

## **YARRA CITY COUNCIL**

### **Internal Development Approvals Committee**

# **Agenda**

**to be held on Wednesday 15 January 2020 at 6.30pm  
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

#### **Rostered Councillor membership**

Councillor Mi-Lin Chen Yi Mei  
Councillor Bridgid O'Brien  
Councillor Amanda Stone

- I. ATTENDANCE**  
Danielle Connell (Senior Coordinator Statutory Planning)  
Lara Fiscalini (Principal Planner)  
Mel Nikou (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra. We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra. We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”***

### **Internal Development Approvals Committee Submissions**

“Prior to the consideration of any Committee Business Report at a meeting of the Internal Development Approvals Committee, members of the public shall be invited by the Chairperson to make a verbal submission. In determining the order of submissions, the Chairperson shall first invite the applicant or their representatives to submit, followed by formal objectors and finally any other interested persons.

All submitters accepting the invitation to address the meeting shall make submissions in accordance with these guidelines (or a variation of these guidelines as determined by the Chairperson at their sole discretion).

- Speak for a maximum of five minutes;
- Direct their submission to the Chairperson;
- Confine their submission to the planning permit under consideration;
- If possible, explain their preferred decision in relation to a permit application (refusing, granting or granting with conditions) and set out any requested permit conditions.
- Avoid repetition and restating previous submitters;
- Refrain from asking questions or seeking comments from the Councillors, applicants or other submitters;
- If speaking on behalf of a group, explain the nature of the group and how the submitter is able to speak on their behalf.

Following public submissions, the applicant or their representatives will be given a further opportunity of two minutes to exercise a right of reply in relation to matters raised by previous submitters. Applicants may not raise new matters during this right of reply.

Councillors will then have an opportunity to ask questions of submitters. Submitters may determine whether or not they wish to take these questions.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.”

*Extract from the Council Meeting Operations Policy, September 2019*

## 1. Committee business reports

Item		Page	Rec. Page
1.1	PLN14/0419.03 166 Gertrude Street Fitzroy - Section 72 Amendment to Planning Permit PLN14/0419 to convert Tenancy 4 (Restaurant) into two restaurant tenancies with access to tenancy 5 from George Street, and modification to the permit preamble, permit conditions and endorsed documents.	5	20

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- 1.1 PLN14/0419.03 166 Gertrude Street Fitzroy - Section 72 Amendment to Planning Permit PLN14/0419 to convert Tenancy 4 (Restaurant) into two restaurant tenancies with access to tenancy 5 from George Street, and modification to the permit preamble, permit conditions and endorsed documents.**
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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of an application to amend planning permit PLN14/0419 and recommends approval subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 22.09 – Licensed premises policy; and
  - (b) Clause 52.27 – Licensed premises.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Planning controls;
  - (b) Permit condition and preamble changes; and
  - (c) Objector concerns.

### **Objector Concerns**

4. One letter of support, and seventeen objections were received to the application. The grounds of objection can be summarised as:
  - (a) Amenity impacts associated with the new food and drink premise (restaurant) entrance on George Street (noise from music and patrons, queuing in front of premises, blocking of footpath; sale of liquor combined with entrance in George Street will increase potential for noise; and waste management issues);
  - (b) Potential hazard for exit procedures in emergencies;
  - (c) Increased parking issues;
  - (d) Footpath trading would exacerbate noise; and
  - (e) No additional allowance for delivery/loading zones.

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported.

**CONTACT OFFICER: David Tancheff**  
**TITLE: Senior Statutory Planner**  
**TEL: 92055485**

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**1.1 PLN14/0419.03 166 Gertrude Street Fitzroy - Section 72 Amendment to Planning Permit PLN14/0419 to convert Tenancy 4 (Restaurant) into two restaurant tenancies with access to tenancy 5 from George Street, and modification to the permit preamble, permit conditions and endorsed documents.**

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Reference: D19/238746  
 Authoriser: Senior Coordinator Statutory Planning

**Proposal:** PLN14/0419.03 166 Gertrude Street Fitzroy - Section 72 Amendment to Planning Permit PLN14/0419 to convert Tenancy 4 (Restaurant) into two restaurant tenancies with access to tenancy 5 from George Street, and modification to the permit preamble, permit conditions and endorsed documents.

**Existing use:** Development is completed under the approved planning permit, and the building occupied by dwellings and commercial uses.

