

ITEM NUMBER: 18.2

CONFIDENTIAL REPORT

SOMERTON SLSC DEVELOPMENT APPLICATION

Pursuant to Section 90(2) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.**

- d. Commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.**

CONFIDENTIAL

Recommendation – Exclusion of the Public – Section 90(3)(b & d) Order

- 1** That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 340/21 Somerton SLSC Development Application in confidence.

 - 2.** That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 340/21 Somerton SLSC Development Application in confidence on the following grounds:
 - b.** pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is

conducting business; or
would prejudice the commercial position of the Council.

 - d.** pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected

to prejudice the commercial position of the person who supplied the information, or
to confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

 - 3.** The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
-

Item No: **18.2**

Subject: **SOMERTON SURF LIFE SAVING CLUB – DEVELOPMENT APPLICATION**

Date: 12 October 2021

Written By: Manager Development Services

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

Somerton Surf Life Saving Club Inc (**Club**) has been granted conditional approval by Council to enter into a Management Agreement with a third party (namely Gambell & Sutton Pty Ltd) to manage and operate the bistro and upstairs bar under the Club's control and direction until 1 February 2022. Council's approval of the Management Agreement was conditional on the basis that the Club submit a Development Application for a change of land use within a prescribed period, as the permitted use under the lease prohibited the Club from operating a bistro for commercial purposes, as well as subleasing direct to a third party operator without first applying for and obtaining a change of land use. The Club has now submitted a Development Application for a change of land use, which requires Council's prior consent as landowner before proceeding to an assessment, which will include a period of public notification to seek the broader community's input to the process. This report provides two options for Council's consideration.

OPTION 1

- 1. That Council grant landowner consent for the Development Application proposing a change of land use to the Somerton Surf Life Saving Club building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report to proceed with an assessment by the City of Holdfast Bay Council Assessment Panel.**
- 2. That should consent be granted by the City of Holdfast Bay Council Assessment Panel for a change of land use to the Somerton Surf Life Saving Club (the Club) building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report, that a further report be presented to Council to resolve any inconsistencies in the current lease with the Club.**
- 3. That should consent be granted by the City of Holdfast Bay Council Assessment Panel for a change of land use to the Somerton Surf Life Saving Club (the Club) building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report, that a draft sublease is prepared by the Club for Council's consideration and approval prior to the commencement of operation of the bistro restaurant and function centre.**

Or;

OPTION 2

That Council decline to grant landowner consent to proceed with an assessment of the Development Application for a change of land use to the Somerton Surf Life Saving Club building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report.

RETAIN IN CONFIDENCE - Section 91(7) Order

- 4. That having considered Agenda Item 18.2 Report No: 340/21 Somerton Surf Life Saving Club – Development Application in confidence under section 90(2) and (3)(b) and (d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, attachments and minutes be retained in confidence until further notice and the Chief Executive Officer is authorised to release the documents when the matter is concluded, giving due consideration to any relevant legal considerations, and that this order be reviewed every 12 months.**

COMMUNITY PLAN

Placemaking: Creating lively and safe places
Community: Providing welcoming and accessible facilities
Community: Fostering an engaged and contributing community
Economy: Supporting and growing local business
Economy: Making it easier to do business
Economy: Boosting our visitor economy
Culture: Supporting excellent, efficient operations

COUNCIL POLICY

Sporting and Community Leasing Policy (Policy)

STATUTORY PROVISIONS

Planning, Development & Infrastructure Act 2016
Development Act 1993
Local Government Act 1999
Retail and Commercial Leases Act 1995

BACKGROUND

The Club has a lease over the Surf Life Saving Club building for a term of 21 years, until 6 December 2026. In 2005, the property was redeveloped to provide new facilities for the use of the Club, including a bar, commercial kitchen, large seating area, and balcony on the upper floor. In

previous years, the Club has used the upstairs licensed area to operate a bar, bistro (open to both club members and the public), to host club functions (for Club members) and for venue hire to the public for weddings, birthdays and other functions (all of which is hereafter called “**the business**”). However, the business proved to be unsustainable from an economic and volunteer perspective, and the Club discontinued the business operations. The Club’s losses from the business reduced the financial resources of the Club, including funds to maintain its equipment, training, and rescue operations. The upstairs area reverted to its approved use issued by the then Development Assessment Commission, being primarily a ‘recreation room’, with bar facilities for use by Club members.

In early 2020, the Club approached Council seeking to activate the upstairs licensed area under a commercial model pursuant to which a third party operator would run the bistro, upper level bar, and kitchen as a for-profit commercial restaurant, function centre, and bar by way of sublease. However, it was determined by Administration that the proposal contravened both the permitted use as outlined in the Lease and the original Development Approval, with any such proposal triggering a change of land use. As a result, and pursuant to Council Resolution No. C140720/1966 dated 14 July 2020, the Club was granted conditional approval to enter into a Management Agreement with a third party (Gambell & Sutton Pty Ltd) to manage and operate the business under the Club’s control and direction. Council’s decision was made on the basis that the Management Agreement was an interim measure so the Club could secure the third party operators, and be given time to seek the approvals necessary, including Development Approval, to effect a change of land use to operate a full commercial restaurant, function centre, and bar. Council’s approval was due to expire on 14 July 2021, but was extended to 1 February 2022 at its Meeting held on 13 July 2021 (Resolution No. C130721/2353).

REPORT

As noted above, Council approved the Management Agreement on the basis that it was an interim measure so the Club could secure the third party operators and be given time to seek the approvals necessary, including Development Approval, to effect a change of use to operate a full commercial restaurant, function centre, and bar. The Development Application has now been submitted and is presented to Council, as landowner, for a decision as to whether the proposal has sufficient community benefit to proceed to an assessment, which would include a period of public notification. Notwithstanding that the independent Council Assessment Panel (CAP) is authorised to determine the merits of the proposal against the provisions of the Planning & Design Code, Council as landowner must first consent to the idea of the building permanently changing its use to a partly commercial one, and the impact that that may have on the broader community, in addition to any precedent it may have in resetting the expectations of other community groups.

The Council is not limited in its assessment as to the merits of the proposal, because unlike the CAP (which is bound to assess the proposal against the provisions of the Planning and Design Code), the Council, as building owner and representative of the broader community, can apply greater latitude in determining whether a privately run bistro restaurant and function centre should occupy portion of a community building, the construction of which was majority funded through State and Local Government community funds to facilitate the provision of emergency services.

The documentation supporting the Development Application, provided as Attachment 1 to this report, describes the proposal as a bistro restaurant and function centre occupying the first-floor of the Club building with trading hours of 11am to 11pm Wednesday, Thursday and Sunday, and 11am to midnight Friday and Saturday. There are also proposed additional trading hours on days when the kiosk is not trading, and on days when a day-time corporate function is held. These extended hours are 8am to 6pm Monday and Tuesday, and 8am to the regular closing hour on other days. It is proposed that no function (other than a day time corporate function) will be held on any day other than Friday or Saturday. However, the Club seeks that these arrangements, including closing times, be allowed to vary from time to time by agreement.

The Development Application proposes that the bistro restaurant and function centre have capacity to host up to 130 people. There are no physical or structural changes proposed to the building as part of the Development Application, including noise abatement measures or provision for maintaining the privacy of adjacent residents from the vantage point of the eastern balcony. These may need to be addressed as part of any development assessment process, as the Development Application process will require redressal of any inherent deficiencies that the building may have relative to current Building Code standards in its adaptation for a new use (particularly as a new residential estate has been developed adjacent the Club since the time of the last Development Approval in 2004).

Refer Attachment 1

Should Council grant consent to proceed with an assessment of the Development Application, the proposal will face some challenges from there. The Club building is located partly within the Conservation Zone and partly within the Open Space Zone in the Planning and Design Code. Both of these Zones are specifically set-aside for small scale tourist or visitor facilities (such as a kiosk) and community recreation facilities related to water activities (such as a surf or sailing club). Furthermore, the change of land use to a bistro restaurant and function centre is not envisaged in the provisions of either Zone.

The scale and intensity of the bistro restaurant and function centre relative to the area in the Club building set aside for community activities will need to be considered as part of any Development Assessment, and whether the level of patronage, hours of activity, and traffic impact, will cause the building to realign its function further away from one that is primarily intended for community use. In reaching a decision on whether to allow the Development Application to progress to an assessment, Council will need to be cognizant of the role that such buildings have in supporting the community's recreation aspirations, and whether the floor space originally dedicated to a 'recreation room' should be allocated to serve an exclusive and private commercial purpose instead.

By virtue of the lack of on-site car parking and noise attenuating measures to the Club building, the impacts of the proposal will be required to be managed by regulation rather than being resolved by design (i.e. Council will need to manage on-street car parking and monitor amplified music as neither can be contained to the site). The Council must also discharge its duties

equitably, so it will need to consider the expectations created in granting landowner consent for a bistro restaurant and function centre within an established community facility.

Notwithstanding the locational challenges associated with endorsing the progress of the Development Application, the Council may prefer to allow the Development Application to proceed to an assessment as a means to engage the community formally on this proposal, and have the traffic and noise assumptions put forward by the Club properly tested. In particular, the basis used to test noise compliance in the report accompanying the Development Application needs to be qualified in that whilst the Club building was indeed in existence prior to the residential development on the Minda site, the actual activities undertaken in the Club building have never received approval (hence the need for a Development Application now), and the Club building has no privileged status as a 'venue' as a result. The report also assumes that windows associated with the Minda apartments and closest to the Club building are double-glazed. This is not the case for all windows. Similarly, the accompanying traffic report bases its assumptions on the volume of on-street parking observed during August (winter), whereas it is important to also understand the impact on the local street network at times when visitor numbers to Repton Road and the Esplanade are at their highest (summer).

