



Minutes

Planning Decisions Committee

6.30pm, Tuesday 29 November 2022

Richmond Town Hall

1. Appointment of Chair

Cr Jolly nominated Cr O'Brien as chair.

There being no other nominations, Cr O'Brien was elected chair.

Cr O'Brien assumed the chair.

2. Statement of recognition of Wurundjeri Woi-wurrung Land

"Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

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."

3. Attendance and apologies

Councillors

Cr Stephen Jolly

Cr Bridgid O'Brien (substitute for Cr Stone)

Council officers

Daniel Herrmann (Co-ordinator Statutory Planning)

Danielle Connell (Acting Manager Statutory Planner)

Cindi Johnston (Governance Officer)

Apology

Cr Amanda Stone

Cr Herschel Landes

4. Declarations of conflict of interest

No declarations were made.

5. Confirmation of Minutes

RESOLUTION

Moved: Cr Jolly **Seconded:** Cr O'Brien

1. That the minutes of the meeting of the Planning Decisions Committee held on Tuesday 6 September 2022 be confirmed.

CARRIED

6 PLANNING DECISIONS COMMITTEE

Item		Page	Res. Page
6.1	PLN22/0014 - 441 - 443 Church Street, Richmond	4	13
6.2	PLN21/0860 - 243-245 Gertrude Street and 95-97 Smith Street, Fitzroy	23	26

Reference	D22/306735
Author	Madeleine Moloney - Statutory Planner
Authoriser	Senior Coordinator Statutory Planning

RECOMMENDATION

That having considered all objections and relevant planning policies, the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a Planning Permit construction of a multi storey building and a reduction in the statutory car parking requirement at 441 – 443 Church Street, Richmond (Lot 1 on TP 876309S), subject to the following conditions:

1. Before the development commences, amended plans 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 this 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 prepared by One Design Office and dated 14 April 2022 but modified to show:
 - (a) The northern and southern 1.45m high rooftop services balustrade/screen set back a minimum of 1m from the respective boundary, with rooftop services (with the exception of solar panels and the lift overrun) re-located as necessary, to be enclosed within the screens.
 - (b) Angle and orientation of solar panels shown on the rooftop plan and elevations, with a plan notation confirming a maximum angle of 10 degrees.
 - (c) The ground floor front façade (including service cupboards) to the restaurant to align with the Church Street frontage, with the associated pedestrian door modified to ensure it does not open over the footpath and service cupboard doors provided with a 180 degree swing.
 - (d) Modify the fire services cupboard doors to the Church Street frontage to be glazed.
 - (e) Re-locate the gas booster cupboard to the Little Lesney Street frontage and replace the façade with clear glazing; or, if regulatory constraints are confirmed to prevent re-location, modify the finish of the cupboard to be composed of perforated metal displaying a mural/artwork.
 - (f) Increased setback of the canopy over the Church Street footpath to a minimum of 1.7m from the kerb, and extend the canopy over the lobby entry (full width of façade).
 - (g) Provision of direction signs at the Little Lesney Street interface for the purposes of wayfinding.
 - (h) External lighting to the Little Lesney Street pedestrian and vehicle entries and the lobby entry from Church Street.
 - (i) Side boundary walls modified to improve articulation, visual interest and integration with street facades;
 - (j) Materials legend updated to:
 - i. Confirm the material for specified materials/finishes: “Lv01”, “Mc02”, “Tx01” and “Ms01”, ensuring a durable material is selected.