**Applicant:** Kalex (Gertrude Street) JV Pty Ltd C/O SJB Planning

**Zoning / Overlays:** Commercial 1 Zone / Heritage Overlay – Schedule 334

**Date of Application:** 22 July 2019

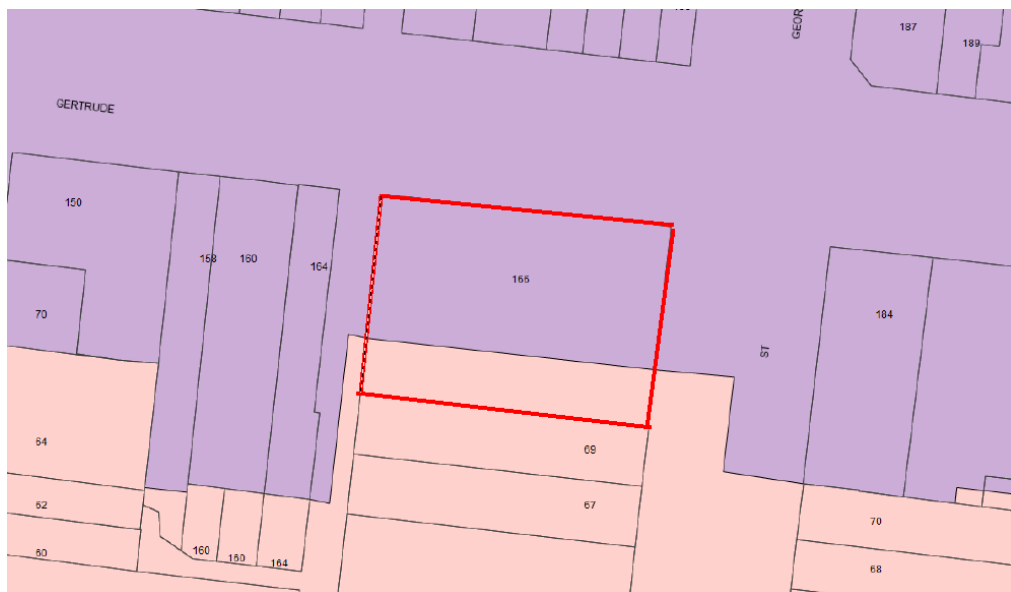
**Application Number:** PLN14/0419.03

**Planning History**

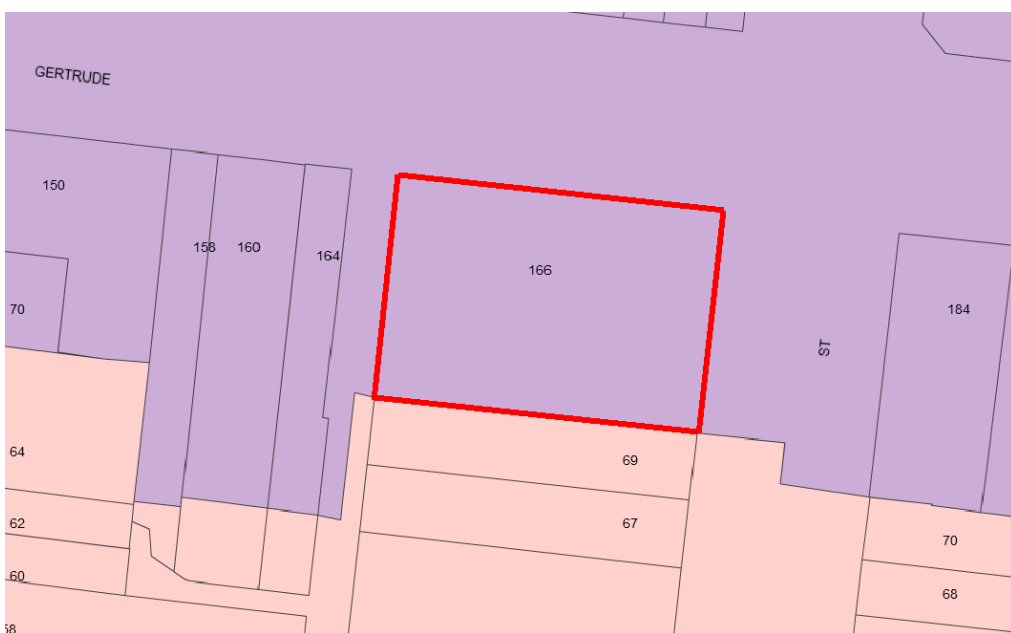
1. Planning permit 1905 was issued on 17 September 1992 for an internally illuminated sign.
2. Planning permit 1907 was issued on 2 October 1992 for advertising signs and a mural.
3. Planning permit PLN14/0886 was issued on 21 November 2014 for partial demolition for buildings and works, construction and display of business identification signage.
4. Planning Permit PLN14/0419 was issued on 3 July 2015 in accordance with the order of the Victorian Civil and Administrative Tribunal (VCAT) for the 'demolition of the existing building to allow for the use and development of the land for a five-storey building (plus two basement carparks) with two ground floor shops, two food and drinks premises with 35 dwellings, reduction in associated car parking requirements and waiver of loading bay requirement in accordance with endorsed plans' – *Sweetnam v Yarra CC (Correction)* [2015] VCAT 1000. On 24 July 2015 the permit was corrected in accordance with the order of VCAT. Plans were endorsed on 12 April 2016.
5. Relevant to this application Planning Permit PLN14/0419 endorsed the use of Tenancy 1 as a Food and Drinks Premises (Café), Tenancy 2 and 3 as Shops and Tenancy 4 as a Food and Drinks Premises (Restaurant). The permit contains no restrictions as to patron numbers and hours of operation as the uses are as-of-right in the zone.
6. A Section 72 amendment to the permit was issued on 28 June 2016 for the consolidation of dwellings, an increase in the southern boundary wall length, materials and window/balcony changes and internal reconfigurations.
7. A secondary consent amendment to the endorsed plans was issued on 9 March 2017 to modify the canopy along Gertrude Street, add several windows and substitute the timber balcony lining with a timber grain fibre cement sheet.
8. Pursuant to Section 71 of the *Planning and Environment Act* 1987 the endorsed plans were corrected to show the easternmost ground floor tenancy as a restaurant as it was incorrectly

shown as a café on endorsed plan 4 of 19 endorsed via Secondary Consent on 9 March 2017.

9. A Secondary Consent amendment to the endorsed plans was issued on 12 October 2017 for minor internal modifications.
10. A Section 72 amendment was issued on 3 July 2015 to allow for the sale and consumption of liquor from two approved food and drink premises (Tenancy 1 Café and Tenancy 4 restaurant).
11. Planning Scheme Amendment C232 was gazetted on 18 October 2018. This amendment amongst other things altered the zoning of the subject site so that it is now entirely zoned Commercial 1 Zone, previously part of the southern section of this land was zoned Neighbourhood Residential Zone. The plans below illustrate this change, with the subject site marked in red.



