



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 15 March 2017 at 6.30pm
in Meeting Room 3 at the Richmond Town Hall**

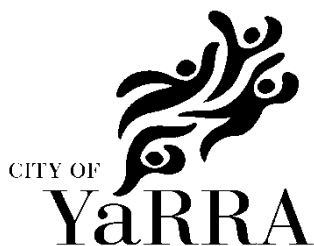
Rostered Councillor membership

Councillor Stephen Jolly
Councillor James Searle
Councillor Mike McEvoy

- I. ATTENDANCE**
Sarah Thomas (Principal Planner)
Tarquin Leaver (Coordinator Statutory Planning)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

Printed on 100% recycled paper

***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri as the Traditional Owners
of this country, pays tribute to all
Aboriginal and Torres Strait Islander
people in Yarra and gives respect to
the Elders past and present."***



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch
2008**

1. Committee business reports

| Item | | Page | Rec. Page |
|------|--|------|--------------|
| 1.1 | PLN16/0732 - Rear 26-54 Queens Parade, Fitzroy North - Development of the land for the construction of 4, 3-storey townhouses with a reduction in the car parking requirements and provision of parking on another site | 5 | 37 |
| 1.2 | Planning Application No.PL02/1103.03 - 433 Church Street, Richmond - Amendments to the current planning permit to include buildings and works for one additional level, plus a rooftop terrace and associated increase in the area for sale/consumption of liquor, Increased hours for sale/consumption of liquor in outdoor areas, increased maximum patron numbers from 225 to 450 and an associated reduction in car parking numbers. | 76 | 103 |

1.1 PLN16/0732 - Rear 26-54 Queens Parade, Fitzroy North - Development of the land for the construction of 4, 3-storey townhouses with a reduction in the car parking requirements and provision of parking on another site

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN16/0712 at (rear) of 26-54 Queens Parade, Fitzroy North and recommends Council adopt a position of support at the upcoming VCAT hearing, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) clause 32.04 – Mixed Use Zone;
 - (b) clause 43.01 – Heritage Overlay;
 - (c) Clause 52.06 – Car parking;
 - (d) Clause 52.34 – Bicycle facilities;
 - (e) Clause 15.01-1 – Urban Design;
 - (f) Clause 15.01-2 – Urban design principles;
 - (g) Clause 15.01-4 – Design for safety;
 - (h) Clause 15.01-5 – Cultural identity and neighbourhood character;
 - (i) Clause 15.02-1 – Energy and resource efficiency;
 - (j) Clause 15.03-1 – Heritage conservation;
 - (k) Clause 16.01-1 – Integrated housing;
 - (l) Clause 16.01-2 – Location of residential development;
 - (m) Clause 16.01-4 – Housing diversity;
 - (n) Clause 16.01-5 – Housing affordability;
 - (o) Clause 18.01-1 – Land use and transport planning;
 - (p) Clause 18.02-1 – Sustainable personal transport;
 - (q) Clause 18.02-5 – Car parking;
 - (r) Clause 21.04-1 – Accommodation and housing;
 - (s) Clause 21.04-2 – Activity Centres;
 - (t) Clause 21.05-1 – Heritage;
 - (u) Clause 21.05-2 – Urban design;
 - (v) Clause 21.05-4 – Public environment;
 - (w) Clause 21.06 – Transport;
 - (x) Clause 21.08-8 – North Fitzroy;
 - (y) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
 - (z) Clause 22.07 – Development abutting laneways;
 - (aa) Clause 22.12 – Public open space contribution;
 - (bb) Clause 22.16 – Stormwater management (water sensitive urban design); and
 - (cc) Clause 22.17 – Environmentally sustainable development.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) strategic policy;
 - (b) heritage;
 - (c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
 - (d) traffic and car parking;
 - (e) bicycle parking;
 - (f) waste management;
 - (g) Objector concerns; and
 - (h) compliance with proposed DDO.

Objector Concerns

4. 24 objections were received to the original application plans, these can be summarised as:
 - (a) neighbourhood character and impact on heritage;
 - (b) excessive height and overdevelopment;
 - (c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);
 - (d) poor ESD outcome;
 - (e) shadowing of the laneway;
 - (f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
 - (g) impacts during construction phase;
 - (h) insufficient car parking;
 - (i) unreasonable traffic impacts;
 - (j) materials have not been specified; and
 - (k) insufficient landscaping detail.

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: Sarah Thomas
TITLE: Principal Planner
TEL: 92055046

1.1 PLN16/0732 - Rear 26-54 Queens Parade, Fitzroy North - Development of the land for the construction of 4, 3-storey townhouses with a reduction in the car parking requirements and provision of parking on another site

Trim Record Number: D17/25215

Responsible Officer: Manager Statutory Planning

Proposal: Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site

Existing use: Vacant

Applicant: Gurner 26-56 Queens Parade Pty Ltd

Zoning / Overlays: Mixed Use Zone, Heritage Overlay, Environmental Audit Overlay

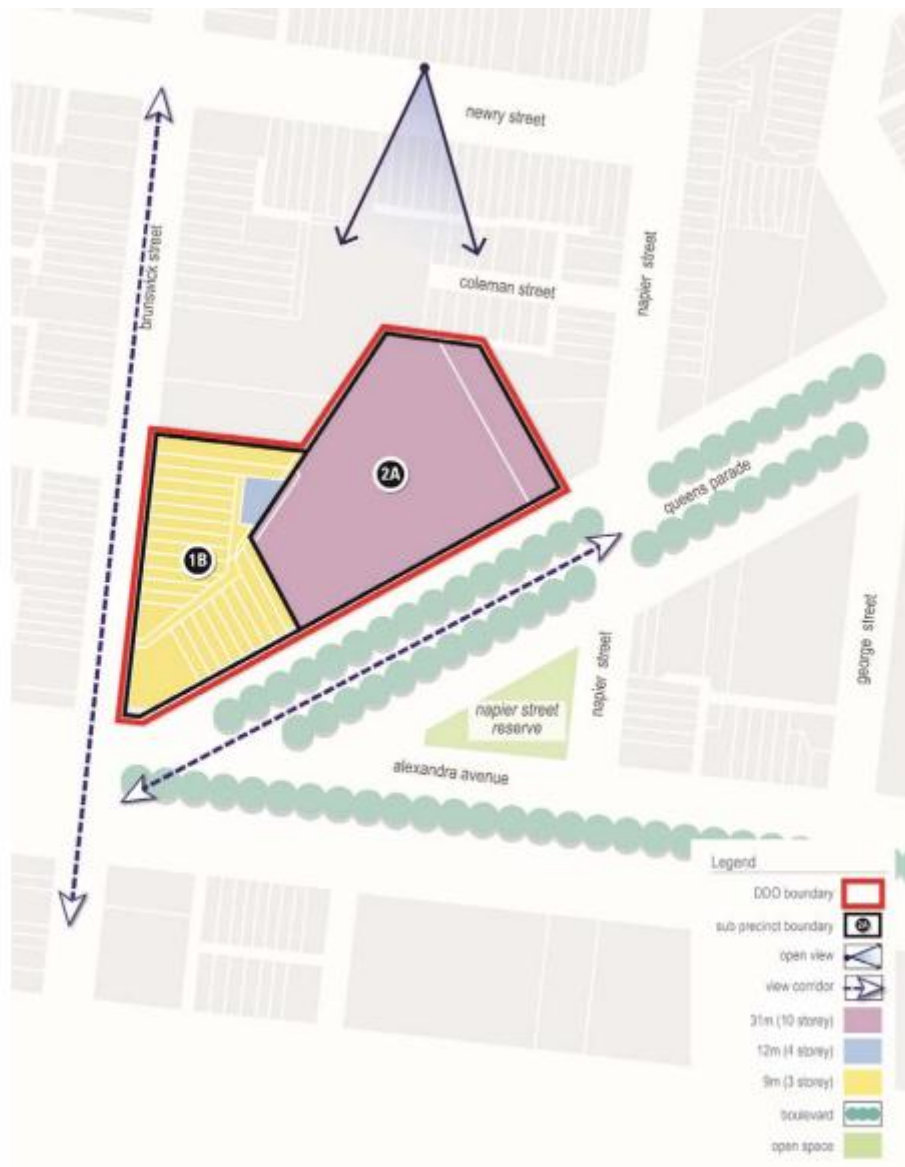
Date of Application: 26/7/2016

Application Number: PLN16/0732

Planning History

1. The site was re-zoned from the Business 3 Zone to the Mixed Use Zone on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected 8-72 Queens Parade and 460-500 Brunswick Street.
2. The panel report for the re-zoning of the land recommended that no development occur on the rear parcel (now subject to this application).
3. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade. Council resolved:
 1. *That Council note:*
 - (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting convened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill (attached as Attachment One); and*
 - (b) *the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*
 2. *That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:*
 - (a) *the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
 - (b) *the likely costs involved in advocacy for Council at VCAT;*
 - (c) *the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
 - (d) *the steps, options and timing for such amendment; and*
 - (e) *any other pertinent aspects to inform Council on this matter.*

4. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The DDO guidelines were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



5. The Council officer recommendation was that the mandatory maximum overall building height for the main site at 26-56 Queens Parade not exceed 31m or 10 storeys and for the subject site (rear site), 12m or 4 storeys.
6. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).
7. Council resolved (in part) to:

- (e) *request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and*

8. At the time of writing, no correspondence has been received in relation to Council's request for interim controls.

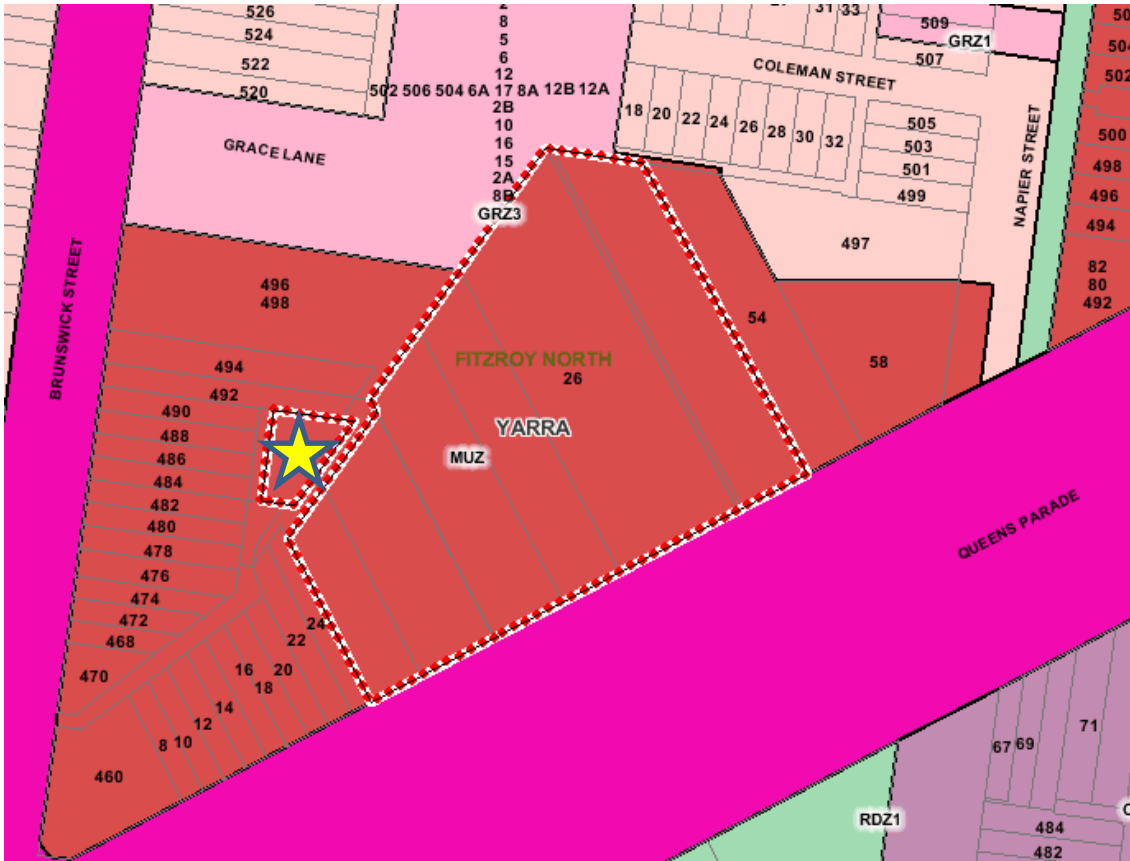
Background

9. On 25 January 2017, Council was informed that a Section 79 'failure to determine' appeal had been lodged with the Victorian Civil and Administrative Tribunal [VCAT].
10. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN6/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.
11. On 21 February 2017, the Applicant circulated substituted plans. These plans will form the basis of the assessment and will be considered at the upcoming VCAT hearing. The plans essentially delete 1 level from the townhouses, reducing the scale from 4 to 3 storeys, with associated internal re-configurations.

Existing Conditions

Subject Site

12. The subject site is located at the rear of 26-56 Queens Parade, an approximately 248m² irregular shaped lot accessed via a lane that extends from Brunswick Street to the west.
13. The site has a western boundary of 20.3m, a northern boundary of 17.8m, an eastern boundary of 22.8m and a southern boundary of 7.3m.
14. The site is current vacant and undeveloped.
15. The site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (149m).



Zoning map



Subject site

Restrictive Covenants

16. There are no restrictive covenants shown on the certificates of title provided with the application.

Surrounding Land

South

17. To the south of the subject site, across the laneway, is a 8,028m² site located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The shape is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.
18. The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. The site has an overall area of approximately 8,028m².
19. The site is developed with a series of buildings:
 - (a) Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;
 - (b) Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site);

20. Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.
21. Council formed a position of refusal for a development of this site in December 2016. The applicant was seeking approval for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone (PLN16/0434). The position of refusal is based on the following grounds:
- (a) *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
 - (b) *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
 - (c) *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
 - (d) *The proposed waste management plan is inadequate for the site.*
22. Also to the south of the subject site, but further west of this larger site, is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey. These properties all enjoy rear access to the lane, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the eastern end of the row.
23. Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

West

24. To the west of the subject site, across the laneway, is a row of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows.

North

25. To the north of the subject site is the side of a property fronting Brunswick Street to the west. This property presents a segment of private open space and a shed to the immediate north of the subject site.
26. Further north is another single storey dwelling with a rear private open space area.
27. Further north again is a recently constructed 6 storey apartment building that fronts Brunswick Street.
28. The site is well located in terms of bicycle access and public transport:
- (a) 2 bus routes along Queens Parade; and
 - (b) 2 tram routes along Brunswick Street.

The Proposal

29. The application is for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site). More specifically:

Built form and massing

- (a) construction of 4, 3 storey dwellings;
- (b) ground level – the dwellings would be constructed to the northern boundary and mostly constructed to the south and east boundaries, with a minimum 1m western setback. The walls on the southern boundary would extend for a length of 6.3m, 14.6m along the eastern boundary and 17.7m along the northern boundary;
- (c) first floor – the dwellings would be partially constructed to the south, east and north boundaries. The walls on the southern boundary would extend for a length of 4m, a total of 8.4m along the eastern boundary and 9m along the northern boundary;
- (d) second floor – the dwellings would again, continue to be partially constructed to the south, east and north boundaries. Additional western boundary setbacks would be offered at this floor, to a minimum 3.2m, increasing to 6.2m. The walls on the southern boundary would extend for a length of 4.1m, 8.4m at the eastern boundary and 9m along the northern boundary;
- (e) heights – the development would introduce a maximum 9.2m high wall on the north, east and south boundaries (maximum overall height);

Layout

- (f) the 4 dwellings would be of the following configuration:
 - (i) 2BR plus study – 1;
 - (ii) 3BR plus study – 1; and
 - (iii) 3BR – 2.
- (g) the dwellings would be accessed via the eastern lane;
- (h) although not part of this application, the application for the main site (PLN16/0434) proposes to introduce another pedestrian access point through 26-56 Queens Parade to these townhouses;
- (i) at the ground level, the dwellings would contain bedrooms, studies and amenities, along with 4m²-5m² west boundary courtyards. The first floor would contain living/dining/kitchen areas, along with 12m² terraces for each dwelling. The second floor would contain additional bedrooms and amenities. The northernmost dwelling would contain a green roof at this level;
- (j) the proposal is seeking a site coverage of approximately 87%;

Colours, materials and landscaping

- (k) the original plans included a mixture of off white render, off white bricks, clear glass balustrades, white aluminum composite panels, clear glazing, dark coloured glazing and perforated metal (natural finish) privacy screens. The substituted plans do not include a material key or schedule of colours and materials. Should a permit issue, this should be addressed by way of a permit condition;

Environmentally sustainable development [ESD] features

- (l) NatHERS rating of at least 6 stars;
- (m) provision of 4 x 2,000L rainwater tanks;

Car parking and waste

- (n) 6 car parking spaces would be provided on the 'main site' at 26-56 Queens Parade in the proposed development (Planning permit application PLN16/0434, currently before VCAT); and
- (o) waste storage and collection would be located and occur again on the main site (planning permit application PLN16/0434, again, currently before VCAT).

Planning Scheme Provisions

Zoning

Mixed Use Zone [MUZ]

30. The purpose of the MUZ includes (as relevant):
- (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality;*
 - (b) *To provide for housing at higher densities;*
 - (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area; and*
 - (d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*
31. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings.
32. A permit is required under clause 32.04-6 of the Yarra Planning Scheme **[the Scheme]** to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Overlays

Heritage Overlay (HO327)

33. The relevant purpose of the HO is:
- (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (b) *To conserve and enhance heritage places of natural or cultural significance.*
 - (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
 - (d) *To ensure that development does not adversely affect the significance of heritage places.*
34. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.
35. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
- (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
 - (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
 - (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
 - (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
 - (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
 - (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

36. The purpose of this overlay is:
- (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (b) *To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

37. Clause 45.03-1 states it is a requirement that:
- (a) *Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
 - (i) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
 - (ii) *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*
38. With dwellings proposed, this requirement will be addressed by way of a notation.

Particular Provisions

Clause 52.06 – Car parking

39. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay).
40. The application generates a parking requirement for 7 spaces (1 for the 2BR dwelling and 2 for each of the 3 x 3BR dwellings [6]). It is noted that the studies have not been treated as bedrooms due to their size and configuration, making them unlikely to be converted to bedrooms.
41. Six car parking spaces would be provided within the development at the main site at 26-56 Queens Parade (currently before VCAT – PLN16/0434). A planning permit is required under clause 52.06-3 of the Scheme to:
- (a) reduce (including reduce to zero) the number of car parking spaces required under clause 52.06-5; and
 - (b) to provide 6 car parking spaces on another site.
42. Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.34 – Bicycle facilities

43. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.
44. This application has a requirement to provide 1 bicycle parking space.
45. This is not shown on the plans, however the Applicant has not applied to waive this requirement.

Clause 55 – Two or more dwellings on a lot and residential buildings

46. The purpose of this provision is:
- (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (b) *To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.*

- (c) *To encourage residential development that provides reasonable standards of amenity for existing and new residents.*
- (d) *To encourage residential development that is responsive to the site and the neighbourhood.*

47. An assessment against ResCode (clause 55) will be offered in this assessment.

General Provisions

Clause 65 – Decision Guidelines

48. 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 Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision.

State Planning Policy Framework (SPPF)

The following SPPF provisions of the Scheme are relevant:

Clause 11.04-2 – Housing choice and affordability

49. The relevant objective of this clause is *'To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services'*. The relevant strategy is to *'Reduce the cost of living by increasing housing supply near services and public transport'*.

Clause 11.04-4 – Liveable communities and neighbourhoods

50. The objective of this clause is *'To create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities'*. The relevant strategies are to:

- (a) *Create a city of 20-minute neighbourhoods.*
- (b) *Protect Melbourne and its suburbs from inappropriate development.*
- (c) *Create neighbourhoods that support safe communities and healthy lifestyles.*
- (d) *Achieve and promote design excellence.*

Clause 11.04-5 – Environment and water

51. The objective of this clause is *'To protect natural assets and better plan our water, energy and waste management systems to create a sustainable city'*.

Clause 13.03-1 – Use of contaminated and potentially contaminated land

52. The objective of this clause is *'To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely'*.

Clause 13.04-1 – Noise abatement

53. The objective of this clause is *'To assist the control of noise effects on sensitive land uses'*.

Clause 15.01-1 – Urban Design

54. The objective of this clause is *'To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity'*.

Clause 15.01-2 – Urban design principles

55. The objective of this clause is *'To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'*. The strategy of this clause is to apply 11 design strategies. Planning must also consider (as relevant) the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) in assessing the design and built form of residential development of five or more storeys.

Clause 15.01-4 – Design for safety

56. The objective of this clause is *'To improve community safety and encourage neighbourhood design that makes people feel safe'*. The relevant strategy is to *'Ensure the design of buildings, public spaces and the mix of activities contribute to safety and perceptions of safety'*.

Clause 15.01-5 – Cultural identity and neighbourhood character

57. The objective of this clause is *'To recognise and protect cultural identity, neighbourhood character and sense of place'*.

Clause 15.02-1 – Energy and resource efficiency

58. The objective of this clause is *'To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions'*.

Clause 15.03-1 – Heritage conservation

59. The objective of this clause is *'To ensure the conservation of places of heritage significance'*.

Clause 16.01-1 – Integrated housing

60. The objective of this clause is *'To promote a housing market that meets community needs'*.

Clause 16.01-2 – Location of residential development

61. The objective of this clause is *'To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport'*.

Clause 16.01-4 – Housing diversity

62. The objective of this clause is *'To provide for a range of housing types to meet increasingly diverse needs'*.

Clause 16.01-5 – Housing affordability

63. The objective of this clause is *'To deliver more affordable housing closer to jobs, transport and services'*.

Clause 18.01-1 – Land use and transport planning

64. The objective of this clause is *'To create a safe and sustainable transport system by integrating land-use and transport'*. The relevant strategy is:
- (a) *Plan urban development to make jobs and community services more accessible by:*
 - (i) *Concentrating key trip generators such as higher density residential development in and around Central Activities Districts, Principal, Major and Specialised Activity Centres on the Principal Public Transport Network.*

Clause 18.02-1 – Sustainable personal transport

65. The objective of this clause is *'To promote the use of sustainable personal transport'*.

Clause 18.02-5 – Car parking

66. It is an objective *'To ensure an adequate supply of car parking that is appropriately designed and located'*. This clause includes the following relevant strategies to achieve this objective:
- (a) *Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*
 - (b) *Prepare plans for the design and location of local car parking to:*
 - (i) *Protect the role and function of nearby roads, enable easy and efficient use and the movement and delivery of goods.*
 - (ii) *Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users.*
 - (iii) *Create a safe environment, particularly at night.*
 - (iv) *Facilitate the use of public transport.*
 - (c) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

67. In the City of Yarra in 2020 (as relevant):

Land Use

- (a) *Yarra will have increased opportunities for employment*
- (b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*

Transport

- (c) *Local streets will be dominated by walkers and cyclists*
- (d) *Most people will walk, cycle and use public transport for the journey to work*

Clause 21.04-1 – Accommodation and housing

68. The following is offered in this clause:

- (a) *Yarra is experiencing consistent residential growth. The Metropolitan Strategy, Melbourne 2030, identifies that this trend will continue.*
- (b) *Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region (comprising the Cities of Melbourne, Port Phillip, Stonnington and Yarra). However, in order to protect valued character, and particularly its heritage places, the majority of new development will be accommodated on strategic redevelopment sites. These sites are generally located in, abutting, or close to activity centres, or in locations that offer good access to services and transport as required under Melbourne 2030. Other areas such as those in Mixed Use or Business zones will accommodate some population growth, while most established Residential 1 zones are stable and will experience minimal change.*

69. The relevant objectives and standards of this clause are:

- (a) *Objective 1 To accommodate forecast increases in population.*

- (i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08.*
- (ii) *Strategy 1.3 Support residual population increases in established neighbourhoods.*
- (b) *Objective 2 To retain a diverse population and household structure.*
- (c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
 - (i) *Strategy 3.1 Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.*

Clause 21.04-2 – Activity Centres

- 70. The site is approximately 149m to the north-east of the Brunswick Street Activity Centre [AC].
- 71. 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.*
 - (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 21.05-1 – Heritage

- 72. The relevant objectives and strategies of this clause are:
 - (a) *Objective 14 To protect and enhance Yarra's heritage places.*
 - (i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
 - (ii) *Strategy 14.2 Support the restoration of heritage places.*
 - (iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
 - (iv) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
 - (v) *Strategy 14.5 Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.*
 - (vi) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas. Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

Clause 21.05-2 – Urban design

- 73. The relevant objectives and strategies of this clause are:
 - (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
 - (i) *Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.*
 - (b) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
 - (i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*
 - (c) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
 - (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
 - (d) *Objective 22 To encourage the provision of universal access in new development.*

- (i) *Strategy 22.1 Encourage applicants to take into account the access needs of all people in the design of new buildings.*

Clause 21.05-4 – Public environment

74. The relevant objective and strategies of this clause are:
- (a) *Objective 28 To provide a public environment that encourages community interaction and activity.*
 - (i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
 - (ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
 - (iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
 - (iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
 - (v) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

75. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.08-8 – North Fitzroy

76. The following relevant commentary is offered in this clause:
- (a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
 - (b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

Relevant Local Policies

Clause 22.02 – Development guidelines for sites subject to the heritage overlay

77. This policy applies to all land within a Heritage Overlay.
78. The relevant objectives of this clause are:
- (a) *To conserve Yarra's natural and cultural heritage.*
 - (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
 - (c) *To retain significant view lines to, and vistas of, heritage places.*
 - (d) *To preserve the scale and pattern of streetscapes in heritage places.*
 - (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
 - (f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
 - (g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
 - (h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
79. Under clause 22.02-5.7. of the Scheme, the following is offered in relation to new development, alterations and additions:

- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
 - (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
 - (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
 - (iii) *Be visually recessive and not dominate the heritage place.*
 - (iv) *Be distinguishable from the original historic fabric.*
 - (v) *Not remove, cover, damage or change original historic fabric.*
 - (vi) *Not obscure views of principle façades.*
 - (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
- (b) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
- (c) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
- (d) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

80. Clause 22.02-5.7.2 of the Scheme offers more specific requirements (as relevant):

Corner Sites and Sites with Dual Frontages

- (a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
- (b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection*

Ancillaries and Services

- (c) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*
- (d) *Encourage ancillaries or services to be installed in a manner whereby they can be removed without damaging heritage fabric.*

Clause 22.07 – Development abutting laneways

81. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The objectives of this clause are:
- (a) *To provide an environment which has a feeling of safety for users of the laneway.*
 - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
 - (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
 - (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.12 – Public open space contribution

82. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The relevant objectives of this clause are:
- (a) *To implement the Yarra Open Space Strategy.*
 - (b) *To identify when and where land contributions for public open space are preferred over cash contributions.*

- (c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*

83. The site is located in an area where land in lieu of cash is the preferred method of contribution. However, as the site is only 248m², the site does not meet the selection criteria in that the land to be contributed should be approximately 300m². Should the site be subdivided, a cash contribution would be required.

Clause 22.16 – Stormwater management (water sensitive urban design)

84. This policy applies to new buildings (amongst others) and aims to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999; promote the use of water sensitive urban design, including stormwater re-use; mitigate the detrimental effect of development on downstream waterways; minimise peak stormwater flows; reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.

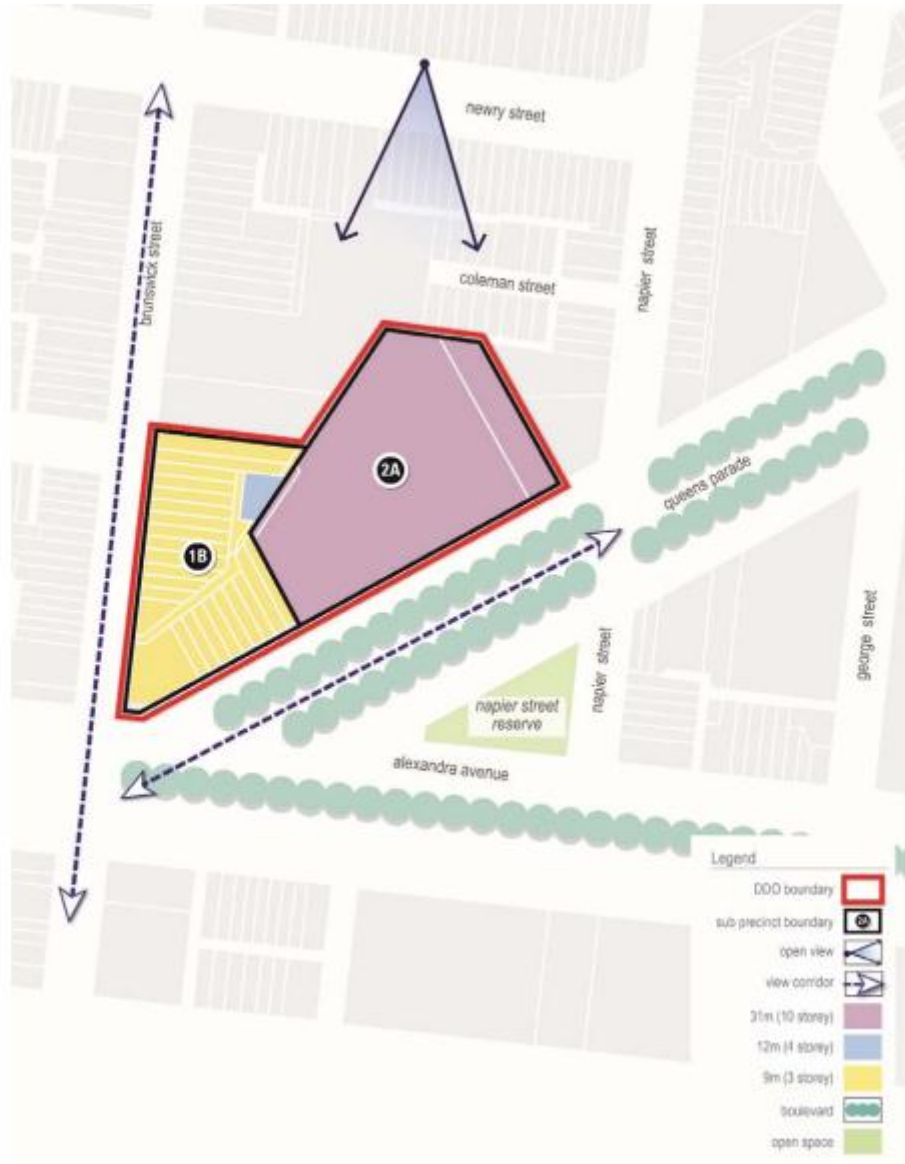
Clause 22.17 – Environmentally sustainable development

85. The most relevant objective of this clause is ‘...that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation’.
86. This policy includes 7 categories in which to assess ESD outcomes. An application of this scale requires the Applicant to submit a Sustainable Management Plan, prepared by a suitably qualified expert. This Applicant has done this.

Other documents

Amendment C229

87. As previously identified, at a Council Meeting on 7 February 2017, Council considered officer’s recommended draft DDO guidelines for the western section of Queens Parade. The DDO guidelines were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



88. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).
89. Council resolved (in part) to:
 - (e) *request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and*

Advertising

90. The original application plans were advertised by way of 133 letters sent to surrounding property owners and occupiers. A total of 24 objections were received on the following grounds:
 - (a) neighbourhood character and impact on heritage;
 - (b) excessive height and overdevelopment;
 - (c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);

- (d) poor ESD outcome;
- (e) shadowing of the laneway;
- (f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
- (g) impacts during construction phase;
- (h) insufficient car parking;
- (i) unreasonable traffic impacts;
- (j) materials have not been specified; and
- (k) insufficient landscaping detail.

91. A consultation meeting was held on 15 November 2016 with the Applicant, Objectors and Council Officer's in attendance. Much of the focus was on the interface with this proposal with the adjacent dwellings, the laneway and the proposed development at 25-56 Queens Parade (the 'main site'). At the conclusion of the meeting, the Applicant agreed to engage a building surveyor to assess the safety aspects of access being via a lane (primarily focused on emergency service access).
92. This information was provided to Council on 6 February 2017, with the MFB confirming they had no issue with access to the rear site with regard to emergency access.

Referrals

93. Having regard to the relevant planning controls and the nature of the application, there are no external Referral Authorities.
94. The application was referred internally to the following:
 - (a) Urban Design Unit;
 - (b) Engineering Services Unit;
 - (c) ESD Advisor; and
 - (d) Heritage Advisor.
95. The substituted plans were also referred to the above. Both sets of advice have been included as attachments to this report.

Assessment

96. The primary considerations for this application are as follows:
 - (a) strategic policy;
 - (b) heritage;
 - (c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
 - (d) traffic and car parking;
 - (e) bicycle parking;
 - (f) waste management;
 - (g) Objector concerns; and
 - (h) compliance with proposed DDO.

Strategic policy

97. State and Local Planning Policy direct development close to ACs and well serviced by public transport and infrastructure. Further, the MUZ of the land aims '*To provide for housing at higher densities*' and '*To encourage development that responds to the existing or preferred neighbourhood character of the area*'.
98. As was indicated in the assessment of the development on the 'main site' fronting Queens Parade (planning permit application PLN16/0434), the Yarra Planning Scheme lacks guidance in this regard, in particular on sites in the MUZ (and identified as being a SRS in that instance, although that is not the case for this site given its size).

99. Whilst there is State Policy support for higher residential densities in appropriate locations, there are a number of policy and physical factors that must be considered in this instance. These include the primarily single storey building stock surrounding the site to the west, north and south, the large proposed development site to the south-east and the laneway access that constrains the subject site. The heritage context of the wider area must also be considered.
100. Whilst the 7 February 2017 Council resolution seeking permission from the Planning Minister for interim controls has been outlined in the background section of this report, this resolution has no statutory weight in this planning assessment, unless the Minister determines to approve the interim controls. A brief assessment against this potential controls is found later in this report.
101. Environmentally sustainable design [**ESD**] guidance is offered at clauses 11.04-5, 15.02-1 and 22.16 of the Scheme, encouraging development that reduces energy consumption and minimises storm water runoff. An ESD assessment is offered later in this report.
102. Car parking policy is offered at clauses 18 and 21.06 of the Scheme, with state and local policy encouraging sustainable transport modes such as walking, public transport and cycling. A detailed car parking and traffic assessment is offered later in this report.

Heritage

103. The purpose of the Heritage Overlay includes:
 - (a) *To conserve and enhance those elements which contribute to the significance of heritage places.*
 - (b) *To ensure that development does not adversely affect the significance of heritage places.*
104. The site is not developed so 'demolition' is not a relevant consideration. This application is therefore concerned with whether the proposed development would adversely affect the significance of the North Fitzroy Heritage Precinct.
105. Local policy at clause 22.02-5.7.1 includes policy guidance that assumes a development site has a main street exposure with adjacent façades to be considered. However, the context of this site is unique, fronting only the laneway with the rear of heritage properties presenting towards the site.
106. The view line requirements of the Scheme (clause 22.02-5.7.1, figure 2) and much of the policy guidance are therefore not relevant to this assessment.
107. Much of the local heritage policy relates to siting new built form to the rear of heritage fabric, for which this application naturally does due to the location of the site.
108. This application was referred to Council's Heritage Advisor, and it was noted that as the site is positioned behind other sites and only accessed via a laneway, any development (within reason, having regard to height) would not contribute to or detract from the heritage character of the area. The 3-storey townhouses would therefore not unreasonably impact the heritage significance of the North Fitzroy Heritage Precinct.
109. Council's Heritage Advisor also commented on the laneway surfaces around the site. It is likely that the western segment and portion linking from Brunswick Street were pitched bluestone. It is likely that the eastern branch was pitched in bluestone too. This eastern branch has been addressed in the main site assessment, with a recommendation that should a permit issue, this segment be reconstructed required prior to occupation. As access would be provided to this development from the laneway linking to Brunswick Street, the remainder of the lane, linking from the site to Brunswick Street should be reconstructed.

This should be required by way of a permit condition.

110. Based on the above assessment, the proposal would not adversely affect the heritage significance of the North Fitzroy Heritage Precinct.

ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17

111. This section will incorporate clauses 22.05, 22.16 and 22.17, framed around clause 55 (ResCode).

Standard B1 – Neighbourhood Character Objectives

112. As has been outlined in the previous heritage assessment, the construction of a 3-storey building in this location (with no primary street frontage) would not unreasonably impact the character of the area. The objective of this standard is met.

Standard B2 – Residential Policy Objectives

113. The construction of 4 dwellings on the lot is supported by state and local policies in this location given the site's proximity to the Brunswick Street Activity Centre and proximity to services, amenities and public transport options. The objective of this standard is met.

Standard B3 – Dwelling Diversity Objectives

114. N/A – Applies to developments of 10 or more dwellings.

Standard B4 – Infrastructure Objectives

115. The site is well located to take advantage of existing utility services and infrastructure. Further, the construction of 4 dwellings on the lot would not unreasonably overload the capacity of utility services and infrastructure. The objective of this standard is met.

Standard B5 – Integration with the Street Objective

116. The standard states that it is an objective '*To integrate the layout of development with the street*'. The standard continues to state that '*Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility*'.
117. This is a difficult given the site is only accessed via a laneway. However, the subdivision of the land has already occurred and it would not support '*...the fair, orderly, economic and sustainable use, and development of land*' if no development was permitted to occur on this site (Section 1(a) of the *Planning and Environment Act 1987*).
118. The dwelling entrances are well located and positioned across the site. However, in this instance, the fences adjacent to dwelling entrances would be approximately 1.9m high and would not encourage passive surveillance or promote the positive integration with the lane. This could be addressed by way of a permit condition however, reducing the fence/gate heights adjacent to dwelling entrances to 1.5m (standard front fence requirement as per clause 55.06-2 of the Scheme) with a minimum permeability of 50%. This should be imposed by way of a permit condition, should a permit issue.
119. Council's Urban Design Unit suggested that the southern interface of the development (dwelling 1) should be improved to activate the lane. However, the proposal already includes southern balconies on level 1 to activate this section of the lane and is considered acceptable.

120. Council's urban Design Unit also suggested that the laneway abutting the site should be converted to community space. However, the dwelling to the north of the subject site uses this stretch of lane for vehicular access to a garage.

Standard B6 – Street Setback Objective

121. N/A – The proposal is not adjacent to a street, rather adjoins laneways. The hard edge form of the proposal (along the south, east and northern boundaries) is supported from a neighbourhood character perspective as there are no adjacent dwellings to establish clear cues for setbacks. Rather, setbacks have been offered across the development (primarily from the western boundary) to mitigate off-site amenity impacts (assessed throughout this report).

