation of the landlord. (To prevent unauthorised bill-posting)

Restaurants Only

2.11. The premises shall be used primarily as a licensed restaurant with food being available to patrons at all operating times. Any entertainment is to be ancillary to this prime use. (To ensure that entertainment is ancillary to the premises' use as a restaurant)

2.12. Entertainment shall be limited such that music noise shall not be audible at the nearest sensitive location.

3. Any entertainment provided shall not:

3.1 be advertised or promoted to the general public in any fashion which promotes the premises as an entertainment venue;

3.2 incur a door charge whereby monies are collected from persons as they enter the premises;

3.3 result in queuing at the front of the premises by persons waiting to gain entry. (To ensure that entertainment is ancillary to the premises' use as a restaurant)
### Policy Framework Summary

<table>
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<tr>
<th>Standard Hours</th>
<th>Noise Tolerant Area</th>
<th>Transitional Noise Area</th>
<th>Noise Sensitive Area</th>
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| To the general public for consumption of liquor on the premises. | Monday – Thursday 7am – 2 am  
Friday – Saturday 7am – 3am  
Sunday 8am – 1am | Sunday - Thursday 8am – 12 midnight  
Friday – Saturday 8am – 1am | Sunday – Thursday 8am – 11 pm  
Friday – Saturday 8am – midnight |
| Outdoor Dining (Preferably ends 1 hour prior to closing) | Monday – Thursday 8am – 1 am  
Friday – Saturday 8am – 2 am  
Sunday 8am – midnight | Sunday - Thursday 8am – 11 pm  
Friday – Saturday 8am – 12 midnight  
Sunday nights – 12 midnight when the following Monday is a designated public holiday | Sunday - Thursday 9 am - 10 pm  
Friday – Saturday 9 am -11 pm |
| Entertainment permitted (Not to begin until after 10am on any day and preferably ends 1 hour prior to closing time) | Monday – Thursday 10am – 1 am  
Friday – Saturday 10am – 2 am  
Sunday 10am – midnight | Sunday - Thursday10am – 11 pm  
Friday – Saturday 10am – 12 midnight | Sunday - Thursday 10am to 10 pm  
Friday – Saturday 10am -11 pm |
| Refuse Storage and Collection Permitted | Unrestricted | 7am - 11 pm | 7am -11 pm |

**NOTE:** These times are a guide only. Recommended times may vary according to whether or not there is merit in the application when assessed against the criteria which includes the feedback from consultation with property owners and occupiers in the immediate area. Extension of these hours will be considered for Special Events.
Issues Relating toLicensed Premises

Licensed premises can impact on amenity in many ways, for example:

a. Hours of Operation
b. Outdoor Activities
c. Public Safety
d. Noise and Other Disturbance
e. Entertainment
f. Refuse Storage and Collection
g. Parking

Hours of Operation

It is important that the competitive advantage of licensed premises be based on location, nature of the venue, and the quality of service and entertainment, not on extended hours of operation that are often achieved at some cost to the rest of the local community.

Variations in closing times of licensed premises in an area can result in the movement of large numbers of patrons from one venue to another. It can also result in anti-social behaviour, vandalism and criminal activity which impacts on the residential and business community.

While licensed premises located away from residential areas may have later operating hours and provide late night entertainment, the City of Charles Sturt is unlikely to support extended hours of operation for those licensed premises which cause disturbance and inconvenience to residents or business located in the vicinity of licensed premises.

Outdoor Activities

Outdoor licensed areas located in “Noise Sensitive” and Transitional Noise” areas may be required to cease trading at least an hour prior to closing time where it is desirable to reduce the impact on a residential area,

Public Safety

Where considered warranted, the licensee may be requested to engage and provide a security patrol service, consisting of a minimum of one security guard, on every night when the premises are open for trading past midnight and/or have entertainment.

The intention of providing this is to:

1. predominantly patrol the external grounds and where appropriate the neighbouring streets of the licensed premises, and
2. monitor the behaviour of persons arriving at and departing from the licensed premises during that period.