*Subject site 24 November 2017*



*Zoning of the subject site 2 December 2019*

## Background

12. The application was received by Council on 22 July 2019. Following the submission of further information, the application was advertised and seventeen (17) objections and one letter of support were received. A consultation meeting was held on 19 November 2019 where key issues raised in the objections were discussed with the permit applicant, objectors and planning officers present.

## Existing Conditions

### Subject Site

13. The subject site is located on the southern side of Gertrude Street, Fitzroy, on the west side of George Street. The site has a length of 36m along Gertrude Street and 25m along George Street.
14. The development has been completed under planning permit PLN14/0419. Tenancy 4 of the development is currently vacant.

### *Restrictive Covenants*

15. There are no restrictive covenants that affect the subject site.
16. An assessment of the surrounding area indicates that the features have not substantially changed since the time of writing the report for the original application. The following description of the surrounds has been taken from the previous recommendation report PLN14/0419.02.

### Surrounding Land

17. As set out in the previous planning report:
18. *The Gertrude Street centre has a number of eclectic and innovative retailers as well as heritage buildings which help to give the centre an individual and unique sense of place. Gertrude Street also has an arts focus. This part of Fitzroy (Gore, George, Napier and Gertrude Streets) has long been recognized as having high heritage value. It is one of the oldest parts of Melbourne and also contains some dwellings and shops which pre-date the gold rush.*
19. *Gertrude Street includes a tram line which also runs along Smith Street. Time-based car parking restrictions exist along Gertrude Street from approximately 7am to 6pm, Monday to Saturday.*

### *North*

20. *The northern side of Gertrude St, opposite the subject site, has a vibrant mix of commercial premises with art galleries, homeware stores, a hotel and eclectic clothing shops. Construction is a mixture of single and double storey buildings, mostly with the ground floors being altered. Further to the north along the northern section of George Street are a number of double storey former warehouses (currently occupied by various businesses) as well as single and double storey dwelling of Victorian-era construction.*

### *East*

21. *To the east of the site is George Street and beyond this at the intersection of Gertrude and George Streets is the Melbourne Aboriginal Youth Sports and Recreation Centre and beyond this a string of commercial premises occupying a row of attached, double storey, elaborately*



*decorated Victorian-era terraces with triple storey buildings further along. There is a consistent ground floor verandah/eave line between Nos. 184 and 202 Gertrude Street.*

22. *Smith Street is approximately 200 metres to the east of the subject site. It contains a broad range of shops, cafes, restaurants and bars. Trams run north and south along Smith Street.*

*West*

23. *Directly to the west of the site is Little George Street which is a two-way lane that provides access to the rear of properties along Napier and George Streets as well as being the only access for dwellings further to the south. On the south side of Gertrude Street, across Little George Street are Nos.158-164 Gertrude Street which forms a row of triple storey English Queen Anne Revival-style shops and residences, constructed in 1888. These buildings are currently occupied by a clothing store and rooming house. This building is 21.08m in height from ground level to the top of the chimneys.*
24. *Directly to the south of this building, fronting onto Little George Street, are a row of attached single storey brick dwellings with a first floor roof top balcony constructed along the street.*
25. *Beyond these shops further to the west, are double storey buildings that are built boundary to boundary as well as to Napier Street and large public housing tower estates. These buildings are used for various commercial premises such as restaurants and art galleries as well as the Gertrude Hotel and The Everleigh.*
26. *Brunswick Street is approximately 260 metres to the west of the subject site. It contains a broad range of shops, cafes, restaurants and bars. Trams run north and south along Brunswick Street.*

*South*

27. *To the south of the site is the Sisters of Mercy homeless shelter which is housed within double storey building with a ground floor extension at the rear that runs along the entire shared boundary with the subject site. There is a similarly constructed double storey dwelling directly to the south of that, with a three-storey, block of apartments constructed circa 1960s-70s at No. 65 George Street. These apartments have a communal car parking area fronting onto Little George Street.*
28. *Further to the south are residences facing both George and Napier Streets. George and Napier Streets predominately consists of rows of attached double storey Victorian-era terraces.*
29. *Looking specifically at Little George Street, it has a streetscape similar to that of a laneway. For example, Nos. 37 to 61 George Street and Nos. 34 to 58 Napier Street each have either a single or double storey garage/outbuilding, roller doors or high fences fronting onto it.*
30. *Further to the south along Little George Street, closer to its intersection with Little Victoria Street are a number of double storey, recently constructed dwellings fronting the street at the rear of Nos. 18-32 Napier Street. Opposite these and to the south, is the communal car parking area associated with the three apartment buildings ranging between three and four storeys in height located at Nos. 21 and 31 George Street.*
31. *Victoria Parade is located 226m to the south of the site and includes tram routes running east to west as well as a number of offices, commercial premises, car dealerships, Australian Catholic University, various churches and hospitals.*
32. *In addition to the above it is acknowledged that Gertrude Street has a strong restaurant and food focus, with a number of licensed premises in the immediate surrounds. This includes*

*premises with 'café and restaurant' liquor licences such as Mighty Boy Eatery, Ish Restaurant, Trippy Taco, Arcadia Café/Restaurant and Belle's Diner. Other premises also operate under an 'On premises' liquor licence including Ladro Gertude, The Catfish Tavern, Beach Burrito Company and Charcoal Lane. It is noted there are numerous other licensed food and drinks premises and late night venues in the area. A full list is contained within the Noise and Amenity Action Plan prepared by SJB Planning, contained as an attachment to this report.*

## **The Proposal**

33. The application seeks to amend planning permit PLN14/0419, to convert tenancy 4 (restaurant) into two restaurant tenancies with access to Tenancy 5 from George Street, and modification to the permit preamble, including Conditions 17, 18 and 19(b) and the deletion of Condition 1(c) and 19(e).
34. There is no proposed increase to patron numbers, hours of operation, leasable floor area, or type of liquor licence. The existing tenancy 4 would become two tenancies which are summarised as follows:

### Tenancy 4

- (a) Maximum patrons: 85;
- (b) Sale and consumption of liquor within the following hours:
  - (i) Monday to Sunday 10am – 11pm;
- (c) Seating provided for 100 percent of patrons;
- (d) Floor area: 140m<sup>2</sup>;
- (e) Access from existing door on Gertrude Street.

