



COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 24 July 2023
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Council Assessment Panel

Meeting Agenda

Monday, 24 July 2023, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Mark Adcock, Colleen Dunn, Emily Nankivell and Councillor Keiran Snape

Deputy Panel Members – Prof Mads Gaardboe and Councillor Carmel Noon

Opening and Acknowledgment of Country

At the opening of the Panel Meeting, the Presiding Member will state:

‘The City of Adelaide Council Assessment Panel acknowledges that we are meeting on traditional Country of the Kaurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kaurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.’

Meeting Agenda

1. Confirmation of Minutes

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 26 June 2023, be taken as read and be confirmed as an accurate record of proceedings.

View public 26 June 2023 Minutes [here](#).

2. Declaration of Conflict of interest

3. Applications assessed under PDI Act 2016 (SA) with Representations

3.1 Subject Site 87 Childers Street, North Adelaide [Pages 4 - 21]

3.2 Subject Site 17 Watson Street, North Adelaide [Pages 22 - 36]

3.3 Subject Site 31 Mann Terrace, North Adelaide [Pages 37 - 55]

3.4 Subject Site 21-29 Halifax Street, Adelaide [Pages 56 - 83]

4. Applications assessed under PDI Act 2016 (SA) without Representations

Nil

5. Appeal to CAP for Assessment Manager's Decision Review

Nil

6. Other Business

6.1 Other Business - Nil

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting – 28 August 2023

7. Closure

Council is committed to openness and transparency in its decision making processes, however some documents contained within attachments to Development Assessment Panel agenda items are subject to copyright laws. This information is marked with a copyright notice. If these documents are reproduced in any way, including saving and printing, it is an infringement of copyright. By downloading this information, you acknowledge and agree that you will be bound by provisions of the *Copyright Act 1968 (Cth)* and will not reproduce these documents without the express written permission of the copyright owner.

Agenda Item 3.1

Council Assessment Panel
Monday, 24 July 2023

Subject Site	87 Childers Street, North Adelaide
Development Number	23009994
Nature of Development	Dwelling additions and alterations
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	23009994
APPLICANT:	Rick D'Andrea
AGENDA ITEM NO:	3.1
ADDRESS:	87 Childers Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Dwelling additions and alterations
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Building Near Airfields • Design • Historic Area • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage – 12 metres • Minimum Site Area – 450m² • Maximum Building Height – 2 levels
LODGEMENT DATE:	11 April 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2023.5 - 30 March 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edouard Pool Senior Planner – Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land & Locality Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

All attachments and appendices are provided via [Link 1](#).

PERSONS SPEAKING BEFORE THE PANEL

Representor

- Anthony Iasiello – on behalf of Judith Iasiello, 85 Childers Street North Adelaide

Applicant

- Nicholas Giannakodakis of Future Urban – on behalf of applicant, James Martin

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 Planning consent is sought for the demolition of the rear portion of the existing dwelling, rear verandah and porch, and construction of a new single storey addition and verandah.
- 1.2 The addition will provide a walk-in robe off the master bedroom, a new bathroom, toilet/vanity suite, dining/living/kitchen area with walk-in pantry and a small rear verandah.
- 1.3 No alterations to the front of the existing dwelling are proposed.
- 1.4 There is currently no vehicular access or parking on site and this will remain unchanged by the proposal.

2. BACKGROUND

- 2.1 An application to demolish part of the rear of the dwelling and construct a two storey rear addition (DA/717/2012) was considered by the then Development Assessment Panel and was refused in 2013. The applicant lodged an Appeal to the Environment Resources and Development Court, however the Appeal was later withdrawn due to unforeseen circumstances.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is located on the southern side of Childers Street in the middle of three row cottages, all of which are Local Heritage Places.
- 3.2 The row cottage to the east has been significantly modified to incorporate a two storey addition, including a verandah/balcony to the front of the dwelling with the front stonework painted to match.
- 3.3 The subject site has a frontage to Childers Street of 5.03 metres. The rear boundary measures 5.08 metres, with the side boundaries measuring 45.12 metres. The site has area of approximately 228m².
- 3.4 A 3 metre wide private road abuts the property at the rear which exits to Childers Street, immediately adjacent the neighbouring dwelling to the east.
- 3.5 The Certificate of Title for the land includes an area marked 'C' at the rear of the site. This land is subject to a free and unrestricted right of way appurtenant to the adjacent allotment to the west, which provides access to the private land for the said adjacent land across the rear of the subject site. This portion of the site will not be affected by the development.
- 3.6 The site is relatively flat, and the rear yard contains a large tree. This tree is not regulated or significant. The applicant intends to retain the tree for its amenity value.

Locality

- 3.7 The locality is typified by low-rise residential development of varying eras of construction.
- 3.8 There are several dwellings in the locality that are Local Heritage Places.
- 3.9 The pattern of development is varied with the majority being compact with boundary to boundary built form, particularly on the southern side of Childers Street. Some two storey residential flat buildings are located in the area as well as contemporary semi-detached and group dwellings.
- 3.10 Childers Street is wide and incorporates angle parking to both sides wide grassed verges. Street trees are well established, providing a high level of amenity.



Figure 3.1 – Subject site viewed from Childers Street



Figure 3.2 – Neighbouring two storey dwellings to the west of the site



Figure 3.3 – Adjacent dwellings to the east of the subject site



Figure 3.4 – Looking south along the private laneway located adjacent the dwelling to the east of the subject site



Figure 3.5 – Row cottage adjacent subject site to the east



Figure 3.6 – Rear yard of subject site



Figure 3.7 – Dwellings to southwest of subject site viewed from right of way at rear



Figure 3.8 – Dwelling at the end of the private laneway towards rear of subject site

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

Partial Demolition of a Building or Structure – Code Assessed – Performance Assessed
Dwelling Alteration and Addition – Code Assessed – Performance Assessed
Verandah – Code Assessed – Performance Assessed
Rainwater Tank – Code Assessed – Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed – Performance Assessed

- **REASON:**

The building is a Local Heritage Place, located in the Historic Area Overlay. Partial demolition of the existing building and construction of a dwelling addition are identified in Table 3 as being Code Assessed - Performance Assessed.

6. PUBLIC NOTIFICATION

- **REASON**

The proposed wall located on the eastern boundary of the site has a length of 8.8 metres and height of 3.4 metres, which does not satisfy City Living Zone, Table 5 - Class of Development Part 2 and Part 5, therefore public notification was undertaken. The following representation was received as part of the notification process:

TABLE 6.1 – LIST OF REPRESENTATION		
No.	Representor Address	Request to be Heard
1	Judith Iasiello, 85 Childers Street, North Adelaide	Yes – Opposes

TABLE 6.2 SUMMARY OF REPRESENTATION
<ul style="list-style-type: none">• Loss of natural light and ventilation• Potential obstruction of solar panels• Diminished views

Note: The full representation and applicant’s response to the representation are included in Attachments 5 and 6.

7. AGENCY REFERRALS

None required.

8. INTERNAL REFERRALS

Local Heritage

The listing extends only to the 'frontage and side wall returns visible from the street' and there are no works or impacts to the streetscape presentation. The identified listed elements will be retained and the existing chimney needs be noted as being retained.

Note: The applicant confirmed the existing chimney will be retained and updated plans accordingly.

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning and Design Code, which are contained in Appendix One.

9.1 **Summary of North Adelaide Low Intensity Subzone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, DO 2	<ul style="list-style-type: none"> Existing low-rise development remains. Not a predominance of 'large grand dwellings on landscaped grounds' sought by DO 2. 	✓
Built Form & Character PO 1.1	<ul style="list-style-type: none"> Open landscape setting character does not prevail in locality. 	✗
Site Coverage PO 2.1	<ul style="list-style-type: none"> Exceeds 50% (130 m² vs 114 m²). Current site coverage is 95m². 	✗

9.2 **Summary of City Living Zone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved
DO 1	<ul style="list-style-type: none"> Existing low-rise dwelling remains. 	✓
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> Dwelling a desired land use. 	✓
Built Form and Character PO 2.2-2.5	<ul style="list-style-type: none"> Dwelling remains as single storey. Addition to rear and not visible from public realm. 	✓
Building Setbacks PO 3.1-3.5	<ul style="list-style-type: none"> No change to front setback. Existing dwelling and new addition located for the most part on side boundaries. Bathroom wall 1.5 metres off western boundary and living room 610mm off the western boundary, 	✓/✗

	<p>ensuring light, ventilation and bulk appropriately managed.</p> <ul style="list-style-type: none"> • Wall on eastern boundary approximately 10.4 metres from rear boundary and a wall height to 4.5 metres. • Locality tightly held and examples of boundary to boundary development. 	
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9.3 Summary of Applicable Overlays

The following Overlays are not considered relevant to the assessment of this application:

- Aircraft Noise Exposure Overlay – existing dwelling but also located in area with an ANEF value below 30
- Airport Building Heights (Regulated) and Building Near Airfields Overlay – existing low-rise dwelling
- Building Near Airfields Overlay – not located near airfield
- Design Overlay – not proposing a medium to high rise building with a value over \$10 million
- Hazard (Flooding – Evidence Required) Overlay – existing dwelling
- Prescribed Wells Area Overlay – no groundwater concerns
- Regulated and Significant Tree Overlay – no regulated or significant trees affected
- Stormwater Management Overlay – not a new dwelling
- Urban Tree Canopy – not a new dwelling

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Maintains heritage and cultural values of adjacent Local Heritage Place. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> • Will not dominate, encroach or unduly impact upon the setting of adjacent Local Heritage Place. 	✓

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Maintains single storey per Historic Area Statement. 	✓
All Development PO 1.1	<ul style="list-style-type: none"> • No impact to streetscape. 	✓
Built Form PO 2.1 – 2.5	<ul style="list-style-type: none"> • Addition not visible from public realm. • Prevailing boundary to boundary setbacks. 	✓
Alterations & Additions PO 3.1, 3.2	<ul style="list-style-type: none"> • Located at the rear. • Proposal supports retention of heritage place. 	✓
Context and Streetscape Amenity PO 6.1, PO 6.2	<ul style="list-style-type: none"> • No impact on the streetscape. 	✓
Demolition PO 7.1 - 7.3	<ul style="list-style-type: none"> • Proposed rear addition does not form part of the elements of heritage value. 	✓

Local Heritage Place Overlay

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Maintains heritage and cultural values of the Local Heritage Place. Addition will extend ongoing use of the Local Heritage Place. 	✓
Built Form PO 1.1 - 1.7	<ul style="list-style-type: none"> Maintains heritage value of Local Heritage Place. Addition to the rear. Consistent setbacks achieved. Existing chimney retained. 	✓
Alterations and Additions PO 3.1, 3.2	<ul style="list-style-type: none"> Located at the rear and heritage elements not impacted. 	✓
Demolition PO 6.1	<ul style="list-style-type: none"> Existing portion to be demolished does not contribute to heritage values of the Local Heritage Place. 	✓

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Declaration provided upon submission of application. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Sustainable, durable materials and will provide a reasonable contextual outcome in the locality. 	✓
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> Living area has full height glazing taking advantage of external outlook to private open space. 	✓
Private Open Space PO 21.1, 21.2	<ul style="list-style-type: none"> Private open space of 35m², meets DPF minimum requirement. Rear yard directly accessible from a habitable room. 	✓
Landscaping PO 22.1	<ul style="list-style-type: none"> Development incorporates 69m² of soft landscaping which equates to 30% exceeding recommended minimum 20% in DPF 22.1. No change to landscaping between the primary street boundary and primary building line. 	✓

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO 3.1 - 3.3	<ul style="list-style-type: none"> North facing windows of adjacent residential uses not impacted. Given extent of additional building approximately 3.7 metres beyond the rear boundary additional overshadowing will occur. Despite additional overshadowing, proposal will result in at least two hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses for at least 35m² of existing ground level private open space. No adjacent rooftop solar energy facilities, however single storey addition unlikely to unreasonably impact upon adjacent properties harvesting sunlight in the future. 	✓

9.5 Detailed Discussion

Built Form

Building Height

The site is located within the North Adelaide Low Intensity Subzone of the City Living Zone. In this Subzone, low-rise, low-density housing on large allotments in an open landscaped setting are envisaged. There is not a high proportion of housing on large allotments in an open landscaped setting as envisaged in the Subzone, particularly on the southern side of Childers Street where development is relatively dense and built to side boundaries.

More broadly, the City Living Zone seeks low to medium rise residential development. DPF 2.2 of the City Living Zone seeks building heights for the site to not exceed two building levels. The locality is typified by single and two storey dwellings. The proposed single storey addition is in accordance with Zone DPF 2.2 and the townscape character sought.