Although a copy of the draft sublease has been provided by the Club as Attachment 2 to this report, this document is included only for its value in helping to better describe the activities associated with the Development Application. The Council must first grant landowner consent for the Development Application to proceed to an assessment, then await the outcome of the CAP's determination of that Development Application before turning its mind to the sublease (which is contingent on obtaining Development Approval first).

Refer Attachment 2

OPTIONS

Option 1

In adopting Option 1 in the recommendation, Council effectively enables the Development Application to continue to an assessment by virtue of providing the landowner's consent to do so. Council's decision does not imply that the Development Application has planning merit or that the Council has formed a view on the planning merits of the proposal, which is a separate decision for the independent CAP to make in consultation with the community. By enabling the Development Application to proceed to an assessment, it is implied that the Council will accept the outcome of that process, which will then require it to make consistent decisions with respect to future liquor license applications, sublease applications, and amendments to the substantive Lease. Furthermore, the expectation may be that in granting consent for the Development Application to proceed, that Council will adjust the timeframe of the current Management Agreement should the Development Application remain unresolved at 1 February 2022 (being the termination date for the Management Agreement). Finally, the Council should note that in the event that the CAP refuses to grant planning approval to the Development Application, the Club has the right to lodge an appeal with the Environment, Resources and Development Court to have

that decision reviewed. The appeal will effectively be against the Council, which will be required to defend the appeal.

Option 2

In adopting Option 2 in the recommendation, Council effectively removes the ability for the Development Application to proceed to an assessment, denying the Club the right to pursue its request to permanently change the use of the first floor to a privately operated bistro restaurant and function centre. In doing so, the Club building will revert to a community use facility upon conclusion of the Management Agreement on 1 February 2022.

BUDGET

There is no immediate budget impact resulting from a decision either way on this matter.

LIFE CYCLE COSTS

This report does not have any full life-cycle cost implications, although an intensification of activity within the building will impact Council's building maintenance program.

CONFIDENTIAL

Attachment 1



ADDITIONAL INFORMATION

Trading Hours

Proposed regular trading hours are:-

11-00 am to 11-00 pm Wednesday, Thursday and Sunday

11-00 am to midnight Friday and Saturday

Proposed additional trading hours are:-

on days when the kiosk is not trading (e.g. public holidays and some days in July) or

on days when a day time corporate function is held,

8-00 am to 6-00 pm Monday and Tuesday

8-00 am to the regular closing hour on other days

No function (other than a day time corporate function) will be held on any day other than Friday or Saturday.

The hours or days permitted for a function may be varied from time to time by agreement between the sub-lessee, the club and the City of Holdfast Bay.

Late closing may occur on an occasional basis provided the sub-lessee does not permit consumption of alcohol more than 30 minutes after the scheduled closing time.

Capacity

Maximum capacity 130 persons

Community Support

A petition signed by 137 residents of Brighton Dunes was lodged with the City of Holdfast Bay in support of the club's parallel application to the Council for lessor approval of this proposal under the club's lease.

Letters of support were also lodged from the occupants of the 6 nearest houses to the clubhouse on the Esplanade and Repton Road.

Inconsistencies

Where the information in this document is inconsistent with any other document, this document shall prevail.

North Brighton 1860 001A



Town Planning
Development Advice
Strategic Management

21 September 2021

Mr Davey Taylor
Treasurer
Somerton Surf Life Saving Club Inc.
57 Repton Road
North Brighton SA 5044

Dear Davey,

USE OF EXISTING BUILDING – SOMERTON SURF LIFE SAVING CLUB

As requested, I provide my town planning opinion in relation to the use of the first floor of an existing building located at 57 Repton Road, North Brighton occupied by the portion of Somerton Surf Life Saving Club (the Club).

1. Purpose

I understand that in the first instance this advice will form part of a submission by the Club to the City of Holdfast Bay (the Council) requesting a variation to the lease so to allow portion of the first floor of this building to be operated by a third party.

More particularly, the Club seeks to sublease portion of the first floor to Gambell & Sutton Pty Ltd (for rent) so it can conduct business as a bistro restaurant and function centre under its own liquor licence.

In so far as this use of the first floor by a third party constitutes a change in the use of land (and therefore *development*), a Development Application is to be lodged with Council as the relevant planning authority.

In essence, the proposal is to more formally change the operator of this first floor bistro restaurant and function centre from the Club to Gambell & Sutton Pty Ltd, as has been the practice over the last 12 months according to an interim agreement.

2. Background

I am advised that the Club was established in 1960 and operated out of a small shed in the sandhills which was replaced in 1975 by a building that also provided public toilets, kiosk and change rooms associated with the adjacent Jack Fox Oval.

This building was the subject of a Development Application to the Development Assessment Commission for refurbishment and first floor additions which was granted Development Plan Consent in December 2004.

Phillip Brunning & Associates

ABN 40 118 903 021

26 Wakeham Street
Adelaide SA 5000
0407 019 748
phil@phillipbrunning.com



AERIAL PHOTOGRAPH TAKEN 9 OCTOBER 2020



STREET VIEW FROM THE ESPLANADE



AERIAL PHOTOGRAPH TAKEN 2 MARCH 2013

Building Rules Consent and full Development Approval was granted by the City of Holdfast Bay (the Council) in March 2005 with the Club reoccupying the completed building in late 2006.

It is understood that approximately 50% of the build cost was met by the State Government, 33% by Council with the balance by the Club which has since occupied and maintained these premises according to the lease which extends till December 2026.

In the years since the Club has spent a further \$122,000 on various improvements.

After building work was completed, the club employed a part time functions manager, a part time bistro manager and a part time cafe manager to run the three elements using casual staff.

Functions (where the first floor was hired out for private events such as wedding receptions and birthday parties) were held mostly on Saturday evenings or Sunday afternoons with some corporate functions being held during the working week.

Functions, initially, were very popular and occurred on most weekends with bookings at one time being held three years in advance.

Until 2014 bistros were held on Friday evenings at the first floor and for a while were also held on Wednesdays and Thursdays. Breakfasts were also tried on Sunday mornings for a while.

The kiosk was open 7 days a week (weather permitting). The business was profitable for the club in the first years, particularly the functions side, whilst the kiosk and bistros were run more as member and community services.

However business conditions deteriorated in the aftermath of the global financial crisis and in 2014 Council agreed to the kiosk being sub-let to an outside operator to run. A year later the club was in serious financial difficulties and all paid staff had to be terminated.

From late 2015 until 2019 the Club attempted to carry on bistros and functions on a smaller scale using volunteer and some casual staff, but this placed too much of an onus on the volunteers, whose efforts were better served on the beach and in the water and first functions and later bistros were temporarily discontinued.

In September 2020 the Club resumed trading pursuant to the terms of a management agreement between the Club and Gambell & Sutton Pty Ltd as manager.

The management agreement provides for a sharing of revenue between the Club and the manager and has been approved by both the Council and the Liquor and Gambling Commissioner.

This is a temporary arrangement until the Club can obtain,

- Council approval to sub-let the area for which development approval is being sought, to Gambell & Sutton Pty Ltd for use according to the hours specified below under the heading 'Proposal';
- Development Approval; and
- Approval from the Liquor and Gambling Commissioner to a redefinition of the Club's club liquor licence and issue of a restaurant licence to Gambell & Sutton Pty Ltd.

The rent to be received from Gambell & Sutton will be integral to the long term sustainability of the Club given declining funding from grants and other sources, and increasing expenses which are placing increasing pressure on the Club.

As evident from the aerial photographs above, the adjoining oval was redeveloped for a multi-unit multi-level retirement living complex which was approved by Council in 2012 with construction commencing around July 2013.

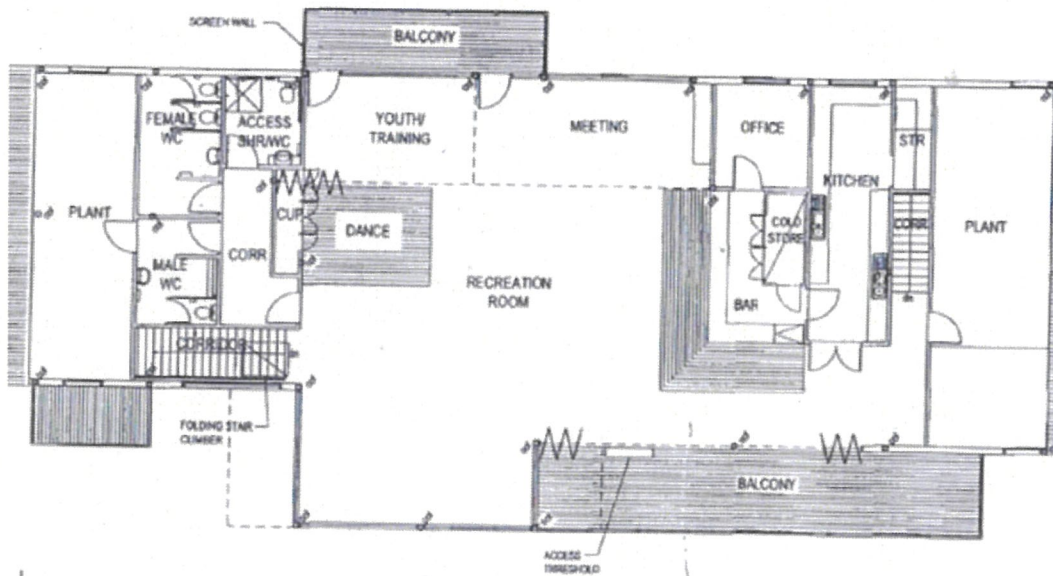
A subsequent approval was granted by the Development Assessment Commission in 2016 for Stages 2 & 3 to the south of the initial Stage 1 of this retirement living complex with construction commencing in March 2017.