### Tenancy 5

- (f) Maximum patron: 85;
  - (g) Sale and consumption of liquor within the following hours:
    - (i) Monday to Sunday 10am – 11pm;
  - (h) Seating provided for 100 percent of patrons;
  - (i) Floor area: 139m<sup>2</sup>; and
  - (j) Access from existing door on George Street.
35. The total red line area would be slightly reduced, with Tenancy 5's redline proposed to be setback to align with a support structure located next to the entrance on George Street (approximately reduction of 5.3m<sup>2</sup>).
36. The Noise Amenity Action Plan (NAAP), Acoustic Report, Sustainability Management Plan (SMP) and Waste amendment Plan (WMP) have also been amended to include and reference the additional tenancy.

## **Legislation Provisions**

37. *The amendment has been requested pursuant to Section 72 of the Planning and Environment Act 1987 (the Act). Section 72 of the Act states:*
- (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
  - (2) *This section does not apply to—*
    - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*

(b) *a permit issued under Division 6.*

38. Planning Permit PLN14/0419 was issued on 3 July 2015 by the Victorian and Civil Administrative Tribunal (VCAT) and was not issued under Division 6 of the Act.
39. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

## **Planning Scheme Provisions**

### Zoning

#### *Commercial 1 Zone*

40. Pursuant to the requirements of Clause 34.01-1 a planning permit is not required to use the land for a 'Food and Drinks Premises' (nested under 'Retail Premises').
41. As set out earlier in the report, the food and drinks premises (restaurant) received approval under the original planning permit PLN14/0419 by VCAT. At the time Council decided on the application, the area within the Neighbourhood Residential Zone was proposed to be a convenience shop. It was a decision by VCAT to delete the convenience shop and have that area absorbed into the restaurant (tenancy 4). However, since that time the land has been zoned Commercial 1 in its entirety. The food and drinks premises use does not require a planning permit.

### Overlays

#### *Heritage Overlay – Schedule 334*

42. The application does not propose any buildings and works and therefore the provisions of this overlay are not triggered.

### Particular Provisions

#### *Clause 52.27 – Licensed premises*

43. The application does not propose an increase to the redline area, an increase to patron numbers or an increase in operational hours, therefore a planning permit is not required. A planning permit is not required under clause 52.27 to reduce the area within which liquor is allowed to be consumed or supplied. Therefore there is no requirement to consider this clause.

### General Provisions

#### *Clause 65 – Decision Guidelines*

44. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

### Planning Policy Framework (PPF)

45. The following PPF provisions of the Scheme are relevant:

*Clause 11 (Settlement)*

*Clause 11.03-1S (Activity centres network)*

46. The objective is:

- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

*Clause 11.03-1R (Activity Centres – Metropolitan Melbourne)*

47. Strategies include:

- (a) *Support the development and growth of Metropolitan Activity Centres by ensuring they:*
- (i) *Are able to accommodate significant growth for a broad range of land uses.*
  - (ii) *Are supported with appropriate infrastructure.*
  - (iii) *Are hubs for public transport services.*
  - (iv) *Offer good connectivity for a regional catchment.*
  - (v) *Provide high levels of amenity.*

*Clause 13 (Environmental Risks and Amenity)*

*Clause 13.05-1S (Noise abatement)*

48. The objective is:

- (a) *To assist the control of noise effects on sensitive land uses.*

49. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

50. Strategies of this policy include:

- (a) *Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

*Clause 13.07-1S (Land use compatibility)*

51. The objective is:

- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

*Clause 17.02 (Commercial)*

*Clause 17.02-1S (Business)*

52. The objective of this clause is 'To encourage development that meets the community's needs for retail, entertainment, office and other commercial services'.

53. A strategy of this clause includes:

- (a) *Locate commercial facilities in existing or planned activity centres.*

Local Planning Policy Framework (LPPF)

*Clause 21.03 (Vision)*

54. The following is offered in this clause:

*In the City of Yarra in 2020:  
Land Use*

- (a) *The complex land use mix characteristic of the inner City will provide for a range of activities to meet the needs of the community*
- (b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*

*Clause 21.04-2 (Activity Centres)*

55. The site is located within a Neighbourhood Activity Centre. The relevant objectives and strategies of this clause are:

- (a) *Objective 4 - To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
  - (i) *Strategy 4.1 Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*
  - (ii) *Strategy 4.3 Support the role of all activity centres, including Neighbourhood Activity Centres in providing local day-to-day needs of residents of all abilities.*
- (b) *Objective 5 To maintain the long term viability of activity centres.*
  - (i) *Strategy 5.2. Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

*Clause 21.04-3 (Industry, office and commercial)*

56. An objective of this clause is '*Objective 8 - To increase the number and diversity of local employment opportunities*'.

*Clause 21.08-7 ((Neighbourhoods (Fitzroy))*

57. This clause describes the area in the following way (as relevant):

*The Gertrude Street centre has a number of eclectic and innovative retailers as well as heritage buildings which help to give the centre an individual and unique sense of place. Gertrude Street also has an arts focus which should be retained and fostered.*

58. Within Figure 17 of Clause 21.08-7, the subject site is identified as being within the Gertrude Street Neighbourhood Activity Centre. Figure 18 of Clause 21.08-7, shows the subject site as being within a Heritage Overlay, with the objective *to ensure that development does not adversely affect the significance of a heritage place.*

#### Relevant Local Policies

*Clause 22.05 (Interface Uses Policy)*

59. This policy applies to applications for use or development within Business Zones (albeit now Commercial Zones), amongst others. The policy supports the objectives of the MSS by protecting Yarra's diverse land use mix and built form, reducing conflict between commercial, industrial and residential activities, and supporting appropriate industrial and commercial activity.