- ii. Remove reference to the word “look” in relation to various concrete materials/finishes in the legend.
- (k) Details of operable glazing and external shading as per the sketch plans submitted to Council on 16 September 2022.
- (l) A cross sectional drawing of the development entrance and Little Lesney Street (fully dimensioned, with levels at three decimal places). The finished floor level at the edge of the development entrance (at the property line), must generally be set 40 mm higher than the existing edge of Little Lesney Street. The ground clearance for a B99 design vehicle entering and exiting the development via Little Lesney Street, with spot levels obtained from site at the following locations must be shown:
 - i. The west edge of Little Lesney Street
 - ii. The invert
 - iii. The east edge of Little Lesney Street.
- (m) Annotations to confirm rainwater and OSD tank sizes on ground floor plan.
- (n) Annotation to confirm (min) 20kW solar energy system size on rooftop plan
- (o) Modifications to bicycle parking and EV provisions, as per the sketch plans submitted to Council on 15 October 2022:
 - i. Secure bicycle parking for employees;
 - ii. Bicycle parking dimensions of bicycle access routes (all doors and accessways) in compliance with Australian Standard AS2890.3;
 - iii. An EV charging point adjacent the visitor (horizontal) bike spaces;
 - iv. An “EV-ready” connection adjacent the car parking area/stacker.

But further modifications to provide for:

- v. One additional visitor bicycle parking space on-site.
 - vi. Ground floor plan updated to show location of EV charging (symbol and/or annotation) for car.
 - (p) Updates to notations to clearly stipulate 8 storey height of proposed building on subject site.
 - (q) Outline of the approved building on the south-adjointing site under planning permit PLN19/0377 updated to correctly reflect upper storey front setback from Church Street.
 - (r) Any changes as required by the endorsed the endorsed Sustainable Management Plan (condition 6) (where relevant to show on plans).
 - (s) Any changes as required by the endorsed the endorsed Waste Management Plan (condition 9) (where relevant to show on plans).
 - (t) Any changes as required by the endorsed Landscape Plan (condition 13) (where relevant to show on plans).
2. The development 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. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;
 - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) information about how the façade will be maintained, including any vegetation; and
 - (d) a sample board and coloured drawings outlining colours, materials and finishes.

Ongoing architect

4. As part of the ongoing consultant team, One Design Office Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (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.

Development Infrastructure Levy

5. Prior to the commencement of the development, the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan; or the Owner must enter into an agreement with Yarra City Council to pay the Development Infrastructure Levy within a time specified in the agreement.

Sustainable Management Plan

6. 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 ECM and dated 26 April 2022, but modified to include or show:
- (a) The following changes included in the revised report prepared by ECM and dated 27 September 2022 (submitted to Council on 5 October 2022);
 - i. Calculations to demonstrate provision of high-quality views for building occupants;
 - ii. Natural ventilation confirmed for the garage;
 - iii. Number and size of solar panels described consistent with rooftop plans;
 - iv. Reason for a diesel exhausts stipulated;
 - v. EV charging point included in the car park;

- vi. Confirmation that building systems will be commissioned as per manufacturers request and a tuning period implemented.
- vii. Confirmation the head contractor will be ISE 14001 accredited.
- (b) Assess the proposal as amended pursuant to Condition 1.
- (c) Clarify how the development has responded to urban heat (consider increased vegetation and light external finishes).
- (d) Remove ambiguous language and replace with firm commitments (E.g. percentages by cost or weight).
- (e) Clarify approach to sustainable use of concrete, noting that 30% reduction is a standard benchmark within the construction industry.
- (f) Provide calculations or other information to confirm that post-development stormwater flows will not exceed pre-development levels
- (g) Amend BESS credit in line with JV3 results (e.g. >10% reduction = 37.5% of credit).

Prior to occupation Sustainable Management Plan Requirement

7. Prior to the occupation of the development approved under this permit, a report from the author of the Sustainable Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the sustainable management plan have been implemented in accordance with the approved plan.

Ongoing Sustainable Management Plan Requirement

8. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

9. 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 WSP and dated 9 November 2021, but modified to include:
 - (a) Revised swept path diagrams for the waste vehicle as per the revised traffic report prepared by WSP and submitted on 15 October 2022.
 - (b) Assess the proposal as amended pursuant to Condition 1.
10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

11. Before the development commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by WSP and dated 26 November 2021, but modified to include or show:
 - (a) Additional information and commitments as per the revised Green Travel Plan prepared by WSP and submitted on 15 October 2022.
 - (b) Assess the proposal as amended pursuant to Condition 1.
12. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscape Plan

13. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (b) indicate the location of all areas to be covered by lawn or other surface materials; and
 - (c) provide a specification of works to be undertaken prior to planting,to the satisfaction of the Responsible Authority.