3. Current Approval

The Development Approval notes the nature of development as 'refurbishment, ground and upper floor alteration and additions to existing building and car parking alterations', subject to 6 conditions (5 of which relate to planning matters).

The plans which accompanied this development application show the first floor arranged as a recreation room, dance floor, commercial bar and kitchen, office and meeting areas, and plant rooms, with a balcony facing the water.

I am informed that a liquor licensing application was made simultaneously with the development application and that at the time the Club was involved in discussions with the Council and licensing authorities as to how the facilities were to be used and a business plan was developed.



In so far as the nature of development and/or the proposal plans did not explicitly identify the use of the first floor for functions and dining, it is implicit in my view that these activities were anticipated given the facilities provided and discussions which took place.

A kitchen and bar area of the size proposed would not in my view be necessary if they were only to be used for recreation. I suggest that the failure to reference to use of this area for functions and dining was an unhelpful oversight at the time.

4. Proposal

As indicated above, the proposal seeks approval for a third party operator, Gambell & Sutton Pty Ltd, to use the first floor of this existing building as a bistro restaurant and function centre.

No building work is proposed nor alterations to the existing building. The existing layout at the upper level will be retained. I understand that the facility is adequately provided with toilet facilities and requisite disabled access.

Whereas the current trading hours are:

- 11:00 AM to 10:00 PM on Wednesday
- 11:00 AM to 11:30 PM on Thursday
- 11:00 AM to Midnight on Friday and Saturday
- 11:00 AM to 10:00 PM on Sunday.

The club is seeking a variation to permit trading between:

- 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 (no change)
- 11:00 AM to 11:00 PM on Sunday.

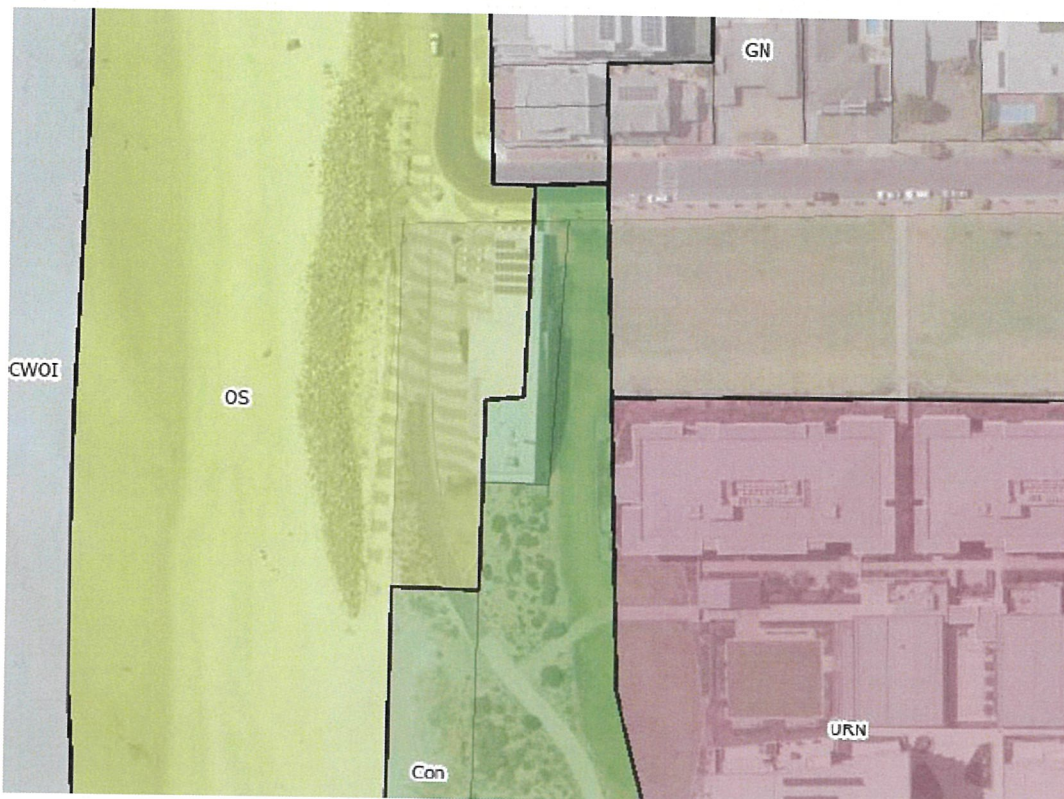
It is also seeking flexibility to permit trading to commence at 8:00 AM on all days when the downstairs kiosk is not trading (currently public holidays and during the month of July) or when the Club is holding a corporate function.

Functions will be operated and managed according to an agreement with Gambell & Sutton Pty Ltd which will run its own business and be responsible for catering, food and liquor service, security and patron management, subject to the terms and conditions of the Club's lease and the proposed sub-lease.

I understand that Gambell & Sutton Pty Ltd will be seeking their own liquor licence.

5. Planning & Design Code

The land on which the Somerton Surf Life Saving Club is situated, is located substantively within the Open Space Zone and partially within the Conservation Zone of the Planning and Design Code.



In so far as the subject land is located within two zones, it is appropriate to have regard to policies relevant to both, noting of course that this is an existing facility and that the proposal is for a variation to the manner in which it is to be used.

The Desired Outcomes for the two zones are set out below.

OPEN SPACE ZONE

Areas of natural and landscaped open space provide for biodiversity, tree canopy cover, urban cooling and visual relief to the built environment for the health and enjoyment of the community.

CONSERVATION ZONE

The conservation and enhancement of the natural environment and natural ecological processes for their ability to reduce the effects of climate change, for their historic, scientific, landscape, habitat, biodiversity, carbon storage and cultural values and provision of opportunities for the public to experience these through low impact recreational and tourism development.

As clearly evident from the aerial photograph below, this land adjacent the coast is highly modified in terms of erosion control, pavement, public plazas and pathways together with the clubrooms building itself.



This land is plainly not in a natural condition and is highly unlikely to be reverted to such in the future. Accordingly, policies for the Conservation Zone, including Desired Outcomes, need to be considered an applied with this practical reality in mind.

The authority for this approach is clear, i.e.:

- development policy cannot be read (and applied) without regard to the physical reality of the character of the area in which development is proposed - *Rogers v Mount Gambier CC* (1997) 4 SAPED 41; and
- the relevant authority in making its decision, must recognise that the reality on the ground may be different from that assumed by the policy and that a planning decision should be a common sense decision according to the circumstances *Remibisi Pty Ltd v City of Salisbury (No. 2)* [2008] SAERDC 83

The primary or dominant use of this land may best be described as *clubrooms* in the ordinary meaning of such in so far as the Planning & Design Code does not set out a specific land use definition within Part 7.

In some respects that clubrooms take on the characteristics of *community facility* as defined being premises for community support services to the public in the manner of water safety, drowning prevention and rescue.

Further details regarding the club can be found at <http://somertonsurfclub.com.au>

To the extent that use of the first floor by a third party for dining and functions constitutes a use of land, I would describe it as being ancillary or subordinate to the primary or dominant use being clubrooms or possibly a community centre.

In any event, use of the first floor for dining and functions (by a third party operator) is to be *performance assessed* having regard to the relevant provisions of the Planning & Design Code, as generated by the algorithm imbedded in the SAPP.

6. Assessment Considerations

With reference to these provisions, the following matters are most relevant in the assessment of this proposal.

Land Use

In my view, the fundamental land use is not in question in so far as the Club has operated the bistro restaurant and function centre according to the 2006 approval and further to long standing existing use rights.

The additions and alterations undertaken in 2006 were assessed by the Development Assessment Commission as being appropriate having regard to the existing state of affairs and Development Plan policy at the time.

The key difference now is context, more particularly the arrival of the retirement living complex on land to the east. Previously, this land was used for as a sporting oval and the land beyond by Minda for supported living and disability services.

Mindful that the clubrooms physically exist and use of the first floor for dining and functions has been approved, assessment of this proposal is limited to the change in use of the first floor by a third party, rather than the Club.

This change is not only subtle but arguably indeterminable from the manner in which the Club has and may continue to use these premises for dining and functions to generate income to support delivery of their important community service.

The period of reduced use of the first floor for dining and functions for the reasons described above, does not constitute an abandonment of the approved use nor does it fetter or limit its continued use into the future.

Once again, this proposal is limited to a formal acknowledgement by the planning authority that the nominated third party may operate the first floor of this existing premises for dining and functions rather than the Club.

Surf Life Saving clubs are an integral part of community life across Australia and not only serve the public in terms of water safety, drowning prevention and rescue, but provide facilities for the enjoyment of the community in coastal locations.