60. The policy has the following objectives:

- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*

*Clause 22.09 (Licenced premises)*

61. This policy applies to all applications for new licensed premises and for the extension (including the extension of hours and the extension of patron numbers) of existing licensed premises. As set out earlier in the report, this amendment application does not apply for a new liquor licence; nor does it extend hours of operation, floor area or patron numbers. Therefore as there is no change to the approved liquor licence, this clause is not relevant.

**Advertising**

62. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987 [the Act]* by way of 118 letters sent to the surrounding property owners/occupiers and by two signs (one to Gertrude Street and one to George Street).
63. Seventeen (17) objections and 1 letter of support were received to the application. The grounds of objection can be summarised as:
- (a) Amenity impacts associated with the new food and drink premise (restaurant) entrance on George Street (noise from music and patrons, queuing in front of premises, blocking of footpath; sale of liquor combined with entrance in George Street will increase potential for noise; and waste management issues);
  - (b) Potential hazard for exit procedures in emergencies;
  - (c) Increased parking issues;
  - (d) Footpath trading would exacerbate noise; and
  - (e) No additional allowance for delivery/loading zones.

**Referrals**

64. No external referrals were required for the assessment of this application.
65. The amended waste management plan was referred to Council's City Works unit who advised:
- "The waste management plan for 166-182 Gertrude Street, Fitzroy authored by Leigh Design and dated 4/4/19 is not satisfactory from a City Works branch's perspective. Issues to be rectified include, but may not be limited to the following:*
- 1. *Council does not allow private and council service to operate at the same site.*
  - 2. *Food waste diversion should be included as a requirement.*
  - 3. *E-waste and hard waste storage areas are no detailed.*
  - 4. *Please provide further detail on the proposed collection location and include relevant proof this operation can occur.*
66. The amended sustainable management plan was not re-referred as the proposal is limited to a new internal wall at ground level which will not affect the dwellings, or construction materials as set out in the report.

**OFFICER ASSESSMENT**

67. In assessing this application, the primary planning considerations are:
- (a) Planning controls;
  - (b) Permit condition and preamble changes; and
  - (c) Objector concerns.

### Planning controls

68. Amended Planning Permit PLN14/0419 (issued 24 November 2017) granted permission for the approved Tenancy 4 for the sale and consumption of liquor under a café and restaurant licence for 170 patrons, between the hours of 10am to 11pm Monday – Sunday, with a main entry on Gertrude Street and a service only door on George Street. The current amendment application seeks to split this tenancy into two by dividing the floor area and patronage equally and using the entry on George Street for the new Tenancy 5. The application also seeks to update its NAAP, acoustic report, SMP and WMP to reference the additional tenancy, as well as a slight reduction in the redline area. Relevant conditions will be discussed later in the report.
69. The original application sought permission to use the land for a food and drink premises (restaurant) as part of the site was located in a Neighbourhood Residential Zone. As discussed earlier in the report, the site is no longer within a residential zone due to Amendment C232 and the use of the land as a restaurant is “as of right” within the Commercial 1 zone. Therefore there can be no further consideration of the use under this amendment application.
70. Similarly as set out earlier in the report, as this application does not propose an increase to the hours of operation, patron numbers or redline area of the liquor licence, Clause 52.27 and Clause 22.09 of the Scheme are not relevant to this consideration. The reduction in the redline area by 5.3sqm.m does not trigger a planning permit under Clause 52.27.

### Permit condition and preamble changes

71. The applicant seeks to amend the permit preamble from:

*Demolition of the existing building to allow for the use and development of the land for a five-storey building (plus two basement carparks) with two ground floor shops, two food and drink premises, including the sale and consumption of liquor (Café and restaurant licence), with 26 dwellings, reduction in associated car parking requirements and waiver of loading bay requirement in accordance with endorsed plans.*

to:

*Demolition of the existing building to allow for the use and development of the land for a five-storey building (plus two basement carparks) with ground floor shops, food and drink premises, including the sale and consumption of liquor (Café and restaurant licence), with 26 dwellings, reduction in associated car parking requirements and waiver of loading bay requirement in accordance with endorsed plans.*

72. The deletion of the number of each type of premises (two ground floor shops and two food and drink premises) does not impact the permit as the uses remain listed, even though the uses themselves do not require a planning in the Commercial 1 zone. As the uses are as-of-right, the number of premises is not required and can be deleted from the preamble.
73. The applicant seeks to delete condition 1(c) of the planning permit which currently states:

*Before the commencement of the sale and consumption of liquor, an amended Ground Floor Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:*

- (a) *Internal layout of the two food and drinks premises.*
- (b) *Seating for 100% of patrons within both tenancies and no more than 90 patrons within Tenancy 1 (café) and 170 patrons within Tenancy 4 (Restaurant).*
- (c) *Notation indicating that the entrance to George Street from the south eastern door of the restaurant is to be used as a service entry only.*

74. Plans under condition 1 have already been fulfilled as evidenced by the endorsed plans. Therefore condition 1 is no longer applicable and could be deleted. However the applicant has not sought this condition to be deleted. Therefore condition 1(c) can be deleted as it is has been shown on the endorsed plans.

75. In removing the annotation from the plan as part of this amendment, as set out earlier in this report, the condition was previously imposed by VCAT when the land was zoned Neighbourhood Residential and the use required a planning permit. As the use no longer requires a planning permit, use of the door (or the food and drink premises itself) cannot be controlled (other than as it relates to the liquor licence type and operation which is not being altered).

