

DEVELOPMENT NO.:	21029363
APPLICANT:	Somerton Surf Life Saving Club Incorporated
ADDRESS:	57 REPTON RD NORTH BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Change of use for the upstairs portion of the building to a to a Bistro and function centre in addition to the existing use as a sports club
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Conservation • Open Space <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Building Near Airfields • Coastal Areas • Coastal Flooding • Heritage Adjacency • Prescribed Wells Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Finished Ground and Floor Levels • Concept Plan
LODGEMENT DATE:	14 Oct 2021
RELEVANT AUTHORITY:	Council Assessment Panel City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	2021.15
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Michael Gates Development Services (Planning and Building) Lead

CONTENTS:

ATTACHMENT 1: Previous CAP report

BACKGROUND

This application was presented to the Panel at the meeting on 23 March 2022. The Panel moved the following motion:

That the Council Assessment Panel delegate granting planning consent to the Assessment Manager, subject to suitable range of conditions, in particular the interface between land use issues, including hours of operation, number of functions per week, acoustic measures, closure of the eastern balcony, external handling of bottles and crates including hours, using below as a draft:

1. *The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.*
2. *The development be limited to no more than 130 patrons at any one time.*
3. *That the development operating hours are:*
11:00 AM to 11:00 PM on Wednesday
11:00 AM to 11:00 PM on Thursday
11:00 AM to Midnight on Friday and Saturday
11:00 AM to 11:00 PM on Sunday.
4. *The development operates in accordance with the Sonus report July 2021 reference S6943C2.*
5. *The door and louvres to the eastern balcony to remain closed and the balcony not accessible during operating hours.*
6. *That bottle waste cannot be emptied after 9.00pm.*
7. *Only provide entertainment through an in house system which incorporates a limiting device. The system must be maintained the above maximum music levels regardless on the input. An audio visual specialist will be required to confirm the requirements for and to implement the above system. An acoustic engineer will be required to confirm the system is calibrated to achieve the above levels. Maintain the following maximum music levels when measured at the eastern glazing:*

	Total	Octave Band (Hz)						
		63	125	250	500	1000	2000	4000
Noise level ($L_{eq,15min}$) (dB(A))	90	74	82	83	88	84	77	76

A relevant authority can delegate the decision making to another authority, but cannot delegate only part of the decision making process. Meaning a Panel cannot delegate the ability to only add conditions to an approval. The above motion effectively granted the Assessment Manager the authority to determine the whole application. As the recommendation from the assessment was to refuse the application, the Assessment Manager could only refuse the application. Given that was not the intention of the Panel, the application is delegated back to the Panel for determination. As that the application has not been varied in any way since the previous report, the previous report remains valid, as does it recommendation and reasons for refusal.

A copy of the previous report is contained in **Attachment A**.

RECOMMENDATION

It is recommended that the application be refused Planning Consent.

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 21029363, by Somerton Surf Life Saving Club Incorporated is refused Planning Consent subject to the following reasons:
 1. The proposed use is not consistent with the Desired Uses for either the Open Space or Conservation Zone and will have a detrimental impact on the locality.
 2. The proposal does not provide sufficient car parking in accordance of the requirements of the Planning and Design Code.
 3. The building does not sufficiently minimise noise impacts on the neighbouring properties.

ADVISORY NOTES

General Notes

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
4. 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).
5. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Planning Consent

To be determined

OFFICER MAKING RECOMMENDATION

Name: Michael Gates

Title: Development Services (Planning and Building) Lead

Date: 8 April 2022