

DEVELOPMENT NO.:	21008236
APPLICANT:	Julian Cochran
ADDRESS:	104 Tynte Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Change of use from dwelling to performance art centre
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) • Design • Historic Area • 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 • Minimum Site Area • Maximum Building Height (Levels)
LODGEMENT DATE:	11 May 2021
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	22 April 2021
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Phil Chrysostomou Planner - Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Local Heritage

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PERSONS SPEAKING BEFORE THE PANEL

Representors

- Ms Julie Johnson of 17 George Street, North Adelaide
- Associated Professor Mary-Louise Rogers of 17 George Street, North Adelaide

Applicant

- Mr Bill Stefanopoulos on behalf of Mr Julian Cochran of 104 Tynte Street, North Adelaide

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 This development application proposes the following:

- A change of use from dwelling to a performance art centre to be used primarily for the performance of unamplified music, namely piano. Performances by string quartet or piano alongside wind instruments may also occur on occasion
- Ancillary functions associated with the centre will include music lessons, piano hire, art presentations, keynote speaking and reading events for children and other similar events
- Hours of operation between 9am and 9pm any day, noting most events are anticipated to occur between 12:30-1:30pm and 6:30-7:30pm
- A maximum patron capacity of 40 guests
- Internal fit-out and alterations to accommodate a reception area/entrance hall room, concert hall and undercover carparking for three spaces at ground. At first level, a change room, upper lobby and balcony is proposed
- No advertisements or external building work is proposed.

2. SUBJECT LAND & LOCALITY

Subject Land

- 2.1 The subject site is located on the northern side of Tynte Street approximately 51 metres east of the intersection between O'Connell Street and Tynte Street. The site has an area of approximately 224m², a frontage of 7.8 metres to Tynte Street and secondary street frontage to Lohrman Street of 7.8 metres.
- 2.3 The site contains a two storey Local Heritage Place (Victorian single fronted cottage) used as a dwelling. A garage, which provides cover for three car parking spaces, is located on the northern portion of the site and is accessed via Lohrman Street.

Locality

- 2.4 The locality has two distinct characters. Tynte Street is a wide street providing on-street parallel car parking and east-west cross-city connection for cyclists, pedestrian and vehicles alike. The former Le Cornu site is located directly south of the site. The built form in this portion of the locality is generally low in scale and is mixed in terms of architectural expression and era of construction. There is a reasonably strong solid to void masonry character however, with the presence of Local and State Heritage items along with older character buildings.
- 2.5 Lohrman Street, on the other hand, is a minor street with no footpaths which provides the 'back end' for those building with a frontage to both Tynte and George Streets. An intimate, gritty laneway character is established by the existence of garaging built to the boundary and a telecommunications tower.
- 2.6 The site is located at the interface between the City Living Zone/North Adelaide Low Intensity Subzone and the City Main Street Zone/City High Street Subzone. Therefore, the built form and land uses in the locality are reflective of the interface/transition between the two Zones.

Photo 2.1 – Subject site viewed from southern side of Tynte Street



Photo 2.2 – Southern side of Tynte Street opposite the subject site



Photo 2.3 – Rear of building, taken from Lohrman Street



3. **CONSENT TYPE REQUIRED**

Planning Consent

4. **CATEGORY OF DEVELOPMENT**

- **PER ELEMENT:**
Change of use: Code Assessed - Performance Assessed
Other - Commercial/Industrial - Performance Arts Centre: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The proposal is an unidentified use and therefore defaults to Code Assessed - Performance Assessed development

5. **PUBLIC NOTIFICATION**

- **REASON**
The proposed use is not listed as being exempt from public notification under Table 5 of the City Living Zone.

TABLE 5.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Mr Stephen Fitzgerald of 35 Tynte Street, North Adelaide	No – in support
2	Ms Lyndal Sterenberg of 60 Childers Street, North Adelaide	No – in support
3	Mr Nick Sterenberg of 60 Childers Street, North Adelaide	No – in support
4	Ms Charlotte Sterenberg of 60 Childers Street, North Adelaide	No – in support
5	Mr John Roberts of 73 Tynte Street, North Adelaide	No – in support
6	Mr Carlo Galeano of 2 Garfield Street, Klemzig	No – in support
7	Ms Mia Salvestrin of 15 Curtis Street, North Adelaide	No – in support
8	Ms Jennifer Ehrlich of 84 Gover Street, North Adelaide	No – in support
9	Charlotte Ehrlich of 56 Gover Street, North Adelaide	No – in support
10	Ms Julie Johnson of 17 George Street, North Adelaide	Yes – opposed
11	Associate Professor Mary-Louise Rogers of 17 George Street, North Adelaide	Yes – opposed