Ongoing Landscape Plan Requirement

14. 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; and
 - (c) replacing any dead, diseased, dying or damaged plants,to the satisfaction of the Responsible Authority.

Wind Assessment Report

15. In conjunction with the submission of development plans under Condition 1, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by ViPac and dated 9 November 2021, but modified to include (or show):
 - (a) Assess the proposal as amended pursuant to Condition 1 (with reference to the correct version of plans).

Ongoing Wind Assessment Requirement

16. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Street Tree

17. Before the development commences, the permit holder must make a one off contribution of \$763 to the Responsible Authority to be used for replacement/new street tree plantings that are required as a result of the development. SEOCYF,

Road Infrastructure

18. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the full width road pavement of the Church Street frontage outside the property's frontage must be profiled and re-sheeted:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
20. 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, including trenching and excavation for utility service connections, must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

Car Parking

21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area 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; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces.

to the satisfaction of the Responsible Authority.

22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating the pedestrian and vehicle entries from Little Lesney Street and the pedestrian entry to the lobby from Church Street must be provided within the property boundary. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,

to the satisfaction of the Responsible Authority.

23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stacker must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stacker must be maintained thereafter to the satisfaction of the Responsible Authority.

General

24. 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.
25. 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.
26. The floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
27. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
28. The use must comply at all times with the Environment Protection Authority Publication 1826 and the Environmental Protection Regulations 2021.
29. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
30. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-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.

Construction Management Plan

31. 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. If required, the Construction Management Plan may be approved in stages.

Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority. 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.

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.

32. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Time Expiry

33. 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.

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.

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations* 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act* 1989 and Regulation 133.

All future property owners, employees and occupiers within the development approved under this permit will not be permitted to obtain employee or visitor parking permits.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

Submissions

Joanne Hartsias, One Design Office (for the applicant)
Victoria Chipperfield
Lyndy U'Ren
Theresa Saldanha

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr Jolly

Seconded: Cr O'Brien

That having considered all objections and relevant planning policies, the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a Planning Permit construction of a multi storey building and a reduction in the statutory car parking requirement at 441 – 443 Church Street, Richmond (Lot 1 on TP 876309S), subject to the following conditions:

1. Before the development commences, amended plans 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 this 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 prepared by One Design Office and dated 14 April 2022 but modified to show:
 - (a) Deletion of one storey of the tower component of the building.
 - (b) The setback to the ground floor lobby entry from the Church Street boundary reduced to 1m.
 - (c) All plans to refer to the correct (formal) address of the site (No. 441-443 Church Street).
 - (d) The northern and southern 1.45m high rooftop services balustrade/screen set back a minimum of 1m from the respective boundary, with rooftop services (with the exception of solar panels and the lift overrun) re-located as necessary, to be enclosed within the screens.
 - (e) Angle and orientation of solar panels shown on the rooftop plan and elevations, with a plan notation confirming a maximum angle of 10 degrees.
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 - (g) Modify the fire services cupboard doors to the Church Street frontage to be glazed.

- (h) Re-locate the gas booster cupboard to the Little Lesney Street frontage and replace the façade with clear glazing; or, if regulatory constraints are confirmed to prevent re-location, modify the finish of the cupboard to be composed of perforated metal displaying a mural/artwork.
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 - (j) Provision of direction signs at the Little Lesney Street interface for the purposes of wayfinding.
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 - (v) Any changes as required by the endorsed the endorsed Waste Management Plan (condition 9) (where relevant to show on plans).
 - (w) Any changes as required by the endorsed Landscape Plan (condition 13) (where relevant to show on plans).
 - (x) Any changes as required by the endorsed Road Safety Audit (condition 18) (where relevant to shown on plans).
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 - (a) oversee design and construction of the development; and
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Development Infrastructure Levy

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Ongoing Sustainable Management Plan Requirement

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Waste Management Plan

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10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

11. Before the development commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by WSP and dated 26 November 2021, but modified to include or show:
 - (a) Additional information and commitments as per the revised Green Travel Plan prepared by WSP and submitted on 15 October 2022.
 - (b) Assess the proposal as amended pursuant to Condition 1.
12. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscape Plan

13. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (b) indicate the location of all areas to be covered by lawn or other surface materials; and
 - (c) provide a specification of works to be undertaken prior to planting,to the satisfaction of the Responsible Authority.