3. This is ancillary to any internal or existing security.

Security staff would be expected to take all reasonable steps necessary to act as a deterrent to any undue noise and disturbance created by those persons. Security staff would be provided by the licensee from at least 11pm until 30 minutes after the premises close or until the majority of patrons have left the immediate area.

The licensee would also be expected to provide a mobile telephone contact number or other means of communication for the mobile security patrol service to ensure links with:

- any internal security
- the shift supervisor in charge of the nearest police patrols
- any interested resident or business proprietor with premises in the vicinity of the licensed premises on request.

**Noise and Other Disturbance**

Noise from licensed premises is ultimately regulated through special provisions under the Liquor Licensing Act 1997. Section 106 (1) of the Act provides that if:

1. an activity on, or the noise emanating from, licensed premises; or

2. the behaviour of persons making their way to or from licensed premises, is unduly offensive, annoying, disturbing or inconvenient to a person who resides, works or worships in the vicinity of the licensed premises;

then a complaint may be lodged with the Commissioner under this section.

To address certain types of noise impacts from licensed premises and in order to receive development approval, Council may request that an applicant submit an acoustic engineers report indicating sound attenuation measures to be undertaken.

Established live music venues may be subject to legislation which varies this policy.
Entertainment

Entertainment in licensed premises should contribute positively to and not detract from the amenity of the area.

For restaurants, it is expected the licensee will not promote or advertise the venue as a nightclub, dance club or similar venue.

Furthermore Management and staff are expected to use their best endeavours (including the closing of doors and windows) to ensure that any entertainment provided on the licensed premises does not produce excessively loud noise likely to unduly disturb or annoy or inconvenience nearby residents, other business proprietors and other users of the nearby area. This includes liaising with residents, businesses and others and making management available to them for resolution of complaints.

In the event that complaints are received Council may seek to have the following conditions included in the Licence:

1. On nights when entertainment is provided, management shall ensure that noise levels emitted from the licensed premises are monitored by way of a sound meter and all readings shall be recorded in a logbook. These readings shall be taken at regular intervals from 2200 hrs up until half an hour after the entertainment ceases and patrons have dispersed.

2. The log book should be used to record any complaint that is directly related to the noise level of the entertainment at the premises including name and address of the complainant, band or DJ performing at the time and action taken. Where possible a sound meter reading should be recorded along with any other relevant information.

Council reserves the right to seek that these conditions be applied on the liquor licence of premises should the need arise. Established live music venues may be subject to legislation which varies this policy.
Refuse Storage and Collection

The removal of bottles and other refuse from licensed premises needs to be undertaken at a time when it has the least impact on the surrounding area. In licensed premises located in or near 'Noise Sensitive' and 'Transitional Noise' Areas, collection and storage of refuse should occur only between the hours of 7am and 11pm.

Where Council receives complaints regarding noise and disturbance related to refuse storage and collection, it reserves the right to request that conditions relating to restriction of time for such activity be placed on the Licence.

Parking

Vehicle parking associated with licensed premises can affect access and safety and cause noise disturbance. The impact of vehicles parking either in car parking areas of licensed premises or surrounding streets needs to be considered. In 'Noise Sensitive Areas' and 'Transitional Noise Areas', consideration should be given to whether a licensed premises' capacity is much greater than its car parking provision. This often results in a spill over into the surrounding area, resulting in considerable disturbance and inconvenience to residents, especially when patrons are departing from the area late at night or in the early hours of the morning.

Therefore, the hours of operation for new licensed premises or for variations to existing Licence conditions may be based on the availability of parking and the likely impact on the surrounding residential area.

Where a public or private car park is located in a Noise Sensitive Area but is used by patrons of a licensed premise located in a Transitional Noise or Core Area, the licensee of these premises, either singly or jointly, may be required to address amenity impacts upon the 'Noise Sensitive Area'. Conditions relating to the above may also apply to Limited (Temporary) Liquor Licence applications.
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<td>Permanent Licence</td>
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