Standard B7 – Building Height Objective

122. This standard states that buildings should not exceed a height of 9m (albeit exemptions are listed at clause 55.03-2 in circumstances where there is a specified fall to the land) and that the objective is '*To ensure that the height of buildings respects the existing or preferred neighbourhood character*'.
123. It is important to review the purpose of the MUZ and consider the distinction between this zone and other residential zones. These residential zones were introduced by Council in April 2015.
124. Mixed Use Zone:
- (a) purpose includes:
 - (i) *To provide for housing at higher densities.*
 - (ii) *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
 - (b) no mandatory maximum building height specified in the zone or schedule.
125. Neighbourhood Residential Zone:
- (a) purpose includes:
 - (i) *To recognise areas of predominantly single and double storey residential development.*
 - (ii) *To limit opportunities for increased residential development.*
 - (iii) *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics*
 - (b) 8m mandatory maximum building height specified in the zone.
126. General Residential Zone:
- (a) purpose includes:
 - (i) *To encourage development that respects the neighbourhood character of the area.*
 - (ii) *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
 - (b) Schedule 1 – mandatory maximum 10.5m building height;
 - (c) Schedule 2 – mandatory maximum 9m building height;
 - (d) Schedule 3 – no maximum building height specified; and
 - (e) Schedule 4 - mandatory maximum 11.5m building height.
127. It is therefore clear that in relation to building heights and preferred neighbourhood character, the NRZ is the most restrictive, followed by the GRZ and that the MUZ is the least restrictive of the residential zones.

128. Consideration of appropriate building heights in the MUZ therefore rests on neighbourhood character and off-site amenity outcomes. This is as opposed to mandatory height controls as imposed in the GRZ (excluding GRZ3) and the NRZ to preserve single and double storey building stock characteristics.
129. The proposal would be a maximum height of 9.2m. Whilst the MUZ does not specify preferred or mandatory maximum heights, Standard B7 states that the maximum building height should not exceed 9m.
130. Considering the relevant decision guidelines, the proposed 9.2m height (or 200mm variation from the ResCode Standard) is supported as the proposal has responded to the sensitive interface to the west (the rear of dwellings fronting Brunswick Street), and afforded 1m to 6.2m western boundary setbacks, ensuring that the proposed 3 storey height would not unreasonably overwhelm or dominate these dwellings. Considering the impact on the dwelling to the north, the proposal also afforded a 1m-1.3m setback at level 1, with a green roof introduced adjacent to the private open space area/garden to provide a transition to this space. This will be discussed in greater detail later in this assessment.
131. There are also limited vantage points in which public views to this development would be afforded. As the development is positioned along laneways, the 3-storey height would have limited appreciation from the public realm.
132. The objective of this standard is met

Standard B8 – Site Coverage Objective

133. This Standard states that site coverage should not exceed 60%. The proposal would result in a site coverage of 87%.
134. Considering the Standard B8 decision guidelines, the proposed site coverage would not unreasonably impact the amenity of nearby dwellings as:
 - (a) the site is separated from sites to the west and south by way of a laneway and adjoins a shed to the north; and
 - (b) the design response has afforded setbacks from the western boundary (ranging from 1m to 6.2m, ensuring the proposal would not result in unreasonable visual bulk when viewed from the dwellings to the west – presenting the closest private open space areas to the subject site).
135. It is also noted that the site is currently impervious (concreted), resulting in this proposal improving existing site permeability.
136. The proposed site coverage is considered to respond to the character of the area and responds to the features of the site.

Standard B9 – Permeability Objective

137. This Standard states that a site should be covered by at least 20% permeable surfaces. The proposal incorporates pavers for 20% of the site, supporting permeability generally as per this standard (albeit the pavers themselves are impervious, the gaps would support some infiltration).
138. Clause 22.16 is also applicable in this instance and is relevant when assessing permeability. The Applicant submitted a STORM report, demonstrating that with an 8000L rainwater tank (or 4 x 2,000L tanks), the application would achieve a 120% STORM rating.
139. Subject to a condition to this effect, the objective of this Standard is met.

Standard B10 – Energy Efficiency Objectives

140. Along with this Standard, clause 22.17 of the Scheme is applicable.
141. The Applicant has committed to the following:
- (a) NatHERS rating of at least 6 stars; and
 - (b) provision of 4 x 2,000L rainwater tanks with a STORM rating of 120%;
 - (c) energy efficient heating and cooling; and
 - (d) water efficient appliances and fixtures.
142. However, Council's ESD Advisor has identified the following deficiencies:
- (a) *There is large amount of exposed north-west facing glazing that will suffer from high levels of summer solar gain and unwanted glare. Strongly recommend that all glazing exposed summer sun angles be protected by some external adjustable awnings, louvers, shutters or similar that can provide shade from summer sun angles.*
143. The above should be addressed by way of a permit condition, should a permit issue, to reduce reliance on cooling in summer.
144. Further, the Applicant has committed to permanent indoor clothes lines for its BESS score. A condition should require all commitments of the SDA to be shown on the plans, where relevant.
145. Council's ESD Advisor also suggested that the Applicant consider improving the NatHERS commitment, include a solar PV array for on-site consumption and consider including a gas boosted solar hot water system. However, considering the scale of the proposal, this is considered onerous and should not be required by way of permit conditions.
146. Subject to the conditions contained in this report, the proposal would achieve a reasonable level of energy efficiency.

Standard B11 – Open Space Objective

147. N/A – The proposal does not include or adjoin any public or communal open space.

Standard B12 – Safety Objective

148. The development ensures that both dwelling entries would be visible via the adjacent laneways. The entries are recessed to offer a pedestrian refuge, without being unreasonably deep to create an unsafe enclave. Should a permit issue, a condition should ensure that lighting is provided to dwellings entries.
149. Council's Urban Design Unit suggested the laneway at the east of the site be converted to community space, if not used by vehicles. However, the dwelling to the immediate north of the subject site uses this section of laneway to access their shed. Nevertheless, only a limited number of garages use the laneways that abut the site, therefore not bringing rise to unreasonable pedestrian safety concerns.
150. However, it is agreed (as per the urban design advice) that the east facing rooms in dwellings 2-4 should be enlarged to both improve internal amenity and perceived passive surveillance within the lane. Further, a condition should require the addition of another window in the ground floor, eastern elevation of dwelling 1 to encourage passive surveillance of the lane.
151. Finally in relation to safety, VCAT decisions have suggested that this is not a valid planning consideration (*Ciullo v Yarra CC* [2016] VCAT 912 (2 June 2016) and *PS Corporation (Aust) Pty Ltd v Moonee Valley CC (Correction)* [2016] VCAT 1756 (21 October 2016). In the case of *Ciullo v Yarra CC*:

Access by emergency services

23. *While I appreciate the concern of objectors to ensure that there is safe access to the site by emergency services vehicles such as the fire brigade, with respect, I regard these concerns as overstated and unproven in the planning process.*
24. *I also note that there are more direct processes by which this issue can be considered. In any event, even if I was to seek to apply the guidelines referred to by objectors (which sit outside the planning scheme and are administered by a specialist authority), there is a process by which consent could be given by the relevant authority even if the preferred parameters were not met.*
25. *In these circumstances, I do not regard this allegation as a reliable reason to refuse to grant a planning process in the absence of a clear indication from the relevant authorities that the site is not accessible to fire fighting apparatus, especially when the site is within an existing urban area, is accessed via a 3 metre bluestone surfaced laneway, is proximate to nearby formed roads and does not exhibit any greater than average susceptibility^[5].*

152. Nevertheless, the Applicant provided a letter from the MFB, confirming that they raise no issue with dwellings being located on the laneway in terms of emergency access.

Standard B13 – Landscaping Objectives

153. The character of the area is of limited landscaping with small front gardens, if any. However, the immediate interface is the rear of sites with timber fences and metal roller doors. The proposed layout is supported, with ground level courtyards being offered at the western interface to address massing issues and offer a ground level area of open space, as opposed to responding to the landscape character of the area. The objective of this Standard is met.

Standard B14 – Access Objective

154. N/A – There are no crossovers proposed.

Standard B15 – Parking Location Objectives

155. N/A – There is no parking proposed on this site.

Standard B17 – Side and Rear Setbacks Objective

| Wall | Height | Setback | Standard B17 prescribed setback | Complies |
|------------------------------|--------|---------------|---------------------------------|--------------------------------|
| Ground floor west | 4m | 1m | 1.12m | No – 120mm variation |
| First floor west – terrace | 5.1m | Minimum 3.2m | 1.45m | Yes |
| First and second floor west | 9.1m | Minimum 3.2m | 4.19m | No – 990mm variation |
| First and second floor north | 7m | Minimum 1m | 2.09m | No – 1.09m variation |
| Ground to second floor east | 9.1m | 200mm to 2.4m | 4.19m | No – 1.79m to 3.99m variations |

156. The ground floor, western variation is only 120mm. Further, the first and second floor variations are less than 1m, being 990mm. Even though there are areas of private open space adjacent to this wall segment, they are separated by a 2.9m wide lane. When considered with the proposed setbacks, this offers a sufficient buffer or separation to ensure that these variations would not unreasonably impact the amenity of the adjacent dwellings.
157. The north-west corner of the proposal would be setback 1m from the north boundary and extend to 2 storeys (plus a green roof). The adjacent site presents part of a garage wall and part of a hardstand/playground area to the site. It is identified that a second garage/carport is located to the west of this playground area, with shade sails over another private open space area further west at the rear of the dwelling.



Source: Google maps

158. The proposal would be constructed to the northern boundary at the ground level, setback 1m-1.3m at the first floor and eroded with a green roof at level 2. This Standard states that the first and second floor (green roof) segment should be setback a further 1.09m from the north boundary. However, the variation from this standard is supported as:
 - (a) due to the orientation of the lot, the variation would not result in additional overshadowing of the adjacent open space area;
 - (b) walls on boundaries are common in this area, with this built form typology creating established amenity expectations; and
 - (c) the dwelling is afforded another private open space area directly to the rear (east) of the existing dwelling (further west of the proposed townhouses).
159. For the above reasons, the 1.09m side and rear setback variation would not unreasonably impact the amenity of the dwelling to the north.
160. Finally, four triangular shaped segments are provided along the eastern boundary. The variations sought for these walls range from 1.79m to 3.99m. However, as this section of wall is adjacent to a 3m wide laneway and the large potential future development site at 26-56 Queens Parade, the variation from this standard would not unreasonably impact the amenity of adjacent dwellings or the development potential of the adjacent site.
161. The objective of this standard is met.

Standard B18 – Walls on Boundaries Objective

162. This standard states that a new wall constructed on or within 200mm of a side or rear boundary should not exceed an average height of 3.2m or maximum height of 3.6m.
163. According to this standard, the total length of walls on the boundaries of this lot should not exceed:
- (a) 10m – south
 - (b) 13m – east
 - (c) 11.8m – north
 - (d) 12.4m – west

| Wall | Height (maximum) | Wall length on or within 200mm of the boundary | Wall height complies? | Wall length complies? |
|-------|------------------|--|-----------------------|-----------------------|
| North | 9.2m | 17.7m | No | No |
| East | 9.2m | 15.4m | No | No |
| South | 9.2m | 6.3m | No | Yes |

164. For all except the south boundary wall length, the wall height and length along the north, east and western boundaries does not comply with this standard.
165. The east and west boundary variations are supported as they abut 2.9m – 3m wide laneways. The variations would therefore not unreasonably impact the amenity of the dwellings to the west or the development potential of the site to the east.
166. Considering the height and length variation along the northern boundary, the development would generally abut a shed to the north. At the ground floor, the development would abut the full length of the POS area to the north, however the wall would be a height of 3.4m. At the first and second floor, the development would be 1.3m longer than the abutting shed. Whilst the development is to the south of the adjacent private open space area, the variation from this standard is only supported at level 1. It is considered that a 3 storey wall in this location on the northern boundary would unreasonably impact the amenity of the dwelling to the north by virtue of visual bulk. A condition should therefore be imposed on any permit requiring the level 2, northern boundary wall to be setback at least 1m where it does not abut a boundary wall to the north. It is not considered that full B17 side and rear setback compliance is required in this location (4.3m) and given the orientation of the wall, however a 1.3m setback would align with the adjacent green roof and inset of level 1 below. The zoning of the land (MUZ) also supports higher residential densities, further supporting the variation from this ResCode standard, albeit not as far to say that a 3 storey boundary wall is acceptable opposite private open space within a MUZ.

167. The objective of this standard is met.

Standard B19 – Daylight to Existing Windows objective

168. N/A – The development is not within close proximity to any habitable room windows.

Standard B20 – North-facing Windows Objective

169. N/A – There is not a north-facing habitable room window within 3m of a boundary on an abutting lot.

Standard B21 – Overshadowing Open Space Objective

170. Reviewing the shadow diagrams provided by the Applicant, the proposal would only increase overshadowing of the private open space areas to the west until 9.30am at the September Equinox. The objective of this standard is met.

Standard B22 – Overlooking Objective

171. The plans have not addressed overlooking as per this standard. Whilst some screens have been provided, no detail has been given, further, the balconies/roof terraces have not been treated. This can be addressed by way of a permit condition, ensuring the objective of this standard is met.

Standard B23 – Internal Views Objective

172. The plans do not confirm the location or level of transparency for the screens provided between courtyards/terraces. This should be addressed by way of a permit condition, should a permit issue.

Standard B24 – Noise Impacts Objective

173. Having regard to the context, the proposal does not bring rise to noise concerns. The objective of this standard is met.

Standard B25 – Accessibility Objective

174. The entry to 3 of the 4 dwellings would be easily accessible to people of limited mobility (1 entrance would be accessed via stairs). The objective of this Standard is met.

Standard B26 – Dwelling Entry Objective

Whilst the dwelling entries would be visible from the laneway, they would be gated with 1.9m high fences/gates.

175. As has already been suggested, should a permit issue, a condition should require these fences/gates to be a maximum 1.5m high and 50% transparent. Further, the plans should include the location of letter boxes and street numbering to further identify the entries. These items should be addressed by way of permit conditions, should a permit issue. Subject to conditions to this effect, the objective of this standard is met.

Standard B27 – Daylight to new Windows Objective

176. All of the new windows are open clear to the sky for a minimum area of 3m² and dimension of 1m (including the adjacent laneways). The objective of this standard is met.

Standard B28 – Private Open Space Objective

177. Each dwelling would be provided with ground floor courtyards, level 1-2 balconies and level 3 roof terraces. This provides for the reasonable recreation and service needs of residents. The objective of this Standard is met.

Standard B29 – Solar Access to Open Space Objective

178. With a range of open space areas, including roof decks, the open space areas would receive adequate daylight. The objective of this standard is met.

Standard B30 – Storage Objective

179. The plans do not detail storage for the dwellings. This should be addressed by way of a permit condition, ensuring a minimum 6m³ store is provided for each dwelling. It is not considered necessary that this space is externally accessible in this instance, as residents would not need to store gardening supplies, for example. Subject to a condition to this effect, the objective of this standard is met.

Standard B31 – Design Detail Objective

180. The design of dwellings is simple, with the contemporary window proportions and a mixture of brick and metal finishes. Given the dwellings are located within a laneway, there is no immediate streetscape character to respond to. The approach selected, a simple, modern design, is therefore considered to be acceptable. The objective of this standard is met.

Standard B32 – Front Fence Objective

181. N/A – A planning permit is not required under the MUZ for the front fences (heritage permit trigger only).

Standard B33 – Common Property Objectives

182. N/A – There is no identifiable common property.

Standard B34 – Site Services Objective

183. Conditions should require the detail and location of mail boxes and metres. Subject to a condition to this effect, the objective of this standard is met.

Traffic and car parking

184. The relevant decision guidelines at Clause 52.06 will be used to guide this assessment.

Car park layout and access

185. The application is seeking permission under clause 52.06-3 to reduce the car parking requirement by 1 space (from 7 to 6) and provide all of the car parking spaces required under clause 52.06-5 on another site (26-56 Queens Parade).
186. Considering the clause 52.06-6 decision guidelines, the 1 space car parking reduction is supported based on the following:
- (a) the site is well serviced by public transport and can be easily accessed with walking and cycling options; and
 - (b) ABS data suggests that three-bedroom flat style dwellings in Fitzroy North have an average car ownership of 1.5 spaces per dwelling. With 6 spaces being provided for 4 dwellings, the proposal matches the ABS anticipated rates.
187. The provision of 6 spaces on the main site for the townhouses is generally supported, provided permit conditions are imposed on any permit issued:
- (a) to ensure that the development does not commence until the development at the main site commences; and
 - (b) to ensure that the development is not occupied until the car parking spaces on the main site have been constructed and are ready for use; and
 - (c) whilst Council's Engineers suggest that residents parking in the main site would be more likely to walk along Queens Parade and down the laneway than through the main development, a clear, accessible link must be provided through the development at the main site for residents of this development to access the car park.

Traffic

188. A detailed traffic assessment has been undertaken in the officer report for PLN16/0434.

Council's Engineering Services Unit and external traffic advice (Cardno) supported the proposed 438 car parking spaces as originally sought for application PLN16/0434. With 341 car parking spaces now proposed (6 of which would be for the townhouses currently being assessed), the traffic generated by the proposal would be almost ¾ of the original proposal. The original Engineering assessment is therefore maintained, being that '*The traffic generated by the development can be dispersed into the surrounding road network without adversely compromising its operation or safety*'.

189. Engineering conditions have also been recommended in relation to the following, which are considered appropriate given the nature of the application and the access via the ROW:
- (a) reinstatement of any damaged Council infrastructure;
 - (b) upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost;
 - (c) the Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works;
 - (d) public lighting requirements, including lights do not unreasonably spill into nearby windows; and
 - (e) requirement for a construction management plan (including a temporary lighting plan, if any existing public lighting requires temporary disconnection).
190. Subject to the conditions outlined in this report, the proposed car parking layout, access and traffic impacts would not detrimentally impact the area.

Bicycle parking

191. Council's Urban Design Unit suggested that bicycle parking be provided on-site.
192. Clause 52.34 requires 1 resident bicycle parking space. This requirement should be imposed by way of a permit condition, should a permit issue. Along with condition relating to bicycle parking design as per clause 52.34-4 of the Scheme.

Waste management

193. Waste storage and collection would be via the main site (26-56 Queens Parade). Whilst Council's Services Contracts Unit raised concern with this link (raised in the main site assessment), a condition should be imposed on any permit issued giving it no force or effect unless the development at the main site has commenced. A condition should also state that this development must not be occupied until the adjacent development has been completed, ensuring the waste storage area is ready.

Objector concerns

194. The majority of objector concerns have been considered throughout this report. Alternatively, an assessment/response is provided below.

neighbourhood character and impact on heritage;

195. Addressed at paragraphs 100 to 107 and 109.

excessive height and overdevelopment;

196. Addressed at paragraphs 119 to 129.

off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);

197. Addressed at paragraphs 152 to 165. Airflow was not specifically addressed, however as the proposal is bordered by minimum 3m wide lanes, the proposal does not bring rise to airflow concerns.

poor ESD outcome;

198. Addressed at paragraphs 136 to 142.

shadowing of the laneway;

199. Overshadowing of private open space is considered under ResCode. Whilst shadowing of footpaths is a relevant planning consideration, shadowing of a laneway is not considered to be unreasonable.

safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);

200. Addressed at paragraphs 144 to 148.

impacts during construction phase;

201. Should a permit issue, a construction management plan should be required by way of a permit condition to mitigate construction impacts.

insufficient car parking;

202. Addressed at paragraphs 179 to 181.

unreasonable traffic impacts;

203. Addressed at paragraphs 182 to 184.

materials have not been specified; and

204. Whilst materials have not been specified, this can be addressed by way of a permit condition, as has been recommended in this report.

insufficient landscaping detail.

205. Given the character of the area and the location of the site (with no primary street frontage) the level of landscaping and detailing provided is acceptable and context appropriate.

Compliance with proposed DDO

206. Whilst the proposed DDO is not a seriously entertained policy and is therefore given no weight in this planning assessment. However, it is considered to be prudent to assess the application against the proposed DDO nevertheless.

207. The site is within Precinct 1B of the proposed DDO (Brunswick Street Precinct). Relevant policy includes (including Council resolution changes/additions), as relevant:

Design Objectives

- (a) *To encourage low rise additions behind the front sections of the terraced houses of Brunswick Street and Queens Parade that respects the prevailing streetscape character and subdivision grain.*

- (b) *To facilitate the appropriate low rise infill of the site located to the rear of residential properties fronting Brunswick Street.*

Buildings and works

- (c) *mandatory maximum 2 storeys. Built form outcome to be achieved 'Development that respects the heritage and streetscape value of the precinct';*
- (d) *setback from side and rear boundaries – Standard B17 (discretionary control);*

Table 3 – General Design Requirements

- (e) *building facades - 'The articulation of new building facades should incorporate vertical articulation to reinforce the prevailing fine grain pattern of subdivision and buildings in the area' and 'Façade design treatments and the articulation of new buildings should not compete with or mock replicate the detailing of heritage buildings';*

Decision guidelines

- (f) *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
- (g) *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
- (h) *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
- (i) *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
- (j) *The profile and impact of redevelopment along Queens Parade and from Newry Street and the Edinburgh Gardens.*
- (k) *The design response at the interface with existing low-scale residential properties.*
- (l) *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
- (m) *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
- (n) *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
- (o) *The extent to which ESD measures are incorporated into the development.*

The application is 1 storey above the proposed mandatory maximum 2 storey height control. However, this assessment has already outlined how the proposed height is supported from a neighbourhood character, heritage and off-site amenity perspective. As the DDO is not part of the Scheme, a permit can still be granted above the proposed mandatory maximum 2 storey height control. In terms of current planning policy and the heritage and character assessment contained in this report, the proposed 3 storey height is supported.

As the land is positioned behind lots with primary street frontages on Brunswick Street and Queens Parade, the site does not have a primary street frontage. However, subject to the conditions contained in this report, the proposal has been designed within its context and would not dominate the surrounding heritage stock or 1-2 storey dwellings.

Further, the proposal includes satisfactory ESD measures, as has been addressed in this report.

Whilst the proposal is 1 storey higher than the proposed mandatory maximum height control, it is considered to meet all other policy elements and design guidelines of the proposed DDO.

Conclusion

208. Based on the above report, the proposal complies with the relevant Scheme provisions and planning policy and is therefore supported.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to inform VCAT that had it been in a position, it would have issued a Notice of Decision to Grant a Permit (PLN16/0732) for 26-52 Queens Parade, Fitzroy North VIC 3068 for the in accordance with the decision plans (received by Council 21 February 2017) 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 (received by Council 21 February 2017) but modified to show:
 - (a) the level 2, northern boundary wall to be setback at least 1.3m where it does not abut a boundary wall to the north;
 - (b) fences/gates adjacent to the dwelling entrances a maximum height of 1.5m and minimum transparency of 50%;
 - (c) the location of letter boxes and street numbering;
 - (d) lighting to dwelling entrances;
 - (e) external, operable, vertical screens to the north and west facing windows;
 - (f) details of the screens between courtyards/terraces and to habitable room windows, confirming:
 - (i) a minimum height of 1.7m;
 - (ii) a maximum permeability of 25%; and
 - (iii) that they are fixed.
 - (g) larger east facing windows to dwellings 2-4;
 - (h) an additional window to the ground floor, eastern elevation of dwelling 1;
 - (i) a minimum 6m³ store for each dwelling;
 - (j) a schedule of colours and materials, including samples (where relevant);
 - (k) bicycle parking as per clause 52.34 of the Yarra Planning Scheme;
 - (l) bicycle parking must meet the design requirements at clause 52.34-4 of the Yarra Planning Scheme; and
 - (m) items as per the Sustainable Design Assessment, where relevant to show on the 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. Development must not commence until the development at 26-56 Queens Parade, Fitzroy North (PLN16/0434) commences.
4. The development must not be occupied until the car parking spaces, waste storage area and pedestrian link from Queens Parade (for use of this development) are constructed and ready for use at 26-56 Queens Parade, Fitzroy North (PLN16/0434).
5. 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.

6. 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.
7. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
8. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by WGE and dated 9 September 2016, but modified to reflect the decision plans.
9. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
10. Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the laneways adjoining the site (extending from Brunswick Street and the entrances of the dwellings). When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
 - (a) a lighting scheme designed for the laneways and within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
 - (b) the control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997, "Control of the obtrusive effects of outdoor lighting";
 - (c) the locations of any new light poles so as not to obstruct access into private garages/off and on street parking places;
 - (d) lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
 - (e) a maintenance regime for the lighting scheme within the curtilage of the property.
 - (f) the use of energy efficient luminaires and/or solar lighting technologies to reduce carbon emission if possible.
11. The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.
12. 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; and
 - (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.
13. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 14. 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.
 15. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
 16. 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:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
 17. Prior to the commencement of the development, the developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development (outlined in condition 18) for assessment and endorsement to the satisfaction of the Responsible Authority.
 18. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be carried out, to the satisfaction of the Responsible Authority:
 - (a) reconstruction of the segment of laneway to the east of the site in pitched bluestone. The cost of these works must be borne by the Permit Holder; and
 - (b) reconstruction of the segment of laneway linking the southern end of the site to Brunswick Street, as per existing conditions. Half (50%) of the cost of these works must be borne by the Permit Holder (with the remaining half to be borne by the Responsible Authority).

19. 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:

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of development permitted under the permit.

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

In accordance with the Yarra Planning Scheme, a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

CONTACT OFFICER: Sarah Thomas
TITLE: Principal Planner
TEL: 92055046

Attachments

- 1 PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Development Summary
- 2 PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans
- 3 PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans
- 4 PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Heritage advice on substituted plans
- 5 PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans
- 6 PLN16/0732-02: PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - ESD advice on substituted plans

Attachment 1 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Development Summary

26-56 QUEENS PARADE,
FITZROY NORTH

VCAT SUBMISSION
DATE:20/02/17
DEVELOPMENT SUMMARY - REV.J (LOT 1)

KOICHI TAKADA ARCHITECTS

DEVELOPMENT SUMMARY - VCAT SUBMISSION

SITE AREA: 253 m²
SITE COVERAGE 222 m² (excludes courtyards)

| | LEVEL |
|----------|---------|
| BUILDING | GROUND |
| | LEVEL 1 |
| | LEVEL 2 |
| | ROOF |
| | TOTALS |

| APARTMENT MIX | | |
|------------------------------------|-----------|-----------|
| 2BED/2BTH+S 75-85m ² | 3BED/2BTH | SUB-TOTAL |
| 1 | 3 | 4 |
| | | 0 |
| | | 0 |
| | | 0 |
| | | 0 |
| 1 | 3 | 4 |

| CARPARK | 2BED/2BTH+S | 3BED/2BTH+S | SUB-TOTAL |
|---------|-------------|-------------|-----------|
| AVERAGE | | | |
| RATE | 1.0 | 1.5 | |
| NO. | 1 | 5 | 6 |

*Carparking accommodated in the basement of adjacent site 26-56 Queens Parade, under separate application

Notes:

1. This scheme and schedule have been prepared for planning permission purposes only.
2. The design has been prepared with limit structural and services advice and coordination.
3. Changes to the layouts and associated figures will be made during the design development.

Definitions:

1. NSA Apartment areas have been measured according to the Property Council of Australia method of measurement.
2. GFA has been measured to the external face of the external walls, including areas for vertical circulation, lift, stair and plant rooms and EXCLUDING voids.
4. GBA has been measured to the external face of all built areas, including balconies, roof terraces, and slab extensions accommodating planter boxes and privacy screens. GBA excludes non-trafficable green roofs.
3. Basement GFA has been measured to the external face of all shoring walls, including services, plant rooms, vertical circulation, and lifts.

Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

REAR 26-56 QUEENS PARADE

FITZROY NORTH Melbourne, VIC 3068

ARCHITECTURAL DRAWINGS

| B000 | DRAWING LIST | NTS |
|------|-------------------------------------|-------|
| B010 | SITE PLAN AND ROOF PLAN | 1:400 |
| B011 | SURVEY PLAN AND EXISTING PLAN | 1:400 |
| B100 | GROUND FLOOR LEVEL | 1:200 |
| B101 | LEVEL 01 | 1:200 |
| B102 | LEVEL 02 | 1:200 |
| B103 | ROOF PLAN | 1:200 |
| B200 | WEST ELEVATION | 1:200 |
| B201 | EAST ELEVATION | 1:200 |
| B202 | NORTH ELEVATION | 1:200 |
| B203 | SOUTH ELEVATION | 1:200 |
| B204 | EXISTING EAST AND WEST ELEVATIONS | 1:200 |
| B205 | EXISTING NORTH AND SOUTH ELEVATIONS | 1:200 |
| B300 | SECTION A, B | 1:200 |
| B301 | SECTION C, D | 1:200 |
| B302 | SECTION E, F | 1:200 |
| B550 | SHADOW DIAGRAM 22 SEPT - 9am | NTS |
| B551 | SHADOW DIAGRAM 22 SEPT - 9.30am | NTS |
| B552 | SHADOW DIAGRAM 22 SEPT - 10am | NTS |
| B553 | SHADOW DIAGRAM 22 SEPT - 11am | NTS |
| B554 | SHADOW DIAGRAM 22 SEPT - 12pm | NTS |
| B555 | SHADOW DIAGRAM 22 SEPT - 1pm | NTS |
| B556 | SHADOW DIAGRAM 22 SEPT - 2pm | NTS |
| B557 | SHADOW DIAGRAM 22 SEPT - 3pm | NTS |

NOTE:
DO NOT SCALE FROM DRAWINGS.
VERIFY ALL DIMENSIONS ON THE BEFORE COMMENCING WORK.
CONFORM TO THE PROVISIONS OF THE PLANS TO STRICTLY
CONFORM WITH THE CURRENT OF THE CLIENT AND ROOM

| NO | REVISION | BY | DATE |
|-----|-------------------|----|----------|
| 1 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 2 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 3 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 4 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 5 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 6 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 7 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 8 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 9 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 10 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 11 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 12 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 13 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 14 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 15 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 16 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 17 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 18 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 19 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 20 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 21 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 22 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 23 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 24 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 25 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 26 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 27 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 28 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 29 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 30 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 31 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 32 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 33 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 34 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 35 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 36 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 37 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 38 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 39 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 40 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 41 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 42 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 43 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 44 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 45 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 46 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 47 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 48 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 49 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 50 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 51 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 52 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 53 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 54 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 55 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 56 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 57 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 58 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 59 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 60 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 61 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 62 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 63 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 64 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 65 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 66 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 67 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 68 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 69 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 70 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 71 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 72 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 73 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 74 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 75 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 76 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 77 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 78 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 79 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 80 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 81 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 82 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 83 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 84 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 85 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 86 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 87 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 88 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 89 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 90 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 91 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 92 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 93 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 94 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 95 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 96 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 97 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 98 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 99 | FOR CLIENT REVIEW | JP | 16/03/17 |
| 100 | FOR CLIENT REVIEW | JP | 16/03/17 |

CLIENT: GURNER™
LEVEL 1, 101 WILLIAMS ROAD
PRIMBANK VICTORIA 3191
1 03 9604 6222

PROJECT:
KOICHI TAKADA ARCHITECTS
Suite 41 & 42, Level 4
41 Macdonough Street
Surrey Hills, NSW 2015
T 02 9550 8510
F 02 9550 8502
www.koichitakada.com

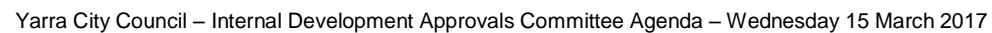
PROJECT:
REAR 26-56 QUEENS PARADE
FITZROY NORTH VIC 3068

PROJECT NO:
16328

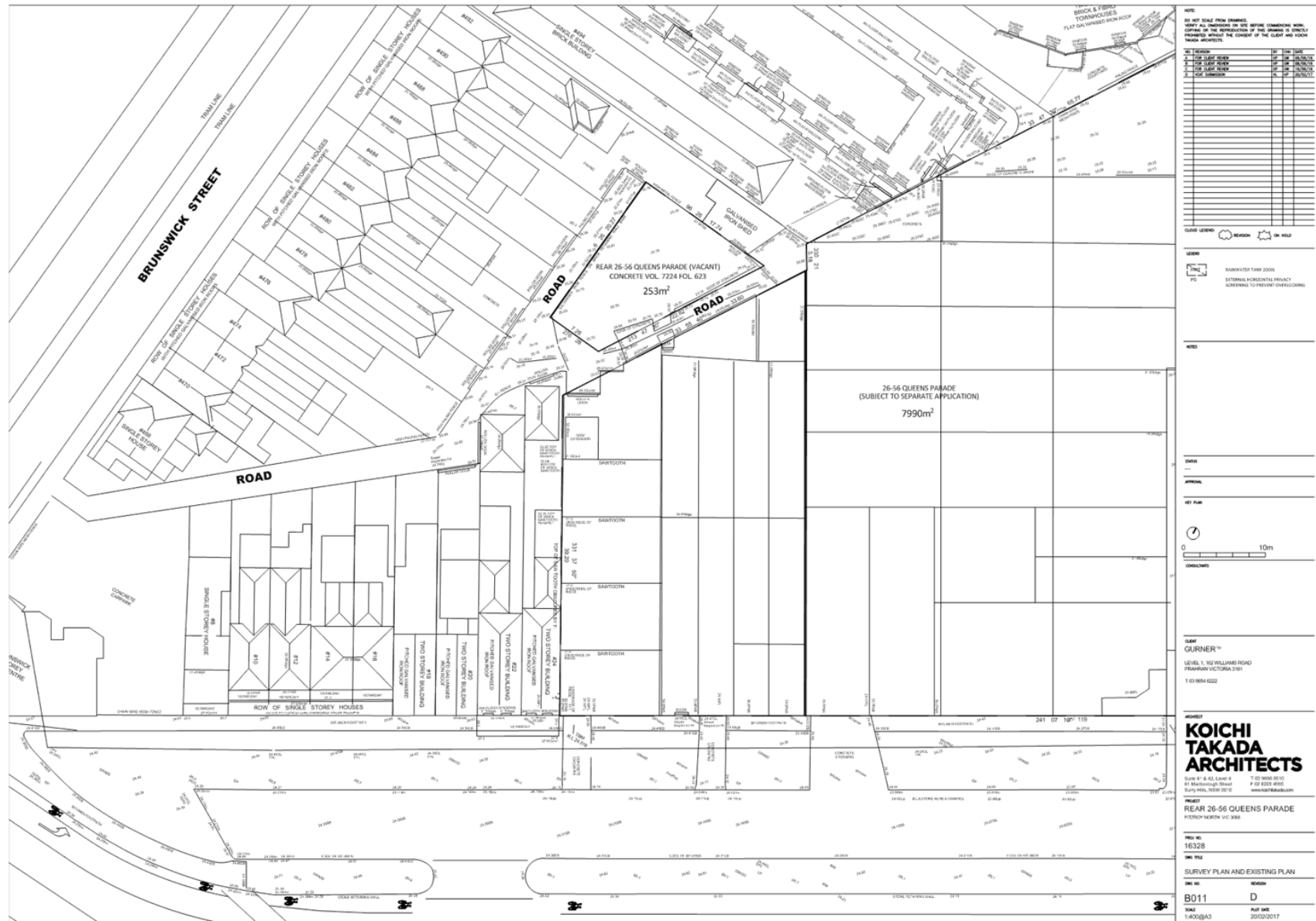
PROJECT TITLE:
REAR 26-56 QUEENS PARADE

DRAWING LIST

| NO | REVISION |
|-------|------------|
| B000 | D |
| DATE: | 1:200 @ A3 |
| DATE: | 20/02/2017 |

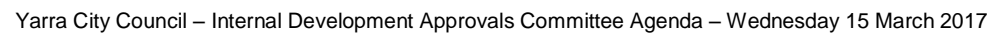


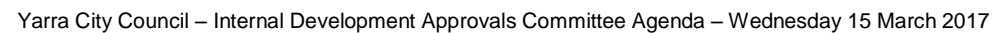
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



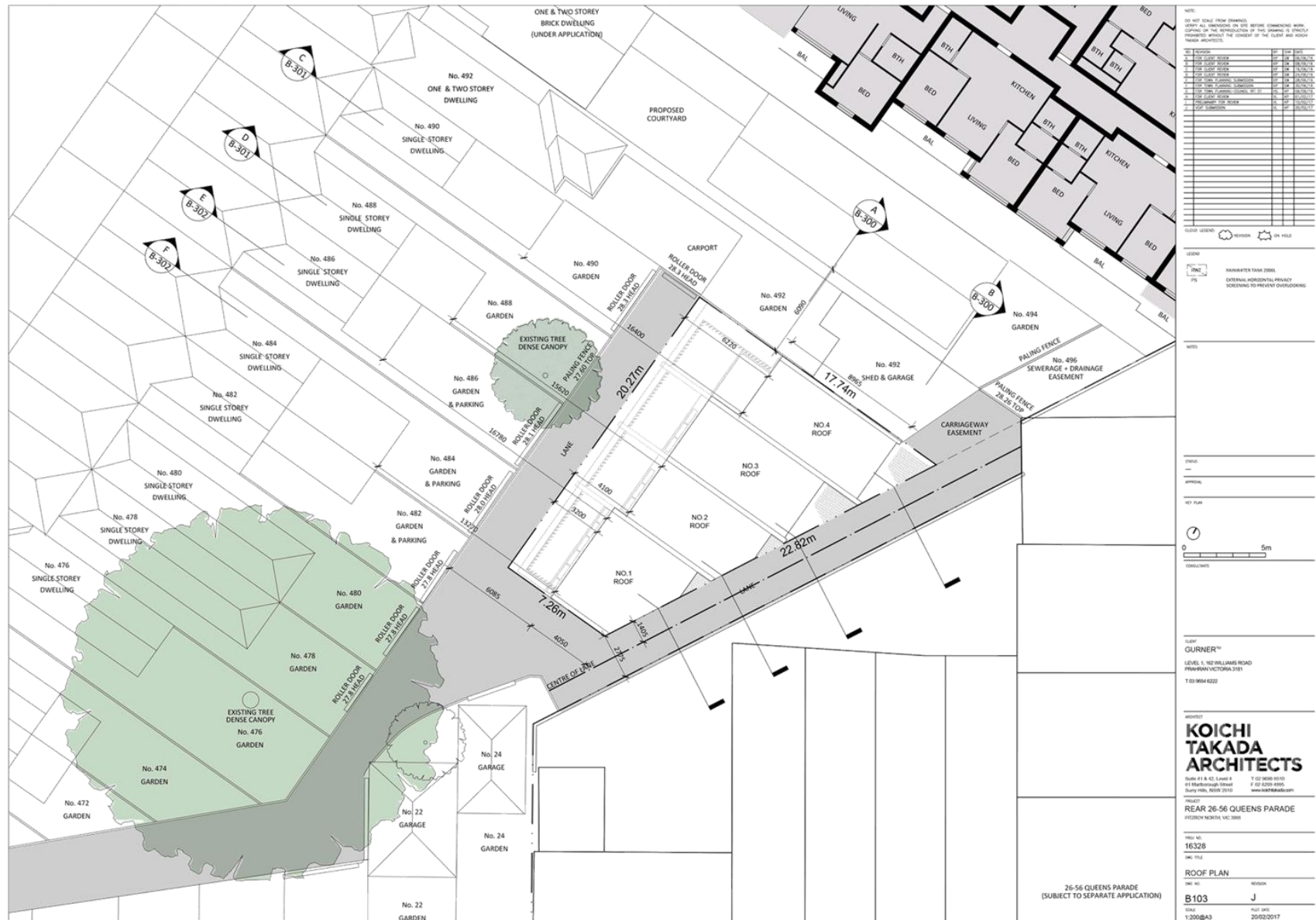
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