Ongoing Landscape Plan Requirement

14. 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; and
 - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

Wind Assessment Report

15. In conjunction with the submission of development plans under Condition 1, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by ViPac and dated 9 November 2021, but modified to include (or show):
- (a) Assess the proposal as amended pursuant to Condition 1 (with reference to the correct version of plans).

Ongoing Wind Assessment Requirement

16. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Street Tree

17. Before the development commences, the permit holder must make a one off contribution of \$763 to the Responsible Authority to be used for replacement/new street tree plantings that are required as a result of the development.

Road Safety Audit

18. Before the development commences, a Road Safety Audit must be submitted to and approved by the Responsible Authority. When approved the Road Safety Audit will be endorsed and will form part of this permit. The Road Safety Audit must be prepared by a suitably qualified professional and address any potential future conflicts between pedestrians, cyclists and vehicles within Little Lesney Street as a consequence of the development approved by this permit and measures for mitigating any identified conflicts.

Ongoing Road Safety Audit Requirement

19. The requirements of the endorsed Road Safety Audit Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Road Infrastructure

20. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the full width road pavement of the Church Street frontage outside the property's frontage must be profiled and re-sheeted:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
22. 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, including trenching and excavation for utility service connections, must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

Car Parking

23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area 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; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces.
- to the satisfaction of the Responsible Authority.
24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating the pedestrian and vehicle entries from Little Lesney Street and the pedestrian entry to the lobby from Church Street must be provided within the property boundary. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stacker must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stacker must be maintained thereafter to the satisfaction of the Responsible Authority.

General

26. 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.

27. 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.
28. The floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
29. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
30. The use must comply at all times with the Environment Protection Authority Publication 1826 and the Environmental Protection Regulations 2021.
31. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
32. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-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.

Construction Management Plan

33. 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. If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority. 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.

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.

34. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Time Expiry

35. 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.

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.

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations* 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act* 1989 and Regulation 133.

All future property owners, employees and occupiers within the development approved under this permit will not be permitted to obtain employee or visitor parking permits.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

CARRIED

Reference	D22/292635
Author	Gary O'Reilly - Senior Statutory Planner
Authoriser	Co-Ordinator Statutory Planning

RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a planning permit PLN21/0860 for an increase the hours of sale and consumption of liquor to the existing General Liquor License at 243-245 Gertrude Street and 95-97 Smith Street, Fitzroy, generally in accordance with the plans and reports noted previously as the "decision plans" and subject to the following conditions:

1. 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.
2. Music played in the beer garden is not to exceed the following at all times:
 - (a) Background music levels of 70 dBA L10 and 75 dBC L10 at 2 metres from any loudspeaker, with all loudspeakers operating; and
 - (b) Noise Protocol, Part II limits at noise sensitive receiver locations.
3. Before the permitted increased hours for the sale and consumption of liquor approved by this permit commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Enfield Acoustics and dated 13 April 2022, but modified to include (or show, or address):
 - (a) The noise limiter make and model and evidence to demonstrate that the equipment can be set to control octave band music levels.
 - (b) The noise limiter settings for compliance with Condition 2, including a photo of the limiter settings
 - (c) The means by which access to the limiter settings restricted to the venue manager and acoustic consultant (i.e. locked cabinet or software lock).
 - (d) Demonstration that Noise Protocol limits will be met at the most sensitive receiver locations, noting that these receivers may be elevated.
4. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
5. Before the permitted increased hours for the sale and consumption of liquor approved by this permit commences, the Permit Operator maintain the Noise Limiter ("the Device"), set at a level by a qualified acoustic engineer, to ensure the escape of amplified music does not exceed the requirements of Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.