TABLE 5.2 – SUMMARY OF REPRESENTATIONS

Summary of Representations	Applicant Response (Summary)
Proposal will enrich amenity and cultural life of the city	No response required.
Community will be able to enjoy a range of artistic events in the space	No response required.
Architectural response/venue fit out offers a high level of craftsmanship	No response required.
Proposal will greatly impact the quiet enjoyment of the residents of George Street and adjoining residential properties	<p>Noise generated by the proposal will be appropriately controlled as follows:</p> <ul style="list-style-type: none"> • The use of instruments shall not be amplified. • While activities are being carried out, the openings of the building are to be closed in order to minimise the spill of noise upon nearby land (this being an important goal for the facility to maximise the experience for visitors). • The facility shall operate no later than 7:30pm (noting up to 9.00pm is sought for flexibility of use). • The hours of operation are outside of normal sleeping hours. • Events involving instruments are limited to 1-hour durations (i.e., are not used for extended periods of time). • While up to 40 persons can be expected to attend the land at peak operation, it is noted these events are to occur between the hours of 12:30pm – 1:00pm or 6:30pm – 7:30pm and are for one hour durations only. • The design of the building incorporates elements which contribute to its acoustic qualities, including but not limited to tall ceilings and multiple walls / openings before the rear of the building, proximate to sensitive receivers.
Proposed land use in a 'City Living Zone'	Zone contemplates non-residential land uses as identified in DO1.
Concern with vehicle movement/street congestion/hinderance, clash with school hours and car parking numbers for the proposed patron capacity	Land use considered small scale as it will not attract large number of visitors. Recitals will only occur two to three times a week with a maximum of 40 people. Remainder of activities, including one on one music lessons, keynote speaking, fairy tales reading, and a classical music school will attract limited numbers of visitors.
Concern over methodology of noise/acoustic logging	We have sought further clarity from an Acoustic Consultant to help appease the concerns of Julie Johnson and Associate Professor Mary-Louise Rogers and provided further clarity on the testing which has occurred, and the respective findings.

6. **AGENCY REFERRALS**

Nil

7. **INTERNAL REFERRALS**

Local Heritage

The following advice has been received from the Council's Heritage Advisor:

- The proposed change of use and associated internal works will not have any direct impact upon the heritage value of the Local Heritage Place.

8. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix 1.

8.1 Summary of City Living Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO1	<ul style="list-style-type: none">Proposed land use will add to the diversity of land uses desired without compromising residential amenity.	✓
Land Use & Intensity Performance Outcome PO 1.1, 1.2, 1.3 & 1.4	<ul style="list-style-type: none">Land use will support an active neighbourhood and improve community amenity and accessibility to the arts via a premises for the provision of artistic services.	✓

8.2 Summary of North Adelaide Low Intensity Subzone

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO1 & DO2	<ul style="list-style-type: none">Residential development is not proposed.	✗

8.3 Summary of Applicable Overlays

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

- Aircraft Noise Exposure* – non-residential land use
- Airport Building Heights (Regulated)* – no external changes to the built form
- Design* – no external changes to the built form
- Hazards (Flooding – Evidence Required)* – no flooding concerns
- Historic Area* – no external changes to the built form
- Prescribed Wells Area* – no concerns
- Regulated and Significant Tree* – no regulated or significant trees on the site or adjoining land
- Stormwater Management* – no change to the existing catchment area or disposal system
- Urban Tree Canopy* – non-residential land use

Local Heritage Place Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO1	<ul style="list-style-type: none"> Building work is proposed to the internal areas only and therefore the proposal will not have any direct impact upon the heritage value of the Local Heritage Place. 	✓
Built Form & Alterations and Additions Performance Outcome PO 1.7, 2.1, 2.2	<ul style="list-style-type: none"> As above. 	✓

8.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Interface between Land Uses DO 1 PO 1.2, 2.1, 4.6	<ul style="list-style-type: none"> Building attenuation measures proposed to mitigate adverse on adjoining noise sensitive receivers. Frequency of concerts, hours of operation and noise attenuation measures are not expected to result in adverse impacts to adjacent noise sensitive receivers. The Acoustic Report demonstrates adequate noise levels will be achieved at the boundary of the noise sensitive use. 	✓