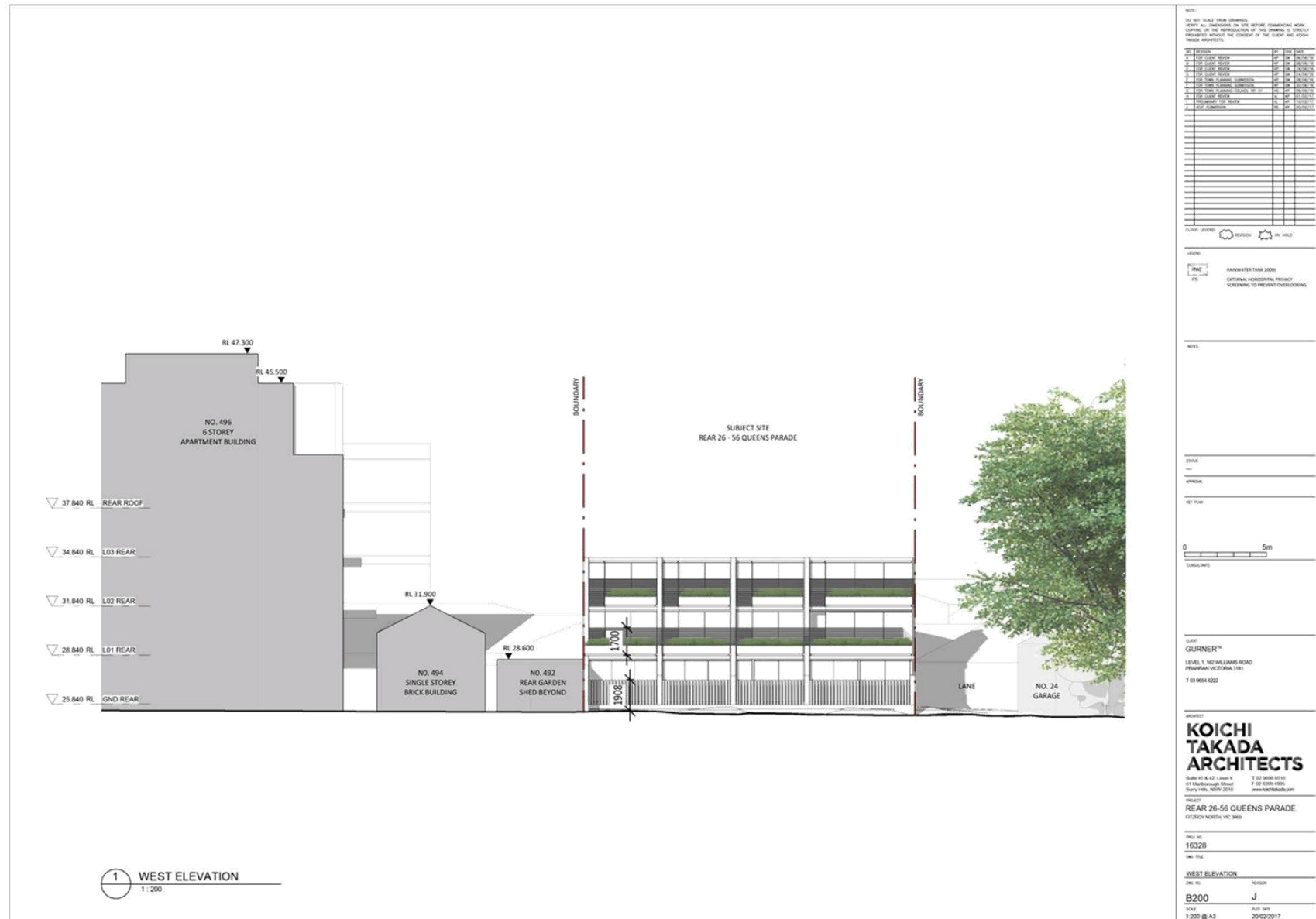




Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

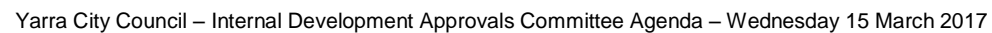


Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

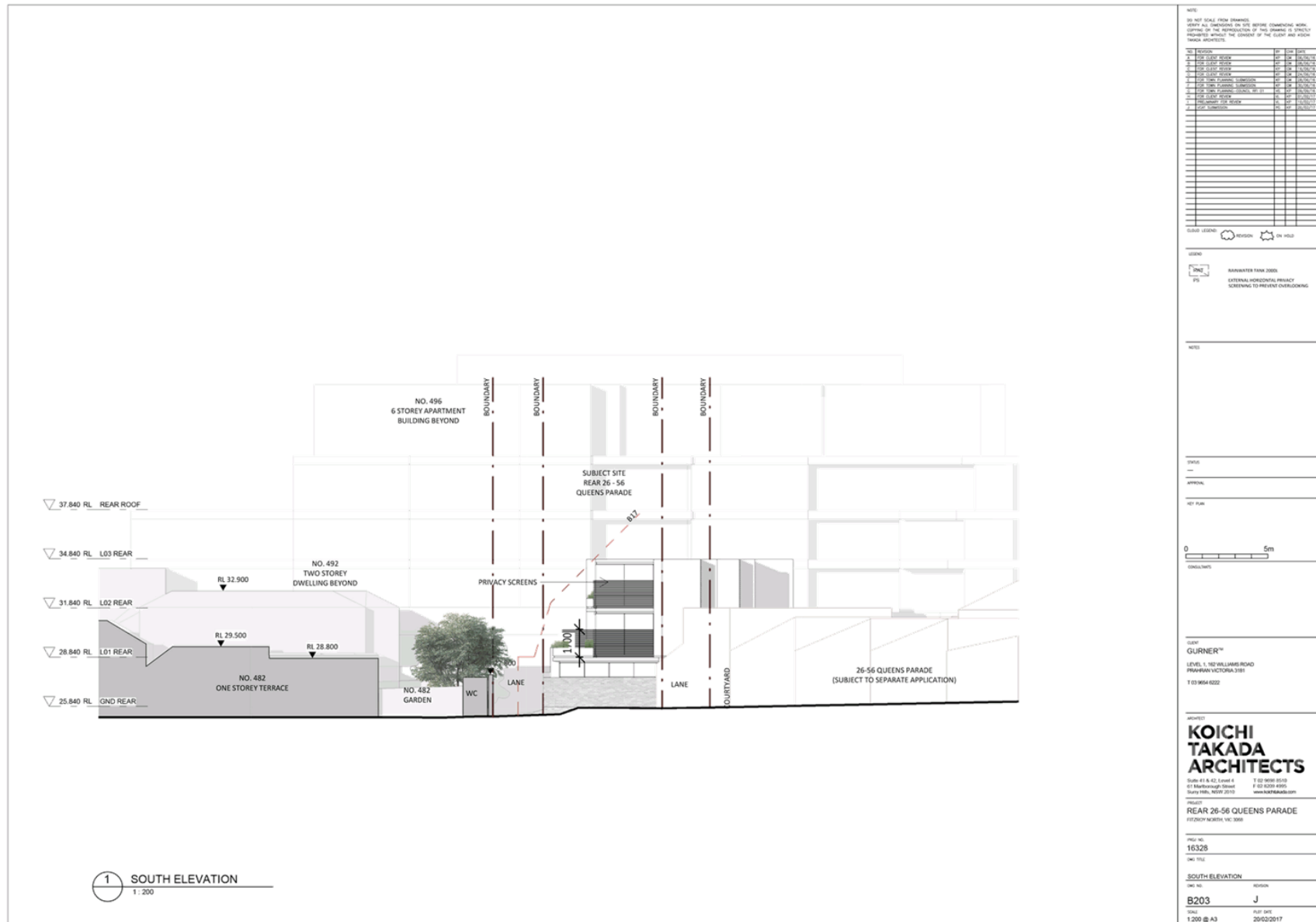


Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

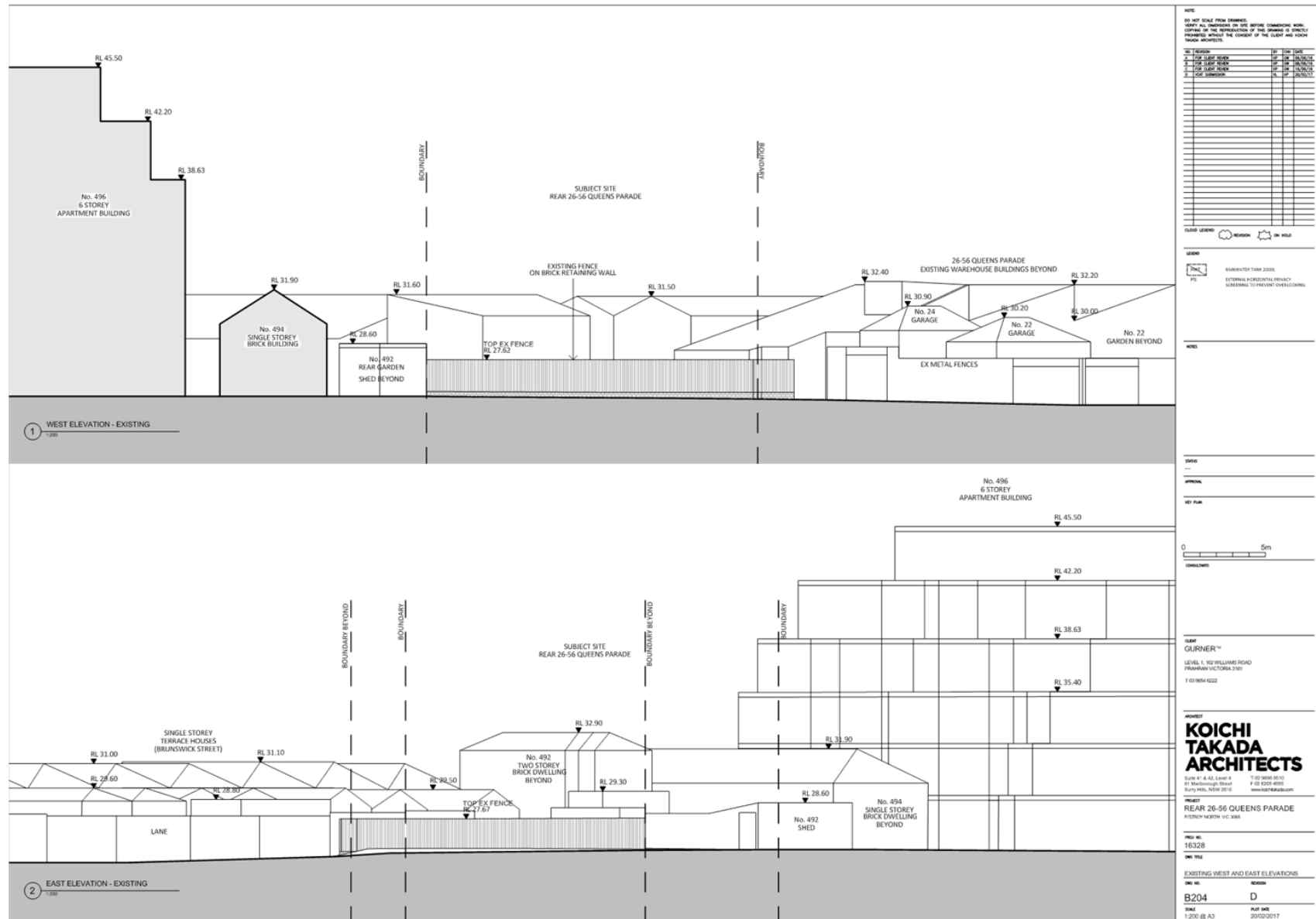


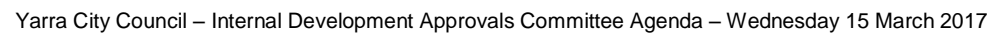


Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

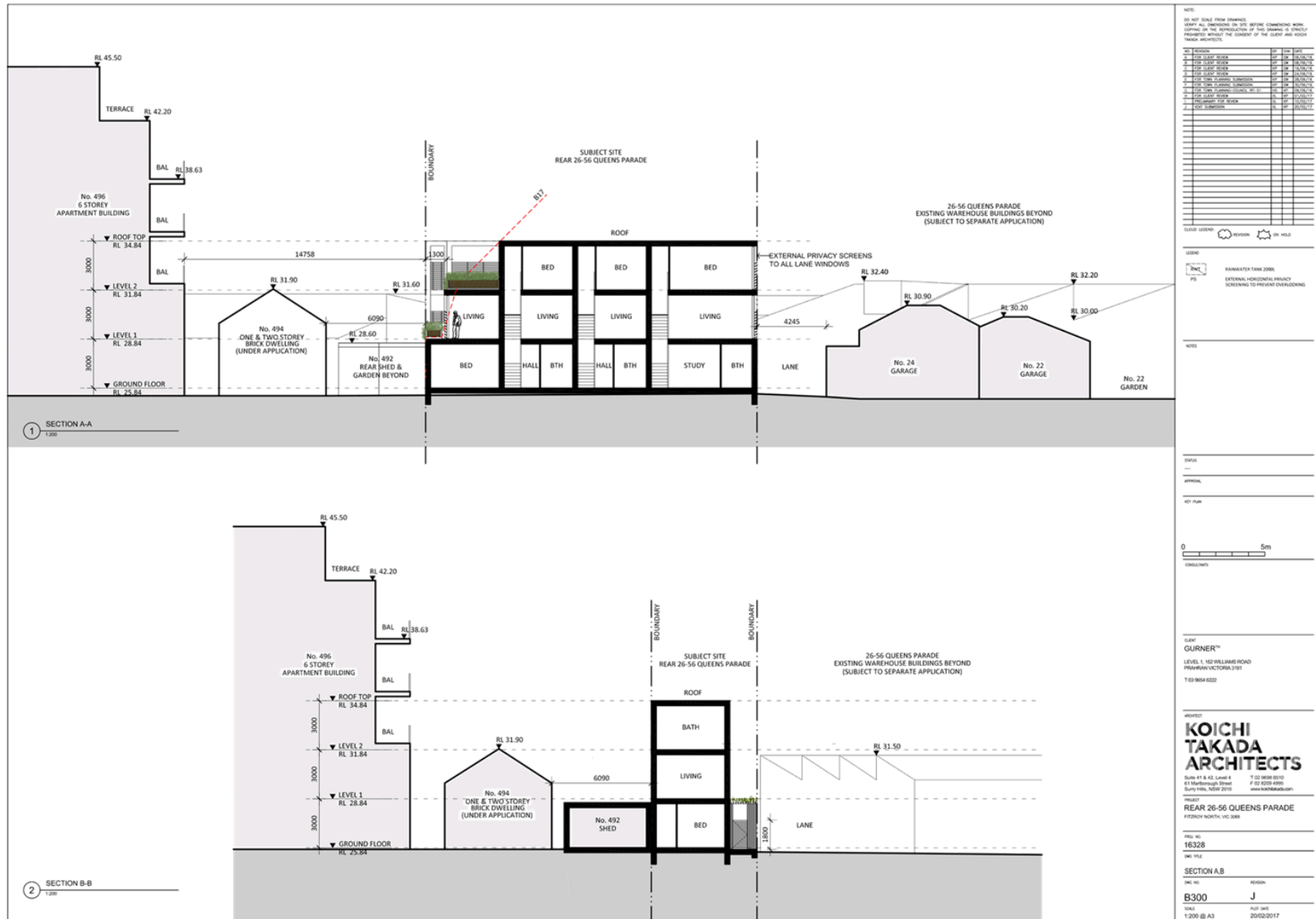


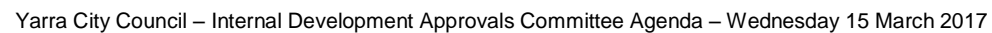
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

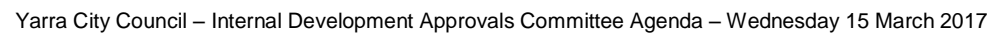




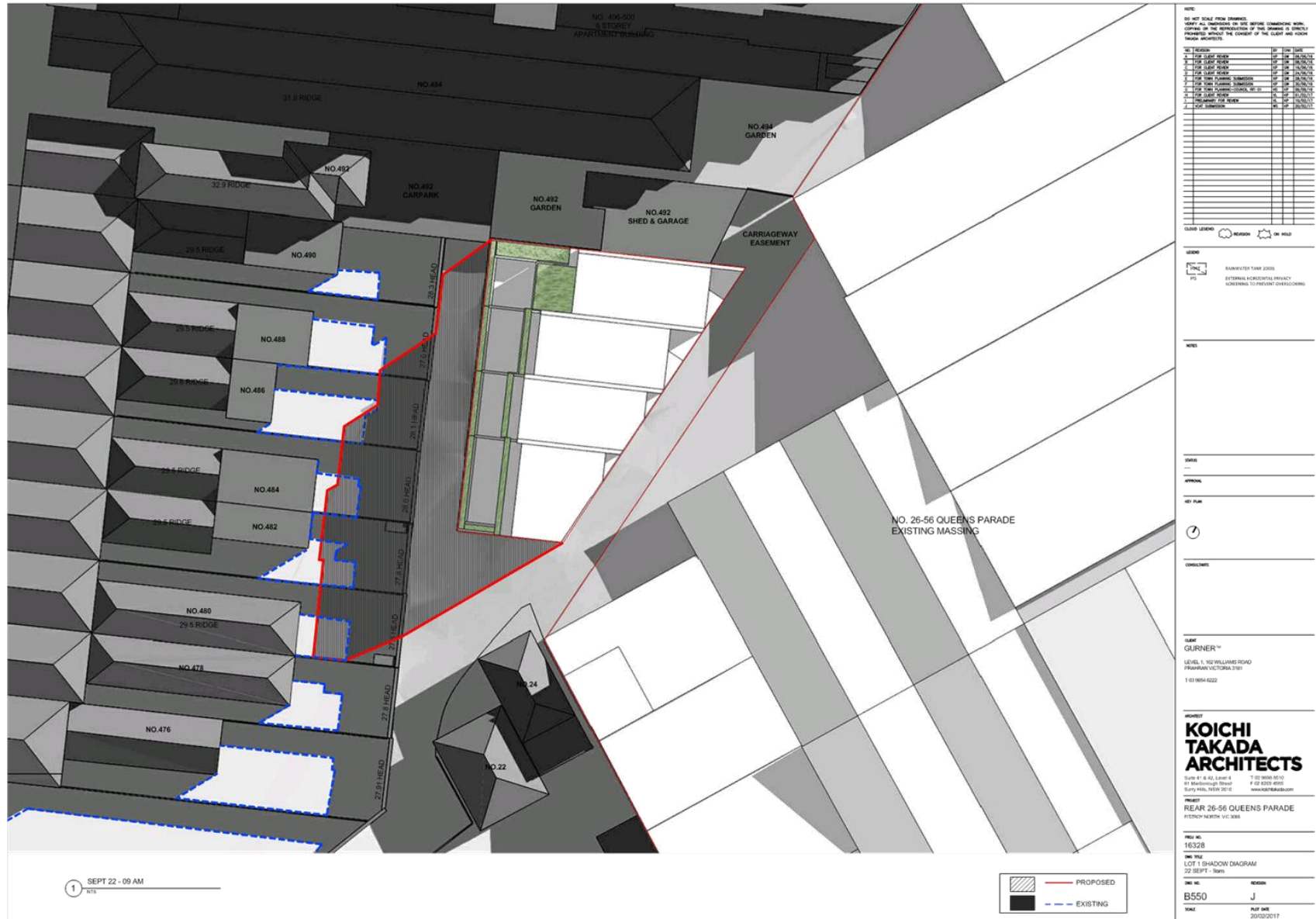
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans

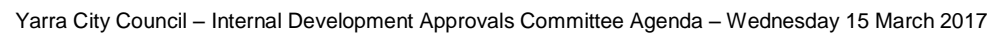


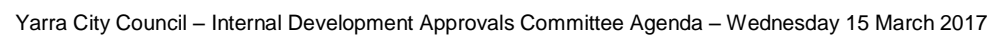




Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



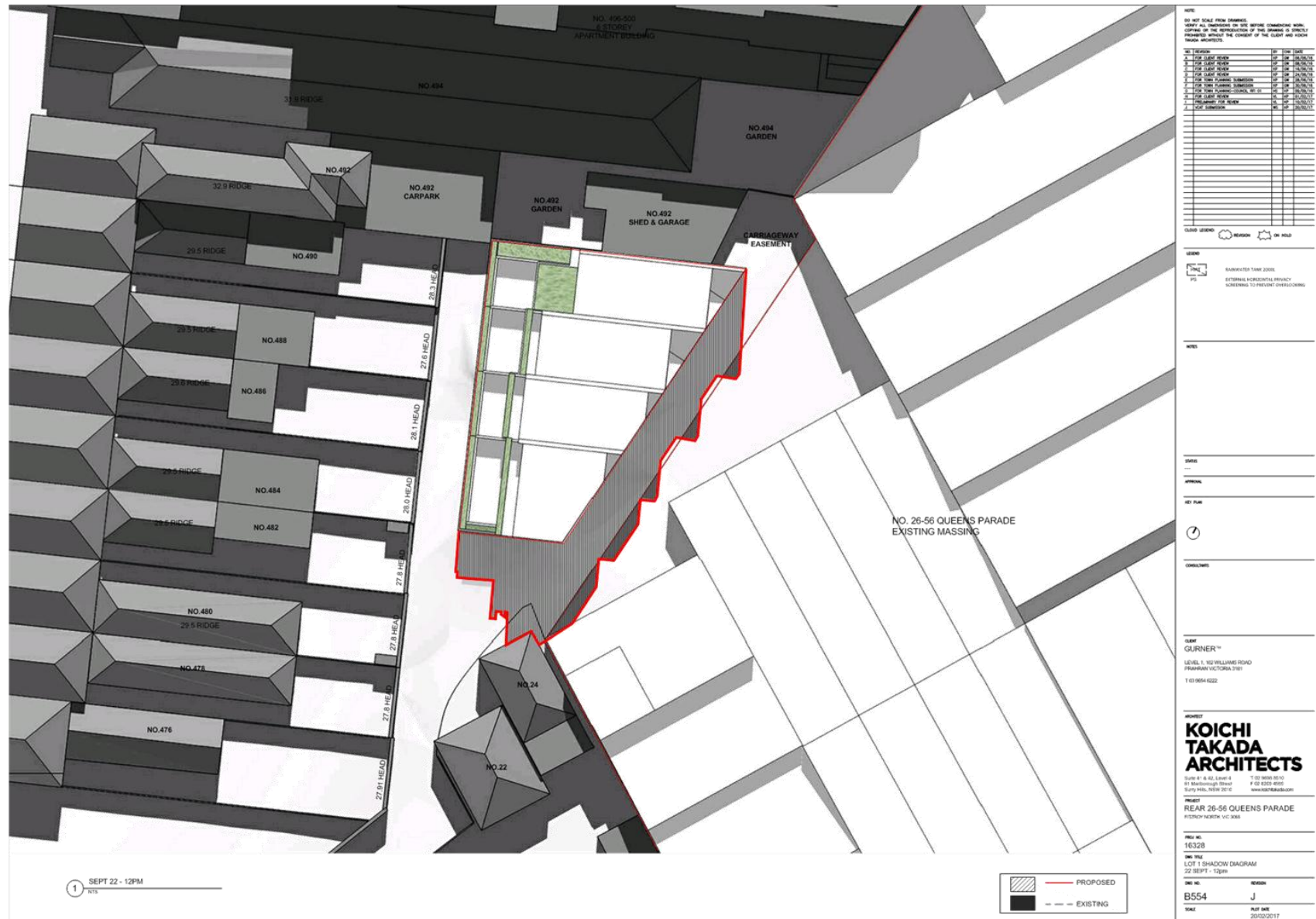




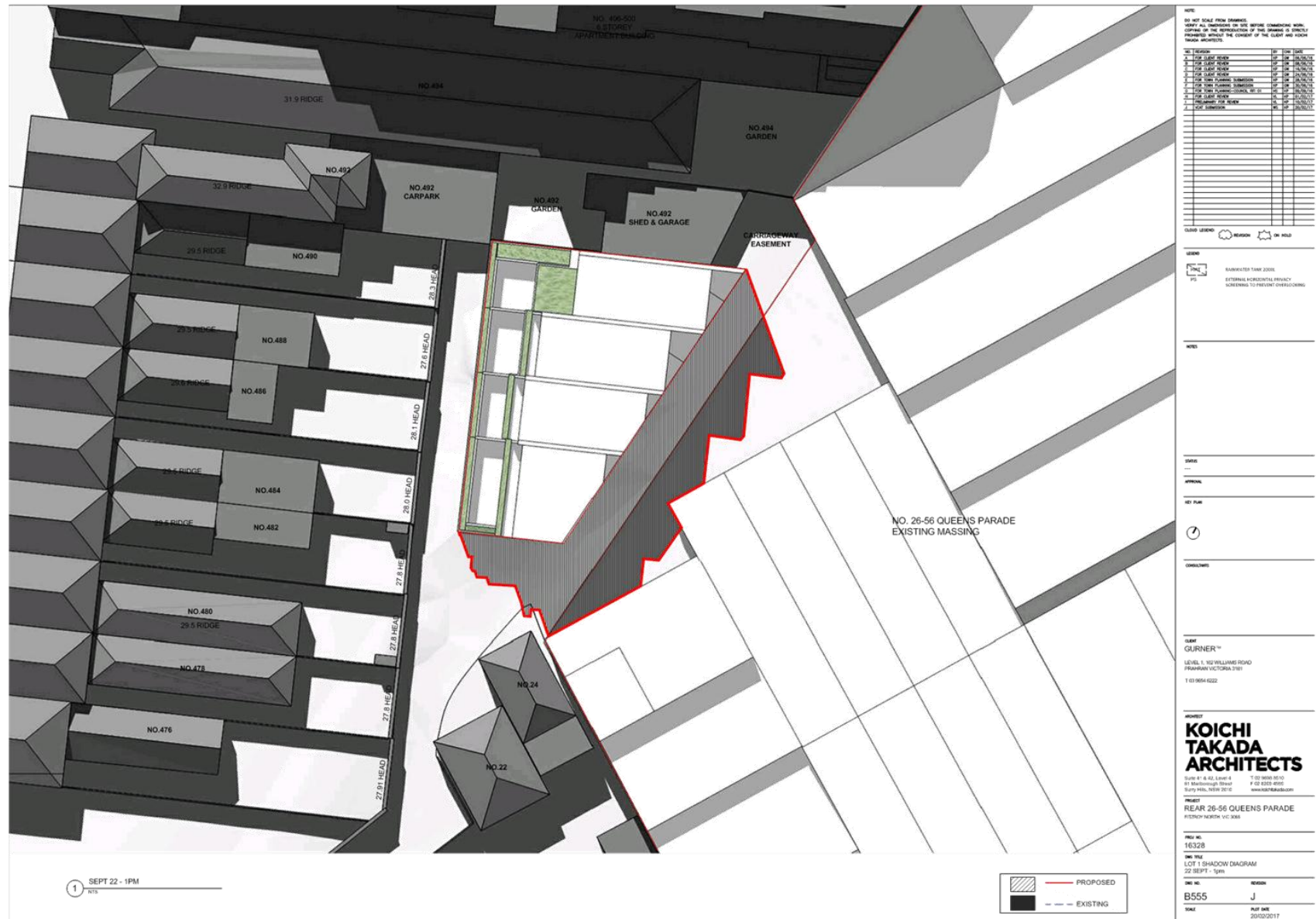
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



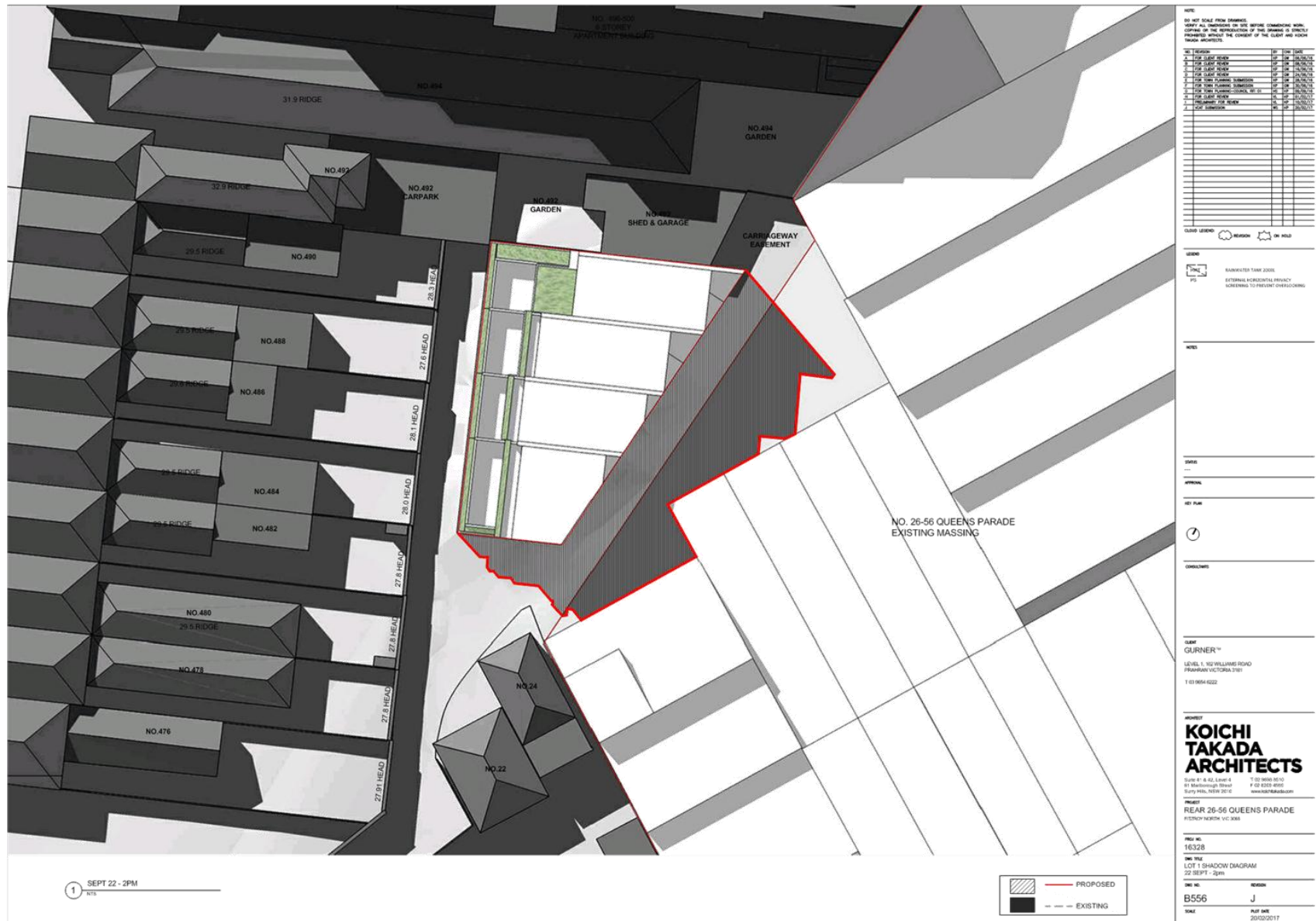
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSTITUTED PLANS -Amended Plans



Attachment 3 - PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans



MEMO

To: Sarah Thomas
From: Mark Pisani
Date: 23 February 2017
Subject: Application No: PLN16/0732
 Description: Substituted Drawings
 Site Address: Rear 26-56 Queens Parade, Fitzroy North

I refer to the substituted drawings received on 21 February 2017 in relation to the proposed development at Rear 26-56 Queens Parade, Fitzroy North. Council's Engineering Services unit provides the following information:

CAR PARKING PROVISION

Proposed Development

According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

| Proposed Use | Quantity /Size | Statutory Parking Rate | No. of Spaces Required | No. of Spaces Allocated |
|---------------------------------|----------------|------------------------|------------------------|-------------------------|
| Two-bedroom dwelling plus Study | 1 | 1 space per dwelling* | 1 | 1 |
| Three-bedroom dwelling | 3 | 2 spaces per dwelling | 6 | 5 |
| Total | | | 7 Spaces | 6 Spaces |

* The one-bedroom plus study dwelling has been treated the same as regular one-bedroom dwelling due to the small size of the study which is unlikely to be used as an additional bedroom.

Six on-site spaces would be provided for the four townhouse dwellings in the car park at 26-56 Queens Parade. One of the three bedroom dwellings would be allocated one space.

Parking Demand for Three-Bedroom Dwellings

The three-bedroom dwellings have an on-site parking provision of 1.5 spaces per dwelling. The original Traffix Group report dated 9 September 2016 indicated that three-bedroom flat type dwellings in Fitzroy North have an average car ownership of 1.5 vehicles per dwelling, based on data obtained from the 2011 Census conducted by the Australian Bureau of Statistics. The on-site car parking provision is consistent with the statistical average for car ownership of three-bedroom flat type dwellings in Fitzroy North.

Engineering Services has no objection to the reduction of one resident space for this development.

PEDESTRIAN ACCESS

According to Traffix Group report, it is proposed that the development's principal pedestrian access would be via parent site of 26-56 Queens Parade. The pedestrian access plan in the report

Attachment 3 - PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans

indicates that from the subject site persons walking to and from Queens Parade via the parent site would travel approximately 90 metres.

The Right of Way linking the site from Brunswick Street would provide a more expedient way of accessing the street network (approximately 35 metres). Although the applicant is encouraging access via the parent site, pedestrians could be inclined to use the Right of Way, as it is a Public Highway.

IMPACT ON ROAD INFRASTRUCTURE

Building Works and Impact on Council Road Assets

The construction of the new building, the provision of underground utilities and construction traffic servicing and transporting materials to the site will impact on Council assets. Trenching and areas of excavation for underground services invariably deteriorates the condition and integrity of footpaths, kerb and channel, laneways and road pavements of the adjacent roads to the site.

It is essential that the developer rehabilitates/restores laneways, footpaths, kerbing and other road related items, as recommended by Council, to ensure that the Council infrastructure surrounding the site has a high level of serviceability for residents and visitors of the site.

ENGINEERING CONDITIONS

The following items must be included in the Planning Permit for this site:

Civil Works

- Upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost.
- The Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works.

Public Lighting

- Lighting for pedestrian access at the property's Cambridge Street frontage must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*. The lighting levels of all existing public lights near the site must be measured and checked against the AS/NZS 1158.3.1:2005 to determine whether new or upgraded public lights are required. The supply and installation of any additional or upgraded lighting, poles or other fixtures shall be funded by the Permit Holder and to the satisfaction of the Responsible Authority.
- The developer must ensure that lighting from any existing or new lights does not spill into the windows of any new residences or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder.

Construction Management Plan

- A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.
- The Construction Management Plan for the site must also take the following into account:
 - If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.

Attachment 3 - PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans

- Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.
- A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.

Road Asset Protection

- Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.

Impact of Assets on Proposed Development

- Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
- Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

NON-PLANNING ADVICE FOR THE APPLICANT

Legal Point of Discharge

- The applicant must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the *Building Regulations 2006* 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 610.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

**Attachment 4 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North -
Heritage advice on substituted plans**

**City of Yarra
Heritage Advice – Rear site – Supplementary Advice**

Application No.: PLN16/0732

Address of Property: Rear 26 – 56 Queens Parade, Fitzroy North

Planner: Sarah Thomas

Yarra Planning Scheme References: Clauses 43.01, 22.02, 21.05.

Heritage Overlay No. HO 327 **Precinct:** North Fitzroy

Level of significance:

The rear No. 26 - 52 Queens Parade, North Fitzroy, is vacant land behind the K G Luke Pty Ltd electro-plate manufacturers factory, for which a separate application has been submitted for the redevelopment of the which fronts Queens Parade. (PLN16/0434)

Proposal

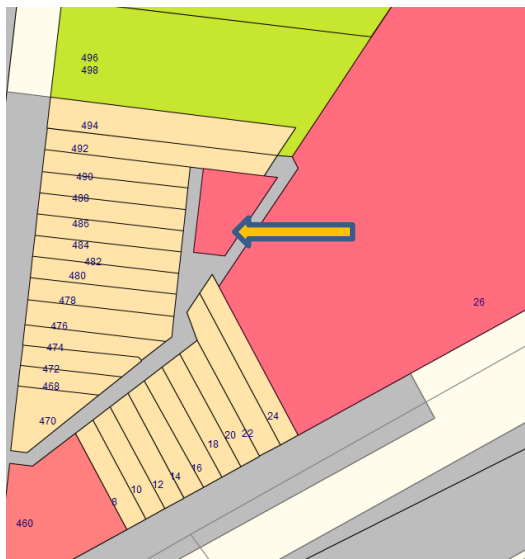
Construction of four triple-storey townhouses.

Drawing Numbers

24 pages of drawings prepared by Koichi Takada, Rev. D and J, dated 20/02/2017 with no Council date stamp.

Context Description

The site has no visible frontage to any street. It abuts a lane and backyards of properties fronting Brunswick Street and Queens Parade.



Council's GIS showing the site arrowed.

Assessment of Proposed Works

**Attachment 4 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North -
Heritage advice on substituted plans**

I provided heritage advice on 13 November, 2017 in relation to a four-storey proposal. This advice only addresses the salient points of the amended proposal and does not necessarily repeat previous information as the two pieces of advice are intended to be read in conjunction.

Built form (height/setbacks)

I note that one level and the rooftop terraces have been deleted which is acceptable although not necessary from a heritage perspective. One dwelling has a green roof at the Third floor which is also acceptable.

Colours and materials

The principal concern is that despite this being an issue with the original application, there is still no materials and colours schedule provided. The elevations do not appear to have changed from the original application, although I do not have those drawings to hand, and my previous conclusion from the elevations remains that they appear to be mainly clear glass, metal and concrete plus vegetated elements.

I expressed a concern previously about perforated metal screens but I cannot see anything on these drawings which resembles this. My advice was, and is, that because of the seclusion of the site from the heritage precinct proper this is not such of an issue as it would be in a typical heritage streetscape. However, perforated metal screens are hard to maintain in a pristine condition and another materials might be considered.

Louvred external privacy screens to all the lane windows are acceptable because the site is secluded from the heritage precinct proper and such screens in this location will have no impact on any heritage values.

Recommendation / Comments:

Approved subject to provision of a colours and materials schedule and clarification as to whether perforated metals screens or some other material is to be used.

Signed:



Robyn Riddett

Director – Anthemion Consultancies

Date: 21 February, 2017

Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans



MeMO

TO: Sarah Thomas (Statutory Planning)
FROM: Hayley McNicol (Urban Design)
DATE: 2 March 2017
SUBJECT: Rear of 26-56 Queens Parade, Fitzroy North
APPLICATION NO: PLN16/0732
DESCRIPTION: Development of the land for four town houses of three storeys in height

COMMENTS SUMMARY

Urban Design comments have been sought on revised plans for the above site (Drawing Numbers: B100-B103 and B200-203 (Rev J)).