Setbacks

The City Living Zone provides guidance in relation to appropriate setbacks in a residential setting. PO 3.3 seeks buildings be setback from side boundaries to provide separation between dwellings in a way that is consistent with the established streetscape of the locality and to provide for access to natural light and ventilation to neighbours.

DPF 3.3 states one way of achieving this is for building walls to be setback from a side boundary not less than the nearest side setback of the primary building on the adjoining allotment.

PO 3.5 seeks boundary walls be limited in height and length to manage impacts on adjoining properties. DPF 3.5 states one way of achieving this is for walls sited on a side boundary to not exceed three metres in height from the top of the footings, not exceed 8 metres in length and when combined with other walls on the boundary, not exceed 45% of the total length of the side boundary.

East boundary

The existing rear addition is sited on the eastern boundary for a length of approximately 12.8 metres (including the rear verandah). The new addition will have a length of 18.5 metres (including the verandah and wall nib) on this boundary. Approximately 5.9 metres of this shared boundary will be free from built form, other than fencing.

West boundary

The addition will be located on the western boundary for a length of 8.83 metres beyond the existing small verandah at the rear of the main dwelling. A setback from the bathroom wall and the living area provides a courtyard space. Coupled with the setback of the building on the western neighbour, there is sufficient separation between the dwellings to provide access to light and ventilation. Approximately 15.5 metres of this shared boundary will be free from built form, other than fencing.

These row cottages are very narrow, with the site having a width of just over 5 metres, making it difficult to construct an addition that provides separation from its neighbours. This is evident, with neighbouring buildings constructed boundary to boundary, albeit for a shorter length than the proposal. The setbacks are considered appropriate as they are consistent with built form in the locality and will not unreasonably impact on access to light and ventilation for adjoining sites.

Site Coverage

PO 2.1 of the North Adelaide Low Intensity Subzone seeks *“building footprints that are consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscape setting is the prevailing character”* with DPF 2.1 seeking development not result in a site coverage exceeding 50%.

While the proposed 57% site coverage exceeds the recommended 50% (130m² compared to 114m²), it is considered acceptable as the locality does not have an open landscaped setting and the coverage is consistent with built form in the immediate locality.

Historic Area, Heritage Adjacency and Local Heritage Place Overlays

The site is one of three row cottages listed as Local Heritage Places. The site is also located in the Historic Area Overlay and is covered by the Heritage Adjacency Overlay.

PO 1.1 of the Heritage Adjacency Overlay seeks development adjacent listed places that does not dominate, encroach or unduly impact upon the setting of the place. The addition is single storey and will be set to the rear of the existing cottage, therefore it will maintain the heritage and cultural values of the adjacent Local Heritage Places.

The Historic Area Overlay provides specific guidance to different areas of Council through Historic Area Statements. The North Adelaide Childers East Historic Area Statement (Adel2) is relevant for this site. In terms of built form patterns, the Area Statement refers to Childers Street displaying consistently sited row cottages on the northern side and varying setbacks on the southern side.

Architectural styles, detailing and built form features for Childers Street are listed as being Victorian, Edwardian and Inter-war housing, as well as single storey Local Heritage Places, including consistently sited single storey row cottages, detached cottages and the occasional terrace house with narrow frontages on the northern side and on the southern side, detached and attached cottages with varying setbacks. There is a continuity of verandahs, parapets, roof profiles and single storey detached or semi-detached cottages on the southern side.

The Local Heritage Place Overlay seeks development maintain the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse. The proposal will ensure liveability of the existing cottage is enhanced, thereby fostering its ongoing use.

This proposal maintains the single storey built form of the existing row cottages evident on the southern side of Childers Street.

The application was referred to Council’s Heritage Advisor who supports the proposal, only noting the existing chimney should be retained. The applicant has since updated the plans to include reference to retention of the chimney.

Residential Amenity

Residential amenity for occupants will be satisfactory, with access to natural light and ventilation and a spacious living area expected to provide a pleasant living environment. The private open space exceeds the recommended DPF minimum of 24m² in Table 1 – Private Open Space. The open space area provides an acceptable level of amenity as the area has access to sunlight and ventilation and enjoys direct access from the living/dining/kitchen area of the dwelling.

In terms overshadowing of neighbouring properties, PO 3.1 seeks development minimise overshadowing impact to adjacent residential areas. DPF 3.1 states north facing windows should receive at least three hours of direct sunlight between 9.00 am and 3.00 pm on 21 June. This proposal does not impact on north facing windows of adjacent properties.



Figure 9.5.1: Rear view of proposed addition (left) and adjacent two storey dwelling to the east (right)

PO 3.2 seeks private open spaces of adjoining residential properties not unreasonably impact development. DPF 3.2 suggests development maintain two hours of direct sunlight to neighbouring areas of private open space between 9.00 am and 3.00 pm on 21 June. Figure 9.1 above illustrates the relationship between the addition and the adjacent dwelling at 85 Childers Street (representor's property).

The applicant has provided overshadowing diagrams which confirm there will be some overshadowing impacts caused to the adjacent properties to the east and west, however the recommended minimum of two hours direct sunlight will be maintained to both abutting properties at the height of winter and is therefore acceptable.



Figure 9.5.2: Aerial view of the subject site and adjacent properties showing the location of existing solar panels in February 2023

PO 3.3 seeks development not unduly reduce the generating capacity of adjacent rooftop solar energy facilities. A recent aerial photograph of the site (Figure 9.5.2) shows 'adjacent' rooftop solar energy facilities at properties located directly to the south and east. A flat-roofed single storey addition is not expected to unreasonably impact upon the ability for these existing facilities to harvest sunlight given the separation distance and height of the proposal.

10. **CONCLUSION**

This proposal seeks to demolish the existing rear addition and construct a single storey addition at 87 Childers Street, North Adelaide. The proposal is expected to achieve the relevant provisions of the Planning and Design Code by:

- maintaining an existing residential property
- maintaining existing single storey built form as expressed in the Historic Area Statement
- retaining an existing Local Heritage Place, ensuring elements of heritage value remain intact
- maintaining the heritage and cultural value of the adjacent Local Heritage Place
- proposing an addition with a scale, form and siting appropriate in the context of the locality and the Historic Area Overlay
- resulting in good access to light and ventilation and an increase in quality living space for the dwelling
- providing private open space and landscaping.

It is acknowledged the proposal extends development on the eastern side boundary, however this is considered acceptable as:

- the additional built form on the boundary is single storey
- the impact of the additional extent on the boundary is not unreasonable in terms of both visual impacts and overshadowing to the abutting neighbour.

The proposal is not 'seriously at variance' with the relevant assessment provisions of the Planning and Design Code and exhibits sufficient merit to warrant the issuing of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23009994, by Rick D'Andrea is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - **Plans drafted by D'Andrea Architects, Sheet Nos. 0000, 2201, 2202, 2203 received by Council on 30 June 2023**
 - **Civil drawings drafted by Schmidt Bentley Engineering Consulting, Job No. SBEC 2303-46, sheet nos. C1.0, C1.1, C2.0, all issue A, all dated 5 April 2023**
 - **Detail and Level Survey drafted by Alexander Symonds, drawing no. 22A0380(0) MGA20P, dated 15 March 2022**
-
2. **The applicant or the person having the benefit of this consent shall ensure that all storm water run off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority.**
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ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

4. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

5. Fences Act 1975

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

6. Demolition

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site: www.legislation.sa.gov.au.

7. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval. The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at www.cityofadelaide.com.au/business/permits-licences/city-works/

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.); Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

Agenda Item 3.2

Council Assessment Panel

Monday, 24 July 2023

Subject Site	17 Watson Street, North Adelaide
Development Number	23008935
Nature of Development	Construction of a lift overrun, including stair access and landing area with terrace areas and associated privacy screening at rooftop level (part retrospective)
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	23008935
APPLICANT:	Geoff Vella c/- Future Urban
AGENDA ITEM NO:	3.2
ADDRESS:	17 Watson Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Construction of a lift overrun, including stair access and landing area with terrace areas and associated privacy screening at rooftop level (part retrospective)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Hazards (Flooding – Evidence Required) • Heritage Adjacency • Historic Area <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage – 7 metres • Minimum Site Area – 350m² • Maximum Building Height – 2 levels
LODGEMENT DATE:	11 April 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2023.5 – dated 30 March 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kosta Tsekouras Planner, Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Site Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

All attachments and appendices are provided via [Link 1](#).

PERSONS SPEAKING BEFORE THE PANEL

Representor

- James Dickson – 19 Curtis Street, North Adelaide

Applicant

- Christopher Webber on behalf of applicant, Geoff Vella

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 Planning consent is sought for the part retrospective construction of a lift overrun, including stair access and landing area with terrace areas and associated privacy screening at rooftop level at a row dwelling located at the eastern end of Watson Street, North Adelaide.
- 1.2 The structure including the lift overrun, stair access and landing area will have a height of approximately 3.5 metres from the terrace floor level and an area of 13m².
- 1.3 The roof terrace areas will be located on the northern and southern sides of the structure and will be directly accessible from it. The northern terrace will have an area of 14.6m² and the southern terrace will have an area of 15.2m².
- 1.4 Timber slat privacy screening to a height of 1.65 metre is proposed on the southern and eastern sides. On the northern side a 1 metre high glass balustrade is proposed. An existing boundary wall is located on the western side.

2. BACKGROUND

- 2.1 After initially being refused, the existing dwelling was granted consent via an Environment Resources and Development Court Order in August 2010 (DA/1000/2009). A variation to amend the façade was granted consent in November 2010 (DA/1000/2009/A). A similar rooftop addition to the current proposal was included in this variation, however this component was removed prior to the issuing of Building Rules Consent and Development Approval.
- 2.2 A retrospective application for an extension to the first floor façade was lodged and granted consent by the then Development Assessment Panel on 16 December 2013 (DA/488/2013).
- 2.3 An application for a rooftop terrace and rooftop addition, similar to the current proposal, was submitted to Council in 2016 (DA/372/2016) but was refused due to exceeding the plot ratio requirements of then City of Adelaide Development Plan.
- 2.4 A roof addition commenced construction in approximately 2012 without a relevant approval and was not completed. Consequently, this part retrospective development application seeks to remedy this.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is located at the eastern end of Watson Street on the southern side and contains a two storey row dwelling.
- 3.2 The allotment is rectangular in shape with a site area of approximately 132m².
- 3.3 Watson Street is a no through road.

Locality

- 3.4 The Watson Street locality is primarily residential in nature.
- 3.5 The locality on the southern side of Watson Street is characterised by modern two and three storey row dwellings. The rear boundary of the site abuts a row of eight two storey row dwellings fronting Stephens Street.
- 3.6 The northern side of Watson Street is characterised by the rear portions of contemporary two and three storey dwellings fronting Tynte Street. At the western end of this street is the side wall of a two storey dwelling facing Centenary Street.
- 3.7 The area to the east is typified by dwellings fronting Curtis Street, several of which are Local Heritage Places.



Photo 3.1 – subject site viewed from Watson Street



Photo 3.2 – subject site and adjacent sites to the west viewed from Watson Street



Photo 3.3 – development on northern side of Watson Street



Photo 3.4 – development on northern side of Stephens Street



Photo 3.5 – subject site rooftop visible from Curtis Street



Photo 3.6 – dwellings to the east, viewed from Curtis Street

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

Dwelling alteration or addition - Code Assessed - Performance Assessed

• **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

• **REASON:**

The proposed development is not specified as Restricted, Accepted or Deemed to Satisfy within the City Living Zone, therefore the application is classified as Performance Assessed.

6. PUBLIC NOTIFICATION

• **REASON:**

Proposal constitutes a dwelling addition exceeding the maximum building height of two levels prescribed in City Living Zone DPF 2.2. Development not considered to be minor in nature and therefore public notification was undertaken. The following representations were received during the notification period:

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Peter Bobbin – 15 Wallace Street, Burwood NSW on behalf of owner at 23 Curtis Street, North Adelaide	No – Support with some concerns
2	James Dickson – 19 Curtis Street, North Adelaide	Yes – Opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS
<ul style="list-style-type: none">• Consideration of aesthetically pleasing screening in keeping with the existing wall• Proposal similar to two previous non-complying applications from 2012 and 2016• Exceeds two storey height limit• Visual intrusion of timber screen• Unacceptable noise impact from activity on the roof terrace

Note: refer to Attachments 5 and 6 for full representations and applicant's response.

7. AGENCY REFERRALS

None required.

8. INTERNAL REFERRALS

Council's Heritage Architect has confirmed the proposal will not adversely impact upon on adjacent heritage places or the Historic Area.