76. The applicant seeks to amend condition 17 from:

*Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor from Tenancy 1(Café) and Tenancy 4 (Restaurant) may only occur between 10am and 11pm, seven days a week.*

to:

*Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor from Tenancy 1 (Café) and Tenancy 4 **and Tenancy 5** (Restaurant) may only occur between 10am and 11pm, seven days a week.*

77. Given that the hours are not being amended, and that Tenancy 5 sits within the redline area previously approved for the liquor licence the amended wording will better reflect the number of tenancies. As stated earlier, as there is no increase in hours, patron numbers or floor area there are no further planning considerations required in relation to the liquor licence.

78. Similarly the applicant seeks to amend condition 18 from:

*No more than 90 patrons are permitted within Tenancy 1 (café) and 170 patrons within Tenancy 4 **and Tenancy 5** (Restaurant) at any time liquor is being sold or consumed.*

to:

*No more than 90 patrons are permitted within Tenancy 1 (café) and **85** patrons within **each of** Tenancy 4 (Restaurant) at any time liquor is being sold or consumed.*

79. The total number of patrons is not being increased. Therefore the changes proposed only reflect the change to the number of tenancies.

80. The applicant seeks to similarly amend condition 19(b) from:

*Before the commencement of the sale and consumption of liquor, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended noise and amenity action plan will be endorsed and will form part of this permit. The amended noise and amenity action plans must be generally in accordance with the noise and amenity action plan advertised, but modified to include (or show, or address):*



- (a) *Include the operating hours consistent with Condition 17.*
- (b) *Remove reference to two 'restaurant' tenancies and correctly reference two food and drinks premises: Tenancy 1 (Café) and Tenancy 4 (Restaurant).*
- (c) *Floor plan in the appendix consistent with the floor plan required pursuant to Condition 1.*
- (d) *To include details of deliveries and collections for both premises between 9am and 10pm on any day only.*
- (e) *Details of how Tenancy 4 (Restaurant) will manage large group bookings to minimise amenity impacts on surrounding residential areas.*

to (*inter alia*):

- (a) *Include the operating hours consistent with Condition 17.*
- (b) *Remove reference to two 'restaurant' tenancies and correctly reference food and drinks premises: Tenancy 1 (Café), Tenancy 4 (Restaurant) **and Tenancy 5 (Restaurant).***
- (c) *Floor plan in the appendix consistent with the floor plan required pursuant to Condition 1.*
- (d) *To include details of deliveries and collections for both premises between 9am and 10pm on any day only.*
- (e) **~~-deleted-~~**

81. The Noise Amenity Action Plan element at clause 22.09 states that all licensed premises should comply with a detailed Noise and Amenity Action Plan (NAAP). As part of this application a NAAP has been submitted and endorsed.

82. Council's Licenced Premises Policy (as amended under Amendment C209 which was gazetted on 1 February 2018) now states the requirement for a NAAP does not apply to a permit application for a café or restaurant due to the low impact nature of the use. However, as the site has taken benefit of the planning permit which required a NAAP, the submitted NAAP must be amended.

83. The amended NAAP is almost identical to the endorsed NAAP with references changed to include Tenancy 5. The one key difference is the deletion of the Section relating to management of large bookings. Given that the new tenancy has a more sensitive interface than the original approval (with access along George Street for 85 patrons), it is considered that a new NAAP be required to be submitted to re-include this section as potentially there are 85 patrons entering/exiting the building at one time. That way, future tenants are accountable for amenity impacts should the entire premises be booked out. As such, a new condition 19 will state:

*Before the commencement of the sale and consumption of liquor of **Tenancy 4 and 5**, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended noise and amenity action plan will be endorsed and will form part of this permit. The amended noise and amenity action plans must be generally in accordance with the noise and amenity action plan advertised, but modified to include (or show, or address):*

- (a) *Include the operating hours consistent with Condition 17.*
- (b) *Remove reference to two 'restaurant' tenancies and correctly reference two food and drinks premises: Tenancy 1 (Café), Tenancy 4 (Restaurant) **and Tenancy 5 (Restaurant).***
- (c) *Floor plan in the appendix consistent with the floor plan required pursuant to Condition 1.*
- (d) *To include details of deliveries and collections for both premises between 9am and 10pm on any day only.*
- (e) *Details of how Tenancy 5 (Restaurant) will manage large group bookings to minimise amenity impacts on surrounding residential areas.*

84. The endorsed and proposed plans currently show a footpath trading area along the Gertrude and George Street frontages. This is indicative only and does not form part of the planning approval. The approval of these trading areas is not part of the planning process and governed by Council's Community Amenity Unit.
85. Based on the above, the proposal is considered appropriate without causing unreasonable amenity impacts on the surrounding neighbourhood.

Updated Documentation

86. As part of this application the applicant submitted new documentation including a NAAP, acoustic report, SMP and WMP, predominately to include the new Tenancy 5 within these reports. An assessment of the changes made to each report is included below:

*SMP*

87. As set out in this report, condition 4 (SMP) will not need to be updated as the additional tenancy will not impact the energy efficiency of the dwellings (given works are limited to an internal wall and ground level) and does not alter the materials of the building. The existing endorsed SMP remains appropriate, and no change is proposed to condition 4.

*Acoustic report*

88. The submitted acoustic report remains the same as the existing, with only the plans included in the appendices changed to reflect the amendment to the number of tenancies. No other changes to the report were proposed and neither are they required as the new tenancy is located in the same area as that previously approved and the same considerations remain to that previously set out under condition 6.
89. In addition, conditions 25 and 26 of the planning permit require compliance with SEPP N-1 (noise from commerce, industry and trade) and SEPP N-2 (music noise). As condition 6 requires compliance with these measures, there is no need to amend the condition and the amended acoustic report can be endorsed.