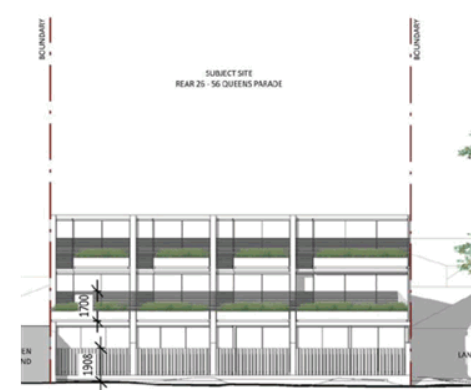
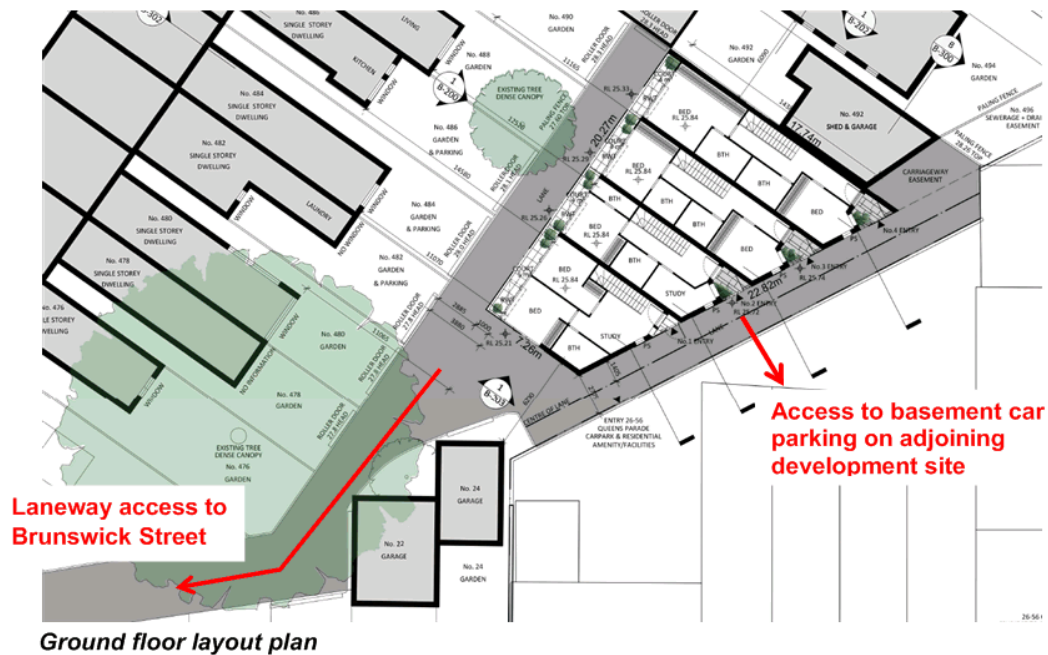
In summary, the application is supported in principle provided that the following issues are addressed, which can be dealt with by condition:

- The ground floor interface should be improved to provide an active frontage and greater surveillance of the laneway. This is particularly important for the southern edge of Dwelling 1, which would be the first view of the development coming up the laneway from Brunswick Street.
 - As the laneway would be used by occupants of the new development to access Brunswick Street by foot or bicycle, it is recommended that improvements are made to the laneway to improve access for pedestrians. This includes a potential opportunity to create a community space along the stretch of laneway alongside the front of the townhouses and in front of the rear entrance to the main adjacent development site at 26-52 Queens Parade (if no vehicle access is required).
 - Cycle parking should be provided within the site to ensure convenient access to cycle parking for the future occupants.
-

Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans

Proposal

It is proposed to demolish the existing buildings on site and construct four new residential townhouses, of three storeys in height. The development would be primarily accessed from the laneway leading to Brunswick Street by foot, and provides access to the back of the proposed new development at 26-56 Queens Parade for car parking which would be entered and exited from Queens Parade at the front.



Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans

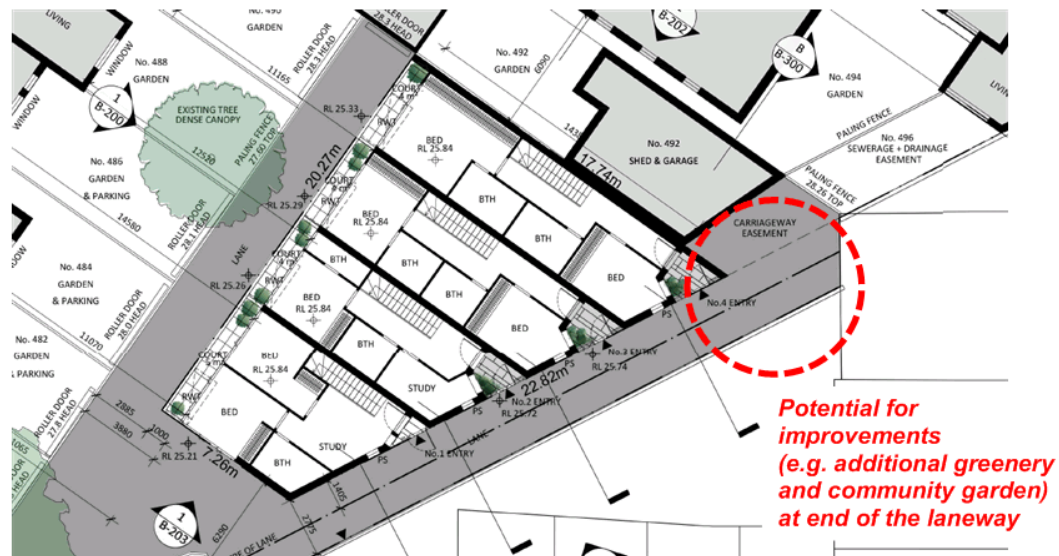
Urban Design feedback

- Access to the development**

The objectives of the 'Development Abutting Laneways' policy at Clause 22.07 include "to provide an environment which has a feeling of safety for users of the laneway" and "to ensure that development along a laneway is provided with safe pedestrian and vehicular access".

The development is configured so that the individual entrances of the buildings are accessed from the laneway to the rear of 26-52 Queens Parade which leads to Brunswick Street. Although the applicant intends for residents to access the townhouses via the main site, realistically residents would be highly likely to use the laneway by foot or bicycle, as the laneway provides a more direct and shorter route, with clear links to the Brunswick Street tram stops and towards the CBD. The surface of the laneway is currently very uneven and accessibility is poor, with no laneway lighting, therefore given its expected increased use, there is a clear need for the laneway to be upgraded to improve pedestrian access and safety.

The northern end of the laneway comprises an odd-shaped space, between the townhouses and the rear entrance of the main development site at 26-52 Queens Parade. If no vehicle access is required to this space (or indeed to the laneway along the front entrances of the proposed townhouses), there is an opportunity to create a small community space (such as a community garden), to activate this space and provide additional greenery.



Opportunities for improving end of laneway

We therefore recommend that the applicant develops a design for the laneway responding to the above issues and opportunities.

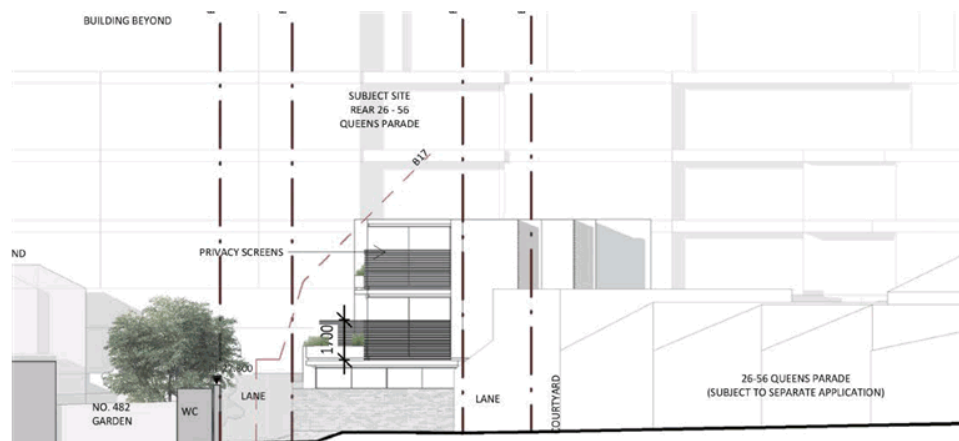
Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans

The development does not show any provision of cycle parking for the townhouses within the site. It is recommended that cycle parking is provided on the site as cyclists will likely use the most direct route to and from the site, via the laneway leading to Brunswick Street (rather than through the main development site).

- **Building layout and interface**

Clause 22.10-3.4 of the 'Built Form and Design Policy' seeks (amongst other things) "to ensure ground level façade and boundary treatments interface positively with the street and public domain treatments interface positively with the street and public domain" and "to ensure that new development enhances public safety and the pedestrian experience".

The development provides limited ground floor windows and high fencing in front of the entrances which results in a poor interface with the laneway. To provide more passive surveillance and improve the amenity of the laneway, it is recommended that some windows are provided at the ground floor, and the fencing at the entrances is reduced in height to give the entrances a greater prominence on the laneway. In particular, the entrance to Dwelling 1 should be more engaging and active as this is the first view of the development when travelling up the laneway (see image below).



West elevation (first view of property from laneway approach)

- **Built form and massing**

Considering the laneway context and the scale of buildings in the wider area (for example the six story building towards the north), it is felt that the bulk and massing is acceptable in this case.

- **Façade design and materials/colours**

The design of the façade is considered to be appropriate, provided some changes are made to improve the entrances and ground floor interface, as discussed above. The proposed materials and colours are generally acceptable.

Attachment 6 - PLN16/0732-02: PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - ESD advice on substituted plans

Sustainable Management Plan (SMP)

Referral Response by Yarra City Council



Assessment Summary:

| | | | |
|-----------------------------|--|--------------------------|------------|
| Responsible Planner: | Sarah Thomas | | |
| ESD Advisor: | Euan Williamson | | |
| Date: | 02.03.2017 | Planning Application No: | PLN16/0732 |
| Subject Site: | Rear 26-56 Queens Parade, North Fitzroy, VIC, 3068 | | |
| Site Area: | Approx. 253m ² | Site Coverage: | 100% |
| Project Description: | Four triple storey townhouses | | |
| Pre-application meeting(s): | No ESD involvement. | | |

This application nearly meets Council's Environmental Sustainable Design (ESD) standards. Should a permit be issued, the following ESD commitments (1) and deficiencies (2) should be conditioned as part of a planning permit to ensure Council's ESD standards are fully met.

Furthermore, it is recommended that all ESD commitments (1), deficiencies (2) and the outstanding information (3) are addressed in an updated SMP report and are clearly shown on Condition 1 drawings. ESD improvement opportunities (4) have been summarised as a recommendation to the applicant.

(1) Applicant ESD Commitments:

- A STORM rating of 120% has been received which relies on; a minimum of 149m² of roof connected to 8,000 litres of storage tank(s) and connected to all toilets onsite for flushing.
- Average 6 Star NatHERS ratings for thermal energy efficiency.
- Energy efficient heating and cooling.
- Water efficient appliances and fixtures.

(2) Application ESD Deficiencies:

- There is large amount of exposed north-west facing glazing that will suffer from high levels of summer solar gain and unwanted glare. Strongly recommend that all glazing exposed summer sun angles be protected by some external adjustable awnings, louvers, shutters or similar that can provide shade from summer sun angles.

(3) Outstanding Information:

- The BESS Energy score is reliant on each dwelling having a permanent indoor clothes line, but it is not marked on the architectural drawings. Please show on plans.

(4) ESD Improvement Opportunities:

- Consider improving the average NatHERS rating for thermal energy efficiency.
- Consider a solar PV array to contribute to onsite electricity consumption.
- Consider gas boosted solar hot water in addition to solar PV arrays for each townhouse.

Further Recommendations:

The applicant is encouraged to consider the inclusion of ESD recommendations, detailed in this referral report. Further guidance on how to meet individual planning conditions has been provided in reference to the individual categories. The applicant is also encouraged to seek further advice or clarification from Council on the individual project recommendations.

-
- 1.2 Planning Application No.PL02/1103.03 - 433 Church Street, Richmond - Amendments to the current planning permit to include buildings and works for one additional level, plus a rooftop terrace and associated increase in the area for sale/consumption of liquor, Increased hours for sale/consumption of liquor in outdoor areas, increased maximum patron numbers from 225 to 450 and an associated reduction in car parking numbers.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of Planning Application PL02/1103.03 at 433 Church Street, Richmond and recommends approval, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 22.05 – Interface uses policy;
 - (b) Clause 22.09 – Licenced premises policy;
 - (c) clause 22.10 – Built Form and Design Policy;
 - (d) clause 52.06 – Car Parking; and
 - (e) Clause 52.27 – Licensed premises.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification;
 - (b) Sale and consumption of liquor;
 - (c) Buildings and works; and
 - (d) Objectors concerns.

Objector Concerns

4. Ten (10) objections were received to the application, these can be summarised as:
 - (a) Noise and amenity concerns relating to the additional hours, patron numbers and consumption of liquor;
 - (b) Excessive music noise;
 - (c) Possible restrictions to future development within abutting lots;
 - (d) Lack of car parking; and
 - (e) Inappropriate materials (fire rating/building issues).

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: Patrick Sutton
TITLE: Senior Statutory Planner
TEL: 9205 5357

1.2 Planning Application No.PL02/1103.03 - 433 Church Street, Richmond - Amendments to the current planning permit to include buildings and works for one additional level, plus a rooftop terrace and associated increase in the area for sale/consumption of liquor, Increased hours for sale/consumption of liquor in outdoor areas, increased maximum patron numbers from 225 to 450 and an associated reduction in car parking numbers.

Trim Record Number: D17/22950
Responsible Officer: Principal Planner

Proposal: Amendments to the current planning permit to include:
 -Buildings and works to the existing building for one additional level, plus a rooftop terrace and associated increase in the area for sale/consumption of liquor;
 -Increased hours for sale/consumption of liquor in outdoor areas (extending the closing time from 11pm to 12midnight on Sunday nights);
 -Increased maximum patron numbers from 328 to 450;
 -Reduction in car parking numbers associated with increased patrons;
 -Associated amendments to permit conditions.

Existing use: Tavern

Applicant: Public House Consolidated Pty Ltd C/- SJB Planning

Zoning / Overlays: Commercial 1 Zone
Design and Development Overlay – Schedule 5

Date of Application: 17 February 2016

Application Number: PL02/1103.03

Planning History

1. The subject site has the following planning history:
 - (a) Planning Permit 1262 was issued on 20 September 1978 for the purpose of ‘increasing the size of the café at 435 Church Street to include 433 Church Street’;
 - (b) Planning Permit 1501 was issued on 26 February 1980 for the purpose of a restaurant;
 - (c) Planning application 1543 proposed extensions and renovations to the restaurant at both ground and first floors and was subsequently refused on 30 April 1980;
 - (d) Planning Permit 1559 was issued on 21 May 1980 for ‘A restaurant on the ground and first floors of 433 and 435 Church Street and provision for 4 cars’;
 - (e) Planning Permit 4441 was issued on 7 July 1988 ‘To erect an illuminated awning with associated advertising signage’;
 - (f) Planning Permit 7668 was issued on 13 April 1995, for the purpose of a change of use from restaurant to bar/bistro (tavern) for 150 patrons;
 - (g) Planning Permit PL02/0914 was issued on 13 November 2002 for ‘Buildings and works to alter the existing façade’.

- (h) Planning Permit PL02/1103 was issued on 11 July 2003 for 'Waiver of car parking requirement and liquor licence (an increase capacity to 225 patrons and increase the license of premises to include rear terrace).
 - (i) This permit was amended on 28th May 2010 to include the use of the site as a 'tavern (bar/bistro)' in the permit preamble.
 - (ii) The permit was again amended on the 21st of May 2013 to increase patron numbers from 225 to 328. This permit includes conditions for the submission of a revised NAAP and acoustic report prior to the patron numbers being increased. These documents have not been submitted for approval and therefore the premises operates with a maximum capacity of 225 patrons.
- (i) Planning Permit PLN15/1026 was issued on 8 February 2016 for buildings and works comprising the installation of canopy to the rear roof garden.

Background

- 2. The application was lodged on the 17th of February 2016 for amendments to the current planning permit to allow development of one additional level plus rooftop area, increased areas for sale and consumption of liquor, operating hours, patron numbers and associated reduction in car parking requirements.
- 3. Following the submission of further information, the application was advertised and ten (10) objections were received.
- 4. A consultation meeting was held on the 15th of November 2016 and was attended by the applicant, objectors and Council officers. While no formal resolutions were reached at this meeting, it was discussed that the venue has seen marked improvement (over the period of approximately 12 months) in terms of noise impacts to the surrounding area and management of patron behaviour.

Late Night License Freeze in Yarra

- 5. In 2008, the Victorian Government introduced a freeze on new post 1am liquor licences being issued in the City of Yarra, City of Melbourne (including the Docklands), City of Port Phillip and City of Stonnington. In June 2015 the freeze was extended until 30 June 2019. In addition to extending the freeze, a number of exemptions were also introduced which are outlined in the gazetted decision making guidelines (20 July 2015). In summary, the decision making guidelines enable the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to allow the supply of liquor after 1am in a limited number of circumstances, provided that regard is given to the guidelines.
- 6. The exemption criteria are aimed at allowing low risk venues to supply alcohol past 1am. The criteria include the premises being used for accommodation (with alcohol being ancillary), or a venue that regularly provides live music entertainment, or a venue that provides food at all times when liquor can be supplied. The criteria also include patrons not exceeding a maximum of 200 people, and Council supporting the application for the exemption (this is independent of a planning permit being issued).

Existing Conditions

Subject Site

- 7. The subject site is located on the eastern side of Church Street between Swan Street to the north and Lesney Street to the south. The land is 'L' shaped with a frontage of 9 metres, a depth of 30 metres and a total site area of approximately 283.5sqm.

8. The site is currently occupied by a double-storey brick building, which is part of a row of commercial buildings fronting onto Church Street. The existing tavern / bar occupies the ground and first floors of the premises and contains a roof terrace / beer garden at the rear of the first floor and trades under the business name 'Public House'. Entry and exit is from Church Street. A Right-of-Way (ROW) that connects with Swan Street and Little Lesney Street is located at the rear.
9. The premises currently operates under a Late Night, On-premises license, with the following restrictions:
 - (a) Maximum capacity of two-hundred and twenty-five (225) patrons – again noting that the amended planning permit PL02/1103.02 (amended 21 May, 2013) has not been acted upon to increase patron numbers to 328.
 - (b) Trading hours
 - (i) Sunday Between 10 a.m. and 1 a.m. the following morning.
 - (ii) Good Friday & Anzac Day Between 12 noon and 1 a.m. the following morning.
 - (iii) Monday to Wednesday - Between 10 a.m. and 1 a.m. the following morning.
 - (iv) Thursday to Saturday - Between 10 a.m. and 2 a.m. the following morning.
 - (c) Outdoor terrace area -
 - (i) Sunday to Tuesday - Between 10 a.m. and 11 p.m.
 - (ii) Wednesday to Saturday - Between 10 a.m. and 12 midnight.
 - (iii) Anzac Day (Sunday to Tuesday) - Between 12 noon and 11 p.m.
 - (iv) Anzac Day (Wednesday to Saturday) - Between 12 noon and 12 midnight.
 - (d) Music within outdoor areas is limited to 'background levels' at all times.
 - (e) A condition of the Liquor License prohibits live bands.

Surrounding Land

10. Surrounding land is generally used and developed for commercial purposes with a number of late night licensed premises operating within the immediate area.
11. To the north of the site are commercial buildings fronting onto Church Street. Most notable the Swan Hotel is located on the corner of Swan and Church Streets, approximately 50 metres north of the subject site.
12. To the east is Little Lesney Street and beyond that are dwellings that front Little Lesney Street or Wiltshire Street within land zoned Mixed Use. The closest residential properties in relation the subject site are located to the east at No's 3A Little Lesney Street and 7A Wiltshire Street which are located approximately 40m to the east of the proposed development.
13. No's 9 Wiltshire Street and 1 Little Lesney Street are located directly to the east of the subject site, on the opposite side of Little Lesney Street. These properties currently contain a double-storey, warehouse building with car parking areas fronting onto Little Lesney Street as shown in Figure 1 below:

Figure 1:



14. The lots associated with No.1 Little Lesney Street and 9 Wiltshire Street have recently been issued with a Notice of Decision (NOD) to grant Planning Permit PLN14/1000 for full demolition and development of the land for the construction of a 10 storey building (plus 2 basement levels), use of part of the site as a food and drinks premises (café), reduction in the car parking requirement associated with dwellings and a food and drinks premises (café) and a waiver of the loading bay requirement.
15. Notably, condition 14 of the NOD required the provision of a revised acoustic report as follows:
 - (a) *Before the plans are endorsed, an amended Acoustic Report prepared to the satisfaction of the Responsible Authority by a suitably qualified acoustic engineer 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 WGM dated June 2015, but modified to include (or show, or address):*
 - (i) *façade upgrade treatments, or alternative solutions, for the measured levels of music noise. The design should address the predicted SEPP N-2 exceedances (i.e. SEPP N-2) exceedances at existing dwellings should not be taken into consideration);*
 - (ii) *design targets within bedrooms and living rooms within the development at SEPP N-2 base noise limits + 10 dB;*
 - (iii) *noise masking to be provided to habitable rooms to ensure that SEPP N-2 background +8 dB' limits are met;*
 - (iv) *forced ventilation for all rooms that rely on a sealed façade for the management of music and patron noise ingress, and*
 - (v) *structure borne noise and vibration from the carpark entrance gate and car stackers for both occupants of the proposed building and existing residents.*
 - (vi) *treatment of plant and equipment noise for both occupants of the proposed building and existing residents.*

- (b) *The 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.*

16. The decision has been appealed and a hearing date is set for 15th of June, 2017.
17. To the immediate south is a commercial building occupied by a seafood wholesaler and restaurant (Richmond Oysters) which fronts onto Church Street, beyond which are railway lines and Lesney Street.
18. To the west is Church Street and beyond that are further commercial buildings (notably cafes, a beauty salon and a newsagency) also located within the Commercial 1 Zone. The properties directly opposite the subject site (ie No's 458 to 468 Church Street) contain residences at first floor, above ground floor shops and food and drinks premises as shown in Figure 2 below:

Figure 2:



19. The site is well serviced by public transport such as tramlines along Church and Swan Streets and trains at the East Richmond Station approximately 50 metres south-west of the subject site.

The Proposal

20. This application proposes amendments to the current planning permit to include:
 - (a) Buildings and works to the existing building for one additional level, plus a rooftop terrace and associated increase in the area for sale/consumption of liquor;
 - (b) Increased hours for sale/consumption of liquor in outdoor areas (extending the closing time from 11pm to 12midnight on Sunday nights);
 - (c) Increased maximum patron numbers from 225 to 450;
 - (d) Reduction in car parking numbers associated with increased patrons; and
 - (e) Associated amendments to permit condition 5.
21. The proposed development can be summarised as follows:

Buildings and works

22. An additional second floor is proposed which would be accessed via a staircase adjacent to the northern boundary. This level would contain a bar and toilets area with the remaining spaces (172m²) comprising an open plan area with west-facing terrace which abuts the site's Church Street frontage.
23. A retractable awning is proposed above the west-facing, second floor terrace.
24. The existing, east-facing balustrade/acoustic wall to the rear terrace at first floor would be extended upwards to 2.4m above FFL.
25. A rooftop area is proposed above, including 82m² of tiered seating areas which would be set back 5.7m from Church Street and 15m from the rear (eastern) boundary. Walls and balustrades associated with this level would have a maximum height of 15.04m.

Use

26. It is proposed to extend the areas for sale and consumption of liquor to accommodate the new floor area described in the points above.
27. An additional two-hundred and twenty-five (225) patrons are proposed to a maximum total of 450 patrons (from 225). With regards to new areas proposed under this application, the patrons would be allocated as follows (as maximum numbers permitted in each areas):
 - (a) Rear terrace (first floor) 106 patrons;
 - (b) West terrace (second floor) 79 patrons;
 - (c) Rooftop 75 patrons.
28. An existing condition on the liquor licence limits the sale and consumption of liquor within the rear terrace (first floor) to 11pm only.
 - (a) It is proposed to extend Sunday night to 12midnight for sale and consumption in the existing, first floor terrace. The newly proposed outdoor areas would reflect these operations also.
29. Music associated with the new outdoor areas is proposed to be at 'background level' of 67dBA in the outdoor areas;
 - (a) A music noise monitor would be installed to manage music emissions in the outdoor areas, to be set by a suitably qualified acoustical consultant.

Changes to conditions

30. The application proposes changes to condition 5 to delete reference to reduced patron numbers after midnight as follows:
 - (a) *The maximum capacity of the premises must not exceed ~~the following numbers~~ 450 patrons:*
 - (i) ~~Between 10am to midnight—Three hundred and twenty eight (328) patrons seven days a week, including a maximum of 106 patron within the terrace;~~
 - (ii) ~~Between midnight and 2am—Two hundred and twenty tow (222) patrons, seven days a week~~

Legislation Provisions

31. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act). Section 72 of the Act states:

- (a) *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:*
- (b) *This section does not apply to-*
 - (i) *a permit issued at the direction of the Tribunal; or*
 - (ii) *a permit issued under Division 6.*
- (c) *In this section a reference to a permit includes any plans, drawings or other documents approved under a permit.*

- 32. The original permit PL02/1103 was issued on 11 July 2003. The permit (and subsequent amendments to the permit) was not issued at the direction of the Tribunal or issued under Division 6 of the Act.
- 33. 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. Accordingly, the relevant sections will be addressed in this report.

Planning Scheme Provisions

Zoning

Clause 34.01 – Commercial 1 Zone

- 34. Pursuant to clause 34.01-1 of the Yarra Planning Scheme [the Scheme] the use of the land as a 'retail premises' (which includes a tavern) is a section 1 use and does not require a planning permit.
- 35. Pursuant to clause 34.01-4 – *Buildings and works* a permit is required to construct a building or construct or carry out works.

Overlays

Clause 43.02 - Design and Development Overlay (DDO-5)

- 36. Under Clause 43.02 of the Scheme, a planning permit is not required for use of the land or buildings and works. The purpose of DDO5 is to ensure that the development of land around the City Link exhaust stack is not adversely affected by – and does not affect – the operation of the stack.
- 37. The DDO5 triggers notice of development applications to CityLink, VicRoads and the Environmental Protection Authority.

Particular Provisions

Clause 52.06 – Car parking

- 38. Pursuant to clause 52.06-2, before a new use commences the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority. Where the required number of car parking spaces is not provided, clause 52.06-3 allows a planning permit to be granted to reduce the requirement (including a reduction to zero).
- 39. The following table outlines the car parking requirements triggered by the proposed development:

| Land use | Additional | Rate | No. | No. Proposed | Reduction |
|----------|------------|------|-----|--------------|-----------|
|----------|------------|------|-----|--------------|-----------|

| | patrons proposed | | Required | | Sought |
|--------|---------------------|------------------------------|----------|---|--------|
| Tavern | 122 | 0.4 car spaces per patron | 48 | 0 | 48 |

40. Having regard to the above and as no on-site car parking spaces are proposed, a planning permit is required for the reduction of 48 spaces. Before granting a permit to reduce the number of spaces required, a number of decision guidelines (referenced in clause 52.06-6) must be considered.

Clause 52.27 – Licensed Premises

41. Pursuant to clause 52.27 of the Scheme a permit is required to sell or consume liquor if (relevantly listed):
- (a) A license is required under the Liquor Control Reform Act 1988.
 - (b) The hours of trading allowed under a license are to be extended.
 - (c) The number of patrons allowed under a license is to be increased;
 - (d) The area that liquor is allowed to be consumed or supplied under a licence is to be increased.

General Provisions

Clause 65 – Decision Guidelines

42. 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 Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision.

State Planning Policy Framework (SPPF)

Clause 11.01-1 – Activity centre network;

43. The objective and relevant strategy of this Clause is: *to build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.*

Clause 11.01-2 – Activity centre planning

44. The objective of this clause is: *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*

Clause 13.04-1 – Noise abatement;

45. The Objective of this Clause is: *To assist the control of noise effects on sensitive land uses.*

Clause 17.01-1 – Business

46. The objective of this Clause is: to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- (a) Relevant strategies include;
- (i) Locate commercial facilities in existing or planned activity centres.

Clause 18.01-1 – Integrated Transport – Land use and Transport Planning

47. It is an objective: to create a safe and sustainable transport system by integrating land-use and transport.

Local Planning Policy Framework (LPPF)

Clause 21.03 – Vision

48. Council's transport vision as outlined under the policy is that most people will walk, cycle and use public transport for the journey to work.

Clause 21.04 – Land use

49. The relevant objective is to reduce potential amenity conflicts between residential and other uses. Relevant strategies include:
- (i) Strategy 3.2 Apply the Interface Uses policy at clause 22.05.
- (ii) Strategy 3.6 Apply the Licensed Premises policy at clause 22.09.

Clause 21.04-2 – Activity Centres;

50. The subject site is located within the Swan Street Activity Centre. On Activity Centres, clause 21.04-2 states the following:

Activity centres in Yarra have a retail, hospitality, and service focus. Because of the pattern of development in the municipality, almost all residents are within 400m of an activity centre. The provision of local services is therefore important for maintaining the character of activity centres as local destinations.

The presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of the municipality.

Under Melbourne 2030 Yarra has five Major Activity Centres with a regional retail and entertainment focus. These are Swan, Victoria, Smith and Brunswick Streets and Bridge Road. Yarra also has a number of neighbourhood activity centres which serve local needs. While the Major Activity Centres will continue to be supported to grow and prosper, the need for the provision of shops and services to provide for local day-to-day needs must be met in all activity centres.

The activity centres are almost all centred around elongated commercial strips stretched out along Yarra's main roads and feeder roads. Abutting uses along the length of the strips are generally residential, creating interface conflicts where some uses are not well managed or inappropriate uses are permitted.

Clause 21.04-3 – Industry, Office and Commercial;

51. The relevant objective of this clause is: To increase the number and diversity of local employment opportunities.

Clause 21.06 – Transport

52. This Clause builds upon the transport provisions in the SPPF, including Objectives of promoting alternatives to private motor vehicle usage, including public transport, walking and cycling.

Clause 21.08-2 – Burnley, Cremorne, South Richmond.

53. Clause 21.08-2 of the Scheme describes the location of the subject site in the South Richmond area as follows: *Along Church Street is an activity centre based on furniture and homewares, professional and business services and hospitality. There is an opportunity to enhance this activity centre with consistent active frontages.*
54. Figure 8 – *Built Form Character Map* under this clause, locates the subject site within a 'Main Road' area which contains the objective to '*maintain the hard edge of the strip*'.

Relevant Local Policies

Clause 22.05 – Interface Uses Policy;

55. This policy applies to applications for use or development within Business (Commercial) Zones. While the mix of land use creates a diverse and interesting inner city character, it also may create conflict at the interface between the land uses. Issues of concern include:
- (a) Noise
 - (b) Visual impact and appearance
 - (c) Overlooking
 - (d) Odour and air emissions
 - (e) Light spill
 - (f) Loading and unloading
 - (g) Rubbish removal and storage
 - (h) Construction noise
56. Clause 22.05-3 outlines the relevant policy aiming for new non-residential use and development within Business (Commercial) and Mixed Use and Industrial Zones be designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.

Clause 22.07 – Development abutting laneways

57. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal.

Clause 22.09 – Licensed Premises;

58. This policy applies to all applications for new licensed premises. The objectives of this clause are:
- (a) *To effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of nearby properties and areas.*
 - (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*
 - (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*
59. The policy outlines a number of considerations, including location and access, hours of operation, patron numbers, noise and car parking.

Clause 22.10 – Built Form and Design Policy

60. Pursuant to Clause 22.10 of the Scheme, this policy applies to all new development that is not included within a heritage overlay. The policy comprises design elements to guide the scale, form and appearance of new development, of which the following are relevant to this application:

- (a) Setbacks and building heights;
- (b) Street and public space quality;
- (c) Environmental sustainability;
- (d) On-site amenity;
- (e) Off-site amenity;
- (f) Landscaping and fencing; and
- (g) Parking, traffic and access.

61. The policy has the following objectives:

- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood.*
- (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
- (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
- (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.*
- (e) *Encourage environmentally sustainable development.*

Clause 22.16 – Stormwater Management

62. The objectives under this clause are:

- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
- (b) *To promote the use of water sensitive urban design, including stormwater re-use*
- (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
- (d) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*
- (e) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and well being.*

Clause 22.17 – Environmentally Sustainable Development

63. This policy applies throughout the City of Yarra to residential and non-residential development that requires a planning permit in accordance with the thresholds in Table 1 of this Policy.

64. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation

Other relevant documents

Swan Street Structure Plan

65. The Swan Street Structure Plan is relevant to the site, being adopted by Council in December 2013, The Structure Plan prepared for the Swan Street Activity Centre [AC] was in response to the State Government sustainable growth policy, *Melbourne 2030*; a plan for the growth and development of the Melbourne metropolitan area. One of the principal aims of the policy was to provide a network of activity centres throughout Melbourne, with these centres providing a focus for development and urban expansion in areas well serviced by public transport, existing infrastructure and community services. The Swan Street Structure Plan aims to manage this growth within the Swan Street AC and the immediately surrounding area.
66. The subject site is identified as being located within the Church Street Precinct (Precinct 9). The Structure Plan describes the precinct as follows:

Church Street forms the central north-south axis of the study area. It serves a strong retail and office function while providing a complementary hospitality presence to Swan Street. The precinct has a varied built form character with a mixture of large recently constructed showrooms, former industrial buildings and fine grain shop fronts.

67. In order to deliver the vision for the Swan Street study area, the Structure Plan articulates objectives and strategies grouped into four themes: land use; built form; public spaces; and access and movement. The relevant theme in this instance is land use.

Land use

Relevant objectives and strategies relating to land use are as follows:

- (a) *Objective – To provide a mixture of complementary activities that support the role and function of the precinct and add to the general amenity and improved activation of the area.*
- (i) *Strategy – Encourage office uses at upper levels above commercial and retail uses.*
- (ii) *Strategy – Encourage active uses at street level.*
68. As the Structure Plan is not yet a seriously entertained planning document, it has limited statutory weight.

Planning Scheme Amendment C209 – Licensed premises policy

69. This amendment proposes changes to the current policy under clause 22.09 of the Yarra Planning Scheme. The key changes proposed under this Amendment are as follows:

- (a) *For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*

70. Currently, the policy under clause 22.09 does not contain specific direction for outdoor areas. The amendment is yet to go through a Panel process and is therefore considered to hold limited statutory weight.

Advertising

71. The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending 207 letters to nearby owners and occupiers and placing signs on the Church Street and rear frontages of the site.
72. Ten (10) objections has been received, citing the following concerns:

- (a) Noise and amenity concerns relating to the additional hours, patron numbers and consumption of liquor;
- (b) Excessive music noise;
- (c) Possible restrictions to future development within abutting lots;
- (d) Lack of car parking; and
- (e) Inappropriate materials (fire rating/building issues).

Referrals

External Referrals

Victoria Police & VCGLR

- 73. The application has been referred to VCGLR and notice provided to the Chief Commission of Victoria Police pursuant to the requirements of clause 66 of the Scheme.
- 74. The VCGLR did not reply within the timeframe specified.
- 75. The comments received from Victoria Police outlined concerns relating to patron management outside of the premises and issues relating to music noise. The comments have been included as an attachment to this report.

DDO-5 – Notice requirements

- 76. Notice of the application has been given to VicRoads, EPA and CityLink Transurban in accordance with the requirements under Schedule 5 to the DDO. VicRoads has written to confirm that they have no concerns with the proposal. The EPA & Citylink Transurban have not responded within the specified timeframe.

Internal Referrals

- 77. The application has been referred to council's Traffic Engineering Unit, Urban Design Unit, Community Amenity and Social Policy and Research Units. These comments have been included as attachments to this report.

SLR acoustic review

- 78. The acoustic report from Marshal Day (18/3/16) has been reviewed by SLR – These comments have been included within this report as an attachment.

OFFICER ASSESSMENT

- 79. The primary considerations for this application are:
 - (a) Strategic justification;
 - (b) Sale and consumption of liquor;
 - (c) Buildings and works;
 - (d) Objectors concerns; and
 - (e) Other matters.

Strategic justification

- 80. Policy wise, both state and local provisions support urban consolidation, with venues of this type encouraged within existing entertainment precincts and activity centres.

In particular, clauses 11.01-1 (activity centre network), 17.01-1 (business) and 21.04-2 (activity centres) encourage the aggregation of commercial facilities in such neighbourhoods, with clause 21.04-3 (Industry, office and commercial) encouraging the development of commercial services which provide more local employment opportunities. This clause also encourages the use of existing infrastructure in an efficient manner.

81. The site is located just south of the Swan Street AC and within close proximity to the CBD and as such, the use will contribute to the continued vibrancy and growth of the surrounding precinct as encouraged by the policies above. Significantly, the use of land within the Commercial 1 Zone as a 'tavern' does not trigger the need for a planning permit which indicates strong strategic support for the application in its proposed location.
82. Furthermore, the site has excellent access to surrounding tram, train and bus networks in accordance with relevant objectives found at clause 21.06 (Transport). Based on these factors, the use of the site in the manner proposed has excellent strategic support, and is considered to be an appropriate response for one of Yarra's major activity centres.

Sale and consumption of liquor

83. While there is a strong level of strategic support for the location of taverns and other licensed premises within an Activity Centre as outlined above, the local policies for these venues and Decision Guidelines under the Yarra Planning Scheme relating to the sale and consumption of liquor are geared towards ensuring that the type of venue, number of patrons and hours of operation do not result in unreasonable amenity impacts to the surrounding area.
84. Clause 22.09 (Licensed Premises Policy) and Clause 52.27 (Licensed Premises) provide the relevant guidance in relation to considerations of the proposed sale and consumption on off-site amenity impacts, including cumulative impacts. Clause 22.09 of the Scheme is Council's local policy to guide the assessment of new or extended licensed premises within the municipality. It contains six key elements that will be considered in the following section under the following headings:
 - (a) Location and access;
 - (b) Hours of operation;
 - (c) Patron numbers;
 - (d) Noise;
 - (e) Car parking; and
 - (f) Noise and Amenity Plan.

22.09-3.1 – Location and Access

85. The subject site is located in a Commercial 1 Zone and an Activity Centre, with a mix of both commercial and residential uses in close proximity. The site is also abutting the Church/Chapel Street tram line with Swan Street services located approximately 40m to the north. East Richmond and Richmond train stations are also within easy walking distance.
86. The main pedestrian entrance into the building is via Church Street with all patron ingress/egress being via this entrance. Queuing is currently managed along the street/footpath areas as indicated in the Noise and Amenity Action Plan (NAAP) provided with the application. Anecdotally, the queuing arrangement outlined in the NAAP has been subject to some issues as reflected within the comments received from Victoria Police but with outdoor chairs/tables removed from the areas directly outside of the subject site there has been some improvement.
87. This interface of the premises onto Church Street (being a commercial area) is considered appropriate in terms of avoiding direct interfaces with residential areas and provides opportunities for safe movements to and from the premises with ample street surveillance due to the relatively high number of persons utilising the wider Activity Centre.