The Somerton Surf Life Saving Club is no different in this regard and provides a valuable meeting place for the community. Income derived from associated activities such as dining and functions underpin long term financial sustainability.

Without this income, the Club would be increasingly reliant on grant funding from various tiers of government which can not be guaranteed in the longer term. The Club seeks to be as self-sustaining as possible.

Over the years, the Club has tried various ways of conducting these activities with paid and volunteer staff, none of which has been a lasting success.

After much consideration over the best way to utilise the upstairs level of the clubrooms, it now wants to outsource the management of the catering and function activities, by sub-letting the area to a third party.

The current management agreement has been very successful, both financially and in allowing Club resources to concentrate on the essential functions of a life saving club for the safety of beach users.

However, the Club wishes to go further and free itself from the vagaries of running a catering and functions business and the risks associated with it and replace the uncertainty of business income with the certainty of rent.

Moreover, the Council has indicated that it prefers a sub-lease arrangement and has stipulated that the proposed management agreement cannot continue beyond 1st February 2022.

With respect to policies that speak to scale and intensity, use of these premises for dining and functions is in my view subordinate to the principle and continued use of the land for recreation by the community.

Acknowledging the practical reality of this situation, the proposal would not in my view conflict with, nor frustrate achievement of the desired and performance outcomes and for the Open Space Zone and the Conservation Zone.

To the extent that these provisions are relevant in this assessment of this proposal, use of the clubrooms for dining and functions will continue to be associated with recreation activities that support the health and enjoyment of the community.

Similarly, the proposal will support the efficient and sustainable use of this facility by the public that attend this location to enjoy the coastal setting acknowledging that it is not in a natural state with no plans to revert it to such condition.

Car Parking

In so far as use of these premises by a third party operator (rather than the Club) may change the demand for car parking, it is appropriate to review the current arrangement and experience within the locality.

Mindful that the existing facility does not provide on-site parking, there has and will continue to be a reliance on on-street parking within the surrounding locality to satisfy the demand arising from uses conducted within.

The Code acknowledges this practical reality in so far as Performance Outcome 5.1 under the heading Transport, Access & Parking specifically identifies availability of on-street parking as a factor that may support reduced on-site provision.

In the absence of a specific rate being identified within the Code for function centre, it is necessary to assess demand on an empirical or first principles basis having regard to the actual demand arising.

To assist in this regard, Phil Weaver & Associates have been engaged to assess demand arising from this use and survey parking availability in nearby streets when functions have been conducted.

Mr Weaver observes that the ratio of passengers per vehicle attending functions is between 2.9 and 3.7 persons. Assuming a maximum capacity of 130 persons, the potential demand for parking is calculated as being between 39 and 45 spaces.

On the data presented by Mr Weaver, it would appear that this demand for parking can be accommodated on-street within the surrounding locality which have an approximate capacity for 136 spaces.

Mr Weaver opines that the demand arising could theoretically be accommodated on the western side of the Esplanade between Harrow Road and Repton Road, and the southern side of Repton Road between the Esplanade and Jack Fox Drive.

Even allowing for seasonal variation, Mr Weaver concludes that the level of on-street parking available within this locality would address the anticipated demand for parking arising from use of this facility.

I understand that given this reliance on-street parking in the locality, hosts are encouraged to advise their guests of this practical reality and take appropriate steps to moderate demand and if possible, make other arrangements for their journey.

Parking congestion in local streets is not an uncommon or new experience in coastal locations such as this which attract large number of visitors from time to time, most notably during summer months.

To the extent necessary, Council may manage this congestion through various means including parking controls. The impetus for such parking regime are often a function of local resident tolerance (or intolerance) as the case may be.

From anecdotal accounts provided by residents along Repton Road, it would seem that parking demand arising from functions conducted more recently at these clubrooms has not exceeded their tolerance.

For these reasons, I think it acceptable for the planning authority to accept the current situation and that use by a third party operator would not exacerbate this to any significant extent.

Interface between Land Uses

A fundamental town planning consideration is managing the interface between differing land uses so as to avoid conflict and/or mitigate adverse effects. The Code specifically expresses this approach as a Desired Outcome.

Having dealt with car parking above, it is appropriate to consider the potential for impact arising from amplified music being played during functions conducted at the first floor of this building.

To assist in this regard, Sonus has conducted a music assessment having regard to various criteria including that under the Liquor Licensing Act 1997, the Environment Protection Act 1993 and the Environment Protection (Noise) Policy 2007.

As outlined in this report, music from the clubrooms measured from both outside the building and within the bedrooms of the closest ground floor apartment within the adjacent retirement living facility according to the methodology specified.

I note that the Sonus report identifies that the more recent retirement living facility on adjacent land was approved on the basis of certain acoustic design considerations and performance specifications, as advised by their acoustic experts.

These reports were informed by music from a wedding reception conducted at the clubrooms on 15 December 2012, measured at the location of the future retirement village. The music level was measured at 68 dB(A) outside the building.

It is clear that the planning authority when assessing the application for the proposed retirement living complex adjacent to these long standing clubrooms (where functions are conducted) was satisfied that the two may co-exist.

It is reasonable in my view that where a sensitive residential use is proposed adjacent an existing noise generating activity, that appropriate measures are taken by the incoming use to protect occupants from an existing noise source.

On the basis that the music level within the clubroom is restricted to a predetermined limit using an inhouse calibrated system and the external louvres remaining closed, music levels were measured as being significantly lower than 68 dB(A).

Not only is this original performance measure not exceeded, the assessment concludes that 22 dB(A) can be achieved within the bedroom of the adjoining apartment via the use of this inhouse system and with the louvres closed.

As outlined on the Sonus report, to ensure that noise levels do not exceed 90 dB(A) within the clubrooms, all music must be played through an inhouse system which incorporates a limiting device.

An audio visual specialist will be required to confirm the requirements for and to implement such a system. An acoustic engineer will also be required to confirm the system is calibrated to achieve the required levels.

An appropriate condition may be applied to the consent to ensure this outcome, which may also include a 'post occupancy' review to ensure that the required level of performance has been achieved.

7. Conclusion

In determining this application, I consider it appropriate to acknowledge that:

- this is a long standing use that provides an important community service;
- use of the first floor for dining and functions by the Club is approved;
- the proposal is for a third party operator to conduct this use;
- income from this use is integral to the Club's long term financial sustainability;
- the use may be conducted without serious impact on amenity; and
- parking demand is within the capacity of surrounding streets;

With these matters in mind, I am of the opinion that approval should be granted.

Yours faithfully

PHILLIP BRUNNING & ASSOCIATES PTY LTD



PHILLIP BRUNNING RPIA
Registered Planner
Accredited Professional – Planning Level 1, 2 & 3

Consultant Traffic Engineers

ABN 67 093 665 680

204 Young Street
Unley SA 5061

P: 08 8271 5999

F: 08 8271 5666

E: mail@philweaver.com.au

File: 21-106

21 September 2021

Mr David Taylor
Treasurer
Somerton Surf Life Saving Club Inc.
57 Repton Road
North Brighton SA 5044

Dear Mr Taylor,

SOMERTON SURF LIFE SAVING CLUB – PARKING ASSESSMENT ASSOCIATED WITH USE OF BUILDING

I refer to our recent discussions relating to use of the function and restaurant areas within the Somerton Surf Life Saving Club located at 57 Repton Road, North Brighton.

More particularly I understand that the Somerton Surf Life Saving Club (the club) seeks formal planning consent for the use of these areas by a sub-lessee to accommodate restaurant dining by the public and to host functions on site. I understand that these activities are currently occurring but note that staff from the City of Holdfast Bay have requested an assessment of car parking demand associated with these events as part of a Development Application for a change of use to a different operator.

In undertaking the following assessment I have had an opportunity to consider the town planning advice provided by Phillip Brunning and Associates (PBA) in a report dated 9th September 2021 which included a summary of the purpose of this matter as follows:-

"I understand that in the first instance this advice will form part of a submission by the Club to the City of Holdfast Bay (the Council) requesting a variation to the lease so to allow portion of the first floor of this building to be operated by a third party.

More particularly, the Club seeks to sublease portion of the first floor to Gambell & Sutton Pty Ltd (for rent) so it can conduct business as a bistro restaurant and function centre under its own liquor licence.

In so far as this use of the first floor by a third party constitutes a change in the use of land (and therefore a Development Application is to be lodged with Council as the relevant planning authority.

In essence, the proposal is to more formally change the operator of this first floor bistro restaurant and function centre from the Club to Gambell & Sutton Pty Ltd, as has been the practice over the last 12 months according to an interim agreement."

Existing Situation

The Somerton Surf Life Saving Club is located on the southern side of the corner (apex) of Repton Road with (the) Esplanade, North Brighton.

The existing Surf Life Saving club comprises a two storey building which includes:-

- Toilets, showers and changes rooms (male and females),
- First aid room,
- Gymnasium facilities, storage for rescue, training and competition equipment,
- A Ground floor kiosk (the Kiosk at Somerton), and
- First floor function areas including an internal area and balcony area.

I also understand from the PBA report that:-

- No building work is proposed nor alterations to the existing building,
- The existing layout at the upper level will be retained, and
- The current trading hours are understood to be:
 - 11.00 am to 10.00 pm on Wednesdays,
 - 11.00 am to 11.30 pm on Thursdays,
 - 11.00 am to midnight on both Fridays and Saturdays, and
 - 11.00 am to 10.00 pm on Sundays.