*WMP*

90. The existing WMP has been approved by Council as an appropriate waste response. The submitted WMP only includes changes to reference the new tenancy. Comments received from Council's City Works unit in response to the amendment do not take into account that this application is for an amendment to the original planning permit, and any changes can only relate to tenancy 4 and 5. As such, while these comments would be included on any new planning application they cannot be retrospectively applied to the entire development.
91. Given the storage and collection of waste has not been amended from that previously approved, only the number of tenancies, the existing waste management plan remains appropriate, and no change is proposed to condition 8 or the endorsed plan.

*NAAP*

92. As set out in paragraphs 81-83 of this report, the submitted NAAP included minor changes that related to the inclusion of Tenancy 5, as well as excluding the section relating to management of large bookings. As discussed in these paragraphs, condition 19 should be amended to not only make the changes to condition 19(b) as sought, but should also retain

condition 19(e) with an updated reference to tenancy 5 so that the premises will be managed appropriately at this residential interface. Condition 19 will be amended as set out in paragraph 83.

#### Objector Concerns

93. The objector concerns are discussed below:
- (a) Amenity impacts associated with the new food and drink premise (restaurant) entrance on George Street (noise from music and patrons, queuing in front of premises, blocking of footpath; sale of liquor combined with entrance in George Street will increase potential for noise; and waste management issues);
94. As set out at paragraphs 41 and 43, a planning permit is not required for the use of a food and drinks premises, nor is one required under clause 52.27 as there is no increase to the approved licensed area, hours or patron numbers. As such these issues cannot be assessed. The issue of noise has been discussed in paragraphs 82-83 and 88-89, and waste management issues have been discussed at paragraphs 90-91. However the objection in relation to waste was more focused on non-compliance of the building in relation to current operation. This is an enforcement matter and will be referred to Council's Community Amenity Unit for further investigation.
95. In relation to the emanation of noise from the venue the frequency and use of the door in terms of how many times it will open and let potential noise out of the venue is not relevant to this application. Further, condition 7 (acoustic report), 25 (noise from industry and trade) and 26 (music noise) of the planning permit requires future tenants to comply with the provisions, recommendations and requirements of the endorsed acoustic report and State Environment Protection Policies SEPP N-1 and SEPP N-2. Further, Condition 28 of the permit also limits music in the venue to be background level only. There is no noise concern in relation to noise emanating from the venue.
96. However, the endorsed (and proposed) NAAP specifies amongst other things that:
- (a) queues will be unlikely given the use of the land as a restaurant;
  - (b) any large groupings will be easily managed through bookings of tables being reserved as necessary;
  - (c) upon closing a duty manager will politely request that any patrons lingering around the premises disperse in the interests of being respectful to nearby residents; and
  - (d) a noise compliant register will be kept in ordered to help review and formulate solutions to any noise complaints;
97. The existing door on George Street will not be altered as part of this application. Combined with the "as-of-right" use as a food and drinks premises, there are no planning considerations.
- (b) Potential hazard for exit procedures in emergencies;
98. This is not a planning issue.
- (c) Increased parking issues;
99. As there is no increase in the floor area or patron numbers there is no additional car parking required from that already approved.
- (d) Footpath trading would exacerbate noise; and
100. As set out in paragraph 84 (and as mentioned in previous officer reports), the endorsed and proposed plans show a footpath trading area along the Gertrude and George Street frontages. This is indicative only and does not form part of the planning approval. The

approval of these trading areas is not part of the planning process and governed by Council's Community Amenity Unit. This is not a planning issue.

(e) No additional allowance for delivery/loading zones.

101. There is no requirement under the Yarra Planning Scheme for a loading area to be provided. However loading was discussed in the original application, and VCAT found that on-street loading areas were sufficient to cater for the building in its entirety. The amendment application does not alter this consideration.

## Conclusion

102. The proposal, subject to conditions outlined in the recommendation below, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies. Based on the above report, the proposal complies with the relevant Planning Scheme provisions and planning policy and is therefore supported

## RECOMMENDATION

103. That a Notice of Decision to Grant an Amended Planning Permit PLN14/0419 be issued as follows:

Permit preamble to be amended to:

Demolition of the existing building to allow for the use and development of the land for a five-storey building (plus two basement carparks) with ground floor shops, food and drinks premises, including the sale and consumption of liquor (Café and restaurant licence), with 26 dwellings, reduction in associated car parking requirements and waiver of loading bay requirement in accordance with endorsed plans.

Conditions of the permit amended to (with changes shown as bold):

1. Before the commencement of the sale and consumption of liquor, an amended Ground Floor Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
  - (a) Internal layout of the two food and drinks premises.
  - (b) Seating for 100% of patrons within both tenancies and no more than 90 patrons within Tenancy 1 (café) and 170 patrons within Tenancy 4 (Restaurant).
  - (c) **-deleted-**
2. The use and development (including the sale and consumption of liquor) as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing consultant team, Jackson Clements Burrows or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
  - (a) Oversee design and construction of the development.
  - (b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

4. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by SBE and dated 19 June 2014 but modified to include or show:
  - (a) Inclusion of a daylight modelling report that confirms that the proposed dwellings are designed to achieve appropriate daylight outcomes.
  - (b) Confirmation that the development will achieve at least 10 per cent or half a star (whichever is greater) above BCA minimum standards.
  - (c) Incorporation where viable, high efficiency gas instantaneous or gas boosted centralised system including a solar preheat collectors with a minimum of 45% contribution to annual energy requirements.
  - (d) Individual water metres installed to apartments.
  - (e) \*\*\*DELETED\*\*\*
  - (f) Confirmation the air condition system efficiency is to be within one star of the highest available or equivalent COP/EER.
  - (g) Provision of cycle end of trip facilities (shower) within the disabled toilet at ground floor level.
5. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
6. Before the use and development commences, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:
  - (a) Noise impacts resulting from the proposed use and development to the surrounding properties.
  - (b) Noise impacts from the surrounding non-residential uses (vehicles, trams, commercial premises and live-music entertainment venues) to the proposed use and development.