88. Patron dispersal and movements from the site would generally be contained along Church Street and Swan Street, both of which allow patrons easy access to catch taxis, trains or trams.
89. Toilet facilities are readily available for patrons within the building, as are smoking areas, which are available at ground floor level, adjacent to Swan Street and on the proposed terrace areas.
90. Overall, it is considered that the location of the subject site is generally in a location which is supported by the policy under clause 22.09 of the Scheme.

22.09-3.2 – Hours of Operation

91. This application proposes to extend the hours for the sale and consumption of liquor within the existing, first floor terrace to include Sunday nights up until 12:00 midnight. This terrace is currently restricted to 11:00pm only on Sunday nights (and midnight Wednesday through to Saturday).
92. These hours are also proposed for the new terrace spaces at second and rooftop level.
93. The comments received from council's Community Amenity Unit have recommended that the new outdoor areas be closed to the public no later than 12:00midnight Friday and Saturday nights and no later than 11:00pm Sunday to Thursday.
94. Additionally, the comments from council's Community Amenity Unit have suggested that the proposed terraces at first and second floors and rooftop should be limited to provide no music after:
 - (a) 10:00pm – Sunday to Thursday; and
 - (b) 11:00pm - Friday and Saturdays.
95. These comments were made by the Community Amenity Unit in response to concerns that noise emanating from these areas would result in unreasonable amenity impacts to the surrounding area. While noise will be assessed later in this report under Paragraphs 107-122, it is sufficient at this point to state that the acoustic material provided with the application adequately deals with noise issues from the proposed development.
96. The operation of outdoor areas for an additional hour on Sunday evening from what the planning permit currently allows for is not considered unreasonable in light of the supporting acoustic details which have been provided with the application. The operation on Sunday evening up to midnight does not extend the overall hours of the venue and therefore this change is considered to be generally acceptable.
97. Changes are also sought to include sale/consumption of liquor on Anzac Day to allow the terraces to be used for this purpose up until midnight. This relates to a condition placed on the Liquor License (as opposed to the planning permit) – this change is considered to be generally inconsequential over and above the discussion of the additional hours undertaken in the point above.
98. Overall, the increased hours for outdoor terraces are considered to be generally acceptable based on the acoustic outcomes achieved as part of this application. While this may be the case, the additional patron numbers later into the evening are to be further assessed in the following section of this report.

22.09-3.3 – Patron Numbers

99. The application seeks an increase of 225 patrons which would be accommodated within the proposed additions and through use of the first floor 'function' space which would now be utilised by the public (ie not reserved specifically for functions).
100. A report from Reddo Building Surveyors has been provided which outlines the capacity of the venue to hold a maximum of 475 patrons at any one time and therefore the 450 patrons proposed under this application would not extend beyond the safe operating capacity of the venue.
101. While this may be the case Council's Community Amenity Unit has reviewed the proposal and noted that there have been several recent amenity concerns with the existing use of the site and noise complaints have been received (four in 2016 and three in 2015). This feedback from council's Community Amenity Unit in addition to comments received from Victoria Police illustrates that any intensification to the existing use must be carefully considered.
102. Following a review of the application material, it is council's position that the application has demonstrated effective noise attenuation controls to the venue but has not demonstrated that the additional patrons would/could be managed effectively to avoid unreasonable adverse cumulative impacts to the wider area.
103. As outlined in Practise Note 61 – *Licensed Premises: Assessing Cumulative Impact*, Late-night trading hours for licensed premises have been associated with increased harm including violence with particular focus on harm associated with premises which cater for more than 200 patrons.
104. The impacts of additional patron numbers to the Public House is an issue which must be viewed in conjunction with the operation of other license venues and the management of patrons within the surrounding area once they have left the venue and any negative cumulative impacts which this may potentially have.
105. Paragraphs 130-165 of this report will assess possible cumulative impacts associated with the proposed increase in patron numbers with regard to council's local planning policies and guidance under Practise Note 61 – *Licensed Premises: Assessing cumulative impact*.
106. At this point, it is sufficient to state that council does not support the additional patron numbers to 2:00am as proposed as the application has failed to demonstrate that additional patronage to the premises would not result in unreasonable detrimental.

22.09-3.4 – Noise

107. Noise associated with the proposed development relates to both music and patron noise from new areas proposed as part of this development. In assessing noise impacts to the surrounding area, it is also relevant to discuss the likely impacts which would occur between the proposed development and the development at No's 1 Little Lesney Street and 9 Wiltshire Street under Planning Permit application PLN14/1000.
108. With regards to music noise, SLR have suggested additions/revisions to the report to address concerns from the proposed outdoor areas stating:

The venue is proposing to play background music only. The acoustic report should provide guidance for allowable music levels in the outdoor areas such that SEPP N-2 limits are met at all existing dwellings. Loudspeakers in the new outdoor areas should also meet SEPP N-2 limits at the proposed residential development at 1 Little Lesney and 9 Wiltshire streets. The limits should be expressed as A and C weighted levels, as well as octave band levels.

The sound system should be checked by an acoustical consultant once it is set up, to ensure that settings will achieve compliance with SEPP N-2. Self-monitoring of music emissions is also advisable. The acoustic report should provide advice to the venue such that they can monitor their own levels.

109. In response to the comments above, a revised acoustic report was provided by MDA (dated 28 October, 2016). The changes included within this revised report included:
- (a) *Background level music of 67dBA in the outdoor areas (spectrum provided in Table 11 of the revised acoustic report dated 28/10/16);*
 - (b) *Amplified music in outdoor areas during the 'day' and 'evening' periods only;*
 - (c) *A music noise monitor to be installed to manage music emissions in the outdoor areas;*
 - (d) *The music noise monitor is to be set by a suitably qualified acoustical consultant;*
110. The comments received from SLR (emails dated 15 November, 2016) outline that the above response addressed the impacts relating to music noise for residential properties to the east and west of the subject site.
111. With regard to the interface with shop-top housing on the western side of Church Street, opposite the subject site, SLR have outlined that the amended MDA report (28/10/2016) demonstrates that noise impacts would not be unreasonable stating:

A prediction of patron noise to this location has been provided. The predicted level is 60 dBA Leq. This level is not unreasonable for a dwelling overlooking a busy road. In my opinion this issue has been adequately addressed.

112. In light of the comments above, it is considered that any impact to shop-top housing located on the western side of Church Street, opposite the subject site would not be unreasonable.
113. The issue of patron noise to the approved development under Planning Permit PLN14/1000 from the proposed terraces is addressed in the revised MDA report (28/10/2016) and subsequent discussion material between MDA and SLR in which SRL raise issues with the absence of data on the patron noise emitted from the east-facing, first floor terrace under the existing conditions.
114. The comments from SLR outline this issue stating:

If the residential development has its planning permit, from our perspective the issues for the Public House are reduced to:

- (i) *How loud are the current patron noise levels at the façade of the proposed development; and*
- (ii) *By how much will they increase if the proposed outdoor patron area goes ahead*

115. As outlined earlier in this report, Planning Permit PLN14/1000 has been issued with a Notice of Decision to grant a planning permit which is now subject to an appeal to the Tribunal. The acoustic report provided with the development under PLN14/1000 by Watson Moss Growcott Acoustics (WMG) has been reviewed by both MDA and SLR as part of the assessment for Public House.
116. Details provided by MDA (19 December, 2016) outline that the attenuation works which would be integrated with the new areas and to the existing, east-facing terrace at first floor would result in a reduction in the noise levels presented to the east stating:

Predictions of patron noise from the proposed renovation vs the existing scenario are as follows:

- (i) *Proposed: 64 - 73 dB LAeq*
- (ii) *Existing: 69 - 76 dB LAeq*

(The reduction in the predicted levels, despite an increase in patrons, is due to increased wall heights to all floors of the PHH as part of the proposed redevelopment. This means that the lower floors of 1 Little Lesney Street, which are most impacted, will be provided with greater screening from patron noise than exists at present)

Therefore following the redevelopment of the PHH and with the proposed glazing installed at 1 Little Lesney Street, predicted internal noise levels due to patrons are up to 40dB LAeq (with windows and doors closed).

This is in line with the Maximum Recommended Design Sound Level of 40 dB LAeq (from AS 2107) which is presented in Section 4.2.1 of the WMG report.

117. With a reduction to the patron noise levels experienced under the existing conditions (ie from music and patron noise from the existing, east-facing terrace), this is considered to be a reasonable approach in the absence of legislation which specifies outcomes for patron noise.
118. The Notice of Decision issued for Planning Permit PLN14/1000 includes condition 16 which requires a Section 173 Agreement to be put into place to:

make purchasers aware that the site is impacted by music and patron noise and that, while façade upgrades have been implemented to minimise noise impacts, a reduced level of acoustical amenity is to be expected.

119. Given the commercial zoning of the land, its location adjacent to the Swan Street Activity Centre and the existing level of activity during both daytime and night time trading hours, the amenity of dwellings and shop-top housing within the area cannot reasonably be expected to be of the same level as dwellings located within a residential zone. Furthermore, the amenity of these dwellings is already likely to be affected by existing noise sources including traffic and transport services on Church and Swan Streets, the East Richmond train station and commercial uses operating along Church/Swan Street.
120. The proposed development would provide the benefit of more defined measures from the existing conditions in terms of ensuring music noise from the premises met the relevant SEPP N2 criteria. It is acknowledged that the existing venue has had issues with non-compliance in the past and therefore to formalise the outcomes laid out in the MDA report are of clear benefit in terms of managing noise impacts into the future.
121. The application material has also demonstrated that a net improvement would be achieved in terms of patron noise as a result of the attenuation works proposed under this development. In the absence of any legislated benchmark it is considered an acceptable outcome in itself taking the Section 1 – no permit required use of the land as a Tavern and the existing nature of the premises.
122. The acoustic report from MDA (dated 28 October, 2016) would be endorsed to form part of the amended planning permit.

Car parking

123. As outlined earlier in this report, the application seeks a reduction in the car parking requirement. This is discussed in more detail under the heading of car parking reduction later in this report.
124. While issues relating to the dispersal of patrons are evident within the objections received from the advertising process and public consultation meeting undertaken as part of processing this application, the location of the subject site is sufficiently buffered from residential areas to avoid unreasonable impacts from patron dispersing through residential areas.

125. It is acknowledged that some patrons associated with Public House may choose to find parking within residential side-streets, the number is likely to be relatively low with council's Traffic Engineering Unit agreeing with the applicant's traffic report which estimates a demand for approximately 25 car parking spaces being generated by the increased patronage.
126. The location of the subject site on Church Street is considered to be more conducive to patrons who do drive to the premises to utilise parking areas within Swan or Church Street or the paid parking lots south of Wright Street (140m south) or on the opposite side of Church Street off Shakespeare Place.

Noise and Amenity Plan

127. The provisions within the submitted NAAP are generally appropriate with regards to the policy criteria under clause 22.09 of the Scheme.
128. While this may be the case, it is considered that the statements outlined within this document are relatively generic in nature and do not provide an indication that the issues associated with the sale and consumption of liquor from the premises (as outlined in the comments received from council's Community Amenity Unit and Victoria Police) would be addressed and/or are able to be managed appropriately with the additional patron numbers proposed under this application.
129. It is considered that the risk associated with an additional 225 patrons exiting the venue at 2:00am cannot be dismissed as minor within the context of total numbers within the centre when assessing the type of venue that Public House is as will be outlined in the following section of this report.

Cumulative impacts

130. The Decision Guidelines under clause 52.06 of the Scheme specify that the Responsible Authority must consider any cumulative impact associated with the proposed sale/consumption of liquor.
131. Practice Note 61 – *Licensed premises: Assessing cumulative impact* was released by the Department of Planning and Community Development (DPCD) in March 2011, and provides a framework for assessing cumulative impact. The Practice Note states that the applicable guidelines should be used for assessing all new premises that will be licensed after 11pm and are in an area where there is a cluster of licensed premises.
132. The Practise Note indicates that licensed premises open after 11pm are considered a greater risk to the surrounding area in terms of alcohol related violence, antisocial behaviour and other impacts. Reduced trading hours may therefore reduce the risks of late-night alcohol-related harm. Licensed premises with a patron capacity over 200 are also cited within the Practise Note as holding a greater risk of alcohol-related harm and result in a negative cumulative impact.
133. The earlier sections of this report have discussed the policy setting for the application and the direct impacts of the increase to patron numbers. The remaining issue is for assessment of the proposed development against possible 'cumulative' impacts within the surrounding area.

What is the mix of licensed premises in the area?

134. There is a range of the type of licensed premises located along Church and Swan Streets with a mixture of BYO, General, Late Night (general), Late Night (on-premises), On-premises, Restaurant and Café and Packaged Liquor licences. The mixture of the types of licenses is reflective of the strategic direction for the Swan Street AC as an entertainment precinct.

Do any licensed premises cater for more than 200 patrons?

135. The following table lists the premises which have the capacity to hold more than 200 patrons at any one time and also which operate after 11pm.

| Business name | Address | License Type | (Maximum) closing time | Patron capacity |
|---|-----------------------------------|-------------------------------|---|------------------------|
| *Public House Hotel (subject site) | 433 Church Street | Late Night (on-premises) | 2am | 225 |
| Corner Hotel | 57 Swan Street | Late Night (General) | 3am | 750 |
| Vaucluse Hotel | 157 Swan Street | Late Night (General) | 24 hours | 360 |
| Sneak Bar & Lounge | 69 Swan Street | Late Night (on-premises) | 3am | 100 |
| Maeve Fox | 472 Church Street | Late Night (on-premises) | 3am | 191 |
| Great Britain Hotel | 447 Church Street | Late Night (general) | 3am | 300 |
| Swan Hotel | Corner of Swan and Church Streets | Late Night (general) | 3am | 300 |
| Nine T Four | 94 Swan Street | Late Night (on-premises) | 3am | 110 |
| Central Club Hotel | 293 Swan Street | General Licence | 1am | 300 |
| The Post Office Hotel | 90 Swan Street | Late Night (on-premises) | 1am | 100 |
| Royal Saxon Hotel | 545 Church Street | General | 1am | 385 |
| Church 364 | 364 Church Street | General License | 1am | 200 |
| Bar Economico | 438 Swan Street | On-premises | 1am | Unknown |
| The G Bar | 96 Swan Street | On-premises | 1am | 50 |
| Nine T Four | 94 Swan Street | On-premises (Late Night) | 3am | 110 |
| Meatmother | 167 Swan Street | On-premises | 1am | Unknown |
| Richmond Hill Hotel | 345-355 Church Street | General (late-night) Premises | 24 hours | Unknown |
| Richmond Club Hotel | 100 Swan Street | General Licence | 1am | 500 |
| Area 3 Reception and Function | 560 Church Street | On-premises (late night) | 3am | 300 |
| The Ugly Duckling Wine Bar | 238 Swan Street | On-premises | 1am (planning permit issued for 3am) | 76 |

| | | | | |
|--------------------------------------|---------------------|-----------------|------|-----|
| Liquor Land | 140 Swan Street | Packaged Liquor | 11pm | N/A |
| BWS | 132-134 Swan Street | Packaged Liquor | 11pm | N/A |
| Blackhearts and Sparrows Wine | 202 Swan Street | Packaged Liquor | 11pm | N/A |

136. Venues which cease trading prior to 11pm and/or which are associated with a restaurant/café use have been specifically excluded from Table 1 in light of the minimal risk which these venues are seen to contribute to the cumulative impact in the area.

How many and what type of licensed premises (especially high capacity venues and packaged liquor outlets) operate after 11pm?

137. The table above indicates that of the twenty-three (23) premises listed above, three (3) of these are for Packaged Liquor. Each of the Packaged Liquor Premises close by 11pm. It is considered that there would be little interplay between additional patron numbers proposed under the application and these packaged venues further down Swan Street to the west which close well before Public House Hotel (ie 2:00am).
138. There are two (2) high capacity venues (500 plus patrons) which operate after 11pm, being the Corner Hotel and the Richmond Club Hotel with closing times of 3am and 1am respectively. The Corner Hotel is a renowned live music venue where as the Richmond Club can be described more generically as a 'pub' which includes designated dining areas (ground floor) as well as provision for music played by a DJ and dance-floor at the upper levels.
139. Both of the above venues have been subject to recent VCAT hearings where issues associated with increased patronage for the venues was discussed in regards to cumulative impacts within the Swan Street area. Significantly, these two (2) hotels are located at the very (western) periphery of the cumulative impact catchment area for the current application.
140. The mid-range venues (100-499 patrons) vary in hours of operation between 24 hours (Vaucluse Hotel) and 1:00am to 3:00am for the remainder of the premises. The applicant makes specific note in their application that Public House is the only venue to have a closing time of 2:00am.
141. The remaining venues operating after 11pm are primarily associated with the consumption of liquor with little focus on food and drink or other entertainment such as music and are best described as a pub and/or bar.
142. As outlined in the points above, there are a variety of licensed venues in proximity to the subject site with closing times after 11:00pm. This demonstrates that there is a prevalence of pub/bar venues operating within 500m of the subject site. While there are relatively few 'high capacity' venues with more than 500 patrons, it is this interplay between the venues within the Swan Street Activity Centre which is the focus of assessment.

Do licensed premises commonly operate at capacity and is queuing outside common?

143. Queuing is not uncommon for the larger premises listed within the table above (including the Public House), especially on Friday and Saturday evenings. Anecdotally, the subject site has extensive queuing on Friday and Saturday evening. This has been a documented issue raised in the comments received from Victoria Police who suggest that the management of patrons outside of the venue is not adequate under the existing conditions.
144. While the submitted NAAP outlines that queuing will be managed outside of the venue by a designated security guard, It is considered that these issues pose a substantial risk to the amenity of the area if existing issues are compounded by allowing additional patron numbers to the venue as proposed.

145. It is understood that chairs and tables previously placed along the footpath outside of the subject site have been removed to provide greater ease of passage between queues and the curb.

Do many licensed premises in the area show a high ratio of standing to seating?

146. The majority of the venues offer a percentage of seating and food with the service of liquor (ie being pubs).
147. Public House contains a reasonable level of seating for the venue with the new areas proposed under this application showing the provision for approximately 50% seating for the number of patrons proposed. It is noted that while seating may be provided within the premises, the provision of meals is generally limited to prior to 10:00pm with the website for the venue outlined the kitchen closing at this time.
148. The point above is relevant in that while seating can be provided within a venue and this may have the effect of reducing the impacts of vertical drinking, the operation of the premises remains primarily concerned with the sale/consumption of liquor (as opposed to provision of live music, food and drinks etc) which reduce this impact.

Is there any evidence of problems apparent in the area, such as property damage or littering, which may be attributed to alcohol related incidences?

149. Anecdotally, there is evidence that patrons from the surrounding licensed venues are contributing to litter and noise issues within the Swan Street AC.
150. Issues raised by residents within the public consultation meeting indicate that there is a prevalence of antisocial behaviour, litter and property damage which occurs in and around the Swan Street Activity Centre. This is not to say that the Public House Hotel is specifically responsible for these impacts.

Are complaints (for example, to council or Victoria Police) about licensed premises already being generated in the area?

151. The application has been referred to both Victoria Police and VCGLR as outlined earlier in this report. Council's Community Amenity Unit has commented that four (4) complaints have been received during 2016 in regards to noise from the subject premises (music and patrons).
152. Comments received from Victoria Police outline significant issues relating to patron management/dispersal along Church Street. The comments state:

As it stands (with the current patron capacity of 225), patrons exiting the venue at closing time are not being managed by staff. Crowd controllers are not making any attempt to move patrons on; as they continue to file out of the venue, they are milling around on the footpath – some are standing on the road either solo or in groups attempting to hail taxi's.

The groups that are gathering on the footpath end up blocking the path for other pedestrians, often forcing them on to the road in order to get past. The concern here (other than the obvious amenity issue) is the propensity for fights/brawls to erupt, either between venue patrons and/or patrons and passers-by.

153. This history of complaints is significant in terms of assessing/balancing the considerations between policy support for the premises in its current location and the risk of alcohol related amenity impacts.

Transport and dispersal

154. Trains run from East Richmond Railway Station and Trams are available approximately every 20mins along both Church and Swan Streets. Richmond Train Station is located approximately 700m to the west of the subject site, along Swan Street.
155. While there are no dedicated taxi ranks within Church or Swan Streets, the area is well serviced by taxis. Of note is the increasing uptake of ridesharing businesses (ie Uber) which offer a viable transport in addition to taxis.
156. There is car parking available within the surrounding street network which council's traffic engineering has cited as being highly occupied under the existing conditions. While on-street car parking is already at a premium, the comments from the Traffic Engineering Unit stipulate that typically, 15-20% of patrons would travel to a Hotel/Tavern which would equate to 33-45 patrons. The acceptability of this reduction will be discussed in more detail, later in this report under assessment of clause 52.06 – Car parking of the Yarra Planning Scheme.

Conclusions

157. Council's policies under clause 22.09 – *Licensed premises* of the scheme do not support the increased number of patrons within the premises beyond 1:00am with the policy under clause 22.09-3.2 – *hours of operation* stating:

Licensed premises in a Business or Industrial Zone not trade beyond 1am, unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.

158. While the details outlined earlier in this report suggest that the location and policy context for the area are generally supportive for the ongoing use of the premises as part of the vibrancy of the Swan Street Activity Centre, the additional patronage later in the night-period poses an unacceptable risk based on the evidence available to council at this time.
159. Issues have been identified in the comments received from council's Community Amenity Unit and the response from Victoria Police with regards to managing patron behaviour outside of the subject site under the existing conditions.
160. It is council's position that a common-sense approach does not warrant the additional patron numbers after 1:00am (as benchmarked by the policy at clause 22.09) when the venue has not demonstrated effective measures towards managing its current level of patronage at a significantly lower rate. In the absence of definitive evidence one way or the other, it is considered that a cautious approach is best adopted.
161. On balance, It is considered that these issues pose substantially less risk prior to 1:00am and the additional patronage up to this time becomes less problematic due to limiting the time for patrons to spend within the licensed venue and increased prevalence of transport options to entice patrons leaving the Public House to disperse more effectively.
162. This is reflected in State Governments 'freeze' on late night premises for the sale and consumption of liquor after 1:00am. With regards to the freeze, it is relevant to outline that the exemptions provided within the recent gazettal for venues less than 200 patrons, live music venues and bars where food is always available – none of which apply to the Public House Hotel.
163. It is considered that while the additional patrons (to a maximum of 450) can achieve an acceptable and beneficial outcome for the Activity Centre, the additional numbers post 1:00am has not been adequately justified in terms of the amenity impacts which this has to the surrounding area.

164. In light of this, a condition of permit would require the number of patrons to be reduced to no more than 225 by 1:00am, matching the number of patrons which are currently permitted within the premises under the existing Planning Permit.
165. Reducing the number of patrons after 1:00am is also considered to be generally consistent with the direction provided under the Practise Note (PN-61) which outlines that licensed premises with a patron capacity of over 200 may pose a greater risk of alcohol related harm and result in negative cumulative impacts.

Buildings and works

166. The relevant permit trigger for the development is the Commercial 1 Zone, and the primary considerations for the proposed development are the decision guidelines at clause 34.01-8 – Decision Guidelines. Furthermore, the urban design assessment for this proposal is guided by State and Local policies at clauses 15.01-2 - Urban design principles; 21.05 - Urban design; 22.05 - Interface uses policy; 22.10 - Built form and design.
167. Consideration of the built form and design will be assessed under the following applicable headings of Clause 15.01-2 – Urban Design Principles of the Scheme which incorporates several relevant LPPF objectives under the headings: Context, The Public Realm, Safety, Landmarks, views and vistas; Pedestrian spaces; Consolidation of sites and empty sites; Light and shade; Energy and resource efficiency; Architectural quality and Landscape architecture.

Context

168. The existing character of the surrounding area is a mix of building sizes and heights varying between single and four storey buildings, with some larger commercial buildings with hard edged forms built to street frontages.
169. In order to understand the site and its context, Clause 21.08 - *Neighbourhoods* of the Scheme describes the area as being a 'main road' area with the accompanying objective included under the clause '*to maintain the hard edge of the strip*'.
170. The direct interfaces to the subject site include blank walls of one and two-storey commercial buildings, with mixed use areas located to the east. As discussed earlier in this report, the property to the east has recently been issued with a Notice of Decision to grant Planning Permit PLN14/1000 for a ten-storey, mixed use development.

Height, scale and massing of the development

171. It is important for any assessment of building height and neighbourhood character to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and preferred future character development of the area.
172. The height of the proposed additions are considered to be generally acceptable due to their limited visibility from wider view lines along Church Street which would be blocked by neighbouring buildings to the north or south.
173. The most sensitive interface is considered to be in relation to the east, mindful of any future development under Planning Permit PLN14/1000. Significantly, the proposed additions would be located approximately 19m from the western boundary of the lots at No.1 Little Lesney Street and 9 Wiltshire Street. This degree of separation is considered to avoid any unreasonable visual bulk impacts associated with the height of the development.
174. Overall, it is considered that the height and massing of the additions are generally acceptable within the commercial context of the area and the absence of any unreasonable amenity impacts.

The Public Realm & Pedestrian spaces

175. The retention of the western elevation at street level associated with the tavern would continue to contribute to surveillance and activation of Church Street as this premises operates throughout the day. This outcome is encouraged within commercial areas, as outlined as a decision guideline of the zone at clause 34.02-7 and under the policy direction at clause 22.10-3.4 of the Scheme.

Landmarks, Views and Vistas

176. It is policy at clause 15.01-2 of the Scheme that important landmarks, views and vistas be protected or enhanced, or where appropriate, created by new additions to the built form. Within the Richmond area, the Ball Tower of Dimmeys (Swan Street) is identified as a significant landmark to which views should be protected.
177. The proposed development does not compete with the identified landmark and is considered to be an acceptable response to the policy direction under clause 22.03-4 of the Scheme.

Consolidation of Sites and Empty Sites

178. The proposed development would sit above the existing building's street wall to Church Street and would sit comfortably within the 'grain' of the streetscape, generally in accordance with the objectives of this policy.

Light and Shade

179. The level of shadowing cast by the proposed development would only partially extend over Church Street and would not extend to the footpath on the opposite side of the street. This is generally supported as an urban design outcome.

Energy and Resource Efficiency

180. The proposed development would not include sufficient floor areas to warrant specific ESD outcomes to be required as conditions of permit. The additional floor area associated with this development largely relates to open terrace space.

Site Coverage

181. The proposed development would sit above the existing building and would therefore not result in any additional site coverage. This is generally supportable in line with the objectives of this policy.

Architectural Quality

182. In terms of built form, the comments from council's Urban Design Unit are somewhat critical of the upper levels stating: *This amphitheatre like form will be visible from oblique views on Church Street and will draw attention of the viewers to the top of the building. It is felt that its overall form will not be aesthetically pleasing and will appear dominant.*
183. The proposed upper-levels would be set back in excess of 5.7m from the Church Street frontage and while being visible from oblique views, this additional height is not considered to be unreasonable given the new works would not be highly visible other than from oblique angles past neighbouring buildings along Church Street.

184. The subject site is not located within a Heritage Area and therefore it is also of note that the height of the adjoining buildings to the south are likely to be increased through re-development in the future, these views to the proposed additions are likely to be eliminated by neighbouring sites in any case.

Car parking reduction

185. In terms of the proposed reduction to car parking requirements of clause 52.06 of the Yarra Planning Scheme, it is considered that the 33-45 patrons which are expected to drive to the venue (when operating at capacity) would be catered for within the surrounding area. It is acknowledged that on-street car parking is at a premium in proximity to the subject site and this is not unusual in terms of the functioning of an Activity Centre which provides services for a high number of persons.
186. The policy under clause 52.06 – Car parking of the Scheme requires consideration of multi-purpose trips within an area. This is particularly relevant within an Activity Centre such as Swan Street, where visitors are likely to visit a number of venues in a single visit. This is reiterated within the comments received by Council's Traffic Engineering Unit who highlight that attributing on-street car parking use to any one premises in the immediate area is next to impossible.
187. It is council's position that a reduction to the car parking requirements of clause 52.06 of the Scheme is an appropriate response given the excellent proximity to public transport options and the nature of the use proposed. While patrons may organise to attend the venue with a 'designated driver' it would be counter-intuitive to be creating a situation where patrons are encouraged to drive to a venue where the primary activity being undertaken is the consumption of alcohol.
188. From a traffic engineering perspective, Council's traffic engineers have concluded that the waiver of the car parking requirement for the tavern is considered appropriate in the context of the development and the surrounding area. The car parking demand associated with this site should not adversely impact on existing car parking conditions in the area. The high pedestrian volumes in the Swan Street activity centre and the easy accessibility to public transport services are major factors in reducing the number of parking spaces required for the development.

Objectors concerns

189. Objector concerns have mostly been addressed within the body of this report, the following section provides a summary of the assessed outcomes discussed earlier and includes discussion with regard to areas not previously covered:

Noise and amenity concerns relating to the additional hours, patron numbers and consumption of liquor;

- (a) The issues relating to additional hours, patron numbers and consumption of liquor have been assessed earlier in this report under Paragraphs 91-98, 99-106 & 130-165.
- (b) It is considered that by reducing the number of patrons to no more than the currently approved 225 after 1:00am, the risk associated with the licensed venue is reduced to an acceptable level.

Excessive music noise;

- (c) Issues relating to music noise have been assessed earlier in this report and found to achieve an acceptable outcome subject to the outcomes contained within the acoustic report submitted with the application.

Possible restrictions to future development within abutting lots;

- (d) The proposed development is not considered likely to result in a scenario which would unreasonably restrict development within adjoining lots. Being commercial in nature, the amenity of the proposed rooftop areas would not be afforded the same degree of protection with regards to visual bulk as a residential building, were the lots to the north or south of the subject site to be developed into the future.
- (e) While any development within adjoining lots would need to take into consideration possible amenity impacts associated with being located adjacent to the proposed rooftop areas, this is not an unusual scenario for commercially zoned land in an Activity Centre.
- (f) A standard condition of permit would be included to require that all on-boundary walls are to be cleaned and finished to the satisfaction of the Responsible Authority.

Lack of car parking;

- (g) The proposed reduction of car parking has been assessed earlier in this report under Paragraphs 123-126 & 185-188 and found to achieve an acceptable outcome.

Inappropriate materials (fire rating/building issues).

- (h) Issues relating to fire rating of materials is not an issue which can be controlled under the requirements of the Yarra Planning Scheme.

Other matters

190. In light of the changes proposed under this application, the permit preamble requires some changes to appropriately reflect the works proposed. The preamble would be amended as follows:

Construction of building and works to an existing roof terrace, waiver of the car parking requirements (associated with an increased patron capacity of 328) and liquor license (license to roof terrace associate with the use of the land as a tavern (bar/bistro)

- (a) To read:

Construction of building and works, waiver of the car parking requirements (associated with an increased patron capacity of 450) and sale and consumption of liquor associated with the use of the land as a tavern (bar/bistro).

Conclusion

191. The proposal is considered to be acceptable having regard to the relevant State and Local Policies, the Commercial 1 Zone, Clauses 52.06 and 52.27 of the Yarra Planning Scheme, outlined in the above assessment and should therefore, be approved, subject to conditions.

RECOMMENDATION

That having considered all relevant planning controls and policies, it is recommended that a Notice of Decision to Grant and amended Planning Permit (PL02/1103) be issued for construction of building and works, waiver of the car parking requirements (associated with an increased patron capacity of 450) and sale and consumption of liquor associated with the use of the land as a tavern at 433 Church Street, Richmond, generally in accordance with the decision plans received 29 April 2016 and subject to the following conditions:

The amended/new conditions are shown in bold as follows:

Condition 1 deleted

1. **(New) The use and 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.**
2. **(Amended) Before the number of patrons is increased to 450, an amended Noise and Amenity Action Plan (NAAP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the NAAP will be endorsed and will then form part of the permit. The plan must be generally in accordance with the Plan of Management submitted to the Responsible Authority 22nd December 2016 but modified to include the following details:**
 - (a) The maximum number of patrons must not exceed 225 after 1:00am;**
 - (b) The maximum number of patrons must not exceed 106 in the east-facing, first floor terrace;**
 - (c) The maximum number of patrons must not exceed 79 in the west-facing, second floor terrace;**
 - (d) The maximum number of patrons must not exceed 75 in the rooftop area.**

The NAAP must be not be altered or modified except with the consent of the Responsible Authority. The NAAP must be implemented to the satisfaction of the Responsible Authority.

Condition 3 deleted

Condition 4 deleted.

3. **(New) 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.**
4. **(New) The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.**
5. **(Amended)The maximum capacity of the premises must not exceed the following numbers:**
 - (a) Between 10:00am to 1:00am (the following day) - four-hundred and fifty (450) patrons seven days a week;**
 - (b) Between 1:00am and 2:00am – Two-hundred and twenty-five (225) patrons, seven days a week.**
6. **(New) The maximum capacity of outdoor areas must not exceed the following numbers:**
 - (a) East-facing, first floor terrace – one-hundred and six (106);**
 - (b) West-facing, second floor terrace – seventy-nine (79);**
 - (c) Rooftop area – seventy-five (75).**
7. **(New) Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor within terrace areas may only occur between the following hours:**
 - (a) Monday and Tuesday 10:00am – 11:00pm**
 - (b) Wednesday to Sunday 10:00am – 12.00midnight**

8. **(Amended)** The outdoor terrace **areas** must be limited to playing background music only. No live bands are permitted in this area.
9. Any music/noise emitted from the premises shall not exceed the permissible noise levels specified in the State Environment Protection Policy (Control of Music in public premises) No.N2.
10. **(New)** The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
11. **(Amended)** Prior to the maximum number of patrons being increased to 450, a Noise Limiter must be installed on the land. The Noise Limiter must:
 - (a) be set at a level specified by a qualified acoustic engineer, generally in accordance with the acoustic report referenced under condition 4 of this permit;
 - (b) ensure the emission of noise from amplified music does not exceed the levels specified in the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2);
 - (c) be maintained and operated at all times.

To the satisfaction of the Responsible Authority.

12. The amenity of the area must not be detrimentally affected by the use or development, 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.
13. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
14. **(New)** Within two months of the completion of works approved under this permit, 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. **(New)** 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.
16. During all hours (whether or not liquor is served) in which the business is open to the public, entry must be made freely available to any authorised officer(s) of the responsible authority for the carrying out of any investigations associated with the sale or consumption of alcohol on the site.
17. During all hours (whether or not liquor is served) in which the business is open to the public, there must be present on the premises, a person over the age of 18 years, responsible for the good conduct of the premises ('The Manager'). The Manager must at all times be authorised by the occupier of the premises to make statements on their behalf to any authorised officer of the Responsible Authority regarding the conduct of the premises for the activity hereby authorised.

18. An area must be provided for the placement of Garbage Bins and Recycling Services. The area shall be paved, screened and constructed to the satisfaction of the Responsible Authority.
19. Any empty bottles associated with the use must be transferred between containers only in plastic bags and no emptying of bottles into garbage bins is permitted after 11.00pm on any night or before 7.00am on any day.
20. **(New) This permit will expire if:**
 - (a) The development is not commenced within two years of the date of this permit;
 - (b) The development is not completed within four years of the date of this permit; or
 - (c) The sale/consumption of liquor and increase in patron numbers approved under this permit are not commenced within five years of the date of this amended 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.

NOTE: The premises will be required to comply with the Health Act 1984. No development is to commence until plans have been approved by Council's Community Amenity and Health Unit.

NOTE: These premises are required to comply with the Food Act 1984. No fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on 9205 5777.

NOTE: A building permit may be required before development is commenced. Please contact Council's Building Department on Ph. 9205 5351 to confirm.