Since there is no car parking available on the subject site, members and visitors currently park off-site primarily within nearby on-street areas including Repton Road and (the) Esplanade, in particular.

I note that parallel parking is permitted on both sides of Repton Road within approximately 250 metres of the subject site comprising, approximately:-

- 18 parking spaces on the northern side of Repton Road between the 90-degree bend and the intersection of this roadway with Prior Road,
- 18 parking spaces on the southern side of Repton Road between the 90-degree bend and the intersection of this roadway with Jack Fox Drive, and
- 12 parking spaces on the southern side of Repton Road between the intersection of this roadway with Jack Fox Drive and the eastern boundary of 47 Repton Road.

Parallel parking is also permitted on the western side of (the) Esplanade between the apex and the intersection of this roadway with Harrow Road. This includes 11 spaces located in the section of this roadway to the south of the intersection with Rossall Road and 14 spaces in the section of this roadway between the intersections with Rossall Road and Harrow Road.

Between Repton Road and Harrow Road parking on the eastern side of (the) Esplanade is prohibited by a continuous No Stopping Anytime restriction.

Proposed Change of Operation

I note from our discussions that the Somerton Surf Life Saving Club currently accommodates functions on site and dining by the public.

I understand that these functions include such activities as club functions, community functions and private functions, such as weddings, birthday parties and other celebrations, primarily conducted on Friday and Saturday nights with the use of these facilities available to the public on other nights. Peak use of the dining facility by the general public typically occurs on Thursday evenings.

Consequently, the Somerton Surf Life Saving Club is seeking formal planning approval for a sub-lessee to carry on function the function and dining activities in a manner similar to that previously provided by the club on site. It is anticipated that the functions would mainly occur on Friday and Saturday evenings.

In periods when private functions have not been booked, the facilities would be available for use by club members and the general public for casual dining. I understand that a significant proportion of patrons on these nights reside in the adjacent Brighton Dunes development who would typically walk to and from the subject facility.

I understand that the club is seeking to provide some flexibility in hours to use the dining and functions between 11.00 am to 11.00pm (Wednesday, Thursday and Sunday) or midnight (Saturday and Sunday). On occasions when the kiosk is not trading (e.g., public holidays) or when a corporate function is being held, opening times would be from 8.00am.

Parking Assessment

Given that the parking demand associated with the proposed operation of the dining and balcony areas of the Somerton Surf Life Saving Club would need to be met off-site, reviews of car parking demand within the locality were conducted during evening periods to determine the availability of such car parking. This included assessment of parking demand during two functions held on consecutive Saturday evenings (7th August 2021 and 14th August 2021) and on Thursday 19th August 2021 when the facility was open to dining by the public.

The above surveys included counts of cars parked in the following locations:-

- The southern side of Repton Road, between the clubrooms and Jack Fox Drive (Approximate capacity of 18 spaces),
- The southern side of Repton Road, between Jack Fox Drive and the common boundary between 45 and 45A Repton Road i.e., a location slightly to the east of the centreline of the intersection with Prior Road (Approximate capacity 12 spaces),
- The northern side of Repton Road, between the Esplanade and Prior Road (Approximate capacity 18 spaces),
- The western side of the Esplanade between Harrow Road and Repton Road (Capacity 25 line marked spaces),
- The northern side of Rossall Road, between the Esplanade and Prior Road (Approximate capacity of 26 spaces), and
- The southern side of Rossall Road, between the Esplanade and Prior Road (Approximate capacity of 30 spaces).

The above survey area is identified in the aerial imagery below (*Figure 1*).



Figure 1: Car parking survey area

The peak parking demand recorded during each of the above surveys is summarised in Table 1 below.

Table 1: On-street parking demands – August 2021

Roadway	From	To	Approximate Parking Capacity	Spaces occupied within total survey area		
				Saturday 7 th August 2021	Saturday 14 th August 2021	Thursday 19 th August 2021
Esplanade – West side	Harrow Road	Rossall Road	14 spaces	0	1	3
Esplanade – West side	Rossall Road	Repton Road	11 spaces	9	7	10
Rossall Road – North side	Esplanade	Prior Road	26 spaces	4	5	6
Rossall Road – South side	Esplanade	Prior Road	30 spaces	6	2	3
Repton Road – South Side	Esplanade	Jack Fox Drive	18 spaces	12	11	19
Repton Road – South side	Jack Fox Drive	45 and 45A Repton Road	12 spaces	1	1	0
Repton Road – North side	Esplanade	Prior Road	18 spaces	5	2	8
Total			129 spaces	37 spaces	29 spaces	49 spaces

My observations during the above surveys indicated that the actual parking demand associated with the activities conducted at the Somerton Surf Lifesaving Club was almost fully accommodated within the on-street parking areas along the western side of the Esplanade and generally within the southern side of Repton Road between the Esplanade and Jack Fox Drive.

For the purpose of this assessment it has been assumed that both the 5 cars parked on the northern side of Repton Road on Saturday 14th August 2021 and 6 of the 8 cars parked on the northern side of Repton Road during the Thursday evening were associated with the subject development during these periods given that these cars were parked at the western end of the roadway. However at least some of these vehicles may have been associated with the adjoining residential properties.

Furthermore it has been assumed that on each occasion all cars parked along the Esplanade and along the southern side of Repton Road between the Esplanade and Jack Fox Drive were directly associated with the subject development.

On the above basis, I expect that the peak parking demands generated by the subject development during the various surveys were approximately:-

- 26 cars on Saturday 7th August 2021,
- 19 cars on Saturday 14th August 2021, and
- 38 cars on Thursday 19th August 2021.

Based upon your advice of patronage numbers associated with the activities held on site during the survey period I understand that:-

- A total of 75 guests attended the function held on Saturday 7th August 2021,
- A total of 70 guests attended the function held on Saturday 14th August 2021, and
- There were 110 patrons attending the club during the evening on Thursday 19th August 2021.

On the above basis it appears that the ratio of passenger per car attending the two functions held on the Saturday evening periods varied between approximately 2.9 persons per car to 3.7 cars per car. The ratio of passengers per car on the Thursday is calculated as being approximately 2.9 persons per car.

If a maximum capacity of 130 persons is to be accommodated by the subject development, I anticipate that there could potentially be a total parking demand for approximately 45 cars to parking within the locality based upon a parking rate of 2.9 persons per car as identified during the Thursday evening survey period.

However, the peak capacity of the subject development is unlikely to occur outside of those evenings when functions are held on site and I anticipate that a slightly higher car parking occupancy would occur during these periods. Assuming an average of 3.3 persons per car attending functions based upon the results of the two Saturday evening survey periods, I therefore estimate the peak parking demand of such activities to be equivalent to approximately 39 cars.

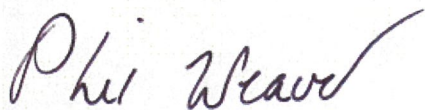
This level of parking demand could empirically be accommodated along the western side of the Esplanade, between Harrow Road and Repton Road and the southern side of Repton Road between the Esplanade and Jack Fox Drive without a need to utilize parking in front of adjoining residential dwellings.

Accordingly, the results of the above surveys, if applied to the proposed operation of the Somerton Surf Life Saving Club, would suggest that the maximum capacity associated with the subject use would not significantly increase car parking demand from that identified during the recent parking surveys.

While I note that parking demand within the locality peaks during summer periods, I anticipate that there would be significantly greater use of the subject facilities by people already within the locality, particularly those using the beach. This would therefore reduce the parking impacts of additional parking demand generated during daytime periods. This is notwithstanding that the summer period is generally atypical of the year-round demand for parking in the subject locality.

From the results of the parking surveys, I consider that the level of available on-street parking would typically address the anticipated demand for parking spaces associated with the proposed operation of the existing function and dining areas provided within the Somerton Surf Life Saving Club.

Yours sincerely

A handwritten signature in dark ink that reads "Phil Weaver". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Phil Weaver

Phil Weaver and Associates Pty Ltd

Somerton SLSC

Music Assessment

S6943C2

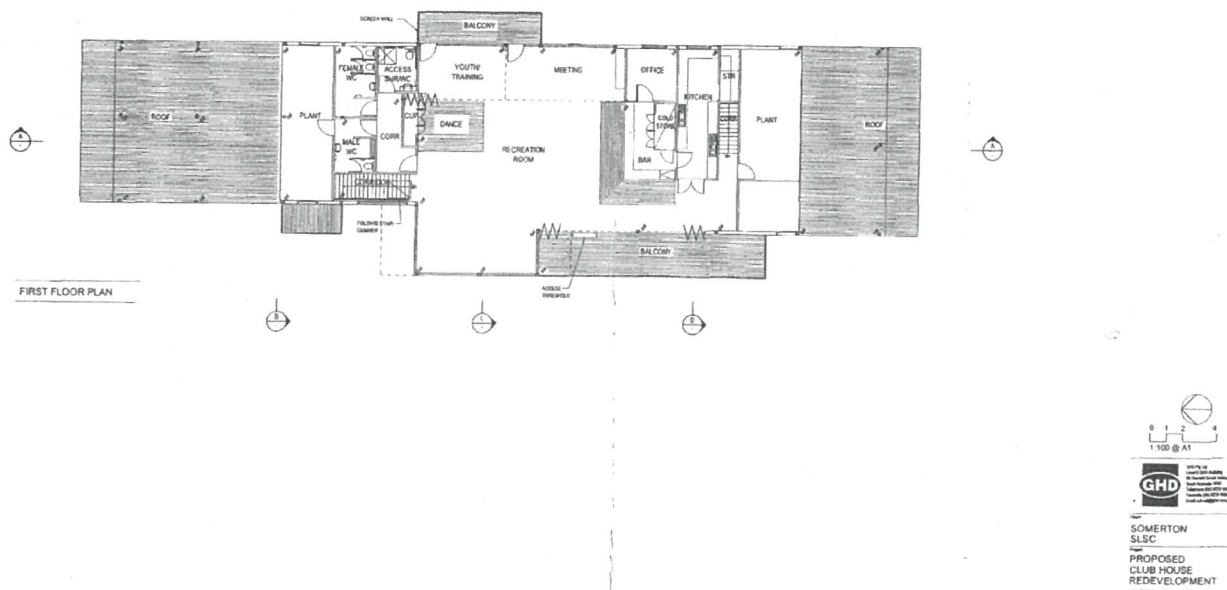
July 2021

sonus.

