

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

**CONTENTS:**

<b>ATTACHMENT 1:</b>	Application Documents	<b>ATTACHMENT 5:</b>	Representations
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<b>ATTACHMENT 3:</b>	Zoning Map	<b>APPENDIX 1:</b>	Relevant P&D Code Policies
<b>ATTACHMENT 4:</b>	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.

<b>TABLE 2.1 – DEVELOPMENT APPLICATIONS RELATING TO SUBJECT SITE</b>		
<b>DA Reference</b>	<b>Description</b>	<b>Status</b>
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 1,885m<sup>2</sup>.
- 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 815m<sup>2</sup> and 'usable' floor area of approximately 780m<sup>2</sup>.
- 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.

<b>TABLE 6.1 – LIST OF REPRESENTATIONS</b>		
<b>No.</b>	<b>Representor Address</b>	<b>Request to be Heard</b>
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"> <li>• Noise and hours of operation</li> <li>• Land use intensity (including patron numbers) and interface impacts</li> <li>• Character Impacts</li> <li>• Methodology applied to the acoustic assessment</li> <li>• On-street parking</li> <li>• Antisocial behaviour and safety concerns</li> <li>• Illuminated signage on Symonds Place*</li> </ul>
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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 20m<sup>2</sup> 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"> <li>Land use and intensity consistent with the desired outcomes of the Capital City Zone.</li> </ul>	✓
Land Use PO 1.1-1.2	<ul style="list-style-type: none"> <li>Refer Section 9.4.</li> </ul>	✓
Activation PO 2.1-2.3	<ul style="list-style-type: none"> <li>Building frontage and façade treatment are human scaled and visually interesting.</li> <li>Entry defined and oriented to Halifax Street, providing clear sense of address.</li> <li>Extent of active frontage appropriate for the use. Lack of active frontage to Symonds Place is appropriate given interface with sensitive receivers.</li> <li>Land use will offer day and night activation.</li> </ul>	✓
Interface PO 5.1	<ul style="list-style-type: none"> <li>Refer Section 9.4.</li> </ul>	✓ / ✗
Movement PO 6.1	<ul style="list-style-type: none"> <li>Achieved.</li> </ul>	✓
Advertisements PO8.1	<ul style="list-style-type: none"> <li>Advertisements modest in scale and simple in messaging which is appropriate for the locality.</li> </ul>	✓

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

#### Design in Urban Areas

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

Site Facilities / Waste Storage PO 11.1-11.4	<ul style="list-style-type: none"> <li>Waste storage area previously assessed and approved under DA 21033298.</li> <li>Council's cleansing/waste advisor confirmed waste storage areas of a sufficient size and fit for purpose.</li> </ul>	✓
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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"> <li>Refer Section 9.4.</li> </ul>	✓
Land Use Compatibility PO 1.2	<ul style="list-style-type: none"> <li>Refer Section 9.4.</li> </ul>	✓ / ✗
Hours of Operation PO 2.1	<ul style="list-style-type: none"> <li>Refer Section 9.4.</li> </ul>	✓
Activities Generating Noise/Vibration PO 4.1-4.2, 4.4-4.6	<ul style="list-style-type: none"> <li>Refer Section 9.4.</li> </ul>	✓

### Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> <li>Achieved.</li> </ul>	✓
Movement Systems PO 1.2-1.4	<ul style="list-style-type: none"> <li>Site can accommodate loading/unloading within the existing car park. Further loading can be accommodated on Halifax Street.</li> </ul>	✓
Vehicle Parking Rates PO/DPF 5.1	<ul style="list-style-type: none"> <li>No requirement to provide off-street parking, as City Main Street Zone a designated area. Site has provision for 25 off-street parking spaces.</li> </ul>	n/a
Bicycle Parking in Designated Areas PO 9.1 PO 9.2	<ul style="list-style-type: none"> <li>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.</li> <li>Bicycle parking spaces are secure.</li> </ul>	✗  ✓

## 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:*

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

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 <sub>A90</sub> )	7	18	26	32	32	30	26	17
Noise Criteria (L <sub>A10</sub> )	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.