CONTACT OFFICER: Patrick Sutton
TITLE: Senior Statutory Planner
TEL: 9205 5357

Attachments

- 1 Site context
- 2 Plans and Elevations
- 3 NAAP
- 4 Current Planning Permit
- 5 MDA acoustic report (28/10/2016)
- 6 SLR acoustic review
- 7 SLR additional comments
- 8 Victoria Police comments
- 9 Community Amenity Unit comments
- 10 Social Policy and Research Unit comments
- 11 Traffic Engineering Unit comments
- 12 Urban Design Unit comments

Attachment 1 - Site context

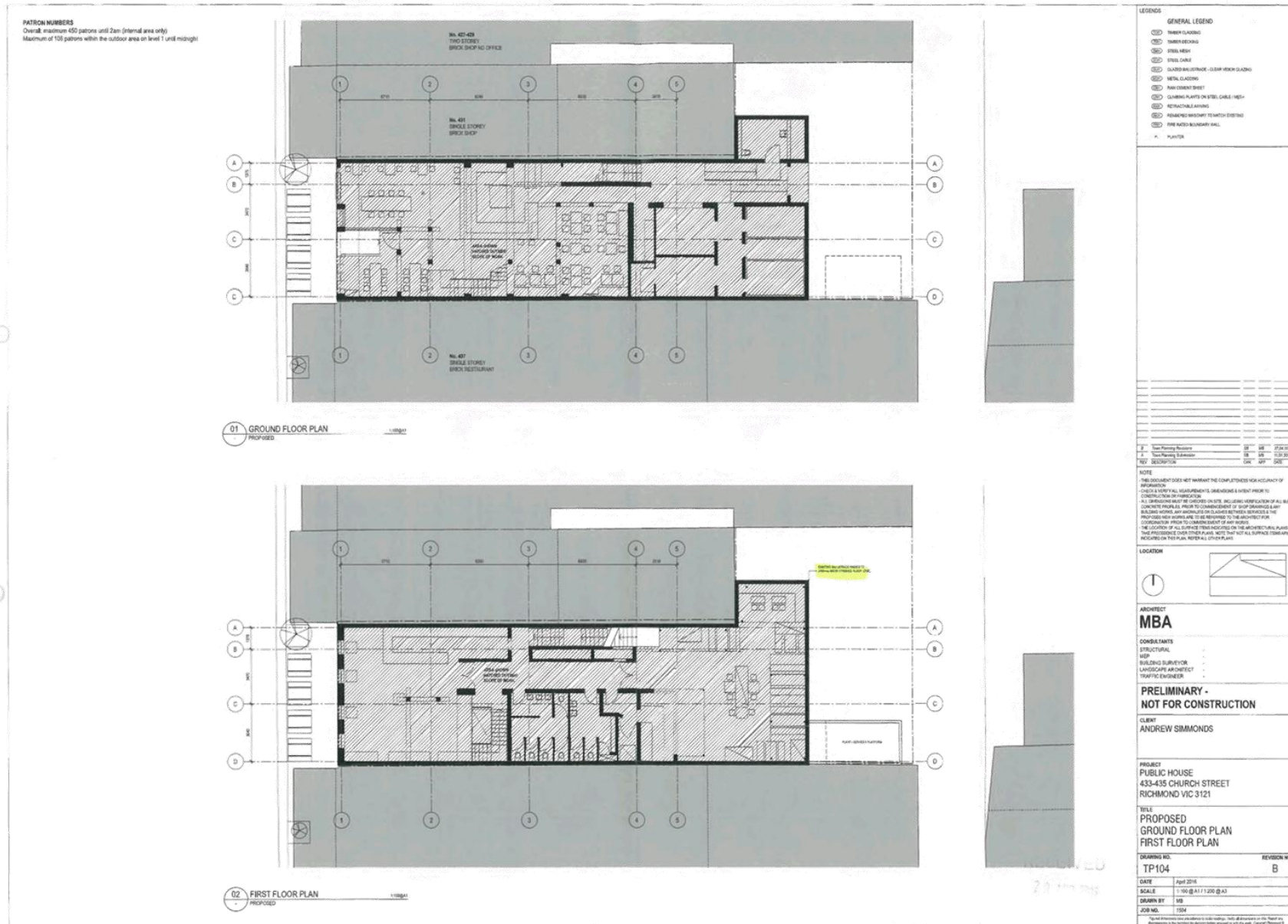
SUBJECT LAND: 433 Church Street, Richmond

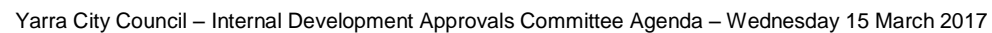


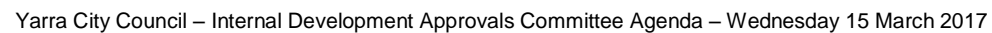
↑ North

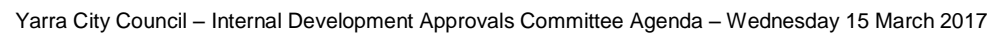
★ Subject Site

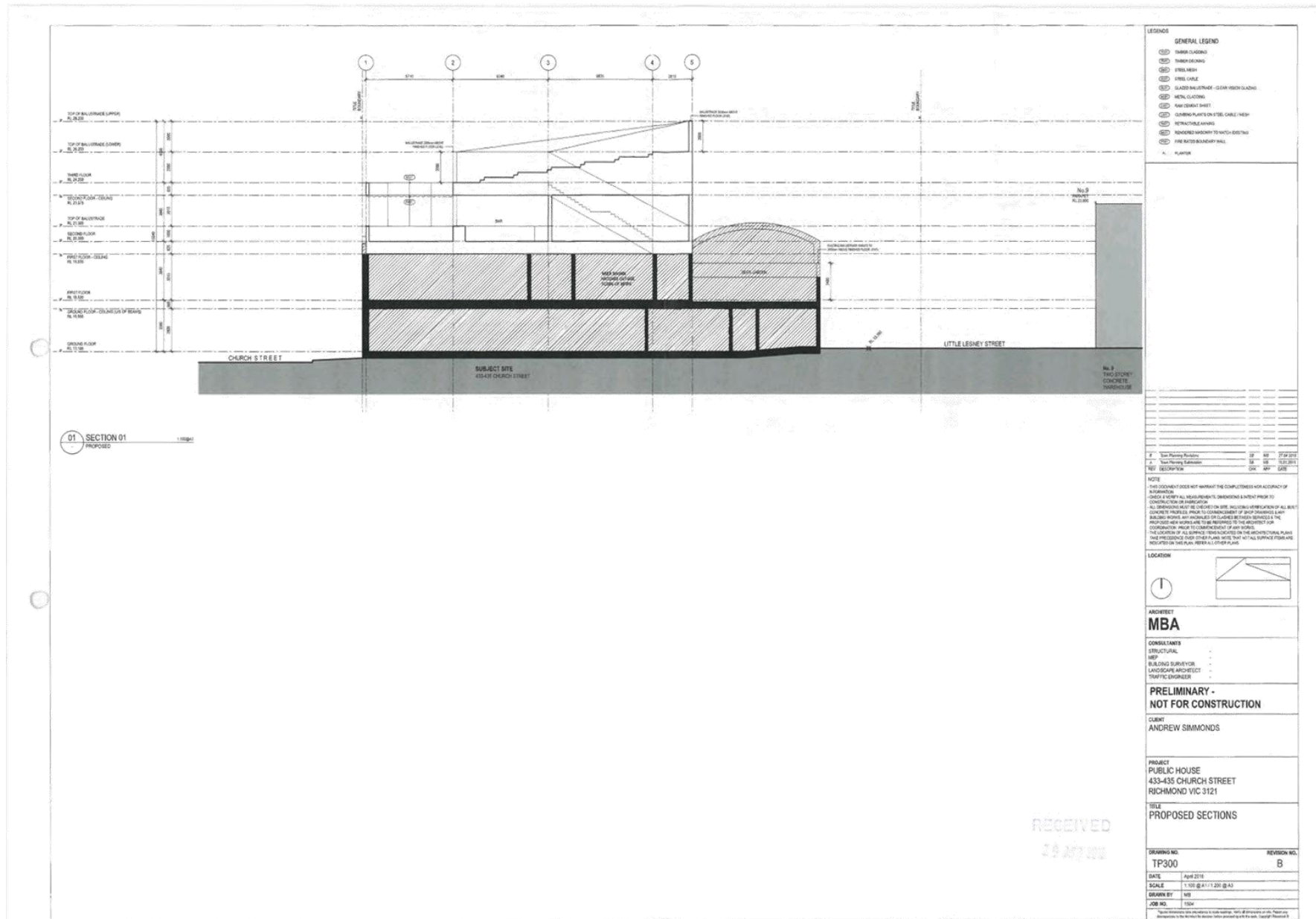
Attachment 2 - Plans and Elevations



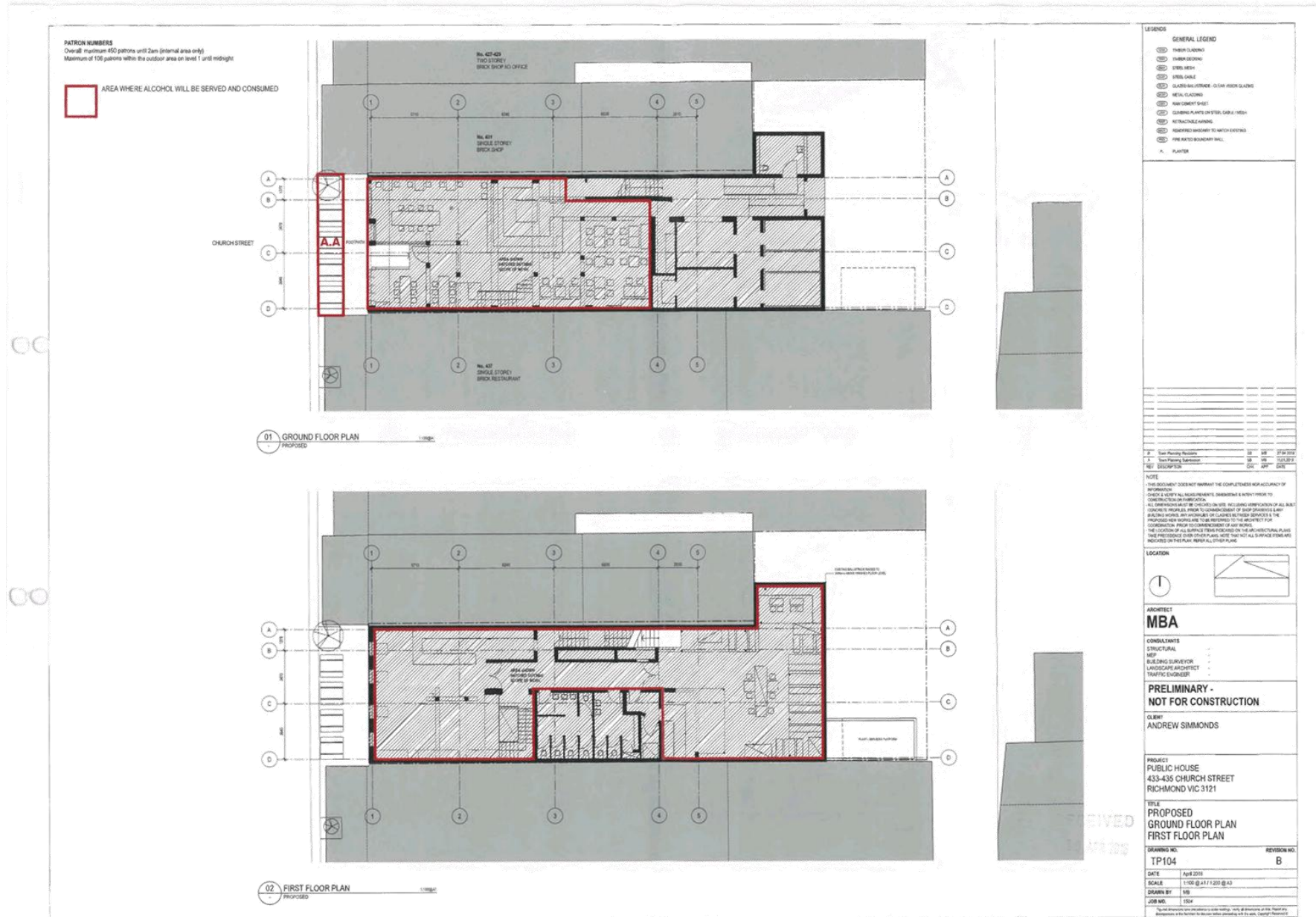




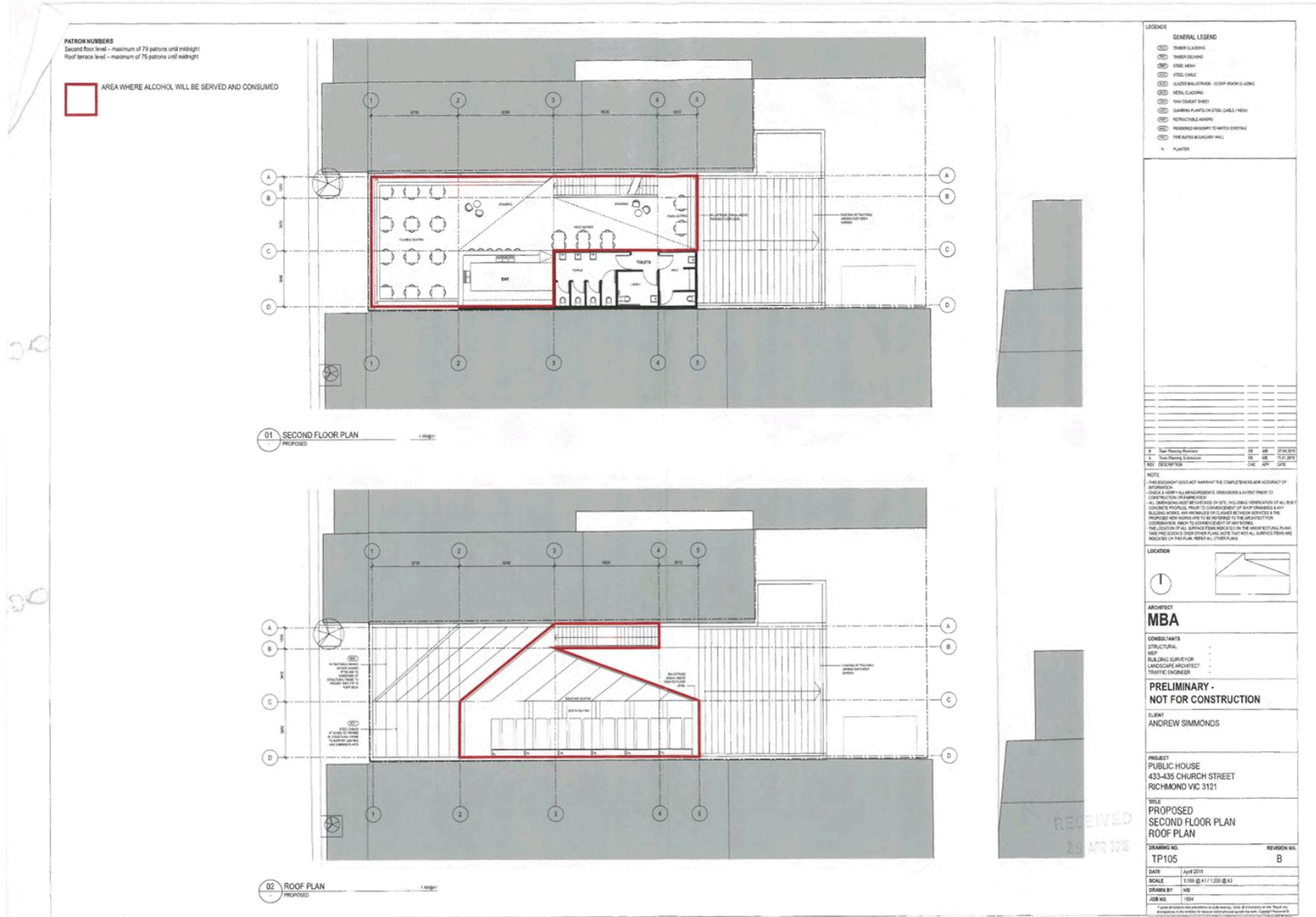




Attachment 2 - Plans and Elevations



Attachment 2 - Plans and Elevations



Noise and Amenity Action Plan

**PUBLIC HOUSE
433-435 CHURCH STREET
RICHMOND**

November 2016

Attachment 3 - NAAP

INTRODUCTION

This Noise and Amenity Action Plan establishes a series of proposed conditions for the overall Management and operation of Public House having regard to the amenity of the area, as well as Planning Permit and Liquor License conditions.

Public House is located at 433-435 Church Street, Richmond and operates amongst a number of other licensed premises, including late night premises.

A copy of the liquor licence setting out the hours of trade, permissible patron numbers and other conditions is **attached** to this plan.

Public House is a Hotel and is licensed as follows:

Sunday - Between 10:00am and 1:00am the following morning.

Good Friday & Anzac Day - Between 12:00 noon and 1:00am the following morning.

Monday to Wednesday - Between 10:00am and 1:00am the following morning.

Thursday to Saturday - Between 10:00am and 2:00am the following morning.

Outdoor terrace area -

Sunday to Tuesday - Between 10:00am and 11:00pm.

Wednesday to Saturday - Between 10:00am and 12:00 midnight.

Anzac Day (Sunday to Tuesday) - Between 12:00 noon and 11:00pm.

Anzac Day (Wednesday to Saturday) - Between 12:00 noon and 12:00 midnight.

Public House offers patrons meals, together with the consumption of liquor, 7 days a week.

This Noise and Amenity Action Plan consists of the following sections:

- o The area covered by the Noise and Amenity Action Plan.
- o Potential amenity issues and operational matters.
- o Procedure for the implementation of the Noise and Amenity Action Plan.

Attachment 3 - NAAP

(A) AREA COVERED BY NOISE AND AMENITY ACTION PLAN

This Noise and Amenity Action Plan relates to the area of land which incorporates the subject land at 433-435 Church Street, Richmond and the area in front of the premises.

(B) AMENITY ISSUES AND OPERATIONAL MATTERS

The object of this Noise and Amenity Action Plan is to ensure that the operation of the premises does not unreasonably affect the amenity of the surrounding area. The matters and objectives set out in this Noise and Amenity Action Plan will work in conjunction with the existing, or any future conditions or requirements set out in the Planning Permit for the subject premises and any existing or future conditions or requirements set out on the Liquor Licence for the subject premises.

MANAGEMENT AND OPERATIONAL MATTERS

Management will ensure the following:

- (i) Compliance with the conditions set forth on the Liquor Licence and Planning Permit.
- (i) The Management of the premises will maintain satisfactory queuing arrangements at the entrance to the venue, if required. This arrangement should utilise a defined section of the footpath along the building line and will maintain pedestrian access along the footpath of Church Street.
- (i) Management will permit patrons to enter the premises via the front entry to Church Street only and all other exits will be for emergency purposes only.

Attachment 3 - NAAP

- (i) The Licensee shall ensure that any nearby resident is, on request, given the Licensee's phone number to be used if patrons leaving the premises create a disturbance.
- (i) If any disturbance arising as a result of the operation of the premises cannot be promptly controlled by the licensee's staff, the licensee shall call the police for assistance where appropriate.
- (i) Staff shall monitor patron behaviour to ensure that the area and the amenity of the neighbourhood is not disturbed.
- (i) All staff at the premises engaged in the service of alcohol must have completed Responsible Service of Alcohol training within four weeks of their first shift, as is required by liquor licensing. A register of RSA certificates, and completed RSA refresher courses, for all staff engaged in the serving of alcohol will be maintained on premises.
- (i) CCTV surveillance is to be installed both within the premises and covering the front and rear access points to the building.
- (ii) Patron egress must be carefully monitored by security and management. Security supervisors and venue management must ensure security guards are in position at key locations within and outside the venue to ensure patrons leave in a quiet, calm manner.
- (iii) At the end of trade, security and staff must direct patrons to exits, direct them to nearby transport options and ensure the amenity of the area is maintained.
- (iv) During busy periods or in situations when patrons are queueing to enter the venue, a security guard shall be constantly monitoring the queue and surrounding area to ensure patrons are well behaved, quiet and neatly queued to provide an appropriate thoroughfare. Patrons should be prevented from walking onto the road wherever possible,

Attachment 3 - NAAP

and the guard should take care to direct patrons to transport options eg. train stations, trams and taxis. The guard should be wearing a high visibility vest.

- (i) Management will ensure patron numbers allowed into individual rooms and areas are strictly monitored to ensure compliance with numbers registered on the applicable liquor license. A security guard should be present at entries to areas with controlled numbers, and an appropriate patron counting and lineup system shall be implemented. Current planned operational strategy is to use IPADS to queue patrons wishing to enter areas at capacity. Patrons will be advised when they are able to enter their desired area via a text message sent by a specialised queueing programme.

MANAGING EGRESS AND PATRON MOVEMENT FOLLOWING CLOSURE OF ROOFTOP BAR AREA

1. Management and security must take appropriate precautions when monitoring the egress of patrons following closure of upper levels.
2. Patron numbers must be counted in all areas of the venue to ensure compliance with the venue's liquor license and VCGLR regulations. This information should be communicated by each guard stationed at a room exit to the security team leader and the venue manager on the evening.
3. Patrons should be given a warning 15 minutes before they must leave the area they are in to ensure they have finished their drinks and are aware they will be required to leave the area shortly.
4. Security should be stationed along exit pathways and at the relevant area exits, and should provide advice to patrons as to the direction of exits, the

Attachment 3 - NAAP

venue rooms that will remain operational, and the areas with sufficient patron number availability to allow their attendance

5. During times of peak operation, security should ensure no new / additional patrons enter the venue until all hallways are clear, numbers in each room are confirmed and security are stationed in their appropriate positions.
6. Security and management should ensure that while patrons are moving out of these areas, they are behaving responsibly and not damaging the amenity of the area with excess noise.

NOISE EMISSION CONTROL

The noise generated from the operation of the premises shall at all times comply with the standards set out in the State Environment Protection Policy N-2 (Control of Music Noise from Public Premises).

COMPLAINTS

Any complaints in relation to the premises' operations that cannot be resolved immediately are to be referred to the Manager for appropriate attention. Complaints will be handled by Management in a timely and efficient manner. A complaints log will exist in the venue and will detail any complaints made, and the appropriate resolution achieved.

COMMUNICATION

Management of the premises will be available to assist any officer from the City of Yarra investigating a disturbance in an effort to rectify any problems arising from the use of the premises. An open dialogue with the City of Yarra, Richmond Police and the VCGLR is to be maintained to ensure cooperation and understanding between the venue and relevant authorities.

Attachment 3 - NAAP

WASTE DISPOSAL

Waste will be disposed of in appropriate recyclable bins at the close of business each night the premises are in use. Waste will be deposited quietly in the appropriate bin/waste areas so not to cause effects to the amenity of the area. Waste is stored in containers located at the rear of the building.

All efforts will be made to ensure that rubbish collection does not interrupt the amenity of the area.

SIGNAGE

Appropriate signage as required by the Liquor Control Reform Act 1998 and the Liquor Licence will be displayed at all times.

Management also undertake to display signage requesting patrons respect the amenity of the neighbourhood and amenity of the area.

STAFFING LEVELS

Management: At least one duty manager is present at all times that the Venue is open. On weekends and busy nights there is to be a manager present.

(C) PROCEDURE FOR THE IMPLEMENTATION OF THE NOISE AND AMENITY ACTION PLAN

This Noise and Amenity Action Plan relates to the proposed operation and use of Public House and should be read in conjunction with any Planning Permit and/or Liquor Licence issued in relation to the premises.

Attachment 4 - Current Planning Permit

Helping you understand your planning needs



PLANNING PERMIT (Amended)

Permit No: PL02/1103

Planning Scheme: Yarra

Responsible Authority: City Of Yarra

ADDRESS OF THE LAND:

433 Church St Richmond VIC 3121

THE PERMIT ALLOWS:

For the purpose of the following, in accordance with the endorsed plan(s).

Construction of buildings and works to an existing roof terrace, waiver of the car parking requirements (associated with an increased patron capacity of 328) and liquor license (license of roof terrace associated with the use of the land as a tavern (bar/bistro).

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use and/or development starts, 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 the permit. The plans must be drawn to scale with all dimensions noted and three copies must be provided showing:
 - a) Any buildings or works recommended within the acoustic report required under condition 3 of this permit;
 - b) The maximum patron numbers for each internal space corresponding with the patron numbers detailed within the building surveyors report (Reddo 2010)
2. Before the number of patrons is increased to 328, an amended Noise and Amenity Action Plan (NAAP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the NAAP will be endorsed and will then form part of the permit. The plan must be generally in accordance with the Plan of Management submitted to the Responsible Authority 11th November 2011 but modified to include the following details:
 - (a) The maximum number of patrons in the rear terrace not to exceed 106 at any one time.

Date Amended: 21 May 2013
Date Issued: 11 July 2003


 Tarquin Leaver
 Signature for the Responsible Authority

Planning and Environment Regulations 2005 No. 33 Form 4 Sections 63 and 86

Page 1 of 4

For more information call 9205 5555 or visit www.yarracity.vic.gov.au

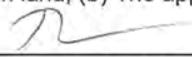
Attachment 4 - Current Planning Permit

- (b) No live or amplified music to be played in the rear courtyard area in accordance with condition 5 on Permit No. PL02/1103.
- (c) At 11:50pm the sale of food and beverages ceasing on the terrace and patrons being notified that they must depart from the terrace by 12:00pm Midnight; and
- (d) From 11:45pm, no further patron will be allowed to enter the premises until the terrace is fully vacated and patron numbers are established throughout the entire premises via a head-count by staff to ensure the maximum capacity of the venue is not exceeded.
- (e) Any recommendations from the acoustic report requested under Condition 3 of this permit for the management of the terrace area;
- (f) Point 3.6 amended to reflect the patron numbers approved under this permit.

The NAAP must not be altered or modified except with the consent of the Responsible Authority. The NAAP must be implemented to the satisfaction of the Responsible Authority.

3. Prior to the number of patrons being increased to 328, an acoustic report from a suitably qualified engineer to the satisfaction of the Responsible Authority must be supplied to and approved by the Responsible Authority. When approved the report will be endorsed and will then form part of the permit. The report must include the following assessment:
 - (a) Operation of the outdoor terrace containing 106 patrons and any measures required to achieve minimal sleep disturbance when considered against the New South Wales Environment Protection Authority Publication *Environmental Criteria for Road Traffic Noise*.
4. All development and use must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.
5. The maximum capacity of the premises must not exceed the following numbers:
 - Between 10am to midnight - Three-hundred and twenty-eight (328) patrons seven days a week, including a maximum of 106 patrons within the terrace;
 - Between midnight and 2am - Two-hundred and twenty-two (222) patrons, seven days a week.
6. The outdoor terrace must be limited to playing background music only. No live bands are permitted in this area.
7. Any music/noise emitted from the premises shall not exceed the permissible noise levels specified in the State Environment Protection Policy (Control of Music in public premises) No.N2.
8. A noise limiter shall be installed at the premises to ensure that any amplified music provided at the premises complies with the requirements of the State Environment Protection Policy (Control of Music in public premises) No.N2.
9. The amenity of the area must not be detrimentally affected by the use or development, through
 - (a) The transport of materials, goods or commodities to or from land; (b) The appearance of any

Date Amended: 21 May 2013
Date Issued: 11 July 2003


 Tarquin Leaver
 Signature for the Responsible Authority

Attachment 4 - Current Planning Permit

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.

10. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
11. During all hours (whether or not liquor is served) in which the business is open to the public, entry must be made freely available to any authorised officer(s) of the responsible authority for the carrying out of any investigations associated with the sale or consumption of alcohol on the site.
12. During all hours (whether or not liquor is served) in which the business is open to the public, there must be present on the premises, a person over the age of 18 years, responsible for the good conduct of the premises ('The Manager'). The Manager must at all times be authorised by the occupier of the premises to make statements on their behalf to any authorised officer of the Responsible Authority regarding the conduct of the premises for the activity hereby authorised.
13. An area must be provided for the placement of Garbage Bins and Recycling Services. The area shall be paved, screened and constructed to the satisfaction of the Responsible Authority.
14. Any empty bottles associated with the use must be transferred between containers only in plastic bags and no emptying of bottles into garbage bins is permitted after 11.00pm on any night or before 7.00am on any day.
15. This permit will expire if the use or development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of commencement of the works. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

NOTE: The premises will be required to comply with the Health Act 1984. No development is to commence until plans have been approved by Council's Community Amenities and Health Unit.

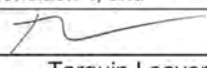
NOTE: These premises are required to comply with the Food Act 1984. No fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on 9205 5777.

NOTE: A building permit may be required before development is commenced. Please contact Council's Building Department on Ph. 9205 5351 to confirm.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

| Date of amendment | Brief description of amendment |
|---------------------------|--|
| 21 st May 2013 | <p>Pursuant to sections 73 and 74 of the <i>Planning and Environment Act</i> (1987) the permit and endorsed plans have been amended as follows:</p> <p>The amendment of the permit preamble and condition 2 (which will be renumbered as condition 5) to increase the number of patrons to 328.</p> <ul style="list-style-type: none"> • Introduction of conditions 1, 2 and 3; • Renumbering of condition 1 to condition 4; and |

Date Amended: 21 May 2013
Date Issued: 11 July 2003


 Tarquin Leaver
 Signature for the Responsible Authority

Attachment 4 - Current Planning Permit

| | |
|--|---|
| | <ul style="list-style-type: none"> • The renumbering of all remaining conditions. <p>Plans amended to show:</p> <ul style="list-style-type: none"> • Internal seating arrangements; |
|--|---|

Date Amended: 21 May 2013
Date Issued: 11 July 2003


 Tarquin Leaver
 Signature for the Responsible Authority

Planning and Environment Regulations 2005 No. 33 Form 4 Sections 63 and 86

Page 4 of 4

Attachment 4 - Current Planning Permit

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the **Planning and Environment Act 1987**.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

* from the date specified in the permit; or

* if no date is specified, from—

(i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or

(ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—

* the development or any stage of it does not start within the time specified in the permit; or

* the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or

* the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.

2. A permit for the use of land expires if—

* the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or

* the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if—

* the development or any stage of it does not start within the time specified in the permit; or

* the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or

* the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or

* the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—

* the use or development of any stage is to be taken to have started when the plan is certified; and

* the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.

* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the Responsible Authority.

* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Planning and Environment Regulations 2005 No. 33 Form 4 Sections 63 and 86

Attachment 5 - MDA acoustic report (28/10/2016)



MARSHALL DAY
Acoustics 

PUBLIC HOUSE HOTEL, RICHMOND
PATRON NOISE

Rp 001 R03 2015487ML | 28 October 2016

Attachment 5 - MDA acoustic report (28/10/2016)

6 Cripps Street
 Collingwood VIC 3066
 Australia
 T: +613 0416 1855
 A RN: 53 470 077 191
 www.marshallday.com

Project: **PUBLIC HOUSE HOTEL, RICHMOND**

Prepared for: **Michael Barraclough Architecture
 204/7 Smith Street
 Fitzroy Vic 3065**

Attention: **Mr Michael Barraclough**

Report No.: **Rp 001 R03 2015487ML**

Disclaimer

Reports produced by Marshall Day Acoustics Pty Ltd are prepared based on the Client's objective and are based on a specific scope, conditions and limitations, as agreed between Marshall Day Acoustics and the Client. Information and/or report(s) prepared by Marshall Day Acoustics may not be suitable for uses other than the original intended objective. No parties other than the Client should use any information and/or report(s) without first conferring with Marshall Day Acoustics.

We stress that the advice given herein is for acoustic purposes only, and that the relevant authorities and experts should be consulted with regard to compliance with regulations or requirements governing areas other than acoustics.

Copyright

The concepts and information contained in this document are the property of Marshall Day Acoustics Pty Ltd. Use or copying of this document in whole or in part without the written permission of Marshall Day Acoustics constitutes an infringement of copyright. Information shall not be assigned to a third party without prior consent.

Document Control

| Status: | Rev: | Comments | Date: | Author: | Reviewer: |
|---------|------|-------------------|------------|---------|-----------|
| Draft | - | - | 04/12/2015 | SJM | GLL |
| | 1 | Minor amendments | 14/12/2015 | SJM | GLL |
| | 2 | Minor amendments | 17/12/2015 | SJM | GLL |
| Final | 3 | After SLR comment | 28/10/2016 | SJM | GLL |



Attachment 5 - MDA acoustic report (28/10/2016)**TABLE OF CONTENTS**

| | | |
|------|--|----|
| 1.0 | INTRODUCTION | 5 |
| 2.0 | SITE DESCRIPTION | 5 |
| 2.1 | Future development | 6 |
| 2.2 | Project description | 6 |
| 3.0 | EXISTING NOISE ENVIRONMENT..... | 7 |
| 4.0 | ASSESSMENT CRITERIA | 10 |
| 4.1 | SEPP N-1 | 10 |
| 4.2 | SEPP N-2 | 10 |
| 4.3 | MDA patron noise guidelines | 10 |
| 4.4 | Sleep disturbance | 10 |
| 5.0 | PATRON NOISE DATA..... | 11 |
| 6.0 | NOISE MODELLING METHODOLOGY | 12 |
| 6.1 | Prediction methodology | 12 |
| 6.2 | Noise model overview | 13 |
| 6.3 | Patron noise controls | 13 |
| 7.0 | SEPP N-1 ASSESSMENT | 15 |
| 7.1 | SEPP N-1 Limits | 15 |
| 7.2 | Assessment | 15 |
| 8.0 | SEPP N-2 ASSESSMENT | 16 |
| 8.1 | SEPP N-2 limits..... | 16 |
| 8.2 | Control of music noise | 16 |
| 8.3 | Assessment | 17 |
| 9.0 | PATRON NOISE ASSESSMENT..... | 18 |
| 9.1 | Patron noise criteria | 18 |
| 9.2 | Assessment - Day and evening periods | 18 |
| 9.3 | Assessment - Night-time..... | 19 |
| 10.0 | SLEEP DISTURBANCE ASSESSMENT | 20 |
| 10.1 | Sleep disturbance criteria | 20 |
| 10.2 | Assessment | 20 |
| 11.0 | PATRON NOISE TO THE PROPOSED DEVELOPMENT AT 1 LITTLE LESNEY STREET | 21 |
| 12.0 | SUMMARY | 22 |

Attachment 5 - MDA acoustic report (28/10/2016)



APPENDIX A GLOSSARY OF TERMINOLOGY

APPENDIX B PLANNING MAP

APPENDIX C UNATTENDED MEASUREMENT LOCATION

APPENDIX D NOISE MONITORING RESULTS

APPENDIX E SEPP N-1 LEGISLATION

APPENDIX F SEPP N-2 LEGISLATION

APPENDIX G DISCUSSION REGARDING DETERMINATION OF PATRON NOISE GUIDELINES

APPENDIX H INTERPRETATION OF PATRON NOISE ASSESSMENT

APPENDIX I PATRON NOISE DATA

Attachment 5 - MDA acoustic report (28/10/2016)



1.0 INTRODUCTION

It is proposed to renovate the existing Public House Hotel which is located at 433 Church Street in Richmond.

As part of the renovation, Marshall Day Acoustics Pty Ltd (MDA) has been commissioned to undertake a patron noise assessment to consider the cumulative effect of the existing and future outdoor deck areas.

A glossary of acoustic terms used within this report is provided in Appendix A.

2.0 SITE DESCRIPTION

The site is bounded by the following:

- Commercial buildings to the north and south
- Commercial buildings to the east on Little Lesney Street with residential dwellings beyond
- Church Street to the west with commercial properties beyond.

An aerial photograph of the subject site and surrounds is provided in Figure 1.



Figure 1: Site location and surrounds (Image: Nearmap)

The proposed development is in a Commercial Zone (C1Z) with Mixed Use Zone (MUZ), Residential Zones (NRZ1 and GRZ2) and Public Use Zone – Transport (PUZ4) in the immediate environs.

A map of the land uses in the vicinity of the site is presented in Appendix B.

Correspondence with Council has indicated that there are no residential dwellings on Church Street to the west of the premises. Therefore nearest noise sensitive receivers are to the east at 7a Wiltshire Street and 3a Little Lesney Street.

It is noted that there is a large picture window on the west facade of 3a Little Lesney Street. Inspection of planning documents relating to a proposed development at 1 Little Lesney Street and 9 Wiltshire Street indicates that this window is not operable. In which case the assessment point for this property will be the balcony on the south facade.

Attachment 5 - MDA acoustic report (28/10/2016)



2.1 Future development

Inspection of information available on the City of Yarra planning website indicates that a proposal has been submitted in relation to the construction of a nine storey residential development at 1 Little Lesney Street and 9 Wiltshire Street (PLN14/1000).

Further discussion on the implications of this development on the proposed extension to the Public House is provided in Section 11.

2.2 Project description

It is understood that the extension will add an outdoor area and bar at a new second floor level with an additional outdoor area at a new roof level. Existing bar and deck areas to the ground and first floors are to remain with minor alterations.

The closing time of the outdoor areas is understood to be 2300 hrs Monday – Tuesday and 0000 hrs Wednesday – Sunday. This is understood to be in-line with the operating hours of the existing outdoor area.

It is understood that the patron capacity of each new area is as follows:

- New second floor area - 79 patrons
- New roof area – 75 patrons

An indicative drawing of the extension to the upper floors of the building is included as Figure 2.

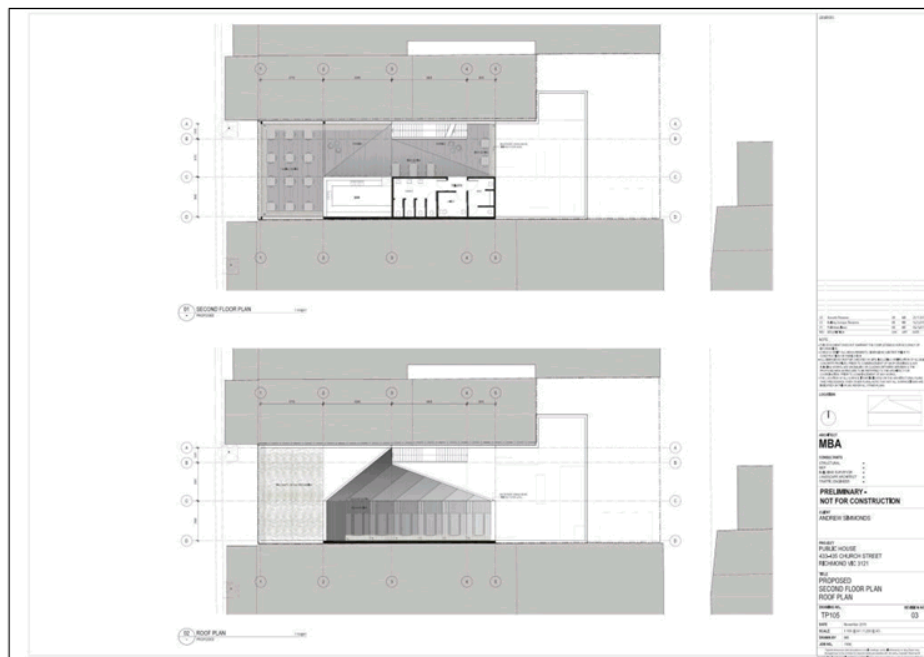


Figure 2: Extension to second and roof levels

Attachment 5 - MDA acoustic report (28/10/2016)**3.0 EXISTING NOISE ENVIRONMENT**

Background and patron noise levels at the site were measured at the eastern side of the existing first floor outdoor area using a 01dB DUO precision integrating sound level meter fitted with a windshield.

The microphone was mounted on a pole at a height of approximately 3.5m above local ground level under freefield conditions. A photograph of the noise monitor in situ is presented as Figure 3 and the monitoring location is shown in Appendix C.

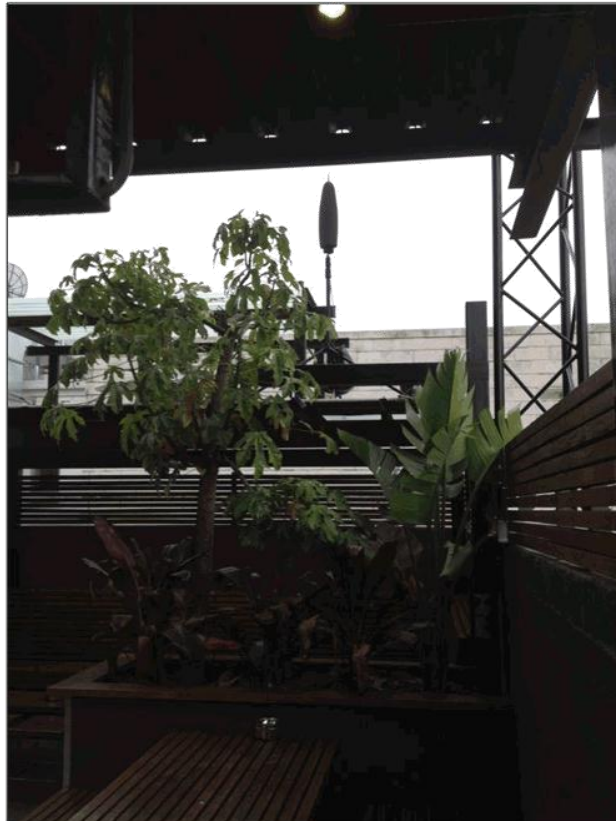


Figure 3: Unattended noise monitoring location

Measurements were obtained using the 'F' response time and A-weighting frequency network. The equipment was checked before and after the survey and no significant calibration drifts were observed.

Consecutive measurements were obtained between 1030 hrs on Wednesday 16 and 0800 hrs on Tuesday 27 October 2015.

The prevailing noise environment when consultants attended site to install and collect the equipment was dominated by road traffic on surrounding roads and mechanical plant on the roofs of adjacent commercial premises. It is considered that the measured levels at time when the existing outdoor area was operating at full capacity are likely to have been dominated by patron noise from the premises.

Measured noise levels are summarised in Tables 1-4 and are presented graphically in Appendix D.