www.sonus.com.au

EXECUTIVE SUMMARY

The Somerton SLSC was established in 1960. The contemporary clubhouse on the corner of the Esplanade and Repton Road, Somerton Park, was constructed in 2005 to replace the original building. Functions have historically been held in the upper level of the clubhouse. The floor plan is depicted below noting that internal changes have been made including relocation of the nominated dance floor area to a central position.



Functions can be held between 5pm and 11pm on Wednesday and Thursdays, 5pm until midnight on a Friday and from 11am to midnight on Saturday, Sundays and public holidays.

A luxury retirement village was constructed by Minda Inc to the immediate east of the SLSC approximately 5 years ago (the retirement village).

The construction was subject to the following acoustic design reports:

1. Aurecon 130122 "Minda Stage 1 Acoustic Brief"; and
2. Bestec 54827/7/1 December 2015 "Minda Redevelopment Preliminary Design Report: Acoustics".

The reports were informed by music from a wedding in the SLSC on 15 December 2012 measured at the location of the (future) retirement village. The music level was 68 dB(A) outside the SLSC.

Music levels have been recently measured inside and outside the SLSC and within the closest bedrooms of the retirement village.

In the circumstance where the music level is restricted to a pre-determined limit (using an in-house calibrated system) and the louvres on the eastern side of the SLSC are maintained in the closed position, music levels which are significantly lower than the 68 dB(A) outdoors as referenced in the design reports and which are compliant with the *Environment Protection (Noise) Policy 2007* (the Policy) inside the apartments can be achieved.

This assessment provides further detail on the above and establishes the pre-determined music limit to ensure compliance with the Policy.

CRITERIA

Liquor Licensing Act

The *Liquor Licensing Act 1997* provides relevant legislation for licensed premises as follows:

Division 6

106—Complaint about noise etc emanating from licensed premises

(1) If—

(a) an activity on, or the noise emanating from, licensed premises; or

(b) the behaviour of persons making their way to or from licensed premises,

is unduly offensive, annoying, disturbing or inconvenient to a person who resides, works or worships in the vicinity of the licensed premises, a complaint may be lodged with the Commissioner under this section.

(3) A complaint cannot be made under subsection (2)(c) unless—

(a) the complainant is authorised to make the complaint by at least 10 persons who reside, work or worship in the vicinity of the licensed premises; or

(b) the Commissioner is satisfied that the nature or gravity of the complaint is such that it should be admitted despite non-compliance with paragraph (a).

(6) In hearing and determining a complaint under this section, the Commissioner or the Court, as the case may be—

(a) must give the complainant, the licensee and any other person whom the Commissioner or the Court thinks fit to hear an opportunity to be heard; and

(b) must take into account—

(i) the relevant history of the licensed premises in relation to other premises in the vicinity and, in particular, the period of time over which the activity, noise or behaviour complained about has been occurring and any significant change at any relevant time in the level or frequency at which it has occurred; and

(ii) the unreasonableness or otherwise of the activity, noise or behaviour complained about; and

(iii) the trading hours and character of the business carried out by the licensee on the licensed premises; and

(iv) the desired future character of the locality in which the licensed premises are situated as stated in any relevant Development Plan under the Development Act 1993; and

- (v) whether or not any environment protection policy made under Part 5 of the Environment Protection Act 1993, or guidelines published by the Environment Protection Authority established under that Act, applicable to the provision of live music on the licensed premises have been complied with; and*
 - (vi) any other matter that the Commissioner or the Court considers relevant.*
- (6a) On completing the hearing of the complaint the Commissioner or the Court, as the case may be, may—*
- (a) dismiss the complaint; or*
 - (b) make an order against the licensee resolving the subject matter of the complaint.*
- (7) The order may add to or vary the conditions of the licence.*

It is noted that licensed venues no longer need consent to host music up until midnight and that licence holders can disregard conditions including those that place a limit on music levels.

Conditions and approvals imposed by other Acts continue to apply and licence holders must take reasonable steps to prevent undue noise and disturbance to people who live in the area.

Club Licence 57210525 for the Somerton Surf Life Saving Club does not incorporate any specific restrictions relating to music.

Environment Protection Act

The *Liquor Licensing Act 1997* references the *Environment Protection Act 1993* (the EP Act) and its policies or guidelines.

In the absence of any objective assessment approach provided by the *Liquor Licensing Act 1997*, reference is made to the EP Act and its General Environmental Duty, which states the following:

25 – General Environmental Duty

- (1) A person must not undertake an activity that pollutes, or might pollute, the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting environmental harm.*
- (2) In determining what measures are required to be taken under subsection (1), regard is to be had, amongst other things, to—*

- (a) *the nature of the pollution or potential pollution and the sensitivity of the receiving environment; and*
- (b) *the financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind; and*
- (c) *the current state of technical knowledge and likelihood of successful application of the various measures that might be taken.*

Compliance with the policies and guidelines made under the EP Act is one method of ensuring compliance with the Section 25 provisions.

Music Noise Guidelines

The Environment Protection Authority (EPA) provides guidelines for music noise, titled “Music noise from indoor venues and the South Australian Planning System” (Updated July 2015) (the Guidelines). The Guidelines were designed for the assessment of new venues in close proximity to residential areas. To this end, the Guidelines introduce stringent requirements on a new venue to ensure the existing amenity of a dwelling or residential area is not adversely impacted upon.

The SLSC existed when the retirement village was constructed. The Guidelines, if applied in such a circumstance, would consider the converse to be true, and in doing so, would apply extremely restrictive requirements.

For an existing operation, the criteria in the *Environment Protection (Noise) Policy 2007* are therefore the most appropriate.

Environment Protection Noise Policy

The *Environment Protection (Noise) Policy 2007* (the **Policy**) under the *Environment Protection Act 1993* provides an objective tool to assess whether a noise source is unreasonably interfering with the acoustic amenity of a locality. The Policy is based on the *World Health Organisation Guidelines* (the WHO Guidelines) to prevent annoyance, sleep disturbance and unreasonable interference on the amenity of an area.

The Policy excludes the assessment of licensed venues. This exclusion was made for administrative reasons to reduce the same complaint being brought before both the Office of Business and Consumer Affairs and the EPA. Notwithstanding this administrative exclusion, the Policy provides an objective method to assess music from an existing venue.

The Policy provides goal noise levels based on the principally promoted “land use” of the Zones in which the noise source and noise sensitive receiver are located. Based on the zoning of the SLSC and retirement village, the Policy assigns the following goal noise levels outside of a noise sensitive location:

- an average (L_{eq}) noise level of 57 dB(A) during the day (7am to 10pm); and,
- an average (L_{eq}) noise level of 50 dB(A) at night (10pm to 7am).

In this circumstance, where acoustic treatment including double glazing has been incorporated into the retirement village, the assessment location becomes within a bedroom with the windows closed. The Policy acknowledges such an approach and applies a lower goal noise level (by 20 dB(A)) where used. That is, the applicable goal noise levels to be achieved within the bedrooms of the retirement village with the windows closed become 37 dB(A) during the day time and 30 dB(A) during the night.

When measuring or predicting noise levels for comparison with the Policy, penalties may be applied for each characteristic of tone, impulse, low frequency and modulation of the noise source. When audible inside a room with the windows closed, music is likely to attract a penalty of up to 8 dB(A). This effectively reduces the goal noise levels further to 29 dB(A) during the day and 22 dB(A) at night. It is noted that these are extremely low noise levels.

ASSESSMENT

Music from the SLSC within the bedrooms of the closest ground floor apartment was measured based on the following methodology;

- establishing a repeatable music track inside the SLSC using a large speaker system and recording the consistent music levels inside;
- measuring the music levels outside at the reference location (outside the closest apartment) of the acoustic design reports for the following scenarios:
 - eastern louvres and door closed;
 - western door open;
 - eastern louvres and door open.
- measuring the music levels inside the closest two ground floor apartment bedrooms with the windows closed and with the eastern louvres and door of the SLSC closed.