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, contained in Appendix One. The addition is 'medium-rise' (3 to 6 levels). However, the relevant provisions extracted from the Code relate to low-rise development. Assessment of the proposal refers to the extracted provisions and these are similar between both low and medium rise.

9.1 Summary of North Adelaide Low Intensity Subzone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, DO 2	<ul style="list-style-type: none"> Development of three building levels not defined as 'low rise' development in the Code. Not a predominance of 'large grand dwellings on landscaped grounds' as sought by DO2. 	✓/✗
Built Form and Character PO 1.1	<ul style="list-style-type: none"> Open landscape setting character does not prevail in this locality. Design maintains low-density character. 	✓
Built Form and Character PO 1.2	<ul style="list-style-type: none"> Building footprint consistent with immediate locality. 	✓

9.2 Summary of City Living Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Additional level means dwelling is 'medium-rise' which is envisaged in the zone, however the subzone policies seek 'low-rise' development. 	✓/ ✗
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> Maintains dwelling which is a desired land use. 	✓
Built Form and Character PO 2.2	<ul style="list-style-type: none"> Addition constitutes a third 'building level', however it will have minimal impact and be in keeping with existing character of Watson Street. 	✓/✗
Built Form and Character PO 2.3	<ul style="list-style-type: none"> Addition will be setback from the front of the property to maintain low scale presentation to the street, consistent with adjacent properties. 	✓
Building Setbacks PO 3.1	<ul style="list-style-type: none"> Addition setback from the primary street boundary to complement the existing streetscape character. 	✓
Building Setbacks PO 3.3, 3.4	<ul style="list-style-type: none"> Zero side setback consistent with neighbouring western property. On the eastern side, the structure will be setback to allow access for natural light and ventilation to properties fronting Curtis Street. 	✓
Building Setbacks PO 3.4	<ul style="list-style-type: none"> Building setback in accordance with requirements of DPF 3.4 and allows access to natural light and ventilation for neighbours and the subject site. 	✓
Building Setbacks PO 3.5	<ul style="list-style-type: none"> Western boundary wall abuts boundary wall of third storey of neighbouring property and will be the same height. 	✓

9.3 Summary of Applicable Overlays

The following Overlays are not considered relevant to the assessment of this application:

- Aircraft Noise Exposure Overlay – site located in area with an ANEF value below 30
- Airport Building Heights (Regulated) and Building Near Airfields Overlay – building height below maximum prescribed AHD level
- Hazards (Flooding – Evidence Required) Overlay – existing built form – floor levels unchanged and no risk of flooding

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Maintains heritage and cultural values of adjacent Local Heritage Places. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> • Will not dominate, encroach or unduly impact upon the setting of adjacent Local Heritage Places. 	✓

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, PO 1.1	<ul style="list-style-type: none"> • Watson Street not identified in Historic Area Statement as being of importance or historic significance. 	✓
Built Form PO 2.1-2.5	<ul style="list-style-type: none"> • Limited visibility from public realm. • Streetscape diverse with historic and modern forms. • Consistent with heights in Watson Street. • Setbacks and materials consistent. 	✓
Alterations and Additions PO 3.1	<ul style="list-style-type: none"> • Addition complementary to existing building. • Will not dominate the primary façade. 	✓
Context and Streetscape Amenity PO 6.2	<ul style="list-style-type: none"> • Will not impact valued landscape patterns and characteristics that contribute to the Historic Area. 	✓

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> • Declaration provided upon submission of application. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Sustainable and durable materials. 	✓
Overlooking/ Visual Privacy PO 10.2	<ul style="list-style-type: none"> 1.65 metre high screening to south and east elevations of terrace will protect privacy of adjoining properties, exceeding DPF 1.5 metre recommendation. Screening will have maximum openings of 10mm. 	✓
Private Open Space PO 21.1, 21.2	<ul style="list-style-type: none"> Increases area of private open space available to the occupants by approximately 20m². 	✓

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Development located and designed to mitigate adverse effects to neighbouring properties. 	✓
Overshadowing PO 3.1-3.3	<ul style="list-style-type: none"> Unreasonable overshadowing not expected to occur to habitable windows, private open space or solar panels of adjacent properties. 	✓

9.5 DETAILED DISCUSSION

Historic Area Compatibility and Heritage Impact

The subject site is located within the Historic Area Overlay, particularly the North Adelaide Margaret Street Historic Area. The Historic Area Statement does not include Watson Street as an identified area of heritage significance, and there are no historic buildings in this street.

The closest heritage buildings are to the east fronting Curtis Street, the majority of which are Local Heritage Places. Curtis Street is identified as an area of heritage significance in the Historic Area Statement. The development will be visible from certain locations in Curtis Street, however visibility will be limited.

The proposal is consistent with the existing character of Watson Street, compatible with the design context of the area and will have minimal impact to adjacent historic streetscapes in Curtis Street and beyond. The proposal will not dominate, encroach on, or unduly impact on the setting of adjacent heritage places in accordance with Heritage Adjacency Overlay DO1 and PO 1.1.

Built Form and Setbacks

City Living Zone DPF 2.2 designates the maximum building height in this area as two levels, and PO 2.2 calls for a predominantly low-rise character for most areas in the zone. Low-rise development is defined in the Planning and Design Code (the Code) as being up to two storeys in height. The proposal constitutes a third building level, exceeding the maximum recommended height. A building level is defined in the Code as follows:

Means that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include any mezzanine or any building level having a floor that is located 1.5 metres or more below finished ground level.

There are several other examples of three storey development nearby. Numbers 9 and 15 Watson Street both have relatively substantial third storey components, whilst 1, 3, 5 and 13 Watson Street have smaller third level components providing access to rooftop terraces. The building at 89 Tynte Street has a third storey addition towards its rear boundary on the northern side of Watson Street.

While the Code recommends a maximum of two levels, the prevailing character in Watson Street consists of three storey development, where third levels are reduced compared to floor areas of the lower levels and are setback from the main frontages to reduce visibility.

The impact of the development on adjacent properties will be limited. Siting away from the northern, eastern and southern boundaries will prevent direct overlooking and overshadowing. The setback from the front of the property will reduce visibility from the street and nearby properties, maintaining the low rise appearance of the existing dwelling and streetscape in accordance with City Living Zone PO 2.3 and 3.1.

City Living Zone PO 3.3 envisages buildings setback from side boundaries in a manner consistent with other properties in the locality and allowing for access to natural light and ventilation to neighbours. The proposal will be setback approximately 2.7 metres from the eastern boundary, which is shared by the rear boundaries of properties fronting Curtis Street. The siting and setback of the addition from this boundary will ensure it will not have a substantial impact on light and ventilation to these properties. On the western side boundary, the development abuts an existing boundary wall shared by the third storey of the neighbouring property. The zero side setback on this side is consistent with the neighbouring building.

City Living Zone PO 3.4 requires buildings be setback from rear boundaries to provide access to natural light and ventilation for adjacent sites and open space recreational opportunities for the subject site. The addition will be setback approximately 7.8 metres from the rear boundary. This substantial setback is in accordance with DPF 3.4, which specifies building walls above two storeys should be set back 5 metres plus an additional 1 metre for every 1 metre in height above a wall height of 7 metres. The proposal will have a height of 9.7 metres equating to a required rear setback of 7 metres which is exceeded by the proposal.

Residential Amenity

Design in Urban Areas PO 10.2 stipulates development should mitigate direct overlooking from balconies and terraces to habitable rooms and private open space areas of adjoining residential uses.

The proposal incorporates 1.65 metre high privacy screening around the eastern and southern sides of the outdoor terrace areas. Together with the setbacks of these terrace areas, direct views to adjacent properties will be minimised. On the northern side of the terrace there will be a 1 metre high glass balustrade and views in this direction will be over Watson Street. Balconies at the lower levels of dwellings fronting Watson Street already overlook windows of dwellings on the northern side of this street.

Interface between Land Uses PO 3.1 and PO 3.2 seek development minimise overshadowing of habitable room windows and private open space areas of residential land uses to maintain direct winter sunlight access. The siting of the addition (away from all boundaries of the property apart from the western boundary) and orientation of the site will prevent overshadowing of private open space and windows of adjacent properties.

Other Matters

A representor raised the potential for noise to result from the use of the roof terrace as a concern. Noise generated by a residential land use is a matter that needs to be addressed outside the planning process. Notwithstanding this, the applicant has included solid cladding to the inside of the southern terrace privacy screening to assist with mitigating noise at the request of the representor.

10. **CONCLUSION**

This proposal seeks planning consent to construct a rooftop addition to accommodate a lift, enclose the existing stairs/ landing area and create a rooftop terrace area with associated privacy screening (part retrospective) at 17 Watson Street, North Adelaide. The proposal is considered to achieve provisions of the Planning and Design Code as follows:

- maintains the existing residential land use desired in the Zone and Subzone
- maintains the heritage and cultural value of adjacent Local Heritage Places
- will not impact upon achieving the desired character of the Historic Area Statement
- proposes built form appropriate in the context of the locality
- increases private open space for the existing dwelling.

Whilst the roof addition is a third building level and above the two levels anticipated sought for the area, it is considered acceptable as:

- the design and position of the third level reduces visibility and the scale is consistent with other development in the locality
- the privacy of adjoining residential properties will be protected through the use of timber slat screens
- it will not result in amenity impacts through overshadowing or overlooking.

The proposal is not considered to be seriously at variance with the relevant provisions of the Planning and Design Code and exhibits sufficient merit to warrant the granting of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23008935, by Geoff Vella C/O Future Urban is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - **Plans drafted by Goostrey Smith Design, sheets 1 to 6, amended 14 June 2023**
-
2. **The privacy screening as depicted on the plans granted consent described as Sheet 3, 4 and 5 shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times.**
-
3. **The applicant or the person having the benefit of this consent shall ensure that all storm water runoff from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water runoff shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority.**
-

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the *Planning, Development and Infrastructure (General) Regulations 2017*, this consent/approval will lapse at the expiration of 2 years from the operative date of the consent/approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the *Planning, Development and Infrastructure Act*, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via palnning@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289)

4. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via palnning@cityofadelaide.com.au or phone 8203 7185.

5. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval.

The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at <https://www.cityofadelaide.com.au/business/permits-licences/city-works/>

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.);

Description of equipment to be used;

A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);

Copies of consultation with any affected stakeholders including businesses or residents.

Agenda Item 3.3

Council Assessment Panel

Monday, 24 July 2023

Subject Site	31 Mann Terrace, North Adelaide
Development Number	22034409
Nature of Development	Demolish rear portion of existing single storey dwelling and garage and construct two storey rear addition and new garage
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	22034409
APPLICANT:	Margherita Buselli
AGENDA ITEM NO:	3.3
ADDRESS:	31 Mann Terrace, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Demolish rear portion of existing single storey dwelling and garage and construct two storey rear addition and new garage
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Design • Historic Area • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage semi-detached dwelling – 10 metres • Minimum Site Area semi-detached dwelling – 350m² • Maximum Building Height (Levels) - 2 levels
LODGEMENT DATE:	13 October 2022
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.19 – 13 October 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kosta Tsekouras Planner, Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

All attachments and appendices are provided via [Link 1](#).

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Jillian Gardner of 1/12 East Pallant Street, North Adelaide
- Dimitrios Moutos of 3/12 East Pallant Street, North Adelaide
- Ruth Zanker of 26 East Pallant Street, North Adelaide
- John Mason of Planning Chambers on behalf of John Tolland of 2/12 East Pallant Street, North Adelaide
- David Pyatt and Julie-Annie Yacoumis of 32 Mann Terrace, North Adelaide

Applicant

- Chelsea Jurek from URPS Planning Consultants on behalf of applicant Margherita Buselli

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 The application proposes demolition of a portion of an existing single storey dwelling and garage and construction of a two storey rear addition and outbuilding.
- 1.2 The southernmost portion of the existing dwelling, together with the outbuilding and associated verandah will be demolished. These are later additions to the Local Heritage Place.
- 1.3 The ground floor of the addition will have a floor area of 71.5m² and will contain a kitchen, open plan dining/living area, bathroom, laundry and an undercover alfresco area.
- 1.4 The upper level will have a floor area of 33m² and will contain a master bedroom with an ensuite, walk in robe and balcony.
- 1.5 At the highest point, the dwelling addition will be approximately 8.2 metres above ground level.
- 1.6 An outbuilding is proposed to the rear. In addition to providing undercover car parking, it will be used by occupants as a home gym. It will have a floor area of 53m² and height of 3.4 metres. Vehicle access to the garage will be obtained via a right of way.
- 1.7 A 4 metre high wall will extend from the main dwelling to the rear boundary directly adjacent an existing southern boundary wall.