Attachment 5 - MDA acoustic report (28/10/2016)**Table 1: Measured background noise levels**

| Period | Average Background Noise Level, L_{A90} dB | | |
|------------------------|--|-----------|-----------|
| | Day | Evening | Night |
| Friday, 16 Oct 2015 | - | 77 | 63 |
| Saturday, 17 Oct 2015 | 61 | 78 | 64 |
| Sunday, 18 Oct 2015 | 61 | 65 | 54 |
| Monday, 19 Oct 2015 | 58 | 57 | 54 |
| Tuesday, 20 Oct 2015 | 60 | 63 | 55 |
| Wednesday, 21 Oct 2015 | 60 | 59 | 53 |
| Thursday, 22 Oct 2015 | 60 | 59 | 54 |
| Friday, 23 Oct 2015 | 60 | 75 | 63 |
| Saturday, 24 Oct 2015 | 61 | 75 | 63 |
| Sunday, 25 Oct 2015 | 62 | 74 | 56 |
| Monday, 26 Oct 2015 | 59 | 57 | 54 |
| Minimum | 58 | 57 | 54 |

Table 2: Highest measured average noise levels

| Period | Highest Average Noise Level, $L_{Aeq,15mins}$ dB | | |
|------------------------|--|-----------|-----------|
| | Day | Evening | Night |
| Friday, 16 Oct 2015 | 78 | 84 | 87 |
| Saturday, 17 Oct 2015 | 78 | 85 | 86 |
| Sunday, 18 Oct 2015 | 75 | 76 | 66 |
| Monday, 19 Oct 2015 | 68 | 62 | 69 |
| Tuesday, 20 Oct 2015 | 71 | 68 | 66 |
| Wednesday, 21 Oct 2015 | 67 | 62 | 66 |
| Thursday, 22 Oct 2015 | 71 | 64 | 67 |
| Friday, 23 Oct 2015 | 66 | 83 | 86 |
| Saturday, 24 Oct 2015 | 75 | 84 | 85 |
| Sunday, 25 Oct 2015 | 80 | 79 | 71 |
| Monday, 26 Oct 2015 | 69 | 61 | 69 |
| Maximum | 80 | 84 | 87 |

Attachment 5 - MDA acoustic report (28/10/2016)**Table 3: Average measured noise levels**

| Period | Average Noise Level, $L_{Aeq,period}$ dB | | |
|------------------------|--|-----------|-----------|
| | Day | Evening | Night |
| Friday, 16 Oct 2015 | 65 | 81 | 80 |
| Saturday, 17 Oct 2015 | 69 | 81 | 79 |
| Sunday, 18 Oct 2015 | 67 | 71 | 60 |
| Monday, 19 Oct 2015 | 62 | 59 | 60 |
| Tuesday, 20 Oct 2015 | 65 | 66 | 61 |
| Wednesday, 21 Oct 2015 | 63 | 61 | 59 |
| Thursday, 22 Oct 2015 | 65 | 60 | 60 |
| Friday, 23 Oct 2015 | 63 | 79 | 78 |
| Saturday, 24 Oct 2015 | 67 | 79 | 78 |
| Sunday, 25 Oct 2015 | 72 | 78 | 64 |
| Monday, 26 Oct 2015 | 63 | 59 | 60 |
| Maximum | 72 | 81 | 80 |

Table 4: Maximum measured noise levels

| Period | Average Noise Level, L_{Amax} dB | | |
|------------------------|------------------------------------|-----------|-----------|
| | Day | Evening | Night |
| Friday, 16 Oct 2015 | - | 94 | 98 |
| Saturday, 17 Oct 2015 | 90 | 97 | 94 |
| Sunday, 18 Oct 2015 | 89 | 86 | 85 |
| Monday, 19 Oct 2015 | 94 | 72 | 89 |
| Tuesday, 20 Oct 2015 | 94 | 79 | 90 |
| Wednesday, 21 Oct 2015 | 85 | 87 | 88 |
| Thursday, 22 Oct 2015 | 90 | 78 | 87 |
| Friday, 23 Oct 2015 | 85 | 92 | 96 |
| Saturday, 24 Oct 2015 | 92 | 93 | 93 |
| Sunday, 25 Oct 2015 | 91 | 87 | 82 |
| Monday, 26 Oct 2015 | 89 | 76 | 89 |
| Maximum | 94 | 97 | 98 |

Attachment 5 - MDA acoustic report (28/10/2016)**4.0 ASSESSMENT CRITERIA**

Table 5 outlines the potential noise sources associated with the operation of the premises and the relevant legislation or guidelines applicable for the assessment of each.

Table 5: Noise sources

| Potential noise source | Assessment criteria | Document status |
|---|-------------------------|-------------------------|
| Mechanical services | SEPP N-1 | Legislation (mandatory) |
| Music | SEPP N-2 | Legislation (mandatory) |
| Patron noise from outdoor courtyard areas | MDA proposed guidelines | Recommended approach |

All mechanical services equipment and music associated with the establishment must meet SEPP N-1 and SEPP N-2 respectively at the nearest noise sensitive receivers.

4.1 SEPP N-1

Noise from all mechanical plant and equipment must comply with the requirements of *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* (SEPP N-1). Compliance with SEPP N-1 is mandatory under section 46 of the *Environment Protection Act 1970*.

SEPP N-1 noise limits are calculated based on 'zoning level' (calculated based on the land use zoning) and the background noise level in the vicinity of the site. Further details on the methodology of SEPP N-1 are included in Appendix E.

4.2 SEPP N-2

Music noise from entertainment venues is controlled by *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2* (SEPP N-2). Compliance with SEPP N-2 is mandatory under section 46 of the *Environment Protection Act 1970*.

Further details on the methodology of SEPP N-2 are included in Appendix F.

4.3 MDA patron noise guidelines

There are currently no legislative controls or endorsed guidelines which can be applied to assess patron noise in Victoria. There has been extensive discussion between members of the Association of Australian Acoustic Consultants (AAAC) in regards to suitable criteria but consensus between members has not yet been reached.

Further detail on the derivation of the MDA patron noise guidelines is provided in Appendix G and H.

4.4 Sleep disturbance

Activities occurring on-site during the night-time period have the potential to cause sleep disturbance for the nearby residents. These include patron noise from outdoor areas occurring between 2200-0700 hrs.

Currently there is no government legislation or policy which governs maximum noise levels due to the use of the venue at night. MDA consider it appropriate to adopt criteria based on protection against sleep disturbance.

Attachment 5 - MDA acoustic report (28/10/2016)**5.0 PATRON NOISE DATA**

MDA and other acoustic consultants in Australia have measured noise from several outdoor patron areas. These measurements indicate a large variation in the noise levels of crowds. Variations are due to a number of factors including the situational context of the crowd, such as the level of alcohol consumption associated with the activities of the crowd, and the number of patrons.

Details of patron noise measurements made at a number of outdoor areas are provided in Appendix I.

For the purpose of predicting noise levels from a planned future use, we consider it appropriate to categorise patron noise level data according to the following descriptions.

Table 6: Outdoor area use categories – Patron noise

| Use category | Reference | Definition |
|--|--------------|---|
| Vertical consumption (worst-case crowd) | Appendix I.1 | Standing patrons drinking and talking Focus of activity on drinking and talking |
| Taverns with significant food offerings | Appendix I.2 | Predominantly seated patrons, drinking, dining and talking Focus of activity on dining, drinking and socialising |
| Restaurant dining | Appendix I.3 | Seated patrons drinking, dining and talking Focus of activity on dining and socialising |
| Small smoking areas | Appendix I.4 | Patrons using area for smoking. Focus of activity on smoking rather than socialising (however data includes outdoor areas with alcohol consumption) |

The assessment has used the 'Vertical Consumption' noise level data described in Table 6 to predict noise levels from the outdoor area during all periods of the day. This is considered to represent a worst case assessment.

The sound power level data used in the night-time predictions to represent a group of 10 patrons, which has been adjusted based upon the spectra and equations presented in Appendix I3, is provided in Table 7.

Table 7: Patron sound power level data – night

| | Octave Band Centre Frequency, Hz | | | | | | | |
|-----------------------------------|----------------------------------|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | A |
| Vertical consumption (10 patrons) | 82 | 84 | 85 | 92 | 90 | 86 | 79 | 96 |

The calculations have been based on the patron numbers detailed in Section 2.2.

Attachment 5 - MDA acoustic report (28/10/2016)



6.0 NOISE MODELLING METHODOLOGY

Patron noise from the proposed outdoor area has been predicted through noise modelling as described below.

6.1 Prediction methodology

To predict the noise impact of the subject site on adjacent residential areas, the following items have been considered:

- The amount of noise being generated by patron noise sources, expressed in terms of the sound power level
- The distance between the sources and receivers
- The presence of obstacles such as buildings, screens or barriers in the propagation path, including the building envelope of the proposed outdoor area
- The hardness of the ground between the source and receiver
- Absorption of sound by the air over long distances
- Meteorological influences such as wind or temperature gradients.

A 3-dimensional computer model has been created in the environmental noise modelling program, *SoundPlan V7.4*, which utilises the methodology defined in International Standard *ISO 9613-2: 1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* (ISO 9613).

With regard to calculation conditions, ISO 9613 states that:

“The method predicts the equivalent continuous A-weighted sound pressure level under meteorological conditions favourable to propagation from sources of known sound emission.”

The conditions used by the standard that are favourable to sound propagation are as follows:

- wind blowing from source to receiver within an angle of $\pm 45^\circ$ of the direction connecting the dominant sound source to the specified receiver region
- wind speed between 1m/s and 5m/s.

This environmental noise prediction method is an internationally recognised standard that has been used extensively throughout Australia, New Zealand, and Europe since its publication in 1996. This model is considered to provide a suitable methodology for the purposes of predicting environmental noise levels from industry and other sources and has been adopted for this assessment.

Attachment 5 - MDA acoustic report (28/10/2016)



6.2 Noise model overview

Screen shots of the noise model are presented below as Figures 4 and 5.

Figure 4: Screenshot of the noise model – three dimensional view

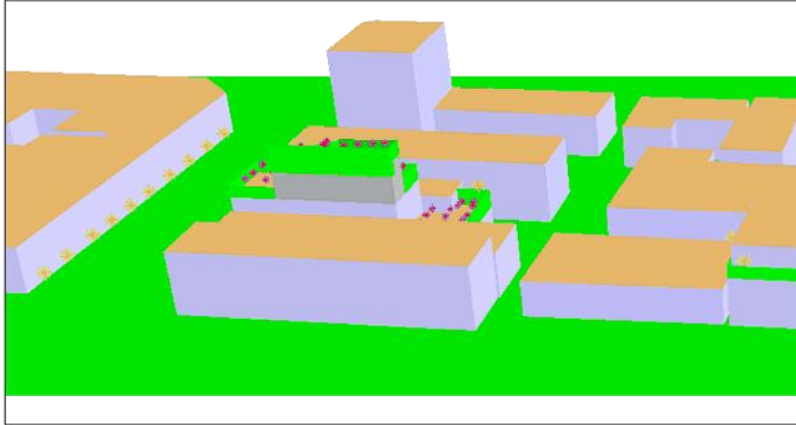


Figure 5: Screenshot of the noise model – plan view



6.3 Patron noise controls

The following noise mitigation measures have been included in the scheme:

- Parapet walls around the existing outdoor area at first floor level are to be at least 2.4 m above floor level
- Parapet walls to the east side of the new second floor deck area are to be at least 2.1 m above second floor level
- Parapet walls to the east side of the new roof deck area are to be at least 2.0 m above floor level at the highest point of the bleacher seating, which is also at the east end of the outdoor area. The wall will maintain this relative height difference as it follows the rake of the seating which falls towards Church Street.

Attachment 5 - MDA acoustic report (28/10/2016)



The following additional mitigation measures are recommended in order to control patron noise from the existing and new outdoor areas. They are:

- Absorptive treatment should be added to the east and west sides of each outdoor area. The exact extent of treatment has yet to be defined. Specifications for such treatments can be determined in conjunction with the project architect but as a guide the selected absorptive material should be weather resistant have a minimum noise reduction coefficient (NRC) of 0.7.

Attachment 5 - MDA acoustic report (28/10/2016)**7.0 SEPP N-1 ASSESSMENT**

The following sections provide the predicted noise levels from the sources covered under SEPP N-1.

7.1 SEPP N-1 Limits

Table 8 details the SEPP N-1 day, evening and night periods and the corresponding zoning level and noise limit for each period.

Table 8: SEPP N-1 time periods and noise limits

| Period | Day of week | Start time | End time | Measured background, L_{A90} dB | Zoning level, dB | Background relative to zoning level | Noise limit, L_{eff} dB |
|---------|-------------------------|------------|----------|-----------------------------------|------------------|-------------------------------------|---------------------------|
| Day | Monday-Friday | 0700 hrs | 1800 hrs | 58 | 57 | High | 64 |
| | Saturday | 0700 hrs | 1300 hrs | | | | |
| Evening | Monday-Friday | 1800 hrs | 2200 hrs | 57 | 51 | High | 60 |
| | Saturday | 1300 hrs | 2200 hrs | | | | |
| | Sunday, Public holidays | 0700 hrs | 2200 hrs | | | | |
| Night | Monday-Sunday | 2200 hrs | 0700 hrs | 54 | 46 | High | 57 |

On the basis that plant and equipment may operate at any time, noise from the site must comply with the SEPP N-1 night-time noise limits in Table 8. Compliance with the night-time noise limit will imply compliance with the day and evening noise limits.

7.2 Assessment

At this stage, the mechanical services design has not been completed. Mechanical services equipment associated with the development could include extract fans and heating/ventilation units. Mechanical plant equipment should be carefully selected, sited and attenuated. Proprietary methods of noise control such as the use of low noise equipment, duct attenuators, acoustic enclosures and barriers can be employed individually or in combination in order to reduce noise levels.

It is recommended that all exhausts, such as kitchen extract fan ducting, are fitted with attenuators and be oriented such that they exhaust away from the nearest residential receptors on Little Lesney Street. In addition provision should be made in the design to include a noise barrier around the proposed plant location.

Extract ducts should be designed to achieve a maximum noise level of 55dB L_{Aeq} @ 1m, based on a vertically discharging duct measured on or near axis.

Mechanical plant should be designed to achieve a maximum overall noise level (i.e. all items operating together) on the plant side of the noise barrier of 60dB L_{Aeq} @ 1m and be mounted such that their highest point is at least 200mm lower than the nominated noise barrier height.

Attachment 5 - MDA acoustic report (28/10/2016)**8.0 SEPP N-2 ASSESSMENT**

The following sections provide the predicted noise levels from the sources covered under SEPP N-2.

8.1 SEPP N-2 limits

The derived SEPP N-2 day and evening music noise limit is outlined in Table 9.

Table 9: SEPP N-2 derived day and evening noise limit, dB

| Period | Measured background noise level, L_{90} | SEPP N-2 limit, L_{Aeq} |
|---------|---|---------------------------|
| Day | 58 | 63 |
| Evening | 57 | 62 |

The derived SEPP N-2 night-time music noise limits are outlined in Table 10.

Table 10: SEPP N-2 derived night-time noise limit, dB

| | Octave band centre frequency, Hz | | | | | | |
|---|----------------------------------|-----|-----|-----|------|------|------|
| | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Measured background noise level, L_{90} | 55 | 57 | 54 | 48 | 45 | 41 | 35 |
| | +8 | +8 | +8 | +8 | +8 | +8 | +8 |
| Night-time noise limit, L_{10} | 63 | 65 | 62 | 56 | 53 | 49 | 43 |

8.2 Control of music noise

It is recommended that music levels are managed by installing and calibrating a suitable noise limiter system.

Two main types of internal music controllers are currently available, a limiting device and a monitoring device.

A limiting device automatically limits the sound system volume by compressing the signal to ensure that the music noise does not exceed a preset internal level, even if the volume is turned up by the sound system operator.

A monitoring system continually measures the music noise in a venue and has warning lights which indicate when the volume is excessive. The unit can be set to cut power to amplification equipment if the music noise level exceeds the predetermined music noise limit. Power will be reinstated after a short time delay.

Either system should be installed in a tamper proof enclosure. Music volumes should be set by a suitably qualified person. It is considered that the internal music levels detailed in Table 11 are considered to be appropriate settings for the limiter.

It is also recommended that music provided for the external footpath seating and within the rooftop terrace is limited to the day and evening periods. In addition, all operable windows are to be closed during the night-time period and, if it is not the case at present, all doors should be fitted with automatic closing mechanisms to prevent the escape of noise through them.

It is understood that music within the new spaces will be limited to background levels only.

The term "background music" was defined in a VCAT decision (Ref B2/2005 Whiting v Hosier Bar Pty Ltd). In this decision, which is reproduced in the Liquor Control Reform Act, a background level requires that music be played at a level enabling normal voice level conversation at a distance of 600 mm.

This is equivalent to a music noise level of approximately 67 dB L_{A10} , as detailed below in Table 11.

Attachment 5 - MDA acoustic report (28/10/2016)**Table 11: Background music levels**

| Description | Octave Band Centre Frequency (Hz) | | | | | | | |
|--|-----------------------------------|----|-----|-----|-----|------|------|------|
| | A | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Background music, L _{OC} T10 dB | 67 | 65 | 65 | 65 | 60 | 60 | 60 | 60 |

8.3 Assessment

It is considered that music from within the venue is likely to be contained by the building structure, therefore speakers located on the existing first floor deck are likely to be the dominant source of music to local residential receptors. It is understood that music in this area is limited to background levels only.

The nearest receptor is approximately 37 m from the nearest point of the first floor deck, therefore the measured levels, which were taken from a position overlooking the outdoor deck, have been corrected for the distance between source and receiver.

The measured levels are likely to include a degree of noise from patrons within the outdoor area at the time. However, as patron noise is unlikely to have a significant influence at low frequencies (63, 125 and 250 Hz), it is considered therefore that the low frequency limits are met, then this indicates that the limits at high frequency are also likely to be met.

Table 12: Predicted music levels at 7a Wiltshire Street, dB

| 7a Wiltshire Street | Octave band centre frequency, Hz | | | | | | |
|--|----------------------------------|------------|------------|-------------|-------------|-------------|-------------|
| | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Highest measured level, L ₁₀ | 78 | 82 | 78 | 84 | 85 | 81 | 75 |
| Distance correction | -17 | -17 | -17 | -17 | -17 | -17 | -17 |
| Predicted noise level, at receiver L ₁₀ | 61 | 65 | 61 | | | | |
| Night-time noise limit, L ₁₀ | 63 | 65 | 62 | 56 | 53 | 49 | 43 |
| Compliance? | Yes | Yes | Yes | N/a* | N/a* | N/a* | N/a* |

* - see notes above

Music noise from the venue is predicted to currently be in compliance with the applicable SEPP N-2 noise limit during the night. By extension the limits will be met during the day and evening. If music levels within the new outdoor areas are the same or lower than existing, then it is anticipated that the new areas will also be compliant.

Attachment 5 - MDA acoustic report (28/10/2016)**9.0 PATRON NOISE ASSESSMENT**

Noise of patrons within internal areas is generally adequately attenuated by the building envelope. Patron noise from outdoor areas has the potential to impact neighbouring residential dwellings.

9.1 Patron noise criteria

MDA has extensive experience in the assessment of patron noise and has developed a set of proposed guidelines. These guidelines have been implemented on many projects to date. The derived patron noise design targets based on the MDA patron noise guidelines are provided in Table 13.

It should be noted that the background level taken to define the night-time patron noise criteria has been taken as the lowest measured level immediately after the closure of the existing outdoor area. The lowest measured level of 51 dB $L_{A90, 30\text{mins}}$ was taken between 2300 and 2330 hrs on Monday 19 October 2015.

Table 13: MDA patron noise guidelines – derived patron noise design target

| Patron noise design target | Quasi-steady state component, L_{Aeq} dB | Maximum noise levels, L_{Amax} dB |
|------------------------------|--|-------------------------------------|
| Day (0700-1800 hours) | 73 | - |
| Evening (1800-2200 hours) | 67 | - |
| Night-time (2200-0700 hours) | 56 | 60-65 |

9.2 Assessment - Day and evening periods

The noise predictions for the outdoor areas assume that patrons are evenly distributed throughout the spaces. The nearest residential dwelling has been taken as being 7a Wiltshire Street.

Noise levels have been calculated, based on the assumptions detailed in Section 6.3 at the nearest point of the propose refurbishment and the nearest existing residential window and are presented below in Table 14 and Table 15.

Table 14: Predicted noise levels –daytime – nearest existing dwelling

| Description | Noise source category | Criteria, L_{Aeq} dB | Predicted average noise level, L_{Aeq} dB | Meets criteria? |
|---|-----------------------|------------------------|---|-----------------|
| All outdoor areas operating at maximum capacity | Vertical Consumption | 73 | 56 | ✓ |

Table 15: Predicted noise levels –evening – nearest existing dwelling

| Description | Noise source category | Criteria, L_{Aeq} dB | Predicted average noise level, L_{Aeq} dB | Meets criteria? |
|---|-----------------------|------------------------|---|-----------------|
| All outdoor areas operating at maximum capacity | Vertical Consumption | 67 | 56 | ✓ |

Compliance with the patron noise design target is predicted to be achieved at nearby residential properties during the day and evening periods, provided noise control treatments are included as described in Section 6.3.

Attachment 5 - MDA acoustic report (28/10/2016)**9.3 Assessment - Night-time**

Table 16 provides the predicted quasi-steady state night-time patron noise levels based on the sound power data presented in Table 5 and the mitigation presented in Section 6.3.

Table 16: Predicted noise levels –Night-time – nearest existing dwelling

| Description | Noise source category | Criteria, L _{Aeq} dB | Predicted average noise level, L _{Aeq} dB | Meets criteria? |
|---|-----------------------|-------------------------------|--|-----------------|
| All outdoor areas operating at maximum capacity | Vertical Consumption | 56 | 56 | ✓ |

The predicted quasi-steady state patron noise level is in line with the design target at nearby residential properties during the night period, provided noise control treatments are included as described in Section 6.3.

According to the interpretation matrix included in Appendix E, this indicates that no impact is likely.

Attachment 5 - MDA acoustic report (28/10/2016)**10.0 SLEEP DISTURBANCE ASSESSMENT**

Noise from night-time activity at the site has the potential to cause sleep disturbance to residents of neighbouring dwellings.

10.1 Sleep disturbance criteria

The NSW EPA document, *NSW Road Noise Policy*, March 2011, undertook a literature review of noise based sleep disturbance studies and found: (p. 35)

Maximum internal noise levels below 50-55 dB L_{Amax} are unlikely to cause awakening reactions

One or two noise events per night, with maximum internal noise levels of 65-70dB L_{Amax} are not likely to affect health and wellbeing significantly.

Conventional dwellings with windows partially open provide approximately 10 dB noise reduction from outside to inside. Therefore, in accordance with the *NSW Road Noise Policy* sleep disturbance findings, it is recommended that maximum noise levels from all on-site activities at night should not exceed 65 dB L_{Amax} outside an openable window of existing or future residential dwellings.

10.2 Assessment

Table 17 provides the predicted maximum night-time patron noise levels based on the measured maximum levels being 6dB higher than the average levels, as detailed in Appendix I1.

Table 17: Night-time maximum patron noise levels – nearest existing dwelling

| Noise-sensitive receiver | Predicted maximum patron noise level, L_{Amax} dB | Design target, L_{Amax} , dB | Meets criteria? |
|--------------------------|---|--------------------------------|-----------------|
| 7a Wiltshire Street | 62 | 60-65 | ✓ |

Compliance with the maximum patron noise design target is predicted to be achieved at nearby residential properties during the night period, provided noise control treatments are included as described in Section 6.3.

Attachment 5 - MDA acoustic report (28/10/2016)



11.0 PATRON NOISE TO THE PROPOSED DEVELOPMENT AT 1 LITTLE LESNEY STREET

It has been noted previously that plans are currently with City of Yarra for the development of a nine storey residential building at 1 Little Lesney Street.

Habitable rooms within the development will directly overlook the venue. Given that patron noise from the venue exists at present, and in the absence of any applicable legislation, it is not considered unreasonable for the developer of 1 Little Lesney Street to take responsibility for achieving a commensurate level of amenity for future residents.

Drawings available at 24 November 2015 indicate that dwellings within the development will have bedrooms and balconies to the west facade which will directly overlook the Public House Hotel.

An acoustic report for the project was prepared by Watson Moss Growcott Acoustics (WMG) in June 2015 which recommended substantial glazing to dwellings on the west facade of the development in order to mitigate noise from local commercial premises, including the Public House Hotel.

It is considered that the glazing specified by WMG is likely to be sufficient to control patron noise from the Public House to an acceptable internal level on the assumption that windows and doors are kept closed.

Attachment 5 - MDA acoustic report (28/10/2016)



12.0 SUMMARY

It is proposed to renovate the existing Public House Hotel which is located at 433 Church Street in Richmond.

As part of the renovation, Marshall Day Acoustics Pty Ltd (MDA) has been commissioned to undertake a patron noise assessment to consider the cumulative effect of the existing and future outdoor deck areas.

It has been demonstrated that compliance with the proposed patron noise design targets can be achieved provided the recommended noise controls in Section 6.3 are successfully implemented.

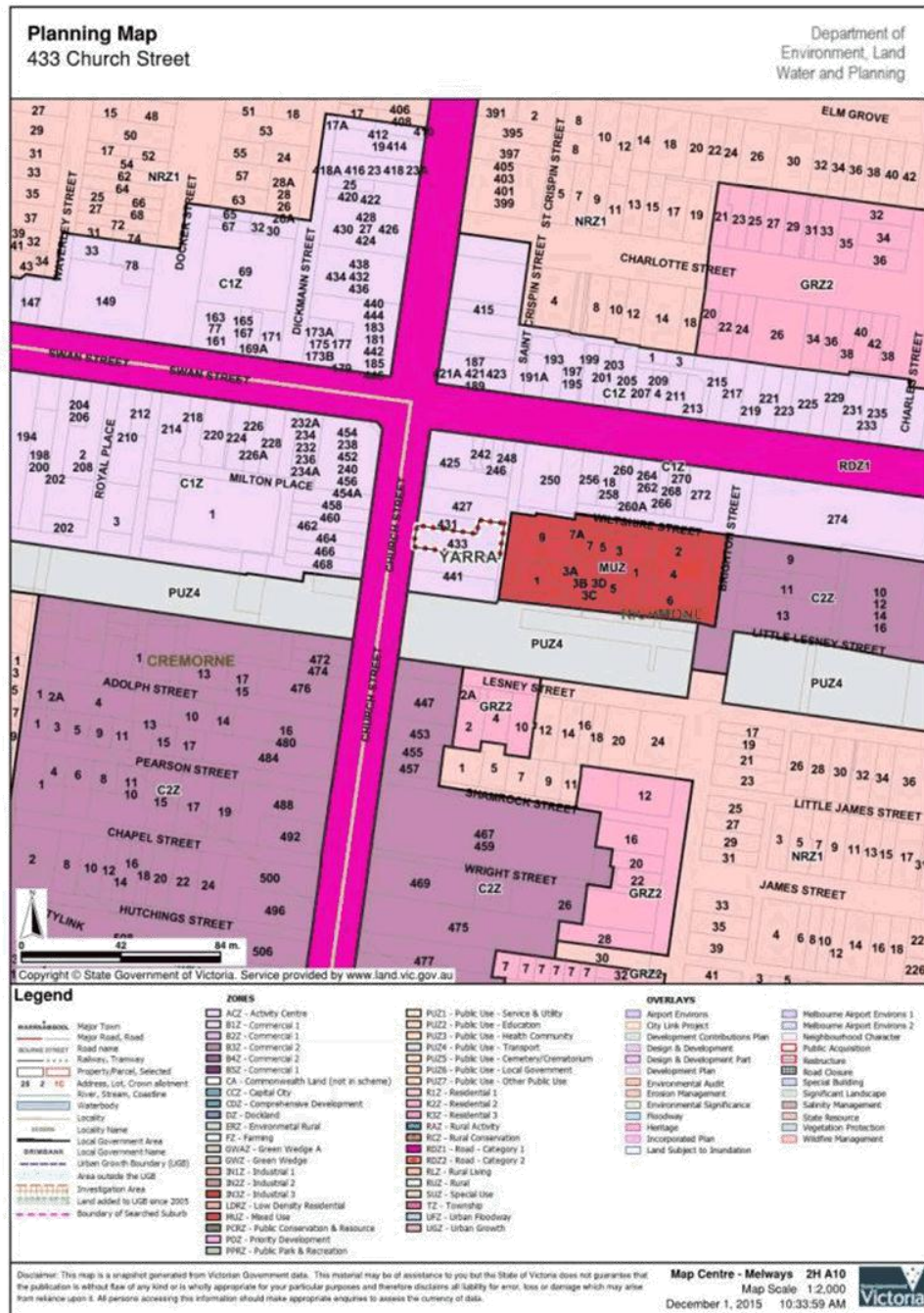
Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX A GLOSSARY OF TERMINOLOGY**

| | |
|-------------------------------|---|
| A-weighting | The process by which noise levels are corrected to account for the non-linear frequency response of the human ear. |
| dB | Decibel The unit of sound level. |
| L_{A90} | The noise level exceeded for 90% of the measurement period, measured in dB. This is commonly referred to as the background noise level. |
| L_{Aeq} | The equivalent continuous sound level. This is commonly referred to as the average noise level and is measured in dB. |
| L_{Amax} | The A-weighted maximum noise level. The highest noise level which occurs during the measurement period. |
| L_w (or SWL) | Sound Power Level. The level of total sound power radiated by a sound source. |

Attachment 5 - MDA acoustic report (28/10/2016)



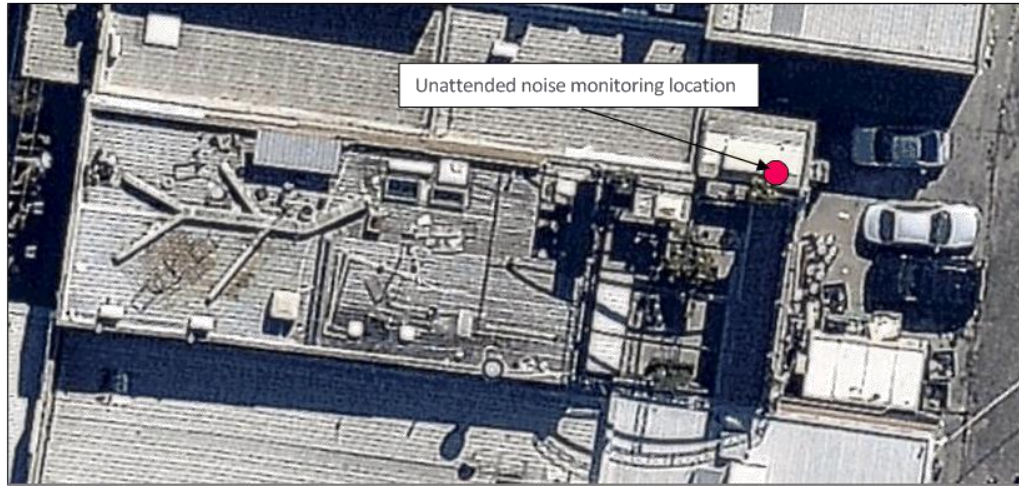
APPENDIX B PLANNING MAP



Attachment 5 - MDA acoustic report (28/10/2016)



APPENDIX C UNATTENDED MEASUREMENT LOCATION

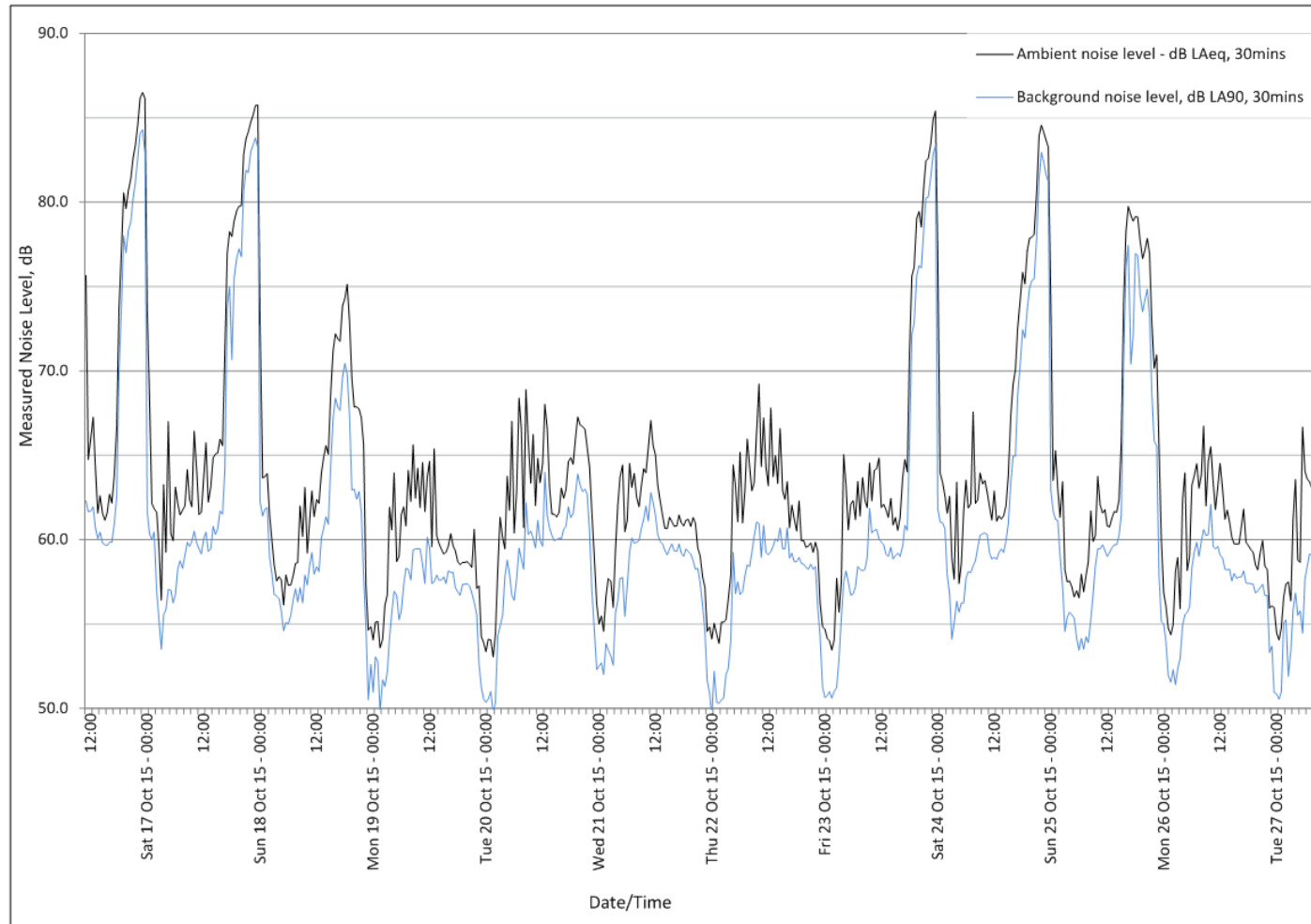


Attachment 5 - MDA acoustic report (28/10/2016)



APPENDIX D NOISE MONITORING RESULTS

Attachment 5 - MDA acoustic report (28/10/2016)



Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX E SEPP N-1 LEGISLATION****E1 Application**

State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1) sets noise limits that apply to commercial, industrial and trade premises within the Melbourne metropolitan region. Compliance with SEPP N-1 is mandatory under section 46 of the *Environment Protection Act 1970 (Act)*.

SEPP N-1 defines a 'commercial, industrial and trade premises' as:

any premises except:

- (a) residential premises as defined in section 48A of the [Environment Protection] Act;*
- (b) a street or road, including every carriageway, footpath, reservation and traffic island on any street or road;*
- (c) a tram, light rail or railway line not being a siding, marshalling yard or maintenance depot of any tram, light rail or railway line; and*
- (d) [land situated at Luna Park, St Kilda].*

Section 48A of the Act defines residential premises as:

any building or part of a building used as or for the purposes of a private residence or residential flat.

E2 Assessment methodology

SEPP N-1 is a policy and technical document. The Policy prescribes the methodology and measurement procedure used to determine applicable noise limits and assessment of compliance.

The Policy requires that proposed commercial premises be designed to comply with SEPP N-1 noise limits. Clause 16 of the Policy states:

Where it is planned to develop new commercial, industrial or trade premises, the premises shall be designed so that the noise emissions do not exceed the noise limits

Further, the occupier of commercial, industrial or trade premises has an ongoing obligation to meet the SEPP N-1 noise limits. Clause 15 of the Policy states:

where noise emissions from existing commercial, industrial or trade premises exceed the requirements set out in the Policy, steps shall be taken by the occupier to reduce the level of these noise emissions to, or below, the relevant Policy noise limits.

SEPP N-1 defines a 'noise sensitive area' as an area of land within 10m outside the external walls of:

- *a dwelling or residential building*
- *a dormitory, ward or bedroom of a caretaker's house, hospital, hotel, institutional home, motel, reformative institution, tourist establishment or work release hostel.*

The assessment of noise from the subject site under SEPP N-1 is based on the calculation of a noise limit at a receiver position, taking into account a zoning noise level derived from the land zoning types in the surrounding area and the background noise level.

Attachment 5 - MDA acoustic report (28/10/2016)

Once a noise limit is established, the noise level (L_{Aeq}) due to the commercial premises is measured or predicted. If necessary, the L_{Aeq} noise level is adjusted for noise character and duration to give the effective noise level (L_{eff}). If the L_{eff} level exceeds the noise limit, then remedial action is required.

SEPP N-1 defines the time periods provided in Table E1.

E1: SEPP N-1 time periods

| Period | Day | Time |
|---------|-------------------------------|---------------|
| Day | Monday-Friday | 0700-1800 hrs |
| | Saturday | 0700-1300 hrs |
| Evening | Monday-Friday | 1800-2200 hrs |
| | Saturday | 1300-2200 hrs |
| | Sunday/Public Holidays | 0700-2200 hrs |
| Night | Monday-Sunday/Public Holidays | 2200-0700 hrs |

E3 Calculation of noise limits

SEPP N-1 noise limits are calculated taking into account land 'zoning types' within a 70 m and 200 m radius of a noise sensitive building. Zoning types are categorised as type 1, 2 or 3.¹ A prescribed formula is used to calculate a corresponding Zoning Level. In general, zone type designations are as follows.

- areas such as residential, rural and open space are type 1;
- areas such as commercial, business and light industry are type 2; and
- areas such as general industry and major roads are type 3.

Greater areas of type 2 and 3 land within a 200 m radius of a noise sensitive site result in higher Zoning Levels than a site with respectively larger areas of type 1 land.

The SEPP N-1 Noise Limit is equal to the 'zoning level' unless the background level at the noise sensitive site is categorised as low or high according to Clause B3 of the Policy. If the background level is low or high, the Noise Limit is calculated from a formula taking into account the Zoning Level and the Background Level.

¹ EPA Publication no.: 316a, 17 February 2000, *Designation of Types of Zones and Reservations in the Metropolitan Region Planning Schemes for the Purposes of State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* <<http://www.epa.vic.gov.au/our-work/publications/publication/2000/february/316a>>

Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX F SEPP N-2 LEGISLATION**

Music noise from entertainment venues is controlled by *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2* (SEPP N-2).