Results from implementation of the above methodology include:

1. The main bedroom of the closest ground floor apartment incorporates a large cavity double glazed window. Such a construction is a specific acoustic design element and provides a high level of noise reduction from outside to inside a space;
2. The difference in music levels at the retirement village between the eastern louvres open and closed is 10 dB(A). This is a significant margin and often described as “twice as loud”;
3. The opening of the western doors for access to the beach side balcony does not affect music levels at the retirement village with the eastern louvres closed;
4. A music level which is an order of magnitude lower than the reference design level of 68 dB(A) can be achieved outdoors with the function room playing music at 90 dB(A) and the eastern louvres and door closed (a music level of 51 dB(A) outside was measured).

Based on the above methodology, in order to achieve 22 dB(A) inside the bedrooms of the retirement village, the following measures are required:

- maintain the eastern louvres and door of the SLSC closed at any period when music is being played at levels above that described as background music. Background music is at a level which does not require voices to be raised in order to be heard;
- maintain a maximum music level of 90 dB(A) in the upper level of the SLSC clubhouse.

In the circumstance where the Policy requirement of 22 dB(A) after 10pm can be achieved at all times (including during the day period prior to 10pm), then the SLSC will, by definition, not unreasonably interfere with the amenity of the retirement village.

NOISE REDUCTION MEASURES SUMMARY

The following noise reduction measures are recommended:

- 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

- Only provide entertainment through an in-house system which incorporates a limiting device. The system must maintain the above maximum music levels *regardless of 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;
- Ensure the eastern louvres and door from the SLSC function room remain closed at any period when music is being played at levels above that described as background music. Background music is at a level which does not require voices to be raised in order to be heard.

Attachment 2





**SOMERTON SURF LIFE SAVING CLUB
APPLICATION FOR LESSOR CONSENT TO SUB-LEASE**



Application for Lessor Consent to Sub-lease

The Somerton Surf Life Saving Club hereby applies for consent to sub-let a portion of its clubhouse on the terms set out in Appendix A to enable the sub-lessee to conduct its own business. It also requests that Special Condition 4 in the club's lease relating to trading hours be amended or deleted.

BENEFITS

The benefits to the club of the proposed sub-lease and the outsourcing of the business include:

- transferring business risk from the club to the sub-lessee,
- replacing an uncertain income with the greater certainty of rent,
- having skilled and experienced people run the business,
- improved financial outcomes,
- transferring bookkeeping & accounting functions from the club to the sub-lessee,
- attracting new members to the club with its improved offering,
- removing the burden on volunteers and allowing them to concentrate on the club's core life saving functions.

The community benefits from an upgraded hospitality service, which provides an additional attraction to users of the Council's recently constructed plaza area in front of the clubhouse.

Figure 1: Somerton 2020/2021 Season Stats



BUINESS CASE

Table 1: Estimated Income and Expenses of the Club During 1st Year of Sub-Lease

Income	Note	\$	\$
Fees from members	1		70,000
Grants, sponsorships, fundraising etc	2		55,000
Rent from sub-lease	3		35,000
Rent from kiosk			22,000
Sales, from downstairs bar & club clothing	4		40,000
Other income			5,000
TOTAL INCOME			227,000
Expenditure			
Cost of sales - downstairs bar & club clothing	5	30,000	
Premises - utilities, rent, repairs etc		55,000	
Administration - accounting/audit, insurance, internet etc	6	40,000	
Competition - entry fees, equipment repairs, travel expenses etc		30,000	
Life saving - consumables and equipment maintenance		5,000	
Depreciation & amortisation		45,000	205,000
Surplus	7		\$ 22,000

Notes:

1. Includes annual subscriptions, entry fees for competitions and fees for training in life saving skills.
2. Sponsorships come largely from members and fundraising activities are carried on by volunteers.
3. Sub-lease rent will increase to \$40,000 p.a. after 1st year.
4. Downstairs bar & clothing sales are operated by volunteers.
5. Profit margins on downstairs bar and clothing sales are low because sales are to members.
6. Includes expenses for bookkeeping which is currently carried on by a volunteer who will be retiring.
7. The surplus assumes the Council does not increase the club's rent as a condition of approving the sub-lease. If the sub-lease is not approved the club faces a potential deficit of \$13,000.

The first year's surplus is already spent as it will be applied towards recovering the costs of making an application for planning consent to the sub-lease, anticipated to be not less than \$20,000.

In future years, the surplus will be spent on purchases of new equipment (see Table 2), repairs, improvements to the clubhouse, and paying off debt, all of which have been held back while the club recovers from losses in previous years.

Table 2: Equipment Requirements for 2021/2022 Season

				\$	
Shed	LED Lights			2,000	
	Storage Shed			4,000	
	Energy Efficient Bar Fridges qty 2			4,500	
Training	Training Manikins			1,627	
	Defib Trainers			900	
	Baby Annies x 2			500	
Patrol	Patrol trailer refresh			5,000	
	Rescue boards refresh (qty 5)			5,500	
	Patrol uniforms (new award holders, approx 40)			3,000	
	IRB helmets (qty 10)			600	
	Air compressor			300	
	IRB maitenance (parts)			1,000	
	Oils & lubricants (maitenance)			400	
	Travel trailer repair			1,000	
	Air gauge			80	
	Portable air compressor for travel			100	
	Nippers	Green Hi-vis Water Safety Shirts qty 10			500
		Additional Board Trolley			500
		iPad for Nipper attendance taking & misc admin			600
Proper flag batons qty 20				200	
Wahoo balls qty 4				100	
AGM tops qty 4/age group plus JC & JA				1,200	
Foam Boards x 4				2,400	
Fibreglass Boards x 4				4,800	
Seniors	Racing Boards x 4			9,700	
Surf Boats	Oars x 4			4,600	
Gym	Recover bench			300	
				55,407	

Future Expenditures on Building Repairs & Improvements:

The clubhouse is expensive to maintain. In the past 12 months the club has spent over \$50,000 in repairing, maintaining, and updating the clubhouse.

The club has a chronic storage problem. A committee has been formed to investigate alternative solutions, all of which are likely to be expensive and require finance from an outside source with the club contributing a significant amount.

The lift is antiquated, slow and tricky to operate, particularly for first time users, who occasionally get stuck between floors. It needs to be replaced but would be very expensive.

Other uncosted improvements required to the clubhouse include:

- replacement of air conditioning system
- upgraded lighting system and ceiling fans for bistro
- installation of balcony blinds
- installation of balcony lighting
- signwriting on front door

Debt Retirement:

At the time of writing Somerton SLSC has \$37,705 debt.

Figure 2: Volunteer Week 2020/2021



Saving our Volunteers

Somerton's volunteers dedicate a huge amount of time to the club. Our 187 surf life savers recorded over 3950 patrol hours this season alone. In addition to these roles, we have over 51 members involved in running the junior program, 30 board and committee members, 41 club officers, 14 coaches & trainers and more than 10 officials.

With 2 out of 3 volunteers stopping volunteering during Covid and overall sector numbers down 7% in 2019/2020 ¹we cannot afford to put any more pressure on our volunteers. Our volunteers are great at surf life saving but they do not have the time or expertise to run a fully licensed bistro and function centre.

¹ <https://www.volunteering-sa-nt.org.au/assets/media-release-and-publication/2021/reinvigorating-volunteering-sa-final.pdf>

Request to Vary Special Condition 4

Trading Hours

The sub-lessee will apply under the Liquor Licensing Act for a restaurant licence and it is requested that the sub-lessee be permitted to trade within the trading hours specified in the club's current liquor licence. Those hours are:

- Monday to Saturday 8 am to 12 midnight
- Sunday 5 am to 12 midnight

The actual hours of trade of The Somerton Bar & Bistro as listed in the management agreement approved by the Council are:

- Wednesday and Thursday 11 am to 11 pm
- Friday, Saturday and Sunday 11 am to midnight

Currently the business does not open on Mondays or Tuesdays except for an occasional corporate function during the day and on public holidays when the kiosk is not open.

The driving reasons to alter special condition 4 of the lease are for consistency and simplification and to allow flexibility. There is no intention to alter current trading hours.

Functions, Noise & Neighbours

Functions are important to the profitability of the business and are essential to it. In the 8 months since the current operations commenced 36 separate functions have been held, ranging from corporate functions to private birthdays, weddings, work gatherings etc. Revenue from these functions was \$126,416. Forward bookings are already held for another 26 functions to bring in \$88,890 in revenue plus additional spending at the bar. It is anticipated that functions will be of even more importance to the business as word-of-mouth publicity takes effect.

Following a complaint to Council on 17th April 2021 about loud music at a function being held at the clubhouse, a Council inspector was sent to investigate. He subsequently reported to the managers that the noise was at an acceptable level and "they didn't need to worry". At the time, electric motors which operated louvre windows at the clubhouse, were not operating properly and the windows could not be fully closed. That problem has now been fixed.

The club is conscious that it needs to be a good neighbour and has engaged Sonus Pty Ltd, Acoustic Engineers to provide a report. Sonus attended at the clubhouse on Friday 14th May 2021 to take measurements. Neighbours were warned that loud music would be played but the engineer's instruments were unable to detect the music above the noise of the wind. The process was abandoned, but the engineer returned on the evening of Monday 17th May, when there was less wind, and he was then able to take measurements. Unfortunately, the writing of the report has been held up by circumstances out of our control and, at the time of submitting this application, has not been received.

Conclusion:

Somerton Surf Life Saving Club would like to be able to focus on our core areas of expertise; life saving and running programs that fill our pipeline of future surf life savers. Sub-leasing our bistro and functions operations provides us with some of the funding and time to do just that. The club does not want to return to running the operations with paid employees or volunteers. Both have been tried in the past and ultimately were unsuccessful.