2. BACKGROUND

- 2.1 The proposal has been amended since lodgement in response to Council and representor concerns. An obscured balustrade proposed to the first floor balcony has been removed in favour of a clear glass balustrade and projecting privacy screens on the northern and southern sides.

3. SUBJECT LAND & LOCALITY

Site Land

- 3.1 The subject site is located on the western side of Mann Terrace, approximately 60 metres southeast of the Stanley Street and Mann Terrace intersection. The site has a frontage of 7.1 metres to Mann Terrace, a side boundary length of 46 metres and an area of approximately 317m².
- 3.2 The site contains a single storey, semi-detached dwelling with 3 bedrooms, 2 bathrooms, living area and kitchen/dining area, with a detached garage situated at the rear of the site.
- 3.3 Vehicle access is provided via a right of way to the rear of the property from Mann Street.
- 3.4 The subject site forms one half of a semi-detached dwelling.

Locality

- 3.5 The locality is predominantly residential in nature.
- 3.6 Development along the street consists of single storey dwellings with several two storey dwellings. Two storey dwellings are located at 26-30 Mann Terrace and have floor levels constructed partly below ground level that reduce height and mass to the street frontage.
- 3.7 Site coverage within the locality is generally high and dwellings are located close to the street.
- 3.8 Development along Mann Terrace is confined to the western side, with the eastern side dedicated to a landscaped verge separating the street from Mann Road to the east.
- 3.9 Mann Terrace displays high amenity with mature street trees and a high concentration of local heritage listed and character buildings.
- 3.10 Mann Terrace is relatively narrow but provides parallel on-street car parking to both sides.



Photo 3.1 – subject site viewed from Mann Terrace



Photo 3.2 – subject site and adjacent sites viewed from the south on Mann Terrace



Photo 3.3 – subject site and adjacent sites viewed from north on Mann Terrace



Photo 3.4 – private open space and southern boundary wall



Photo 3.5 – private open space and northern boundary wall



Photo 3.6 – existing garage entrance and adjacent property viewed from private laneway accessible from Mann Street

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

Dwelling addition: Code Assessed – Performance Assessed

Outbuilding (Carport or garage): Code Assessed – Performance Assessed

Partial demolition of a building or structure: Code Assessed – Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed – Performance Assessed

REASON

Proposed development not classified as Restricted, Accepted or Deemed to Satisfy within City Living Zone and is therefore considered as Performance Assessed development.

6. PUBLIC NOTIFICATION

• **REASON**

The proposal includes a boundary wall exceeding a height of 3 metres and therefore public notification was required as per Table 5 of the City Living Zone.

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Jillian Gardner – 1/12 East Pallant Street, North Adelaide	Yes - opposes
2	Dimitrios Moutos – 3/12 East Pallant Street, North Adelaide (referred to by representor as 27-30 Mann Terrace)	Yes - opposes
3	Ruth Zanker – 26 East Pallant Street, North Adelaide	Yes - opposes
4	Daniel and Sara-Jane Guidone – 20 East Pallant Street, North Adelaide	No – opposes
5	John Tolland – 2/12 East Pallant Street, North Adelaide	Yes - opposes
6	David Pyatt – 32 Mann Terrace, North Adelaide	Yes - opposes

TABLE 6.2 – SUMMARY OF REPRESENTATIONS
<ul style="list-style-type: none">• Overshadowing of neighbouring open space• Overlooking of adjacent open space and loss of privacy• Height and bulk not characteristic of the prevailing character of the area• Substantial boundary wall visible from south• Materials not compatible with the character of the area and adjacent buildings• Construction activity will create noise, safety and parking issues and damage to street• Results in high site coverage not keeping with the subzone policy• Inaccurate shadow diagrams provided• Development will cause structural damage to adjacent boundary walls• Sense of enclosure for adjacent open space

Note: The full representations and the applicant’s response are included in Attachments 5 and 6.

7. AGENCY REFERRALS

None required.

8. INTERNAL REFERRALS

Local Heritage

- Extension of the existing roof form to the addition should be low pitch over the link and below the existing eaves to maintain the existing hipped roof (LHP PO 1.3). However, this is acceptable as this connection will not be visible from public view.
- Minor visual impact on the Local Heritage Place at 26 East Pallant Street, however the addition will be setback appropriately and this context heavily features later buildings.
- The pitch of the roof is intended to accommodate services (e.g. air conditioning unit) which are not able to be accommodated elsewhere.

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

9.1 Summary of North Adelaide Low Intensity Subzone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> • Development constitutes low rise housing and will be set within landscaped grounds as desired by DO 1. 	✓
Built Form and Character PO 1.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓
Site Coverage PO 2.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓

9.2 Summary of City Living Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> • Constitutes low rise, low-density housing 	✓
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> • Contributes to diversity of housing options in the locality. 	✓
Built Form and Character PO 2.2, 2.3	<ul style="list-style-type: none"> • Height of 2 levels. • Addition will have limited visibility from the street and will maintain the streetscape characteristics and prevailing built form characteristics. 	✓
Building Setbacks PO 3.3-3.5	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓/x

Car Parking and Access PO 5.1	<ul style="list-style-type: none"> Garage maintains existing vehicle access/egress to property. Access will continue to be provided from private laneway via an existing arrangement. 	✓
Ancillary Buildings and Structures PO 8.1, 8.2	<ul style="list-style-type: none"> Refer Section 9.5. 	✓

9.3 Summary of Applicable Overlays

The following applicable Overlays are not considered relevant to the assessment of the application:

- Airport Building Heights (Regulated) and Building Near Airfields Overlay – height not a concern for aircraft/airports
- Design Overlay – development does not constitute medium to high rise building of State significance
- Hazards (Flooding – Evidence Required) Overlay – no flooding concern for dwelling addition
- Prescribed Wells Area Overlay – no well on site, development does not require independent water supply
- Regulated and Significant Tree Overlay – no regulated or significant trees on site or adjacent properties
- Traffic Generating Development Overlay – development will not have impact on urban transport routes and will not generate additional traffic movements

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Development maintains historic characteristics of site and responds to existing coherent patterns of division, site configuration and building siting. 	✓
All Development PO 1.1	<ul style="list-style-type: none"> Development will have limited visibility from the street. 	✓
Built Form PO 2.1	<ul style="list-style-type: none"> Development will not be readily visible from the historic streetscape. 	✓
Built Form PO 2.2, 2.4, 2.5	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/x
Alterations and Additions PO 3.1	<ul style="list-style-type: none"> Additions complement existing dwelling and sited to ensure they do not dominate the primary façade. 	✓
Ancillary Development PO 4.1, 4.2	<ul style="list-style-type: none"> Outbuilding size, height and form appropriate. Outbuilding behind the building line of the principal building and will not dominate the building or its setting. 	✓
Context & Streetscape Amenity PO 6.2	<ul style="list-style-type: none"> Development maintains landscape patterns and characteristics found throughout the Historic Area. 	✓

Local Heritage Place Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO1	<ul style="list-style-type: none"> Development maintains the heritage and cultural values of the Local Heritage Place. 	✓
Built Form PO 1.1-1.7	<ul style="list-style-type: none"> Addition maintains heritage values of Local Heritage Place. Development consistent with boundary setbacks in locality. Materials and colours complement the heritage values of the Local Heritage Place. Addition separated from front façade by existing building. 	✓
Alterations and Additions PO 2.1	<ul style="list-style-type: none"> Alterations and additions sited to be unobtrusive, not conceal or obstruct heritage elements and detailing, or dominate the Local Heritage Place or its setting. 	✓
Ancillary Development PO 3.1, 3.2	<ul style="list-style-type: none"> Outbuilding located behind building line and does not detract from the heritage values of the Local Heritage Place. 	✓

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO1	<ul style="list-style-type: none"> Development maintains heritage and cultural values of adjacent Local Heritage Places. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Development does not dominate, encroach on or unduly impact on the setting of adjacent Local Heritage Places. 	✓

9.4 Summary of General Development Policies

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Sufficient separation from overhead powerlines 	✓
PO 1.1	<ul style="list-style-type: none"> Declaration provided by applicant upon submission of application. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO1	<ul style="list-style-type: none"> Will incorporate durable materials/finishes and provide an appropriate contextual response. 	✓
Overlooking / Visual Privacy PO 10.1, 10.2	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/x
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> Living areas will have windows with an external outlook to provide a high standard of amenity for occupants. 	✓

External Appearance PO 20.1	<ul style="list-style-type: none"> Outbuilding will not detract from the streetscape or appearance of the dwelling. Satisfies requirements of DPF 20.1 as garage will be setback 5.5 metres from the primary street, behind main dwelling and door width not exceeding 7 metres or 50% of site frontage. 	✓
Private Open Space PO 21.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/x
Private Open Space PO 21.2	<ul style="list-style-type: none"> All areas of private open space will be directly accessible from a habitable room in accordance with DPF 21.2. 	✓
Landscaping PO 22.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Car Parking, Access and Manoeuvrability PO 23.1	<ul style="list-style-type: none"> Proposed car parking space dimensions will be functional, accessible and convenient. Parking space meets minimum requirements of DPF 23.1 with a length of at least 5.4 metres and width of 3 metres. 	✓
Car Parking, Access and Manoeuvrability PO 3.4	<ul style="list-style-type: none"> Vehicle access is provided via an existing access point in accordance with DPF 23.4. 	✓

Interface Between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/x
Overshadowing PO3.1-3.3	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/x

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
PO 5.1	<ul style="list-style-type: none"> Development includes sufficient on site vehicle car parking to meet demands of occupants. Existing car parking requirements for dwelling as per Transport, Access and Parking Table 1 are two spaces. Dwelling currently has one space. The proposal will maintain this and carries over an existing parking shortfall. 	✓

9.5 Detailed Discussion

Local Heritage and Historic Area Overlays

Council's Heritage Architect confirmed the proposal adequately maintains the heritage value of the site and adjacent sites in accordance with the relevant provisions of the Local Heritage Place and Heritage Adjacency Overlays.

The portion of the property of heritage significance includes the external form, materials and details of the buildings at 31 and 32 Mann Terrace, including walls, verandah and roof form. The development will maintain these elements and will not unreasonably impact the presentation of the heritage building to the street due to its siting. The limited visibility of the dwelling addition and maintenance of the existing presentation to the street satisfies Historic Area Overlay PO 1.1 and 2.1.

Historic Area Overlay PO 2.2 seeks development consistent with prevailing building and wall heights in the Historic Area. The two storey addition is higher than prevailing building and wall heights in area, which are predominantly single storey. However, there are examples of two storey development within the immediate locality and the height will be mitigated by siting behind the principal building and the substantial setback from the street. The height of the garage is also considered consistent with other ancillary structures in the locality.

Built Form, Site Coverage and Setbacks

In terms of scale and mass, the proposal is anticipated within the Low Intensity Subzone and City Living Zone. The development is defined as 'low scale' and it will not exceed two storeys as prescribed by City Living Zone DPF 2.2 and desired in Zone DO 1.

North Adelaide Low Intensity Subzone PO 1.1 and 1.2 envisages buildings sited and designed to complement the low density character of the neighbourhood, where an open landscape setting is the prevailing character. Along Mann Terrace, the character is not considered 'open landscaped' and the proposal is consistent with nearby dwellings in terms of density and building footprint.

The limited visibility of the addition from the street and maintenance of the existing presentation of the property to Mann Terrace satisfy City Living Zone PO 2.3, which calls for new buildings and structures visible from the public realm to be consistent with the valued streetscape characteristics and prevailing built form characteristics of the area.

City Living Zone PO 3.3 suggests buildings should be setback from side boundaries to be consistent with the established streetscape of the locality and to provide access to natural light and ventilation to neighbours. The side setbacks are consistent with others along the street as the building will extend to both side boundaries. The extent of the development and wall height located to the side boundaries will have an impact on the natural light and ventilation of adjacent properties to the south. These properties, which share their rear boundary with the subject site side boundary, will lose some natural light to ground floor private open space and ground floor habitable windows and will also be subject to additional enclosure. Properties to the north and the west will not be significantly impacted.

City Living Zone PO 3.4 envisages buildings setback from rear boundaries to provide access to natural light and ventilation for neighbours and space for recreation, landscaping and vegetation. As a replacement structure, the outbuilding will directly abut the rear boundary as the existing does. This is consistent with the siting of other ancillary structures on adjacent properties and will allow for provision of private open space and landscaping. The rear setback of the single storey garage is not expected to result in significant additional overshadowing or loss of ventilation.