<p>Transport, Access and Parking DO 1 PO 3.1, 5.1, 6.2, 6.3, 6.4 & 6.7</p>	<ul style="list-style-type: none"> • Safe and convenient access proposed via existing crossover and parking arrangement. • Vehicle access provided via a lawfully existing access point. • Refer Section 8.5 regarding on-site car parking requirement. • There will be negligible changes to the operation and vehicle movements along Lohrman Street with no increase in parking numbers proposed. • Albeit no rate is prescribed for this land use, there on-site bike parking within the locality to meet the expected demand. 	<p style="text-align: center;">✓/✗</p>
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8.5 Detailed Discussion

Land Use

The North Adelaide Low Intensity Subzone predominantly seeks low-density housing set within landscaped grounds. A residential land use is not proposed, the building is existing and no external changes are proposed. DO 1, PO 1.1 and 1.4 of the City Living Zone anticipate a range and diversity of compatible non-residential uses in the zone, particularly along this portion of Tynte Street.

These uses should contribute to making the neighbourhood 'active and convenient'. Zone PO 1.2 also seeks non-residential development be located and designed to improve community accessibility to services, primarily in the form of small-scale commercial uses, community services, services associated with supported accommodation, recreation facilities and expansion of existing hospitals and associated facilities.

It is noted the subject site is located at the interface between the City Living Zone/North Adelaide Low Intensity Subzone and the City Main Street Zone/City High Street Subzone. The built form and uses in the locality are reflective of the interface/transition between the two Zones and is fragmented in nature. Noting non-residential land uses are anticipated in the Zone, the location of the site, adjacent the boundary between the two Zones, also warrants a more flexible approach in terms of suitability of a non-residential land use.

While the performance arts centre, is an undefined land use (the operations of the proposal do not fit any land use terms as listed under Part 7 – Land Use Definitions – Land Use Definitions Table of the Planning and Design Code), the proposed non-residential development is anticipated to support DO 1 of the Zone and city living as:

- The Acoustic Report concludes the proposed land use will not produce noise levels that unduly impact the amenity of the locality (discussed further below under Environmental Factors section)
- The land use will add to the diversity of services to be enjoyed by City residents in a convenient location (noting there will be a car parking shortfall – see the Traffic and Car Parking section below).

Environmental Factors

The performance art centre will be used primarily for the performance of unamplified music, namely piano. Performances by string quartet or piano alongside wind instruments may also occur on occasion. Ancillary functions associated with the centre may also include music lessons, piano hire, art presentations, keynote speaking and reading events for kids and other similar events.

Interface between Land Uses DO1 and PO 1.2 seeks development be located and designed to mitigate adverse effects on adjacent noise sensitive receivers, comprising a residential land use. PO 2 prescribes non-residential development should not reasonably impact the amenity of sensitive receivers taking into consideration the nature of the development, mitigation measures and the extent to which the development is desired in the zone.

The proposal is an undefined use, however is not dissimilar to the operations of non-residential uses expressly listed as appropriate in the zone in terms of car parking demand and hours of operation. The undefined nature of the proposal doesn't necessarily mean it is unacceptable. Part 1 – Rules of Interpretation of the Planning and Design Code prescribes that development which does not fall within one of the specified classes of development in Table 3 will be designated in the table as 'All Other Code Assessed Development' and assessed on its merits against all relevant policies of the Code.

The subject site is located within the City Living Zone containing predominantly residential development. The performance art centre and the associated proposed noise output has been reviewed by an Acoustic Engineer and an Environmental Noise Assessment prepared to demonstrate Interface between Land Uses PO 4.6 can be achieved. The Environmental Noise assessment has concluded that music noise is predicted to not exceed more than 8dB above the level of background noise ($L_{90,15min}$) in any octave band of the sound spectrum ($LOCT_{10,15} < LOCT_{90,15} + 8dB$) at the nearest existing noise sensitive location.

Detailed assessment methodology and results are provided in Attachment 1. Noise levels were measured during an indicative worst-case scenario, with the piano being played as loudly as possible for a continuous period. The results demonstrated minimal impact on levels experienced directly adjacent the southern and northern facades. The report confirms noise from the piano was not audible near the subject site in Lohrman Street.

Performance of instruments other than piano (such as violin, trumpet or a woodwind) are also not expected to impact the noise levels at the nearby noise sensitive receivers. The report concludes that on the rare occasion other instruments (such as a trumpet or violin) are played simultaneously with a piano, the proposal is still predicted to operate within the requirements of the Planning and Design Code.

The methodology of assessment in the original report was queried as part of a peer review undertaken for Council. The updated report incorporates a response to each of the queries raised by Council's peer review. It is considered each issue has now been satisfactorily addressed in the latest report. The applicant has also provided a further response to the concern raised by the representor at 17 George Street regarding the methodology of noise assessment.