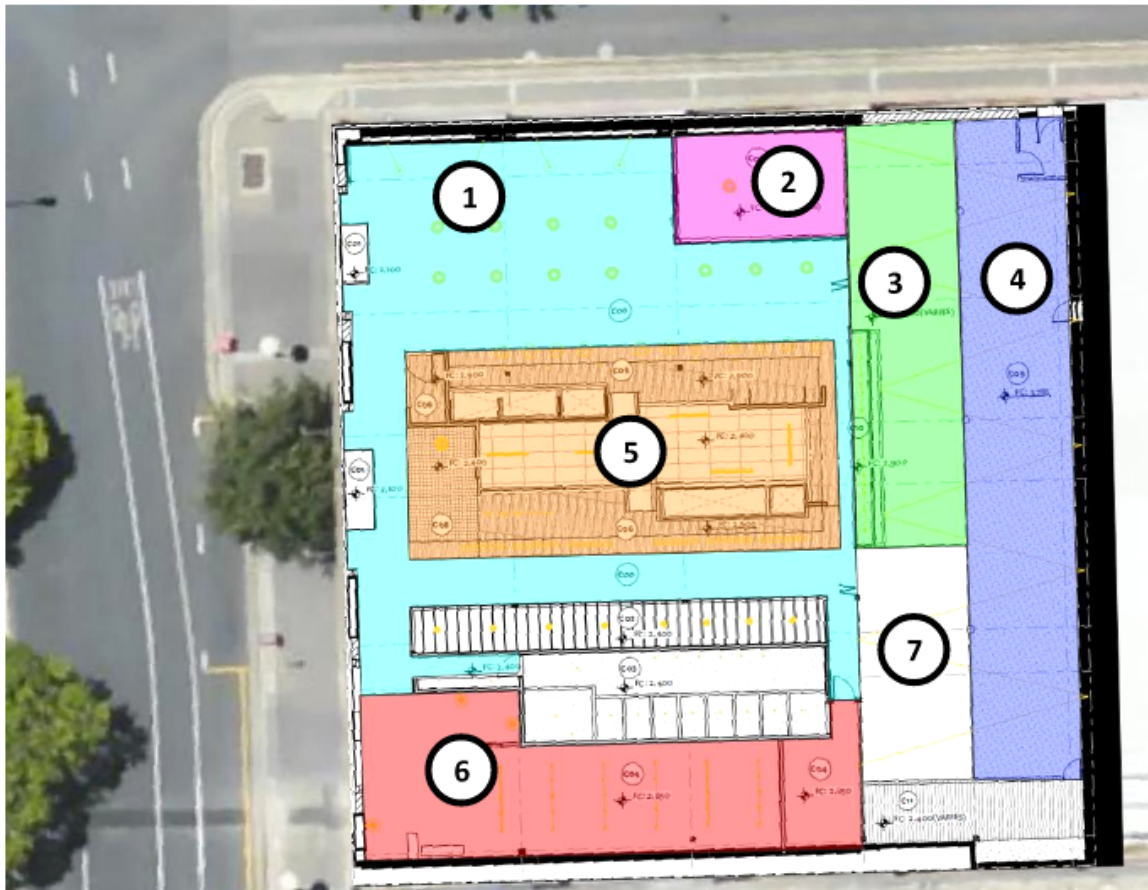


Figure 9.4.3: Music Noise Layout



Zone	Proposed Construction	Music Level (L <sub>10</sub> 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 <sup>3</sup> 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
<b>Examples in Halifax Street</b>			
Rob Roy Hotel	5.00am to 2.00am Except Sundays 8.00am to 12.00am	355 pax	<ul style="list-style-type: none"> <li>• Historic land use rights</li> </ul>
Herringbone	11.00am to 12.00am	120 pax	<ul style="list-style-type: none"> <li>• Restaurant use only with limited occupancy numbers</li> </ul>
Seoul Sisters	11.00am to 12.00am	120 pax	<ul style="list-style-type: none"> <li>• Café/restaurant use only</li> <li>• Limited occupancy numbers</li> </ul>
The Greek on Halifax	7.00am to 1.00am	115 pax	<ul style="list-style-type: none"> <li>• Restaurant use only</li> <li>• Limited occupancy numbers</li> </ul>
<b>Examples in Surrounding Areas</b>			
Kings Head Hotel	6.00am to 3.00am	435 pax	<ul style="list-style-type: none"> <li>• Capital City Zone and not adjacent City Living Zone</li> <li>• Limited interface with sensitive receivers</li> <li>• Historic land use</li> </ul>
La Trattoria	11.00am to 1.00am	130 pax	<ul style="list-style-type: none"> <li>• Capital City Zone and not adjacent City Living Zone</li> <li>• Limited interface with sensitive receivers</li> <li>• Restaurant use only</li> <li>• Historic land use</li> </ul>
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"> <li>• Capital City Zone and not adjacent City Living Zone</li> <li>• Historic land use</li> </ul>
Crown and Sceptre Hotel		200 pax	<ul style="list-style-type: none"> <li>• Capital City Zone and not adjacent City Living Zone</li> <li>• Historic land use</li> </ul>
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"> <li>• Historic land use</li> </ul>

**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.**

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**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).**

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

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**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.**

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

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## **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.

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### **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).

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### **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](mailto:d.planner@cityofadelaide.com.au) or phone 8203 7185.

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**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.

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