City Living Zone PO 3.5 requires boundary walls be limited in height and length to manage impacts on adjoining properties. The proposal includes additional boundary walls on the northern, southern and western boundaries. On the northern side, the boundary walls will abut those existing on the adjacent site and will have minimal impact to the adjacent property. On the western side, the extent of boundary wall proposed is similar to the existing and will not result in additional impact to this abutting property. On the southern side of the addition, an associated wall and the outbuilding will result in additional overshadowing and enclosure at ground level of adjacent properties.

Overshadowing

Interface between Land Uses PO 3.1 and 3.2 seek development that maintains direct winter sunlight and minimises overshadowing to habitable room windows and private open space areas of residential land uses. DPF 3.1 outlines one way to achieve PO 3.1 is to ensure habitable room windows of adjacent residential land uses receive at least three hours of direct sunlight between 9am and 3pm on 21 June (the winter solstice). DPF 3.2 outlines one way to achieve PO 3.2 is to maintain two hours of direct sunlight to private open space areas between 9am and 3pm on 21 June, to at least half of the existing ground level open space.

The applicant has provided shadow diagrams detailing the extent of shadowing from 8am to 3pm during both the winter and summer solstices. Adjoining properties impacted by overshadowing during winter are mostly those to the south. The property to the north will not be shadowed due to its orientation in relation to the subject site.

The extent of overshadowing to habitable windows and open space of the property to the west at 26 East Pallant Street will be almost identical to what occurs from existing buildings on the site. The property to the southwest at 20 East Pallant Street will receive a similar amount of sunlight, with minor increases to the area shadowed throughout the day.

Properties to the south will receive additional overshadowing in winter due to their orientation and being located below the ground level of the subject site. This difference in levels increases overshadowing to ground floor windows and private open space. The properties most affected will be units 1, 2 and 3 at 12 East Pallant Street as follows.

Unit 1

- Currently this unit receives the recommended two hours of sunlight to half its private open space. However, this is also impacted by a shade sail in this space. The proposal will increase overshadowing to this area and it will no longer receive the recommended amount of sunlight.
- Ground floor windows currently receive sunlight for at least four hours. Additional overshadowing of ground floor windows will occur but to a lesser extent with partial sunlight still expected for at least four hours. These windows are also partly shaded by an existing shade sail.
- Additional shadowing to first floor windows will occur but will be comparable to the existing situation.

Unit 2

- Currently this unit does not meet the recommended two hours of sunlight to half of its private open space. Overshadowing will increase to this area but to a lesser extent due to existing overshadowing. A retractable awning also already shades this area at times.
- Ground floor windows currently receive sunlight for at least four hours when the awning is retracted. Overshadowing will occur as a result of the proposal until 3:00pm.
- Additional shadowing to first floor windows will occur but this will be comparable to the existing situation.

Unit 3

- Currently this unit does not receive the recommended two hours of sunlight to half of its private open space and overshadowing from the proposal will not worsen this.
- Ground floor windows of this unit currently receive three hours of partial sunlight and this will be reduced to minimal direct sunlight as a result of the proposal.
- Approximately two hours of sunlight will be provided at first level as opposed to four hours previously.

While several properties to the south will not receive the recommended amount of sunlight to their ground floor windows during the Winter solstice, this will be mitigated with light provided to the upper levels.

The extent of overshadowing to units 1, 2 and 3 is not considered unreasonable when allowing for existing overshadowing (including an existing shade sail for unit 1 and retractable awning for unit 2) and the development being of a scale anticipated within the Zone.

The development will satisfy Interface Between Land Uses PO 3.3 as it is not expected to overshadow neighbouring solar panels.

Overlooking

Design in Urban Areas PO 10.1 and PO 10.2 require development mitigate overlooking from upper level windows and balconies to habitable rooms and private open space areas of adjoining residential uses.

There is potential for overlooking from the first floor and the balcony and the proposal originally included a full height obscured balcony balustrade. This has been revised by the applicant to a lower, clear glass balustrade with privacy screens now projecting from the façade on the northern and southern sides to prevent direct overlooking into neighbouring properties.

The privacy screens will each be 1.7 metres in height. The southern screen will protrude from the balcony up to 2 metres and the northern screen will protrude up to 3 metres. Overlooking to the north will be mitigated, with most of the open space and all habitable windows screened from view. To the south, overlooking will be minimised to neighbouring properties. Some overlooking will occur to the rear of Unit 1/12 East Pallant Street, however an existing shade sail at this property will limit views. The property at 20 East Pallant Street will be located approximately 15 metres from the proposed balcony.

To the west, 26 East Pallant Street will be visible from the balcony, however the only window visible is a high level window at first level and the ground floor private open space of the property will be screened from view.

Properties immediately adjacent to the south and southwest contain first level windows visible from the site, however these are all clearly visible from the existing ground floor private open space of the subject site and many are obscured by obscured glazing. The proposal is not expected to increase overlooking to these windows.

The window on the southern elevation of the addition will have a sill height 1.8 metres above floor level and therefore overlooking will not be possible from this window.

Ancillary Development

City Living Zone PO 8.1 suggests residential ancillary buildings (garage/gym outbuilding) should be sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties. In terms of DPF 8.1, the proposed outbuilding will:

- be ancillary to a dwelling erected on the same site
- have a floor area not exceeding 60m²
- be constructed so no part of the building is situated forward of the dwelling to which it is ancillary and no part of the building is within a secondary street (adjacent driveway is private land)
- be at least 5.5 metres from the boundary of the primary street
- will not be located within 3 metres of any other building wall on the same boundary
- have a roof height not exceeding 5 metres above the natural ground level and retains a similar level of soft landscaping to the existing.

DPF 8.1 requires boundary walls of ancillary buildings to not exceed 8 metres in length or 3 metres in height. The southern wall of the garage will marginally exceed this, being approximately 8.2 metres in length and approximately 3.4 metres in height. The existing boundary wall will abut this garage wall.

The proposed garage/gym will not impede on-site functional requirements such as private open space provision, car parking requirements or result in over development.

Amenity

Design in Urban Areas PO 21.1 envisages dwellings with suitable areas of usable private open space to meet the needs of occupants.

Approximately 40m² of open space will be provided at ground level. For allotments greater than 301m² (subject site) DPF 21.1 and Table 1 – Private Open Space recommend private open space of 60m². The proposed area falls short of this recommendation. However, the amount provided is consistent with other properties in the locality. The first floor balcony, while not large enough to meet the dimension requirements for private open space, will provide an additional outdoor area. Overall, the amount of private open space provided is acceptable.

The private open space will be directly accessible from a habitable room in accordance with Design in Urban Areas PO 21.2. The living rooms in the addition will also have a direct outlook to the rear yard in accordance with Design in Urban Areas PO 18.1.

Design in Urban Areas PO 22.1 calls for incorporation of soft landscaping. Soft landscaping will be incorporated at ground level as well as first level in the form of a planter box. The private open space will be substantially landscaped with grass and garden beds. Currently the private open space area at the property is larger but consists mostly of hard surfaces.

10. CONCLUSION

This proposal seeks to demolish the rear portion of existing single storey dwelling and garage and construct two storey rear addition and new garage at 17 Mann Terrace, North Adelaide.

The addition and separate garage are of a scale anticipated within the City Living Zone and North Adelaide Low Intensity Subzone and are consistent with existing development in the locality. The development will have limited visibility from the street, preserving the heritage character of the subject site and Historic Area, as well as the predominantly single storey presentation along the street frontage.

The addition and garage will maintain existing vehicle access and a car parking space, whilst providing adequate areas of private open space and landscaped open space and including liveable areas receptive of natural light and ventilation.

There will be impact in the form of overshadowing, enclosure and to a lesser extent overlooking to some adjacent properties. The dwellings to the south will be the most affected due to their lower ground level, the height of the proposal and the extent of built form adjacent the southern boundary. Outside of this, impacts to other properties to the north and the west are relatively minor.

Whilst there will be impact to the southern neighbouring properties, this is not considered to outweigh the proposal satisfying other relevant provisions of the Planning and Design Code.

On balance the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code, and it exhibits merit to support the granting of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22034409, by Margherita Buselli is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**

- **Think Architects – Plans and Details, Sheets 1 to 4, dated 8 June 2023**

-
2. **The applicant or the person having the benefit of this consent shall ensure that all storm water runoff from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority.**

-
3. **The privacy screening as depicted on the plans granted consent, specifically on Sheet 2, shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times.**

-
4. **The landscaping depicted on the plans shall be maintained in good health and condition at all times to the reasonable satisfaction of the Relevant Authority. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of the Relevant Authority.**

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

4. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

5. Fencing

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

6. Notification

In addition to notification and other requirements under the Planning, Development and Infrastructure Act and Fences Act, it is recommended that the applicant / owner consult with adjoining owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss any issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

7. Construction Noise

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site: www.legislation.sa.gov.au.

8. Notification of Heritage Works

You are advised that you are required to notify Councils Heritage Unit (8203 7348) at least 24 hours prior to the commencement of work so that a Heritage Officer can discuss aspects of the work with the builder/contractor.

9. Right of Way

The applicant should ensure that any right of way on the land is not blocked or access restricted during the construction of the development herein approved.

Agenda Item 3.4

Council Assessment Panel

Monday, 24 July 2023

Subject Site	21-29 Halifax Street, Adelaide
Development Number	23005009
Nature of Development	Variation to ID 22037791 - change of use from a 'shop' to a 'restaurant' and 'bar' together with building alterations and the installation of two advertisements
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

ITEM NO.	3.4
DEVELOPMENT NO.:	23005009
APPLICANT:	Byld SA Pty Ltd
ADDRESS:	21-29 Halifax Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Variation to ID 22037791 – change of use from a shop to a restaurant and bar together with building alterations and the installation of two advertising displays
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Capital City <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design • Hazards (Flooding – Evidence Required) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (53 Metres) • Minimum Building Height (27 Metres)
LODGEMENT DATE:	28 February 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2023.3 – 16 February 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Phil Chrysostomou Senior Planner - Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Waste (minor) Acoustics

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land & Locality Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

All attachments and appendices are provided via [Link 1](#).

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Sean Fewster of 37a Symonds Place, Adelaide
- Nick Chehade and Sheila Chehade of 109A Deveraux Road, Beaumont
- Jack Singh of 43/31 Halifax Street, Adelaide
- Paul Martinovich of 61/31 Halifax Street, Adelaide
- Robbie Porter of 27/31 Halifax Street, Adelaide
- David Yeung of 27 Symonds Place, Adelaide
- James Roder on behalf of Nicholas Linke of 61/31 Halifax Street, Adelaide
- Sandra Nocum of 23A Symonds Place, Adelaide
- Paul Liew of 25 Symonds Place, Adelaide

Applicant

- Rob Gagetti of Ekistics on behalf of Big Easy Group/BYLD

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 The proposal involves a change in land use from a shop to a licensed premises in the form of a restaurant and bar in a ground level tenancy at 21-29 Halifax Street, Adelaide. It also includes associated internal/external building alterations and installation of two illuminated advertisements.
- 1.2 The site was recently approved as a shop. This application forms a variation to Development Approval (DA) 21033298. Two conditions of approval, relating to hours of operation and acoustics are proposed to be amended.
- 1.3 The venue will comprise multiple distinct operational elements with a maximum occupancy of 250 persons. Dining areas, a central kitchen and bar, enclosed 'beer garden,' two-lane bowling alley, store and amenities are proposed.
- 1.4 The following hours of operation are proposed:
 - Sunday and Monday: 7.00am to 10.00pm
 - Tuesday to Thursday: 7.00am to 11.00pm
 - Friday and Saturday: 7.00am to 12.00am
- 1.5 Two illuminated advertisements are proposed, one on the Halifax Street frontage and one on the Symonds Place frontage.
 - Halifax Street frontage: advertisement details 'HALIFAX' and comprises internally illuminated individual cut letters above the primary entry on Halifax Street. It will be 3 metres x 550mm.
 - Symonds Place frontage: advertisement comprises steel cut letting above the Symonds Place entry door. It will be 1 metre x 200mm.
- 1.6 Minor external alterations to the front façade and the Symonds Place entry are proposed. The courtyard will be enclosed with a glass roof.

2. BACKGROUND

- 2.1 The subject site has had various commercial and industrial uses. Most recently, it was used as a non-ancillary car park, without development authorisation.
- 2.2 The site is currently undergoing redevelopment subject to the following approvals.