Figure 3: Somerton SLSC Aligns with Holdfast Bay Council's Vision

Somerton SLSC Supports Holdfast Bay Council's Vision:

Balancing our progress with our heritage, we lead in coastal management to deliver high-quality public spaces and services to build a welcoming, safe and active community where resident, visitor and business prosperity meet.

1) COMMUNITY: A healthy & connected community



Somerton SLSC with its robust cafe and bistro operations provides the local community with a safe place to come together and be active while fostering a sense of community and belonging.

2) ENVIRONMENT: A community connected to our natural environment



Somerton SLSC supports the protection of the natural environment through our EcoSurf program and other environmental initiatives. The club, cafe and bistro were early participants in the Surf Life Saving plastic-free precinct.

3) ECONOMY: A diverse and resilient economy



The establishment of The Somerton Bar & Bistro at the Somerton SLSC has created a draw card for visitors from outside the area. Surf Life Saving Australia research shows visitors are more likely to seek out patrolled beaches.

4) PLACEMAKING: An accessible, vibrant and safe coastal city that celebrates our past to build for our future



Somerton SLSC has occupied its place at Repton Road & Esplanade since 1961. First as a tin shed and now in the current building which was erected in 2005. It provides a valuable link to the past and future and its presence is a symbol of safety for all.

Somerton
SURF LIFE SAVING CLUB

APPENDIX A: Terms

AGREED TERMS & CONDITIONS FOR SUB-LEASE OF PORTION OF THE UPSTAIRS LEVEL OF THE CLUBHOUSE

Parties	Somerton Surf Life Saving Club – sub-lessor Gambell & Sutton Pty Ltd ACN 637 647 940 – sub-lessee
Description of premises and other property included in the sub-lease	<p>That portion of the upstairs level of the clubhouse shown in the attached plan including all fixed coolrooms, fridges and cooking appliances located within that area and other items as shall be agreed. The sub-let premises to include the office, southern storeroom (but not mezzanine level), front balcony and toilets, but to exclude the rear balcony, northern storeroom and both stairs.</p> <p>A list to be prepared of</p> <ul style="list-style-type: none"> • equipment and other items to be given by the club to the sub-lessee, • some fixtures included in the sub-lease (included for the removal of doubt), and • Items which remain the property of the club, but which the sub-lessee may use with the agreement of the club. <p>The club will not be responsible for the repair or maintenance of items given to the sub-lessee. Paintings on the walls and other memorabilia which belong to the club to remain the property of the club and outside the sub-lease but may be lent to the sub-lessee if agreed.</p>
Conditions which must be satisfied before sub-lease takes effect	<ol style="list-style-type: none"> 1. Approval of the sub-lease by the City of Holdfast Bay 2. Approval under the Development Act for change of use of the premises 3. Approval under the Liquor Licensing Act for the grant to the sub-lessee of a restaurant licence for the premises
Term of the sub-lease	3 years commencing on the later of 1 st September 2021 or 7 days after the last of the required approvals is obtained
Use of premises	As a licensed restaurant and function centre
Rent	\$35,000 pa in the first year, \$40,000 pa in the second year and thereafter to be adjusted annually according to movement of the consumer price index for Adelaide, to be paid monthly in advance. GST is to be added to these amounts.

Bond	A bond of \$2,000 plus GST is to be paid by the sub-lessee to the club at the commencement of the sub-lease. The bond, or the balance thereof is to be refunded upon termination of the sub-lease. The club may apply the bond to rent or other amounts overdue to the club by the sub-lessee.
Other costs	<p>Sub-lessee to reimburse the club for</p> <ol style="list-style-type: none"> 1. electricity costs to be calculated in the proportion to which usage of electricity for the sub-leased premises bears to overall usage for which the club is charged, 2. one half of the costs of collection and removal of waste from the clubhouse, 3. one half of the costs of inspection and servicing of the grease trap, 4. one half of gas costs. <p>Sub-lessee to be responsible for the cost of,</p> <ol style="list-style-type: none"> 1. cleaning of the sub-let area. 2. window cleaning, 3. cleaning of kitchen and cooking appliances, 4. servicing and repairs to fridges and coolrooms. <p>The club to be responsible for the costs of all rates and taxes (including water and sewage) and other charges directly related to the premises including</p> <ol style="list-style-type: none"> 1. monitoring of the security alarm and lift, 2. annual inspection and service of the lift, 3. repairs and maintenance to doors and windows, 4. insurance of the premises for damage by fire and other insurable events. 5. Servicing and repairs to the air conditioning system
Cleaning	The sub-lessee shall ensure that the kitchen and other parts of the sub-let premises (including the western balcony) are kept in a clean and tidy state and at all times comply with the Food Act 2001 and other legislation Filters for the extractor fan should be cleaned on a regular basis.
Repairs and maintenance	The sub-lessee is to keep the sub-let premises and all fixtures and fittings including fridges, coolrooms and cooking appliances in at least the same condition as they are at the commencement of the sub-lease (fair wear and tear excepted).

	The sub-lessee will tag and test all electrical appliances and equipment in compliance with legislative requirements.
Access	The club will allow the sub-lessee its staff, suppliers and customers free access to the sub-let premises through the ground floor front door and stairway or lift.
Club access to parts of upstairs level not included in this sub-lease and access by workers.	At times when the sub-lessee is not trading, it will allow members of the club to access areas of the upper level not included in the sub-lease (including the mezzanine level). The sublessee will also allow access to the sub-let premises for services to be provided by trades people and/or other workers arranged by the club.
Keys	The club will issue the sub-lessee with 3 key cards (or more if agreed) to be used for unlocking the front door and arming or disarming the security alarm.
Insurance	The sub-lessee will insure against public liability in the sum of \$20m and will produce to the club a certificate of currency whenever requested so to do.
Alarm	The sub-lessee will reimburse the club for the cost of any patrol ordered by the alarm monitoring company resulting from any action or failure to act by the sub-lessee or a member of its staff.
Member discounts	On production of a current membership card the sub-lessee will provide to a member of the club a discount of 10% on its regular food and beverage prices.
Trading hours	The club may open its downstairs bar during the surf life saving season on any day when the club is holding a carnival or other special event and until 6-00pm on Saturday afternoons. The sub-lessee will apply under the Liquor Licensing Act for a restaurant licence and trading hours will be in accordance with the trading hours specified in the licence.
Kiosk	The sub-lessee shall make all reasonable efforts to ensure that its trading does not interfere with the operations of the kiosk and that its offerings do not compete with those of the kiosk.
Licence	The sub-lessee must comply with the provisions of the Licensing Act and any conditions of its licence.
Holding out	The sub-lessee shall carry on its business on its own account and shall not hold itself out by advertising or

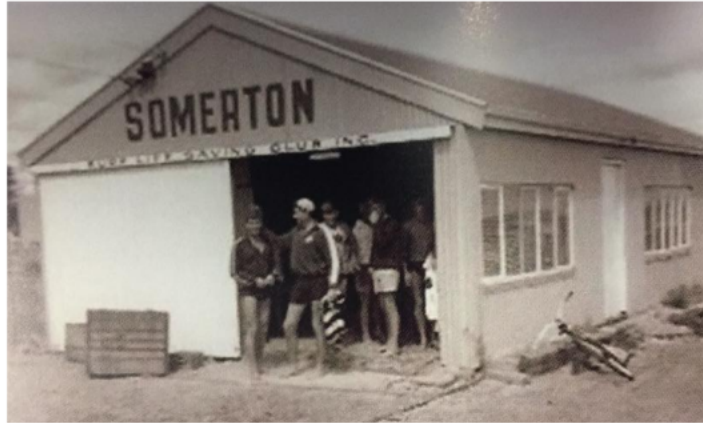
	by any other means as being associated in any way with the club.
Inspection	The club may inspect the sub-let premises at any time on giving at least 24 hours notice to the sub-lessee
Comply with all relevant Acts	The sub-lessee must comply with all legislative and regulatory requirements relating to carrying on the business.
Club functions	The club shall have preference to use the sublet premises for up to five functions and 10 training or assessment days in each year. Each year the dates for the ensuing twelve months shall be determined by the club in consultation with the sub-lessee at the beginning of the season. If requested by the club the sub-lessee shall provide catering and bar services at each function at prices to be agreed. The training and assessment days shall take place on days or times when the sub-lessee is not otherwise trading.
Right of renewal	<p>Upon giving notice in writing of its intention at least 3 months prior to the expiry of the initial term, the sub-lessee to have a right of renewal on the same terms and conditions (other than the right of renewal) for a further term to expire when the headlease expires on 6th December 2026 at a rent to be agreed or failing agreement to be determined by a licensed valuer. The sub-lessee will make its trading figures for the previous 12 months available to the club for the purpose of determining the rent for the renewed term.</p> <p>Upon the Council and the club entering into a new headlease to take effect after the expiry of the existing headlease, the sub-lessee to have a further right of renewal for a further term of 5 years or the term of the new headlease (whichever shall be the shorter) but otherwise upon the same terms and conditions as the first right of renewal.</p>
Storeroom access	The club will allow the sub-lessee to store furniture and other items in the northern storeroom provided there is sufficient room and no inconvenience is caused to the club.

APPENDIX B: Sound Report

(Will be provided once received)



Serving Somerton beach since 1960



Somerton
SURF LIFE SAVING CLUB