6. Within 14 days of commencement the permitted increased hours for the sale and consumption of liquor approved by this permit 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) Confirm that a Noise Monitor and Limiter ("the Device") is operating and has each and every of the following characteristics which are also operating:
 - (i) The Device limits internal noise levels so as to ensure compliance with the music noise limits according to the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
 - (ii) The Device monitors noise levels at frequencies between 50Hz and 100Hz and is wired so as to ensure that the limiter governs all power points potentially accessible for amplification;
 - (iii) The Device controls are in a locked metal case that is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the licensee or occupier of the land and notified to the Responsible Authority;
 - (iv) The Device is installed to control all amplification equipment.
7. The provisions, recommendations and requirements of the endorsed post-commencement Acoustic Report (noise limiter) must be implemented and complied with to the satisfaction of the Responsible Authority.
8. Amplified music and vocals are not permitted to be played other than through the Permanently Installed Sound System and when the Device is installed and operating to ensure compliance Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
9. Within 3 months of commencement the permitted increased hours for the sale and consumption of liquor approved by this permit commences a further acoustic report is to be provided to demonstrate compliance with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
10. Before the permitted increased hours for the sale and consumption of liquor approved by this permit commences, 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 Plan must be generally in accordance with the Noise and Amenity Action Plan prepared by Fitzroy Beer Garden, but modified to include:
 - (a) Substantial food servings to be made available for patrons during all hours of the sale and consumption of liquor.
11. 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.

12. Before the permitted increased hours for the sale and consumption of liquor approved by this permit 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 Frater Consulting Services and dated 13 April 2022, but modified to include:
 - (a) A clause must be included in the plan regarding potential review into services if operational and or legislative requirements change.
13. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
14. No more than 156 patrons are permitted on the land at any one time.
15. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:
 - (a) Sunday to Thursday: Between 10am and 1am the following morning.
 - (b) Fridays and Saturdays: Between 7am and 3am the following morning.
 - (c) Good Friday & ANZAC Day; Between 10am and 3am the following morning.
 - (d) Public Holiday Eve Between 10am and 3am the following morning.
16. Food to be made available for patrons during all hours of operation of the permitted uses.
17. A log book of all functions must be kept on site and available for inspection by Council officers upon request.
18. The amenity of the area must not be detrimentally affected by the use, 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, or;
 - (d) The presence of vermin.to the satisfaction of the Responsible Authority.
19. Before the commencement of the permitted increase in hours for 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.
20. The uses must comply at all times with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
21. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
22. Delivery and collection of goods to and from the land (including waste collection activities) may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

23. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
24. This permit will expire if:
- (a) The sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (b) The sale and consumption of liquor is discontinued for a period of two years; or

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.

NOTES:

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

Submissions

Aiden Spence, Fitzroy Beer Garden (for the applicant)
Sivy Orr
Elida De Felice
Marylou Scally
Gail Gauci-Seddon
Anne Brothers

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr Jolly

Seconded: Cr O'Brien

That having considered all objections and relevant planning policies and provisions, the Committee resolves to issue a Notice of Refusal to Grant Planning Permit PLN21/0860 for an increase to the hours of sale and consumption of liquor to the existing General Liquor License at 243-245 Gertrude Street and 95-97 Smith Street, Fitzroy on the following grounds:

1. The proposed extended hours of operation would result in adverse amenity impacts on the surrounding residential area, contrary to the decision guidelines of clause 22.05 (Interface Uses Policy), clause 22.09 (Licensed Premises), and clause 52.27 (Licensed Premises) of the Yarra Planning Scheme, with regard to extended hours of operation and patron noise.
2. The proposal fails to satisfy the objectives and assessment criteria contained at clause 52.27 (Licensed Premises), as the proposal will result in increased Cumulative Impacts, will reduce community amenity and will not generate net community benefit.

CARRIED

The meeting closed at 7.41pm.

Confirmed at the meeting held on Tuesday 20 December 2022

Chair