TABLE 2.1 – DEVELOPMENT APPLICATIONS RELATING TO SUBJECT SITE		
DA Reference	Description	Status
DA 21033298	Demolition of portion of existing building, alterations to ground floor level to use as shop and car parking and construct upper-level addition for three office tenancies	Approved (commenced)
DA 22037791	Variation to DA 21033298 - amend elevations, increase building height by 600mm, add split level tenancy and amend carpark layout	Approved (commenced)
DA 22040174	Internal fit outs to office tenancies	Approved (commenced)
DA 23002723		
DA 23002879		

- 2.3 Public notification was undertaken, and 38 representations were received, all of which are valid. Of these, 25 are opposed to the development and 13 are in support with concerns.
- 2.4 In response to representations and Council concerns, several operational amendments have been made, including reduction of operating hours and capacity numbers. Amendments are detailed further in Section 9.4.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is located on the south eastern corner of Halifax Street and Symonds Place. It has a primary frontage of 28.7 metres to Halifax Street, a secondary frontage of 65 metres to Symonds Place and a site area of approximately 1,885m².
- 3.2 The site is contained in Certificate of Title 6261 Folio 116. There are no easements or other restrictions registered against or recorded on the Certificate of Title.
- 3.3 The built form on the land comprises a part one and part two storey building and is currently under construction in association with DA 21033298 and 22037791.
- 3.4 The ground floor will include a shop tenancy, internal car parking areas, entry lobby, waste store areas, office tenancy inclusive of mezzanine level. The first floor will include three office tenancies accessible via a central lobby to Symonds Place.
- 3.5 For this assessment, the 'site' is defined as the commercial tenancy that fronts Halifax Street, which has an area of approximately 815m² and 'usable' floor area of approximately 780m².
- 3.6 Two existing crossovers to Halifax Street are to be made redundant upon completion of current construction with vehicle access to occur via crossover on Symonds Place.

Locality

- 3.7 The locality is comprised of a mix of commercial and residential land uses, with built form ranging from low to medium rise.
- 3.8 Halifax Street comprises a wide two lane carriageway that runs east-west between King William Street and East Terrace. The section of Halifax Street between King William Street and Pulteney Street includes large, landscaped verges separating the two lanes. Footpath widths vary along Halifax Street due to varying on-street parking arrangements.
- 3.9 Symonds Place is a one way, 5 metre wide minor road running south to north between Gilles Street and Halifax Street. There is no through access to Symonds Place via Halifax Street.
- 3.10 The locality contains a high proportion of residential land uses to the north and east of the subject site.
- 3.11 Building heights, setbacks, materials and roof forms are all varied, contributing to a lack of prevailing and cohesive streetscape character.



Photo 3.1 – view of subject site viewed from Halifax Street, looking southwest



Photo 3.2 – view of subject site and adjacent residential flat building looking south



Photo 3.3 – view of subject site viewed from Symonds Place, looking southwest



Photo 3.4 – view of adjacent residential flat building viewed from Halifax Street, looking southeast



Photo 3.5 – view of subject site and dwellings on Symonds Place



Photo 3.6 – view of subject site and adjacent carpark building looking southwest



Photo 3.7 – view of dwellings on eastern side of Symonds Place



Photo 3.8 – mixed use building opposite the subject site at 28-30 Halifax Street



Photo 3.9 – view of existing development on northern side of Halifax Street

4. CONSENT TYPE REQUIRED:

Planning Consent

5. CATEGORY OF DEVELOPMENT:

PER ELEMENT:

Licensed Premises: Code Assessed – Performance Assessed

Advertisement: Code Assessed – Performance Assessed

Other (Commercial/Industrial) – Bar & Building Alterations: Code Assessed – Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed – Performance Assessed

REASON

P&D Code:

Advertisements and Licensed Premises are listed classes of Development in Table 3 of Capital City Zone. Variation to conditions and building alterations are not defined and therefore default to Performance Assessed, all other code assessed development.

6. **PUBLIC NOTIFICATION**

REASON

The development includes various elements. Licensed Premises are not an excluded class of development pursuant to Table 5 of the Capital City Zone. Given the interface with sensitive receivers in the Main Street Zone and City Living Zone, this component of the applicant is not considered to satisfy Clause 1. Advertisements are listed in Table 5, Clause 3(a) and therefore are not a notified element.

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Sean Fewster – 37a Symonds Place, Adelaide	Yes – Support with concerns
2	Chris Ude – 30 Symonds Place, Adelaide	No – Opposes
3	Deanne Loan – 61/31 Halifax Street, Adelaide	No – Support with concerns
4	Yoeuk Ha Chao – 11 Veale Lane, Adelaide	No – Support with concerns
5	Sheila Chehade – 109A Deveraux Road, Beaumont	Yes - Opposes
6	Alison Chehade – 8 Cranwell Street, Glenside	No - Opposes
7	Jack Singh – 43/31 Halifax Street, Adelaide	Yes - Opposes
8	Allen Smith – 23 Symonds Place, Adelaide	No - Opposes
9	Paul Martinovich – 61/31 Halifax Street, Adelaide	Yes – Support with concerns
10	Naritsara Puckridge – 29/31 Halifax Street, Adelaide	No – Opposes
11	Della Thilthorpe – 20 Howard Florey Street, Adelaide	No – Support with concerns
12	Nicole Lionnet – 30/31 Halifax Street, Adelaide	No – Opposes
13	Amedeo Cella – 7/31 Halifax Street, Adelaide	No – Opposes
14	Gary Hamilton – 56/31 Halifax Street, Adelaide	No – Opposes
15	Robert Macdonald – 32/31 Halifax Street, Adelaide	No – Opposes
16	Rebecca Cecotti – 59/31 Halifax Street, Adelaide	No – Support with concerns
17	Robbie Porter – 27/31 Halifax Street, Adelaide	Yes – Opposes
18	Christine Thiel – 57/31 Halifax Street, Adelaide	No – Opposes
19	Richard Wescombe – 62/31 Halifax Street, Adelaide	No – Opposes
20	Leanne Michaels – 35/31 Halifax Street, Adelaide	No – Opposes
21	Helen Nankivell – 4/30 Halifax Street, Adelaide	No – Opposes
22	Paul Hyam – 31 and 61 Halifax Street, Adelaide	No – Support with concerns
23	John Scardigno – 1/30 Halifax Street, Adelaide	No – Support with concerns
24	Jean Matthews – 58/31 Halifax Street, Adelaide	No – Support with concerns
25	Peter Lumb – 48A Halifax Street, Adelaide	No – Support with concerns
26	Lloyd Parker – 31 Halifax Street, Adelaide	No - Opposes
27	Amber Miller – 15/31 Halifax Street, Adelaide	No – Support with concerns
28	Keegan Smith – 25 Kitty McEwan Cct, McKellar, ACT	No – Support with concerns
29	Nicole Newton – 6 Vicars Lane, Adelaide	No – Support with concerns

30	David Yeung – 27 Symonds Place, Adelaide	Yes – Opposes
31	Olivia Makris – 31 Halifax Street, Adelaide	No – Opposes
32	Nicholas Linke – 61/31 Halifax Street, Adelaide	Yes – Opposes
33	Josephine Lamshed – 2/31 Halifax Street, Adelaide	No – Opposes
34	Roslyn Brady – 67 Halifax Street, Adelaide	No – Opposes
35	Fiona Johnston – 48A Halifax Street, Adelaide	No – Opposes
36	Mel Angel – 49/31 Halifax Street, Adelaide	No – Opposes
37	Sandra Nocum – 23A Symonds Place, Adelaide	Yes – Opposes
38	Paul Louis Liew – 25 Symonds Place, Adelaide	Yes – Opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS

<ul style="list-style-type: none"> • Noise and hours of operation • Land use intensity (including patron numbers) and interface impacts • Character Impacts • Methodology applied to the acoustic assessment • On-street parking • Antisocial behaviour and safety concerns • Illuminated signage on Symonds Place*
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*Note – Advertisements are not a notified element.

7. **AGENCY REFERRALS**

Not required

8. **INTERNAL REFERRALS**

Cleansing/Waste (minor)

- The waste storeroom of 20m² is a sufficient size to accommodate the office tenancies and proposed bar and restaurant.
- An increase in the frequency of collection for bins may be required by a private waste contractor.

Acoustics – Peer Review

Upon receipt of the application, the environmental noise assessment provided by the applicant was peer reviewed by an acoustic engineer engaged by Council. The peer review suggested the methodology and conclusions in the report are valid, however the following items required clarification:

- roof/ceiling construction
- sound ceiling speaker system
- zone interpretation
- mechanical noise assessment

These findings were issued to the applicant as part of a request for information. The applicant's acoustic engineer provided an addendum to the initial report, which clarified the initial queries. Council's consultant acoustic engineer undertook a further review and concluded:

I am comfortable with the response to our review. The proposed conditions of approval provided within the applicant's response also seem appropriate and are consistent with my previous recommendations.

9. **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

9.1 **Summary of Capital City Zone Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1 & 2	<ul style="list-style-type: none"> Land use and intensity consistent with the desired outcomes of the Capital City Zone. 	✓
Land Use PO 1.1-1.2	<ul style="list-style-type: none"> Refer Section 9.4. 	✓
Activation PO 2.1-2.3	<ul style="list-style-type: none"> Building frontage and façade treatment are human scaled and visually interesting. Entry defined and oriented to Halifax Street, providing clear sense of address. Extent of active frontage appropriate for the use. Lack of active frontage to Symonds Place is appropriate given interface with sensitive receivers. Land use will offer day and night activation. 	✓
Interface PO 5.1	<ul style="list-style-type: none"> Refer Section 9.4. 	✓ / ✗
Movement PO 6.1	<ul style="list-style-type: none"> Achieved. 	✓
Advertisements PO8.1	<ul style="list-style-type: none"> Advertisements modest in scale and simple in messaging which is appropriate for the locality. 	✓

9.2 **Summary of Applicable Overlays**

The following Overlays are not considered to be relevant to the assessment of the application:

- Airport Building Heights (Regulated) Overlay – existing built form
- Affordable Housing – affordable housing is not proposed
- Building Near Airfields – site is not proximate airfields
- Design – value of the development below \$10 million
- Hazards (Flooding – Evidence Required) – existing built form
- Noise and Air Emissions – proposal does not involve development of residential land uses

- Prescribed Wells Area – no groundwater concerns
- Regulated and Significant Tree Overlay – no regulated or significant trees impacted

9.3 Summary of General Development Policies

The following General Development policies are relevant to the assessment:

Advertisements

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> • Achieved. 	✓
Appearance PO 1.1, 1.3, 1.5	<ul style="list-style-type: none"> • Advertisements are simple in design and integrated with the building. • Encroaching signs meet PO/DPF 5.1 and Council's Encroachment Policy. • Advertisements an appropriate size and scale. 	✓
Proliferation of Advertisements PO 2.3	<ul style="list-style-type: none"> • Advertisements restrained in size, simple in design and limited to one per building frontage. 	✓
Advertising Content PO 3.1	<ul style="list-style-type: none"> • Content relates to the lawful use of the land and are simple and efficient in messaging. 	✓
Amenity Impacts PO 4.1	<ul style="list-style-type: none"> • Illumination appropriate given the type of signage. • Condition of approval to be imposed relating to luminance levels. 	✓
Safety PO 5.1-5.6	<ul style="list-style-type: none"> • Advertisements meet minimum 2.5 metre clearance between the top of the footpath and the underside of the advertisements. • Advertisements will not pose a hazard to motorists. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> • Refer Section 9.4. 	✓
All Development		
External Appearance PO 1.4	<ul style="list-style-type: none"> • Kitchen exhaust will discharge from the roof of the new addition and be sited away from nearby sensitive receivers. • Flue is modest in size and will not have considerable streetscape impacts. 	✓

Site Facilities / Waste Storage PO 11.1-11.4	<ul style="list-style-type: none"> Waste storage area previously assessed and approved under DA 21033298. Council's cleansing/waste advisor confirmed waste storage areas of a sufficient size and fit for purpose. 	✓
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Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Refer Section 9.4. 	✓
Land Use Compatibility PO 1.2	<ul style="list-style-type: none"> Refer Section 9.4. 	✓ / ✗
Hours of Operation PO 2.1	<ul style="list-style-type: none"> Refer Section 9.4. 	✓
Activities Generating Noise/Vibration PO 4.1-4.2, 4.4-4.6	<ul style="list-style-type: none"> Refer Section 9.4. 	✓

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Movement Systems PO 1.2-1.4	<ul style="list-style-type: none"> Site can accommodate loading/unloading within the existing car park. Further loading can be accommodated on Halifax Street. 	✓
Vehicle Parking Rates PO/DPF 5.1	<ul style="list-style-type: none"> No requirement to provide off-street parking, as City Main Street Zone a designated area. Site has provision for 25 off-street parking spaces. 	n/a
Bicycle Parking in Designated Areas PO 9.1 PO 9.2	<ul style="list-style-type: none"> Provision for 22 bicycle parking spaces approved as part of DA 22037791 (10 Office – 4 Shop), exceeding the requirement by 8. The change from a shop to a licensed premises will generate a total requirement of 31 parking spaces and there will be a shortfall of 9 bicycle parking spaces. Bicycle parking spaces are secure. 	✗ ✓

9.4 Detailed Discussion

Proposal and Existing Approvals

Planning Consent was granted to DA 21033298 in November 2021 for redevelopment of the site. The approval involved the partial demolition of the existing single storey building and construction of a two storey addition for office use. The ground floor was repurposed to include a shop tenancy, ancillary parking areas and entry lobby on Symonds Place. A subsequent variation DA 22037791 was submitted to amend elevations, increase building height by 600mm, add a split level office tenancy and amend the carpark layout. Planning Consent was granted in November 2022. Previous applications were excluded from public notification.