The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.
7. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
8. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 4 June 2014, but modified to include:
  - (a) The altered waste collection procedures as shown in the sketch plans submitted on 17 November 2014. In the event that the proposed loading zone is not approved by Council, the Waste Management Plan must be amended to provide an alternative pick-up location to the satisfaction of the Responsible Authority.
9. The provisions, recommendations and requirements of the endorsed Waste Management

Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

10. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Urban Commons and dated 21 July 2014, but modified to include (or show):
  - (a) Further details regarding the planting adjacent to the corridor windows and the practicality of providing edible plants.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
  - (a) Implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan.
  - (b) Not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose.
  - (c) Replacing any dead, diseased, dying or damaged plantsto the satisfaction of the Responsible Authority.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park and pedestrian entries must be provided. Lighting must be located, directed, shielded and of limited intensity to the satisfaction of the Responsible Authority.
13. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
15. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
16. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
17. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor from Tenancy 1 (Café), Tenancy 4 **and Tenancy 5** (Restaurant) may only occur between 10am and 11pm, seven days per week.
18. No more than 90 patrons are permitted within Tenancy 1 (café) and **85** patrons within **each of Tenancy 4 and Tenancy 5 (Restaurant)** at any time liquor is being sold or consumed.
19. Before the commencement of the sale and consumption of liquor **of Tenancy 4 and 5**, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended noise and amenity action plan will be endorsed and will form part of this permit. The amended noise and amenity action plans must be generally in accordance with the noise and amenity action plan advertised, but modified to include (or show, or address):
  - (a) Include the operating hours consistent with Condition 17.
  - (b) Remove reference to two 'restaurant' tenancies and correctly reference food and drinks premises: Tenancy 1 (Café), Tenancy 4 (Restaurant) **and Tenancy 5 (Restaurant)**.

- (c) Floor plan in the appendix consistent with the floor plan required pursuant to Condition 1.
  - (d) To include details of deliveries and collections for both premises between 9am and 10pm on any day only.
  - (e) Details of how Tenancy 5 (Restaurant) will manage large group bookings to minimise amenity impacts on surrounding residential areas.
20. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
22. The amenity of the area must not be detrimentally affected by the use or development, including through:
- (a) The transport of materials, goods or commodities to or from land.
  - (b) The appearance of any buildings, works or materials.
  - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - (d) The presence of vermin.
- All to the satisfaction of the Responsible Authority.
23. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only be conducted between 9am and 10pm on any day.
24. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
25. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
26. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
27. Except with the prior written consent of the Responsible Authority, speakers external to the building must not be erected or used.
28. No amplified music may be played, with the exception of background music, to the satisfaction of the Responsible Authority.
29. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
30. Car parking allocated at the following rates:
- (a) Dwellings – 33 car spaces.
  - (b) Residential visitors – 4 car spaces.
  - (c) Food and drink premises – 3 car spaces.
31. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the areas set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) Constructed and available for use in accordance with the endorsed plans.
  - (b) Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
  - (c) Treated with an all-weather seal or some other durable surface.
  - (d) Line-marked or provided with some adequate means of showing the car parking

spaces.

All to the satisfaction of the Responsible Authority.

32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the new vehicle crossings must be constructed:
- (a) In accordance with any requirements or conditions imposed by Council.
  - (b) At the permit holder's cost.

All to the satisfaction of the Responsible Authority.

33. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel at the permit holder's cost and to the satisfaction of the Responsible Authority.
34. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated at the permit holder's cost and to the satisfaction of the Responsible Authority.
35. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
36. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, ten (10) bike racks must be installed at the permit holder's cost and in a location and manner to the satisfaction of the Responsible Authority.
37. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure.
  - (b) Works necessary to protect road and other infrastructure.
  - (c) Remediation of any damage to road and other infrastructure.
  - (d) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land.
  - (e) Facilities for vehicle washing, which must be located on the land.
  - (f) The location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street.
  - (g) Site security.
  - (h) Management of any environmental hazards including, but not limited to:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and
    - (vii) spillage from refuelling cranes and other vehicles and machinery.
  - (i) The construction program.



- (j) Preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency.
- (k) Parking facilities for construction workers.
- (l) Measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan.
- (m) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services.
- (n) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
- (o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
- (p) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer;
  - (v) other relevant considerations; and

During the construction:

- (q) Any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
  - (r) Stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
  - (s) Vehicle borne material must not accumulate on the roads abutting the land;
  - (t) The cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
  - (u) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.
38. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
39. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.
  - (c) the dwelling and restaurant uses are not commenced within five years of the date of

this permit.

- (d) the sale and consumption of liquor is not commenced within five years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

**CONTACT OFFICER:** David Tancheff  
**TITLE:** Senior Statutory Planner  
**TEL:** 92055485

#### **Attachments**

- 1 [↓](#) PLN14/0419.03 - 166 - 182 Gertrude Street Fitzroy - Zoning map for IDAC
- 2 [↓](#) PLN14/0419.03 - 166-182 Gertrude Street Fitzroy - Decision Plan
- 3 [↓](#) PLN14/0419.02 - 166-182 Gertrude Street Fitzroy - S52 Advertised Noise and Amenity Action Plan
- 4 [↓](#) PLN14/0419 - 166 - 182 Gertrude Street Fitzroy - Endorsed Plan 4 of 19