Other than a replacement door system for improved sealing to reduce the audibility of piano noise in the vicinity of the front entrance on Tynte Street, acoustic mitigation measures are not recommended by the Acoustic Engineer. The result of the noise modelling confirms the existing construction will allow the land use to operate within the relevant noise provisions of the Code.

Traffic and Car Parking

Transport, Access and Parking PO 3.1 seeks safe and convenient vehicle access and for interruption on public roads to be minimised. Negligible changes to the operation and vehicle movements along Lohrman Street are proposed, with no increase in on-site car parking. The existing three undercover spaces within the existing garage will remain.

The proposed land use will generate a car parking demand of seven spaces. PO/DPF 5.1 seeks non-residential development within a 'Designated Area' provide a minimum of three (and maximum of six) car parking spaces per 100m² of gross leasable floor area.

With three on-site car spaces provided, the proposal will have a theoretical shortfall of four parking spaces. Noting the car parking shortfall, PO 5.1 supports a reduced on-site rate where on-street car parking is available or involves the adaptive reuse of a Local Heritage Place.

On-street parking is provided adjacent the site on Tynte Street and the application proposes the adaptive reuse of a Local Heritage Place. Consequently, the four space shortfall is considered acceptable, particularly given the availability of on-street car parking.

On the occasions when events/keynote speaking are to be held (expected up to three times per week), large numbers of visitors to the site are not anticipated with a maximum capacity of 40 people permitted within the venue.

The availability of public transport and on-street car parking in the locality is predicted to provide sufficient car parking for patrons during events (that will run for no longer than one hour and during the hours of 12:30-1:30pm and/or 6:30-7:30pm). The remainder of the activities to occur on site including music lessons can be catered for either with the existing on-site or on-street car parking.

Overall, the proposal is not expected to cause a perceptible traffic increase or unacceptable impacts on the surrounding road network in terms of congestion during events.

9. CONCLUSION

It is acknowledged a non-residential land use is not desired in the North Adelaide Low Intensity Subzone.

Non-residential land uses are anticipated within the City Living Zone, particularly along this portion of Tynte Street where they add diversity to the land use mix and do not compromise residential amenity.

Despite the proposal not being a specifically envisaged land use, it has been demonstrated the operations will not detrimentally impact the amenity of nearby residence in terms of noise, traffic and the hours and intensity of the operations.

It is considered the proposal sufficiently meets the relevant provisions of the Planning and Design Code and warrants Planning Consent.

10. 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 21008236, by Julian Cochran is granted Planning Consent subject to the following conditions:

Conditions

1. **The Development shall be undertaken in accordance with the plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent as listed below:**

- **Drawing No WD01 – Site Plan & Demolition Plan**
- **Drawing No WD02 – Ground Floor Plan**
- **Drawing No WD03 – First Floor Plan**
- **Drawing No WD04 – North and South Elevation and Roof Plan**
- **Drawing No WD05 – East and West Elevation**
- **Drawing No WD06 – Section AA**
- **Drawing No WD07 – Section BB**
- **Drawing No WD08 – Section CC & Slab Plan**
- **Drawing No WD09 – Section DD, Section Through Stairs**
- **Drawing No WD10 – Plan Details**
- **Drawing No WD11 – Plan Details**
- **Drawing No WD12 – Reflected Ceiling Plans**
- **Drawing No WD13 – Lighting & Electrical**
- **Drawing No WD14 – Internal Hall Elevation 1**
- **Drawing No WD15 - Internal Hall Elevation 2**
- **Drawing No WD16 – Window and Door Details**
- **Drawing No WD17 – Window and Door Details**
- **Drawing No WD18 – Floor Framing**
- **Drawing No WD19 – Window and Door Schedule**

to the reasonable satisfaction of the Council except where varied by conditions below (if any).

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2. **The hours of operation for performance the arts centre on the Land shall be limited to 9am to 9pm on any day.**

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3. **Patron numbers shall be limited to up to 40 patrons at any one time.**

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4. **The acoustic attenuation measures proposed for installation within the Development as detailed on page 8 of the Report prepared by Resonate dated 9 December 2021 forming part of this consent shall be installed within the Development to the reasonable satisfaction of the Relevant Authority. Such acoustic attenuation measures shall be operational prior to the occupation or use of the Development.**

Advisory Notes

1. Building Consent for Approval

Development Approval will not be granted until Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.

2. 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.

3. Operative Date

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

4. Advertisements

This consent does not include advertisements for which a separate application must be submitted.