This application forms a variation to DA 21033298 and 22037791, with the works associated with the approvals under construction. Assessment of the parent applications paid regard to the following:

- Operational and functional requirements for the approved uses which included but were not limited to traffic generation, site access/egress, waste collection and loading.
- Prevailing built form and land use mix in the locality specifically, the interface with high density residential development.
- Scale and intensity of development envisaged in the Zone (with building heights of up to 53 metres in this location).
- Existing policy/zoning context noting adjacent residential development is contained in the City Main Street Zones City High Street Subzone and City Living Zones Medium-High Intensity Subzone. These Zones and Subzones anticipate increased built form and land use intensity.

Much of this is unchanged by the proposal as the base approval:

- Incorporated an active use oriented to the Halifax Street frontage and limited interface impacts with less active office uses oriented to Symonds Place.
- Accommodated a sufficient waste room that can be readily accessible and serviced with limited disruption of traffic flows.
- Symonds Place is devoid of on-street parking and loading areas, with the site only being readily serviced by loading zones on Halifax Street.
- Loading/unloading readily accommodated within the site rear car parking area.
- Development in the Capital City Zone does not generate a minimum parking rate as it is within a 'designated area'.
- Provision for 22 bicycle parking spaces, exceeded requirement of 14 for combined office and shop uses. A further 25 off-street parking spaces are also contained at the ground floor, providing flexible use across day and night activities.
- Hours of operation and acoustic output of the shop premises were restricted due to the 'base build' nature of the proposal.

The assessment of this variation largely focuses on the change in land use to a portion of site and the operational and amenity impacts attributed to intensification.

Land Use Intensity and Compatibility

The subject site is located within the Capital City Zone, where licensed premises and other commercial operations of the proposed nature and intensity are envisaged. This is expressed in the Desired Outcomes (DO) of the Zone, with DO1 seeking:

A zone that is the economic and cultural focus of the state supporting a range of residential, employment, community, educational, innovation, recreational, tourism and entertainment facilities generating opportunities for population and employment growth.

Zone DO2 seeks:

High intensity and large-scale development with high street walls reinforcing the distinctive grid pattern layout of the city with active non-residential ground level uses to positively contribute to public safety, inclusivity and vibrancy.

Furthermore, Zone PO 1.1 seeks:

A vibrant mix of residential, retail, community, commercial and professional services, civic and cultural, health, educational, recreational, tourism and entertainment facilities.

Licensed premises are specifically identified as an envisaged land use as per DPF 1.1(h). The proposal largely achieves the Desired and Performance Outcomes of the Zone with respect to land use and intensity. The contentious nature of this proposal is entrenched in the unique interface with the City Main Street Zone and City Living Zone and a high proportion of adjacent residential development. This is specifically expressed in Zone PO 5.1(b):

Development is designed to manage the interface with residential uses in the City Living Zone:

- a) ~~in relation to building proportions, massing, and overshadowing;~~*
- b) and by avoiding land uses, or intensity of land uses, that unduly impact residential amenity (including licensed premises).*

Interpretation of this policy identifies high intensity land uses such as licenced premises as being less appropriate at the interface of residential land uses within the City Living Zone. While they are not necessarily precluded, it does establish a high threshold to permit such a use.

Representations were received from owners or occupiers of residential properties (sensitive receivers) most of whom are directly adjacent the site. Feedback regarding the use and intensity has been mixed. Key themes include hours of operation, noise, traffic generation and antisocial behaviour.

Concerns from residents reveal potential impacts from the proposal. The compatibility of the land use and satisfaction of Zone PO 5.1(b) requires exploration of operational impacts on residential amenity together with the use being envisaged in the zone.

Acoustics / Noise Mitigation

Considering the policy tension above, considerable attention has been paid to acoustic and operational performance. The policy framework for acts and activities generating noise is contained within General Development Policies – Interface between Land Uses. These policies are informed by the Environment Protection (Noise) Policy 2007. This application was accompanied by an Environmental Noise Assessment which considers:

- Noise impacts (land use and locality analysis) associated with proposal on adjacent noise sensitive receivers as seen in Figure 9.4.1.

- Methodology and assessment for noise outputs for music, patron and mechanical plant in accordance with the Noise Policy.
- Recommendations for acoustic attenuation to achieve the relevant noise criteria reflected in the Planning and Design Code.







Legend:			
	Subject Site		City Main Street (City High Street Subzone)
	City Living (Medium – High Intensity Subzone)		Capital City

Figure 9.4.1: Zoning and land use analysis undertaken by Sonus

Noise was a focus of the assessment, with the acoustic report subject to an independent peer review. The peer review concurs with the conclusions and recommendations of the report. Refer to Section 8 for details.

Patron and Mechanical Plant Noise

Interface between Land Uses Performance Outcome 4.1 states:

Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).

This provision notably precludes music from assessment, rather focusing on other noise sources that may arise. In this instance, noise from patrons and mechanical plant have been considered as part of the acoustic report. When considering satisfaction of PO 4.1, considerable weight is placed on DPF 4.1 which states:

Noise that affects sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.

The Environment Protection Noise Policy defines parameters for acoustic assessments and are interwoven with planning assessment. As part of this, zones are designated a land use category based on land uses principally promoted in the zone. This establishes indicative or goal noise levels for that zone as detailed in Table 9.4.1.

Zone	Land Use Category	Day noise level	Night noise level
City Living Zone	Residential	50 dB(A)	40 dB(A)
City Main Street Zone	Commercial	62 dB(A)	55 dB(A)
Capital City Zone	Residential/Commercial	52 dB(A)	45 dB(A)

Table 9.4.1: Relevant Land Use Categories and associated indicative noise levels

- The City Living Zone, which principally promotes residential land uses, is assigned lower noise levels.
- The City Main Street has the highest indicative noise level given its commercial designation.
- The Capital City Zone is a mixed-use zone, so has an averaged indicative noise level.

Where a development is at the 'interface' of a zone of a differing land use category, the Noise Policy asserts noise levels across of the two zones are to be averaged. This is pertinent to this proposal, where higher noise thresholds are allowable within the City Living Zone at night and lower noise thresholds within the City Main Street Zone at all times. The calculated noise criteria are detailed in Figure 9.4.2.

For noise sensitive receivers within the Capital City Zone:

- an average ($L_{eq,15min}$) noise level of 52 dB(A) during the day (7:00am to 10:00pm);
- an average ($L_{eq,15min}$) noise level of 45 dB(A) at night (10:00pm to 7:00am); and,

For noise sensitive receivers within the City Living Zone:

- an average ($L_{eq,15min}$) noise level of 50 dB(A) during the day (7:00am to 10:00pm);
- an average ($L_{eq,15min}$) noise level of 43 dB(A) at night (10:00pm to 7:00am); and,
- an instantaneous maximum (L_{max}) noise level of 60 dB(A) at night (10:00pm to 7:00am).

For noise sensitive receivers within the City Main Street Zone

- an average ($L_{eq,15min}$) noise level of 54 dB(A) during the day (7:00am to 10:00pm); and
- an average ($L_{eq,15min}$) noise level of 48 dB(A) at night (10:00pm to 7:00am).

Figure 9.4.2: Goal noise levels to be achieved at nearby noise sensitive locations

With goal noise criteria established, predictions and testing were undertaken utilising digital sound modelling software. This considers anticipated noise output from patrons and mechanical plant on nearby sensitive receivers. This modelling includes the following assumptions:

- Airlock provided to all external doors or exits from the subject site to Halifax Street and Symonds Place (airlocks incorporated into proposal).
- Any exhaust fans or other mechanical plant units required for the kitchen are installed above the car park and are attenuated to a sound power level of 70 dB(A) or lower.

- Any air conditioning to be installed in a designated area of the approved carpark.
- Roof and ceiling constructed in accordance with recommendations and associated music levels detailed in Figure 9.4.3 and Table 9.4.4.
- Noise from bowling alleys previously measured and included in the predictions.
- Sporadic noise sources such as a person yelling within the venue also considered.

The modelling determined the following highest predicted noise levels:

Residence Zone	Highest Predicted Noise Level (dB(A))
Capital City	30
City Living	40
City Main Street Zone	44

Table 9.4.2: Predicted noise levels by Zone

Considering the above, the acoustic assessment demonstrates proposed acoustic measures will achieve the relevant noise criteria. Therefore, noise (other than music) emanating from the premises is not expected to unreasonably impact adjacent sensitive receivers and achieves Interface between Land Uses PO 4.1.

Music Noise

The applicant has sought to vary Condition 3 of DA 21033298. This condition restricted to low level background music only and was imposed in relation to the generic shop use included in this approval. The applicant is seeking to amend this condition to enable a more dynamic atmosphere for the proposed use. The Environmental Noise Assessment has considered the desired noise outputs of the venue in accordance with Interface between Land Uses PO/DPF 4.6. PO 4.6 states:

Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.

DPF 4.6 states:

Development incorporating music includes noise attenuation measures that will achieve the following noise levels:

Assessment location	Music noise level
Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise ($L_{90,15min}$) in any octave band of the sound spectrum ($LOCT_{10,15} < LOCT_{90,15} + 8dB$)

Unlike 'all other noise,' music levels are assessed with consideration of existing background noise levels and essentially permit an exceedance of up to 8dB above background levels (in any octave band of the sound spectrum).

The Environmental Noise Assessment confirms continuous background noise monitoring was undertaken along Symonds Place from 26 October to 1 November 2022 during the originally proposed operating hours (7.00am to 2.00am). The lowest measured background noise levels and corresponding noise criteria (background level + 8dB(A)) are detailed in Table 9.4.3.

Noise Level	Noise Level (dB(A)) by Octave Band Centre Frequency (Hz)							
	31.5	63	125	250	500	1000	2000	4000
Lowest Measured Background Noise Level (L _{A90})	7	18	26	32	32	30	26	17
Noise Criteria (L _{A10})	15	26	34	40	40	38	34	25

Table 9.4.3: Noise readings and corresponding noise criteria undertaken by applicant's acoustic engineer

The acoustic assessment details recommended internal changes to the ceiling and roof design to enable increased music noise levels throughout areas of the premises to maintain residential amenity of proximate sensitive receivers. Figure 9.4.3 and Table 9.4.4 detail designated areas within the site, recommended construction methods and associated music levels.

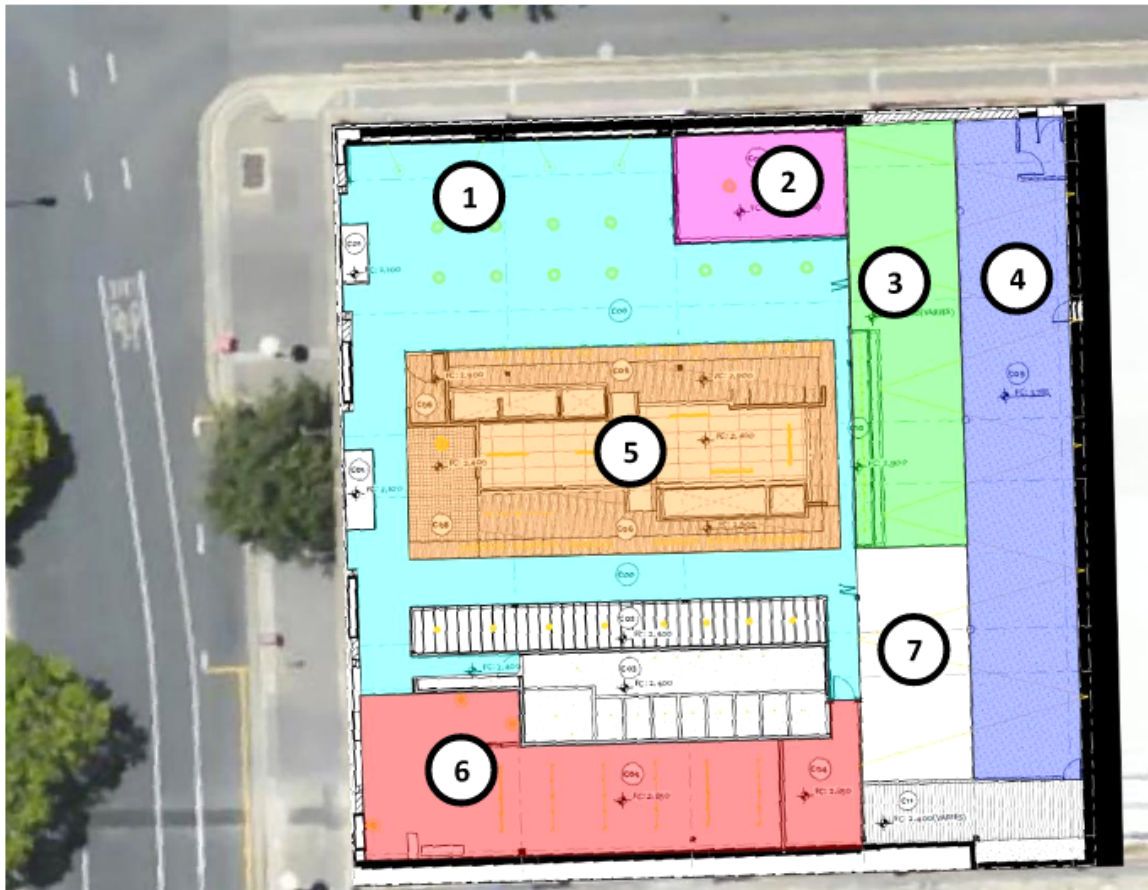


Figure 9.4.3: Music Noise Layout

Zone	Proposed Construction	Music Level (L ₁₀ in dB(A))
1	Existing exposed profiled metal decking	65
2	Profiled metal deck with building blanket and one layer of 13mm plasterboard under 100mm purlins	70
3, 4 & 7	Glass roof with a minimum thickness of 10mm	75
5	Various ceilings conservatively assumed as exposed profiled metal decking	No music anticipated within kitchen area, however conservatively assumed music level as per zone 1
6	Profiled metal decking with 1 layer of 11kg/m ³ 50mm insulation and 2 layers of 13mm fire rated plasterboard	85

Table 9.4.4: Proposed Ceiling Construction and Maximum Music Levels

The proposal is considered to satisfy Interface between Land Uses PO 4.6 as the maximum noise levels from the venue are expected to achieve DPF 4.6. This is subject to recommended construction methods, inclusion of airlocks and other acoustic attenuation being adopted which are also considered to satisfy Interface between Land Uses PO 4.2.

Hours of Operation

The application was submitted proposing maximum hours of operation from 7.00am to 12.00am daily, with extended trading on Friday and Saturday to 2.00am. Hours of operation for the shop were conditioned as part of DA 21033298. Condition 2 limited hours of operation for the shop to 7.00am to 9.00pm on any day.

A conservative position was expressed and maintained by Council during the assessment of this proposal in terms of hours of operation. The hours of operation are also a key concern for representors. Interface between Land Uses PO 2.1 seeks to find a balance between envisaged land uses within a zone and measures to mitigate off-site impacts and impacts on sensitive receivers as follows:

Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- a) *the nature of the development*
- b) *measures to mitigate off-site impacts*
- c) *the extent to which the development is desired in the zone*
- d) *measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.*

The applicant has identified several licensed premises in the immediate and broader locality. The summary includes hours of operations and occupancy numbers based on the liquor licence in Table 9.4.5.

Venue	Hours	Capacity	Council Comment
Examples in Halifax Street			
Rob Roy Hotel	5.00am to 2.00am Except Sundays 8.00am to 12.00am	355 pax	<ul style="list-style-type: none"> • Historic land use rights
Herringbone	11.00am to 12.00am	120 pax	<ul style="list-style-type: none"> • Restaurant use only with limited occupancy numbers
Seoul Sisters	11.00am to 12.00am	120 pax	<ul style="list-style-type: none"> • Café/restaurant use only • Limited occupancy numbers
The Greek on Halifax	7.00am to 1.00am	115 pax	<ul style="list-style-type: none"> • Restaurant use only • Limited occupancy numbers
Examples in Surrounding Areas			
Kings Head Hotel	6.00am to 3.00am	435 pax	<ul style="list-style-type: none"> • Capital City Zone and not adjacent City Living Zone • Limited interface with sensitive receivers • Historic land use
La Trattoria	11.00am to 1.00am	130 pax	<ul style="list-style-type: none"> • Capital City Zone and not adjacent City Living Zone • Limited interface with sensitive receivers • Restaurant use only • Historic land use
Saracens	5.00am to 12.00am Mon-Wed 5.00am to 3.00am Thurs-Sat 8.00m to 12.00am Sunday	305 pax	<ul style="list-style-type: none"> • Capital City Zone and not adjacent City Living Zone • Historic land use
Crown and Sceptre Hotel		200 pax	<ul style="list-style-type: none"> • Capital City Zone and not adjacent City Living Zone • Historic land use
The Astor Hotel	5.00am to 12.00am Mon-Thurs 5.00am to 1.00am Fri-Sat 8.00m to 12.00am Sunday	400 pax	<ul style="list-style-type: none"> • Historic land use

Table 9.4.5: Comparable Licensed Premises in the Locality

As per the Table 9.4.5, many premises identified are not comparable to the proposal. Such factors include the type of business (e.g., bar, restaurant, pub), hours of operation, scale, capacity and zoning context.

Many premises identified within Halifax Street are only restaurant uses, with floor areas and operation hours less than proposed. The exception is the Rob Roy Hotel, a hotel/pub venue. This venue has historic land uses rights that predate contemporary planning controls. Other examples beyond Halifax Street do not specifically translate despite being in the Capital City Zone. The most relevant example is The Astor Hotel. This premises is located within the Capital City Zone, at the interface of the City Living Zone and has operating hours and capacity numbers exceeding the proposal.

Representors raised concern over the proposed hours of operation, siting, character, amenity impacts and the potential for anti-social behaviour. Many highlighted existing commercial operations on Halifax Street including small scale offices, consulting rooms and shops with limited to day time operations. In response to representations, the applicant considered reduced hours of operation and other operational constraints to mitigate amenity impacts and minimise operational intensity on adjacent sensitive receivers. The following amendments were made:

Hours of operation	Sunday to Thursday: 7.00am to 11.00pm (reduction of one hour) Friday and Saturday: 7.00am to 1.00am (reduction of one hour)
Capacity	Reduced capacity from 320 persons to 250 persons
Symonds Place entry	Restricted use of Symonds Place entry up to 8.00pm daily
Other	Clarification of business operations Draft Management Plan provided (for Liquor Licence application)

Further amendments were made to hours of operation.

- Sunday and Monday: 7.00am to 10.00pm (reduction of two hours)
- Tuesday to Thursday: 7.00am to 11.00pm (reduction of one hour)
- Friday and Saturday: 7.00am to 12.00am (reduction of two hours)

Revised operating hours are an appropriate compromise and are expected to accommodate commercially viable operations of an envisaged land use within the Capital City Zone while maintaining residential amenity. This is of relevance in terms of acoustic performance of the site, which demonstrates a high degree of acoustic attenuation. Consequently, the proposed hours of operation are considered to satisfy Interface between Land Uses PO 2.1(a)(c)(d).

Off-site Impacts

Representors have raised concerns regarding noise generated by patrons and associated antisocial behaviours. Operational impacts from the sale and consumption of liquor are limited in terms of a planning assessment, with compliance/enforcement falling under the jurisdiction of Office of Liquor and Gaming and/or SA Police.

Notwithstanding the above, the appropriateness of the land use does fall within the ambit of planning assessment. Therefore, the applicant was requested to provide a management plan of how off-site impacts will be managed in relation to Zone PO 5.1(b) and Interface between Land Uses PO 2.1(b).

A Draft Management Plan has been provided to demonstrate how negative impacts associated with the premises are expected to be managed at a liquor licensing level. The following extracted from the Draft Management Plan are considered relevant:

- Practices relating to intoxication and disorderly, offensive, abusive or violent behaviour:
 - Staff required to undertake responsible service of alcohol (RSA) accreditation and in house training/procedures
 - Zero tolerance for intoxicated, disorderly, offensive and abusive behaviour. Immediate removal from the venue.

- Business operations are tailored to quality over quantity.
- Practices relating to disturbances:
 - Patrons will be directed to leave the venue via Halifax Street entry
 - Staff will be trained to monitor patrons loitering in the public realm and encouraged to move along
 - Management of queuing (which is not anticipated), by security personnel will be employed during peak times
- Provision for CCTV
- Operational restrictions such as:
 - No live or amplified entertainment including DJs
 - No provision for open dance floor areas
 - Venue will not advertise or supply free liquor
- Minors permitted on premises at all times.

The Draft Management Plan details standard and bespoke operational practices relating to a Liquor Licence. The applicant contends operation of the venue is misunderstood with the proposal seeking to establish a moderately scaled, but sensitively operated food and beverage experience. The nature of the licence precludes acts and activities typically associated with a nightclub or entertainment premises.

Whilst it will offer a variety of dining options across day and night time hours, the reduction in hours reinforces the core business operations and achieves greater compatibility with adjacent residential development. Much of this will be reinforced by way of conditions.

Consequently, off-site impacts are expected to be appropriately managed in relation to Zone PO 5.1(b) and Interface between Land Uses PO 2.1(b).

10. **CONCLUSION**

The proposal involves a variation to DA 21033298, being a change of use from a shop to a restaurant and bar together with building alterations and the installation of two advertising displays at 21-29 Halifax Street, Adelaide. The proposal is considered acceptable for the following reasons:

- Land use envisaged in the Zone, satisfying CCZ DO1, DO2 and PO 1.1.
- Scale and intensity of the proposal has been amended to achieve greater compatibility between the proposed use and adjacent sensitive receivers, satisfying CCZ PO 5.1 and Interface between Land Uses PO 1.2.
- Amended hours of operation are appropriate for the intended use, on balance with the preservation of residential amenity, satisfying Interface between Land Uses PO 2.1.
- Proposal includes extensive acoustic attenuation measures, to maintain amenity for adjacent sensitive receivers in the locality, satisfying Interface between Land Uses PO 4.1, 4.5 and 4.6.

The proposal is not considered to be seriously at variance with the relevant provisions of the Planning and Design Code and exhibits sufficient merit to warrant the granting of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23005009, by Byld SA Pty Ltd is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**

- **Plans and details prepared by CTRL – Project Ref: CS00.000/CSA22.002 – Drawing Nos. A1_100, A1_101, A1_600, A1_102, A1_604, A2_001, A2_002, A2_003**
-

2. **The licensed premises (bar and restaurant) on the Land shall be limited to the following days/hours of operation:**

- **Sunday and Monday: 7.00am to 10.00pm**
 - **Tuesday to Thursday: 7.00am to 11.00pm**
 - **Friday and Saturday: 7.00am to 12.00am (the following day)**
-

3. **Immediately following the construction and commissioning of the speaker system, noise transfer testing shall be conducted and the findings shall be provided to the Relevant Authority. Based upon the testing, the music played shall be at a level that achieves Table 1: Noise Criteria (as described in the Sonus Report S7492C4 dated February 2023), externally at the nearest existing or envisaged noise sensitive location.**
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4. **The noise from mechanical plant shall achieve the goal noise levels determined in accordance with Part 5 of the Environment Protection (Noise) Policy 2007.**
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5. **A noise limiting device shall be installed and maintained in accordance with Table 2: Proposed Ceiling Construction and Maximum Music Levels outlined in the Sonus Report S7492C4 dated February 2023.**
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6. **The use of the licensed premises (bar and restaurant) on the Land shall not include any live music, performances, or entertainment.**
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7. **Airlocks shall be installed in accordance with the approved plans and shall be maintained in good working order.**

8. **The door on the Symonds Place frontage shall remain closed after 8.00pm on any evening (other than where required to be open for emergency purposes).**

9. **The licensed premises (bar and restaurant) on the Land shall not exceed an internal patron occupancy of 250 persons.**

10. **Final details of external advertisements to Symonds Place and Halifax Street frontages shall be provided prior to the issue of Development Approval, to the reasonable satisfaction of the Relevant Authority.**

11. **The luminance of the illuminated advertisement(s) shall not result in excessive illumination or glare to the reasonable satisfaction of the Relevant Authority.**

ADVISORY NOTES

1. Expiration of Consent

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

3. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

4. Previous Consent

All previous stamped plans and documentation, including conditions previously granted Development Approval for Development Application ID 21033298 and 22037791 remain valid except where varied by this application and conditions.