Clause 20 of SEPP N-2 provides that:

Where the level of music noise from indoor or outdoor venues exceeds the noise limit, steps shall be taken by the occupier to reduce those levels to, or below, the noise limit.

Compliance with SEPP N-2 is mandatory under section 46 of the *Environment Protection Act 1970* (Vic).

SEPP N-2 sets noise limits that must be achieved in a 'noise sensitive area'. The Policy defines a noise sensitive area as:

(a) that part of the land within the apparent boundaries of any piece of land which is within a distance of 10 metres outside the external walls of any of the following buildings:

- *Dwelling (except Caretaker's House), [or] Residential Building.*

(b) that part of the land within the apparent boundaries of any piece of land on which is situated any of the following buildings which is within a distance of 10 metres outside the external walls of any dormitory, ward or bedroom of such buildings:

- *Caretaker's house, Hospital, Hotel, Institutional Home Motel, Reformatory Institution, Tourist Establishment, Work Release Hostel.*

For indoor venues with music playing on more than three nights per week, SEPP N-2 sets noise limits as shown in Table F1.

Table F1: SEPP N-2 criteria (music on more than three nights per week)

| Time period | | Noise limit |
|-------------|-------------------------|---|
| Day/Evening | Saturday 1000 - 2200hrs | Music noise (L_{Aeq}) not permitted to exceed background noise (L_{A90}) plus 5dB |
| | Sunday 1200 - 2100hrs | |
| | Other 0900 - 2200hrs | |
| Night | Saturday 2200 - 1200hrs | Music noise (L_{OCT10}) is not permitted to exceed the background noise level (L_{OCT90}) by more than 8dB in any octave band (63Hz-4kHz) at a noise-sensitive area |
| | Sunday 2100 - 0900hrs | |
| | Other 2200 - 0900hrs | |

Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX G DISCUSSION REGARDING DETERMINATION OF PATRON NOISE GUIDELINES**

Noise from patrons in an outdoor area are not covered under any State Environment Protection Policy, unless the voices are associated with the source. In this case, noise from voices would be assessable under the *State Environment Protection Policy (Control of Noise from Public Premises) No. N-2* (SEPP N-2).

Where noise from voices is not associated with the venue, such as people smoking and talking in outdoor areas, and when these activities take place at night, a criterion based on sleep disturbance is commonly used to assess the impact.

Since the new smoke-free reforms to the Tobacco Act 1987 and the introduction of smoke-free indoor licensed premises on 1 July 2007, Melbourne acoustic consultants have been discussing the most appropriate noise criteria for the assessment of patron noise in outdoor areas. Three sources of criteria are currently under consideration. These are:

- *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* (SEPP N-1)
- *State Environment Protection Policy (Control of Noise from Public Premises) No. N-2* (SEPP N-2)
- Sleep disturbance criteria based on a review of sleep disturbance studies undertaken by the NSW Office of Environment and Heritage.

Noise generated by people using an outdoor area will vary in intensity and character depending upon the number of patrons and their behaviour.

Therefore, it has previously been proposed that patron noise in outdoor areas be assessed using the existing State Environment Protection Policies and the sleep disturbance criterion.

All three criteria only partially address the impact of such a complex noise source. SEPP N-1 best relates to quasi-steady state noise sources and the noise from large groups of people can have this characteristic. SEPP N-2 assesses noise which varies in level and is predominantly low frequency. A small group of people may exhibit similar characteristics. Single events such as a raised voice may exhibit a characteristic that is appropriately assessed under the sleep disturbance criterion developed for motor vehicle pass-bys.

Marshall Day has previously proposed that patron noise be assessed using the existing State Environment Protection Policies and the NSW Office of Environment and Heritage sleep disturbance criterion where the criteria are to be used as a planning tool and indicate whether noise control treatments, which may include managerial controls, are required.

More recently, it was considered that using SEPP N-1 in conjunction with the sleep disturbance criteria may be most appropriate as the SEPP N-2 criteria is better suited to assessing low frequency noise associated with rather than the mid frequencies associated with voices.

In more recent internal discussions, it has been proposed to establish criteria that can be used Australia wide. As SEPP N-1 is only used within Victoria, criteria based on its use would not readily translate to other states.

Attachment 5 - MDA acoustic report (28/10/2016)

Therefore the proposed criteria are based on the background noise level in a given area or a minimum limit where background levels fall below a certain level as well as the sleep disturbance criteria which examines the maximum noise levels. The proposed criteria (for the quasi-steady state component) generally provide limits similar to that which would apply if the SEPP N-1 methodology were followed.

The proposed interim patron noise design targets are provided in Table G1.

Table G1: Patron noise design targets

| Time of day | Quasi-steady state component | Maximum noise levels |
|-------------|---|----------------------|
| Day | The higher of $L_{Aeq}50$ or $L_{A90}+15$ | - |
| Evening | The higher of $L_{Aeq}45$ or $L_{A90}+10$ | - |
| Night | The higher of $L_{Aeq}40$ or $L_{A90}+5$ | 60-65dB |

The defined periods for the day, evening and night-time periods are taken from the NSW (Industrial Noise Policy). This allows for Sundays during daylight hours to be defined as the daytime period which is considered appropriate for the assessment of patron noise.

The day and evening limits are currently under review but are considered appropriate for areas which do not operate during the night-time period. Where an outdoor area operates during the night, if the night-time noise limit is used as the basis for assessment and compliance is achieved then the day and evening noise limits will generally also be achieved.

Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX H INTERPRETATION OF PATRON NOISE ASSESSMENT**

For a theoretical assessment of a venue, the purpose of the proposed patron noise criteria is not to provide an absolute limit but to provide an indication of whether a venue has the potential to cause an unreasonable impact.

It is difficult to propose an absolute limit because unlike other noise sources (e.g. mechanical equipment), there is a large variation in patron noise and this variation is not always linked to the number of patrons.

In performing a patron noise analysis the results of the analysis are interpreted as follows:

Table E1: Interpretation of patron noise assessment results

| Predicted noise level | Likely impact |
|--|--|
| Meets the proposed criteria | No impact likely |
| Exceeds the proposed criteria by up to 2dB | No impact likely |
| Exceeds the criteria by 3-5dB | There is a possibility of impact and the proposal should be assessed with measurements once it is operational to determine typical crowd noise levels from the venue. Provision should be made to adopt managerial controls and retrofit engineering controls if deemed necessary |
| Exceeds the criteria by 5-8dB | There is a strong possibility of impact and engineering controls should be incorporated. Managerial controls should also be considered at the planning stage. Further measurements will be required once the development is operational to determine appropriate managerial controls |
| Exceeds the criteria by more than 8dB | There will be noise impact and major changes to the design and/or operation of the proposed outdoor area will be required |

Attachment 5 - MDA acoustic report (28/10/2016)**APPENDIX I PATRON NOISE DATA**

Marshall Day Acoustics and other acoustic consultants in Australia have measured noise of patrons from a number of outdoor areas.

Based on our experience, we consider that patron behaviour varies according to the venue being frequented and may be categorised as follows:

- Patrons at venues with vertical drinking areas such as beer gardens
- Patrons at venues which are taverns having a significant food offering
- Patrons at restaurants
- Patrons in small smoking courtyards (up to 25 people).

I1 Vertical consumption

The noise levels of a rowdy group of 30-50 people drinking and talking are provided in Table I1 and are considered to represent a typical 'worst-case' scenario or vertical drinking.

Table I1: Patron noise levels, dB

| Description | Noise level at 30m |
|-------------------|--------------------|
| L _{Amax} | 68 |
| L _{A10} | 64 |
| L _{Aeq} | 62 |

Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table I2.

Table I2: Patron noise sound power level data, dB

| | Octave Band Centre Frequency, Hz | | | | | | | |
|--|----------------------------------|-----|-----|-----|----|----|----|-----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | A |
| Vertical consumption (100 patrons) 'worst-case' crowd | 91 | 93 | 94 | 101 | 99 | 95 | 88 | 103 |

Attachment 5 - MDA acoustic report (28/10/2016)**I2 Taverns with significant food offerings**

Marshall Day Acoustics has also measured noise from music and voices of patrons at the outdoor courtyard of the Richmond Public House. At this venue, the focus is more towards dining than vertical drinking.

Measurements were taken between 1930-2100hours on Friday, 23 September 2005, which was the eve of the AFL Grand Final. The venue was considered to be very busy with up to 80 people in the courtyard.

The measured noise level of voices and music at the Richmond Public House is provided in Table I3.

Table I3: Reverberant patron noise levels in the Public House courtyard

| Parameter | Octave Band Centre Frequency, Hz | | | | | | | A |
|-----------------|----------------------------------|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | |
| L ₁₀ | 71 | 73 | 74 | 81 | 79 | 75 | 68 | 83 |
| L _{eq} | 69 | 71 | 72 | 79 | 76 | 72 | 65 | 80 |

During the survey, the music level within the courtyard was 'background music' as defined in a VCAT decision (Ref B2/2005 Whiting v Hosier Bar Pty Ltd). In this decision, which is now reproduced in the Liquor Control Act, music at background levels requires that music be played at a level enabling normal voice level conversation at a distance of 600mm. This is equivalent to an internal music noise level of approximately 67dB L_{Aeq}.

Measurements of a lunch service at T'Gallant winery in the Mornington Peninsula were also taken on 28 February 2009. During this lunch service, a hen's party of approximately 70 people in the outdoor area was taking place. Some background music is included but the measured noise level is dominated by voices noise of patrons.

Noise measurements were made at close proximity (2m) of the Hen's party crowd and the results are shown in Table I4.

Table I4: Measured noise levels at T'Gallant

| Description | Parameter | Octave Band Centre Frequency, Hz | | | | | | | A |
|------------------|-----------------|----------------------------------|-----|-----|-----|----|----|----|----|
| | | 63 | 125 | 250 | 500 | 1k | 2k | 4k | |
| 70 patrons at 2m | L ₁₀ | 60 | 58 | 64 | 74 | 77 | 73 | 65 | 80 |
| | L _{eq} | 56 | 56 | 64 | 71 | 77 | 69 | 61 | 78 |

Attachment 5 - MDA acoustic report (28/10/2016)

Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table I5.

Table I5: Patron noise sound power level data, dB

| Description | Octave Band Centre Frequency, Hz | | | | | | | |
|--|----------------------------------|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | A |
| Taverns with significant food offerings (80-100 patrons) | 60 | 58 | 64 | 74 | 77 | 73 | 65 | 80 |

I3 Patrons at restaurants

A paper by Hayne, Taylor, Rumble and Mee entitled *Prediction of Noise from small to medium sized crowds* was presented at Acoustics 2011 and provides a formula for prediction of crowds up to 100 people. The noise levels predicted by the formulae correlate well with measurements of patrons dining rather than patrons involved in vertical drinking.

The overall noise level for patrons using the proposed outdoor areas of the development has been derived from the formulae proposed by Hayne, Taylor, Rumble and Mee and shown below:

$$L_{wAmax} = 11 \log N + 81 \text{ dB}$$

$$L_{wAeq} = 15 \log N + 64 \text{ dB}$$

Where N=the number of patrons.

The spectral data has been derived from measurements made by MDA and the patron noise level data used for predictions is presented in Table I6.

Table I6: Patron noise level data used for predictions, dBW

| Description | Parameter | Octave Band Centre Frequency, Hz | | | | | | | |
|--------------------------|-----------|----------------------------------|-----|-----|-----|----|----|----|-----|
| | | 63 | 125 | 250 | 500 | 1k | 2k | 4k | A |
| Restaurants (50 patrons) | L_{eq} | 77 | 79 | 80 | 87 | 85 | 81 | 74 | 89 |
| | L_{max} | 64 | 73 | 89 | 93 | 97 | 93 | 87 | 100 |

Attachment 5 - MDA acoustic report (28/10/2016)**I4 Smoking courtyard**

The noise of a smaller group of patrons using a courtyard mainly for smoking is considered to be significantly less than that of patrons socialising. Noise levels of this type of activity with 15-20 people within an outdoor courtyard have previously been measured at the Botanical Hotel and are shown Table I7.

Table I7: Patron noise level, dB

| Parameter | Noise level at 2m |
|-------------------|-------------------|
| L _{Amax} | 84 |
| L _{A10} | 72 |
| L _{Aeq} | 69 |

Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table I8.

Table I8: Patron noise sound power level data, dB

| Description | Octave Band Centre Frequency, Hz | | | | | | | A |
|-------------------------------------|----------------------------------|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | |
| Small smoking areas (20 patrons) | 70 | 72 | 73 | 80 | 78 | 74 | 67 | 82 |

Attachment 6 - SLR acoustic review



2 September 2016

640.10090.04320 433 Church St Richmond 20160901.docx

City of Yarra
PO Box 168
RICHMOND 3121

Attention: Patrick Sutton

Dear Patrick

**433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03**

SLR Consulting Pty Ltd (SLR) has been retained by the City of Yarra to provide a review of the acoustic report provided in support of the application for an outdoor patron area at the Public House Hotel, 433 Church Street Richmond.

Details of the correspondence are as follows:

- Title: Public House Hotel, Richmond, Patron Noise
- Date: 18 March 2016
- Reference: Rp 001 R03 2015487ML
- Prepared by: Marshall Day Acoustics (MDA)
- Prepared for: Michael Barraclough Architecture

A review of the acoustic issues addressed in the report is provided below.

1 Overview

The Public House is proposing to add two levels to their existing building at 433 Church Street, Richmond for outdoor patrons. The venue currently has a first floor outdoor patron area at the rear (eastern) end of the building.

- Current first floor area (eastern end) – 106 patrons
- Proposed second floor – 79 patrons
- Proposed roof – 75 patrons

The proposed closing hours of the outdoor area are:

- 11 pm Monday and Tuesday
- Midnight Wednesday to Sunday

The proposed operating hours are understood to be the same as the operating hours of the existing outdoor patron area.

Attachment 6 - SLR acoustic review

City of Yarra
433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03

2 September 2016
640.10090.04320 433 Church St Richmond
20160901.docx
Page 2

Music and patron noise has been considered in the acoustic report.

2 Potentially Affected Receivers

The closest potentially affected receivers are identified as 3a Little Lesney Street and 7a Wiltshire Street. These dwellings are approximately 40 m east of the subject site. The writer notes that the most exposed window of 3a Little Lesney Street (which faces west) is non-openable. Due to this, they have nominated the relevant assessment location as being the south facing balcony of this dwelling.

The consultant states that they have received advice from the City of Yarra to the effect that there are no residential receiver locations on the western side of Church Street (opposite the subject site).

Consideration is given to the 9 storey residential development proposed for 1 Little Lesney Street and 9 Wiltshire Street in Section 11 of the report. The writer notes that the proposed multi-level residential development is already exposed to high levels of patron noise, and that the developer should be responsible for controlling this noise.

SLR Comments: *We are aware of at least one existing residence on the western side of Church Street (468 Church Street) and there may be others. In our opinion consideration of noise from the proposed outdoor area should be given to this existing dwelling.*

Regarding the multi-level development proposed for 1 Little Lesney Street and 9 Wiltshire Street, we agree that the developer should be responsible for managing impacts from the existing outdoor patron area at the Public House, but are of the opinion that any increased impacts due to the proposed new outdoor patron areas may need to be managed by the Public House.

3 Patron Noise

3.1 Criteria

Patron noise is proposed to be assessed to MDA in-house targets of 'background + margin'. The targets are discussed in Appendix G of the acoustic report and are:

- Background + 15 dB for the day period, including Saturday and Sundays
- Background + 10 dB for the evening period, 6 pm to 10 pm
- Background + 5 dB for the night period, being after 10 pm any day.

In addition to noise targets, MDA include a section in the report entitled 'Interpretation of Patron Noise Assessment' (Appendix H). The information in this section suggests that exceedances of the design targets of up to 8 dB may be controlled through managerial means.

The patron noise targets are not applied to the west facing windows of 3a Little Lesney Street on the grounds that these windows are non-openable.

SLR Comment: *The proposed daytime criterion is high, particularly for the weekend period. However on this project, the critical limits will be for the evening and night times, when the outdoor patron areas are also proposed to be used. As such, the daytime limit is not important.*

Our office also has some concern with the evening targets when applied to outdoor patron areas proposed for locations that are shielded from other sources of intrusive noise (e.g. residences in quiet areas away from busy roads). However, on this project, which is an established use on a major road, we consider the evening limits to be reasonable.

SLR Consulting Australia Pty Ltd

Attachment 6 - SLR acoustic review

City of Yarra
433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03

2 September 2016
640.10090.04320 433 Church St Richmond
20160901.docx
Page 3

I am uncomfortable with the statement that exceedances of the design targets of up to 8 dB may be dealt with through administrative controls. While such controls can work, they could conceivably involve very restricted use of the outdoor patron areas during the times that they are proposing to operate. Subsequent acoustic assessments would also be required to identify the range and extent of controls required.

Regarding the west facing windows of 3a Little Lesney Street, in my opinion patron noise should be assessed to this location, particularly as the acoustic performance of this window cannot be assumed. It would be appropriate to consider an indoor assessment location relative to this window. Suitable indoor noise targets could be determined from the SEPP N-1 night noise limits, or from the 'satisfactory' levels provided in AS/NZS2107 (30 dBA for bedrooms, 35 dBA for living rooms).

3.2 Background noise levels and noise limits

Background noise levels were measured at the rear of the venue, using an elevated microphone for a six day period (Wednesday 16 to Tuesday 27 October, 2016). The results of measurements are provided in Tables 1 to 4 of the acoustic report. The average background noise levels for each monitoring day are provided in Table 1. The minimum average background noise has been nominated for the purpose of determining noise limits. These are:

- Day – 58 dBA L₉₀
- Evening – 57 dBA L₉₀
- Night – 54 dBA L₉₀

For the purpose of determining patron noise limits, the lowest background noise levels measured after the venue closed has been adopted. This level was 51 dBA L₉₀.

SLR Comment: *The use of the lowest background noise level to determine patron noise limits is appropriate, and this has been done for the night period.*

The monitoring location is appropriate for determining limits at the proposed multi-level residential development, immediately east of the subject site. However it is possible that lower background noise levels (and lower noise limits) apply at the existing residential locations.

3.3 Patron Noise Predictions

An assumed sound power level of 96 dBA L_{eq} has been adopted for groups of 10 patrons, and noise from the total number of patrons has been predicted to potentially affected receiver locations using the SoundPLAN noise modelling software. Generic information with regard to acoustic modelling is provided in Section 6.1 of the report. More specific information is provided in Section 6.2, which includes images from the noise model. The predicted noise levels are not provided for all receivers, however controls for patron noise are included in Section 6.3. The controls comprise:

- Parapet walls ranging from 2 m to 2.4 m in height
- Absorption treatments to the east and west sides of each of the outdoor areas (NRC not less than 0.7).

SLR Comment: *The sound power levels used in the model are reasonable and can be expected to provide an indication of worst case impacts.*

In this application care needs to be taken to ensure that the impacts of the existing outdoor patron area to 1 Wiltshire Street are quantified and not overstated, as the existing impacts may be used to provide an indication of the level of noise the residential developer is responsible for controlling.

The means by which the model was calibrated is not stated, however we assume that the data has been calibrated to predict the measured noise level at the logging location.

SLR Consulting Australia Pty Ltd

Attachment 6 - SLR acoustic review

City of Yarra
433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03

2 September 2016
640.10090.04320 433 Church St Richmond
20160901.docx
Page 4

Predicted patron noise levels are not provided in the report at the west facing window of 3a Little Lesney Street, or for the residential premises on the west side of Church Street.

In summary, the model is a complex one, and not one that we can easily check however from the information provided the approach and predicted levels looks generally reasonable. My concerns are that the existing impacts are not clearly quantified, and that patron noise has not been predicted to all receptors.

3.4 Patron Noise Assessment

The assessment is provided in Section 9 of the acoustic report. The predicted patron noise level is 56 dBA Leq at the nearest existing potentially affected receivers to the east of the subject site. These levels presumably apply to the north and south facing balconies of 7a Wiltshire Street and 3a Little Lesney Street. The predicted patron noise level complies with the identified noise limits at these dwellings.

SLR Comment: *In my opinion an assessment should be provided to the existing dwellings on the western side of Church Street and to the west facing window of 3a Little Lesney Street. Higher noise limits may apply to the Church Street location due to the exposure to road traffic noise. Conversely lower limits may apply a 3a Little Lesney Street. Consideration should also be given to any increase in patron noise levels the proposal may introduce to the development proposed for 1 Little Lesney Street, with care taken to ensure this increase is not underestimated.*

Patron noise to 1 Little Lesney Street and 9 Wiltshire Street

SLR reviewed the acoustic report prepared for this development (Report No. 11651-2jg dated June 2015) and note that the WMG design in that report was based on patron noise levels of 62 dBA Leq at the development site. The design target adopted in the report was 33 dBA Leq internally, which corresponded to the internal SEPP N-1 noise limit. Glazing advice was provided on this basis. The MDA measurements and modelling indicated that patron noise levels will be 73 dBA (13 dB higher), and nominate indoor design targets of 40 dBA (7 dB higher than WMG was working with).

In my opinion the 33 dBA indoor targets should be applied to bedrooms and living rooms.

If the higher predicted patron levels are attributable predominantly to noise from the existing outdoor patron area, the façade upgrade advice provided in the WMG report should be updated to take these levels into consideration.

If the higher levels are due in any way to the proposed new outdoor patron areas, the Richmond Public House should manage the additional impacts.

It is also of relevance that these new estimated patron noise levels to the façade of the proposed residential development are extremely high and have serious implications for the amenity of future occupants of the proposed development. West facing balconies will, for example, be virtually unusable when the outdoor patron areas are in use. Similarly, apartment windows will need to be kept closed to provide any acoustic amenity indoors.

4 Music Noise (SEPP N-2)

4.1 Criteria

Music noise is proposed to be assessed to SEPP N-2 and measured background noise levels and noise limits are provided in Section 8.1 of the acoustic report.

SLR Comment: *SEPP N-2 day and evening limits are determined from the average measured background noise levels during these periods. The lowest levels during the time that the venue operations should be used.*

Attachment 6 - SLR acoustic review

City of Yarra
433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03

2 September 2016
640.10090.04320 433 Church St Richmond
20160901.docx
Page 5

Details of the time that the octave band background noise levels were obtained have not been provided, however it appears that the data obtained during the quietest hour after closing has been used. This data is appropriate for determining noise limits at the proposed multi-level development, but may not be representative of the levels at the existing dwellings further to the east.

4.2 SEPP N-2 Assessment

Music noise has been measured during operation of the venue, and the measured level has been corrected for distance to obtain an estimated level at the façade of the existing dwellings. The estimated level is compared with the identified octave band night noise limits. The assessment has only been conducted for low frequency measurement bands on the assumption that the mid and high frequency bands contain predominantly voice noise.

SLR Comment: *The assessment for the low frequency bands that is provided in the report looks reasonable. The assumption that the likely exceedances in mid and high frequency bands are due to voice noise are likely, however there is still potential for SEPP N-2 exceedances in these measurement bands.*

4.3 Recommendations

The report does not include recommendations for controlling music noise emissions, with the assumption being that the current, probably compliant, music levels will be played in the new areas of the venue and will comply with SEPP N-2.

SLR Comment: *Our recommendation would be for music level targets to be nominated within the venue such that SEPP N-2 noise limits are met at existing dwellings at all times. The reference level could apply to the centre of the outdoor areas, or at a distance from any one speaker (assuming the sound system layout is known). The levels should be expressed as octave band levels as well as A and C weighted overall levels. The latter information can be used by the venue operator to self monitor music emissions.*

The nominated levels should be such that SEPP N-2 noise limits are met:

- *At the existing dwellings to the east, taking into consideration lower background noise levels at that location, if appropriate.*
- *At any existing dwellings to the west, taking into consideration higher background noise levels at that location, if appropriate.*

Given that the proposal is for background music in the outdoor areas only, it should be possible to set the allowable levels such that SEPP N-2 limits are met without unduly affecting the proposed operation of the venue.

5 Mechanical Plant Noise

SEPP N-1 noise limits have been identified for mechanical plant. The noise limits are based on high background levels measured at the venue site. As indicated in earlier sections of this review, given that the critical assessment locations have been identified as the existing dwellings to the east, lower background noise level and noise limits may apply. However, if the limits are proposed to be met at the proposed residential development (9 Wiltshire and 1 Little Lesney), the higher established limits are appropriate.

Attachment 6 - SLR acoustic review

City of Yarra
433 Church Street Richmond
Planning Application Acoustic Report Review
PL02/1103.03

2 September 2016
640.10090.04320 433 Church St Richmond
20160901.docx
Page 6

6 Summary

A summary of our recommendations and findings with respect to the acoustic report is provided below.

Patron Noise

Patron noise is the main issue on this project. The issue is complex because there are existing receivers potentially already impacted by patron noise from the venue, and proposed receivers who will be extremely close (and will also shield the existing receivers). The design of the proposed residential development has also been undertaken to control the existing levels of patron noise, however the design is based on much lower patron levels than are identified in the current acoustic report. In my opinion the following should take place:

- Background noise measurements relative to the existing dwellings should be undertaken as these may be lower than the ones obtained at the subject site.
- Patron noise should also be assessed to the west facing window of 3a Little Lesney Street, or as a minimum to indoors via this window using indoor targets derived from SEPP N-1 or the lower end of the AS/NZS2107 range.
- An assessment of patron noise should be undertaken to any receivers on the west side of Church Street, noting that higher limits may apply to this location.
- The impacts from the new patron areas to the proposed development at 1 Little Lesney Street and 9 Wiltshire Street should be compared with those of the existing patron area in order to determine whether the venue or the residential developer is responsible for further noise control works. Care should be taken to ensure that existing impacts are not overestimated. If the acoustical consultant for the proposed residential development has underestimated patron noise impacts, the façade upgrade advice for this development may need to be updated. It would, however, be far preferable to control this noise at the source, as the predicted levels of patron noise to the proposal are excessive and will cause loss of amenity irrespective of the proposed glazing treatments (i.e. amenity to balconies and via openable windows).

Music Noise

The venue is proposing to play background music only. The acoustic report should provide guidance for allowable music levels in the outdoor areas such that SEPP N-2 limits are met at all existing dwellings. Loudspeakers in the new outdoor areas should also meet SEPP N-2 limits at the proposed residential development at 1 Little Lesney and 9 Wiltshire streets. The limits should be expressed as A and C weighted levels, as well as octave band levels.

The sound system should be checked by an acoustical consultant once it is set up, to ensure that settings will achieve compliance with SEPP N-2. Self monitoring of music emissions is also advisable. The acoustic report should provide advice to the venue such that they can monitor their own levels.

Yours faithfully
SLR Consulting Australia Pty Ltd



Dianne Williams
Associate – Acoustics

| |
|-------------------------------|
| Checked/ Authorised by: JA |
|-------------------------------|

SLR Consulting Australia Pty Ltd

Attachment 7 - SLR additional comments

(From email dated 15 November, 2016)

I have read the additional correspondence and revised acoustic report provided by MDA (both documents dated 28 October 2016).

The issues we requested further information on are discussed below (SLR original review comments in black, and comments on the latest MDA correspondence in red). The only outstanding issue from my perspective is patron noise to 1 Little Lesney / 9 Wiltshire Streets, which was discussed in more detail in my review of the latest correspondence for that application (SLR letter dated 10 November 2016).

Patron Noise

- Background noise measurements relative to the existing dwellings should be undertaken as these may be lower than the ones obtained at the subject site. **Not undertaken. This issue is however, fairly academic as the development at 1 Little Lesney Street / 9 Wiltshire Street appears likely to proceed. (The new development will control noise from 433 Church Street to the existing dwellings).**
- Patron noise should also be assessed to the west facing window of 3a Little Lesney Street, or as a minimum to indoors via this window using indoor targets derived from SEPP N-1 or the lower end of the AS/NZS2107 range. **Patron noise has been assessed to indoor targets at this location and shown to comply.**
- An assessment of patron noise should be undertaken to any receivers on the west side of Church Street, noting that higher limits may apply to this location. **A prediction of patron noise to this location has been provided. The predicted level is 60 dBA Leq. This level is not unreasonable for a dwelling overlooking a busy road. In my opinion this issue has been adequately addressed.**
- The impacts from the new patron areas to the proposed development at 1 Little Lesney Street and 9 Wiltshire Street should be compared with those of the existing patron area in order to determine whether the venue or the residential developer is responsible for further noise control works. Care should be taken to ensure that existing impacts are not overestimated. If the acoustical consultant for the proposed residential development has underestimated patron noise impacts, the façade upgrade advice for this development may need to be updated. It would, however, be far preferable to control this noise at the source, as the predicted levels of patron noise to the proposal are excessive and will cause loss of amenity irrespective of the proposed glazing treatments (i.e. amenity to balconies and via openable windows).

This issue is not resolved and it is tied up with the assessment for the residential development proposed for 1 Little Lesney Street and 9 Wiltshire Street. In my opinion, the actual levels of current and future patron noise, and the means by which they will be managed at the residential site, should be determined before either application proceeds. Ideally this process should involve both parties. I am also still unclear whether MDA's very high measured noise levels at the subject site (which are used as a basis for predicting patron noise to the future development) includes significant contribution from music at the venue. If it does, this noise may best be controlled via other means than façade upgrades at the residential development.

Music Noise

The venue is proposing to play background music only. The acoustic report should provide guidance for allowable music levels in the outdoor areas such that SEPP N-2 limits are met at all existing dwellings. Loudspeakers in the new outdoor areas should also meet SEPP N-

Attachment 7 - SLR additional comments

2 limits at the proposed residential development at 1 Little Lesney and 9 Wiltshire streets. The limits should be expressed as A and C weighted levels, as well as octave band levels.

The sound system should be checked by an acoustical consultant once it is set up, to ensure that settings will achieve compliance with SEPP N-2. Self monitoring of music emissions is also advisable. The acoustic report should provide advice to the venue such that they can monitor their own levels.

MDA have revised the acoustic report to address the issue of music emissions from the outdoor area. The changes include:

- Background level music of 67 dBA in the outdoor areas (spectrum provided in Table 11 of the acoustic report)
- Amplified music in outdoor areas during the 'day' and 'evening' periods only
- A music noise monitor to be installed to manage music emissions in the outdoor areas
- The music noise monitor is to be set by a suitably qualified acoustical consultant.

These changes to the acoustic report address my concerns with respect to music emissions from the outdoor areas.

(From email dated 12 December, 2016)

If the music noise targets provided in the permit condition are met, patron noise indoors will also be reasonable. Achieving the required levels of noise reduction for music will be difficult given the measured levels of music noise, and is likely to necessitate redesign of some elements of the residential building façade.

Patron noise will be loud on balconies irrespective of the upgrades. These levels are similar to those of a very busy major road / freeway.

If the residential development has its planning permit, from our perspective the issues for the Public House are reduced to:

- How loud are the current patron noise levels at the façade of the proposed development, and
- By how much will they increase if the proposed outdoor patron area goes ahead.

This information was not provided in the acoustic report for the Public House.

If the new areas do not substantially increase patron noise at the development site (e.g. increase it by say, 5 dB or less). The application would seem reasonable provided operations were limited to 10 pm as you suggest.

If substantial increases are predicted (i.e. in the order of 10 dB), curbing operations to the day/evening period would not be sufficient to address the reduction in amenity impacts that the new outdoor area is likely to introduce.

Note that these amenity impacts are to balconies and openable windows only (as discussed above, patron noise to indoors should be addressed by façade upgrade treatments to control music noise).

Attachment 8 - Victoria Police comments

Hi Patrick,

As per our conversation, I've put together a list of concern that Victoria Police hold with regard to The Public House Richmond's application to:

Amend the red line area to include an additional two levels (to be constructed);

- Increase overall patron capacity from the existing 225 to 450 – the second floor terrace and the rooftop to have patron capacities of 79 and 75 respectively; and
- To increase the licensed trading hours for terrace areas on Sunday and Anzac Day from 11:00pm (current hours) to midnight.

The primary consideration for police is how the increases will affect the amenity of the area.

As it stands (with the current patron capacity of 225), patrons exiting the venue at closing time are not being managed by staff. Crowd controllers are not making any attempt to move patrons on; as they continue to file out of the venue, they are milling around on the footpath – some are standing on the road either solo or in groups attempting to hail taxi's. This is a major safety concern for both patrons and drivers on the road.

The groups that are gathering on the footpath end up blocking the path for other pedestrians, often forcing them on to the road in order to get past. The concern here (other than the obvious amenity issue) is the propensity for fights/brawls to erupt, either between venue patrons and/or patrons and passers-by.

The music noise coming from the venue is far too loud; police members recently attended and took video footage from across the street with the car windows half way up. The same members also took photographs of the venue up to 20 minutes after closing time – I've attached a few for you to consider.

Victoria Police would like to see a comprehensive management plan which addresses how the venue plans to move patrons from the top levels once they have been closed without overcrowding the bottom floor and consequently how they plan to manage the outside amenity with the extra patrons now beginning to spill out onto the street.

We would also like to review any fire safety plans and explore possible OH&S and/or potential fire hazard issues that may arise from the addition of the top levels.

Hopefully we (Victoria Police and Yarra City Council) can sit down with the licensee to express some of these concerns – I'm confident there is a mutually beneficial solution to be found if we work together on this!

I'll speak with you soon to arrange a suitable time for a joint meeting.

Regards,

Belinda

Belinda THOMAS | Senior Constable 37054

MY City & Divisional Licensing Unit – **Yarra PSA**
North West Metropolitan Region - Division One

Attachment 8 - Victoria Police comments

Direct: (03) 8690 2159 | Fax: (03) 8690 4859

Attachment 9 - Community Amenity Unit comments

TO: Patrick Sutton
cc:
FROM: Steve Alexander
DATE: 03/06/2016
APPLICATION: PL02/1103.03
SUBJECT: Amenity Enforcement Referral – 433 Church Street RICHMOND

Dear Patrick,

Thank you for your referral PL02/1103.03 dated 2 June 2016. This has been referred to me for consideration and reply.

Planning Enforcement has received a number of complaints at 433 Church Street Richmond which have been ongoing for a number of years, as follows:

2016 – Four noise related complaints and one early morning litter related complaint.

2015 – Three noise complaints and one 'works planning breach'.

2014 – Two noise complaints and one litter.

2013 – Two noise complaints.

2012 – Three noise complaints and one 'excess numbers'.

I note that this application proposes to extend trading hours for consumption of liquor on Sundays from 11pm to 12 midnight, increase the numbers and provide works for an additional level plus rooftop.

In consultation with the Planning Enforcement Officers I have reviewed the proposal and recommend the following:

1. No music after 10pm at any outdoor (including rooftop) area Sunday to Thursday
2. No music after 11pm at any outdoor (including rooftop) area Friday and Saturday
3. Roof deck area to close 11pm Sunday to Thursday
4. Roof deck area to close 12 midnight Friday and Saturday

The above recommendation was made with consideration to the fact noise will generally carry further from an open area. Experience tells us that open areas in particular terraces and roof decks have a tendency to impact the amenity. The times suggested where no music is allowed was based on keeping consistent with the Environment Protection (Residential Noise) Regulations 2008 schedule for amplified music.

An additional hour to operate was suggested for the outdoor areas to allow the proprietor to ease out patrons.

Points 1-4 are only for any outdoor areas and the roof deck.

Should you wish to discuss the application further, please feel free to contact me on 9205-5166.

Regards

Attachment 9 - Community Amenity Unit comments

Steve Alexander
Acting Manager - Compliance

Attachment 10 - Social Policy and Research Unit comments



MeMO

TO: Amy Hodgen, Acting Coordinator Statutory Planning
 FROM: Belinda Robson, Acting Coordinator, Social Policy and Research
 DATE: 9 June 2016
 ADDRESS: 433 Church Street
 APPLICATION NO: PL02/1103.03
 DESCRIPTION: An amendment to the planning permit to include one additional level plus a rooftop terrace, increasing the closing time from 11pm to 12pm in outdoor areas on Sundays and Anzac Day, and an increase in maximum patron numbers from 328 to 450.

Social Policy and Research has been requested to make comments on the proposal in relation to the increase in patron numbers for the licensed premises and the extended closing time on Sunday nights.

PROPOSAL

The written documentation outlines the proposal to increase the maximum capacity of the venue from 222 patrons to an overall maximum of 450 patrons. It is noted that the venue already has approval for a maximum number of 328 which has not yet been acted upon. It also proposes to increase the closing time of the outdoor areas to midnight on a Sunday.

- Northern and southern sides are located in Commercial 1 and the Eastern side is located in a Mixed Use Zone.
- Maximum numbers
 - Rear terrace - 106
 - Second floor terrace – 79 patrons
 - Roof top – 75 patrons
- Dispensation for car and bicycle parking and on-site loading requirements
- Music is to be background only.

COMMENTS

Attachment 10 - Social Policy and Research Unit comments

Significant social and economic effects:

As the previous amendment to increase on-site patronage from 225 to 328 was not acted upon, in effect this proposal will lead to an increase in patrons from 225 to 450 patrons. This is a doubling of patron numbers, most of which will be accommodated by external spaces.

The proposal includes efforts to discourage vertical drinking in the new terraces and the serving of food on the terrace until 11.50. However, the website of the venue says that meals in the venue are currently only served until 10pm. It would be helpful to have clarification of the nature of the food available after 10pm in assessing whether excessive alcohol consumption could occur after 10pm leading to an adverse effect on the surrounding area. Practice Note 61 points out that venues that serve only snacks do not have the alcohol risk mitigation effect of venues that serve meals.

The Cumulative Impact Report provided by SJB Planning suggests that the fact that it is the only premises to close at 2am allows for orderly dispersal of patrons between other premises that close at 1am and 3am. However, given the effective increase of patrons from 222 to 450 projected in this proposal, there will be an additional 228 people in the venue leading to a higher number of potentially alcohol-affected people to disperse after 1am.

It is noted that the additional terraces would close at midnight and then the increased number of overall patron numbers will then be transferred to the internal sections of the building. Practice Note 61 advises that outdoor seating should be reduced after 11pm. It is likely that after midnight, when the outdoor areas are proposed to close, some patrons will choose to vacate the building altogether, creating additional amenity issues, especially on a Sunday night when most venues in the area have closed at 11pm.

Cumulative impact

Church Street and Swan Street are subject to high levels of day and night time activity. There are also on-going crime and anti-social behaviour issues in the Swan Street area particularly on a Friday and Saturday night after 1am. An effective doubling of the number of patrons, with associated risks of anti-social behaviour from intoxicated persons, means that this proposal is, on balance, likely to lead to negative off-site cumulative impact (as outlined in Practice Note 61.)

The subject site is located within a cluster of licensed premises, as more than three licenses exist within 100 metres of the site and more than 15 are within a 500 meter radius. The Public House Hotel is the only venue that is permitted to operate until 2am Thursday – Saturday. The introduction of what is in effect an additional 228 patrons to this venue will exacerbate the social issues associated with the cumulative impact on the area.

The area is well served by public transport although it should be noted that the Night Tram does not run down Swan Street, meaning that there will be an increase in the number of potentially intoxicated persons through the surrounding streets walking to the Bridge Road tram or making their way to the East Richmond or Richmond Stations.

Attachment 10 - Social Policy and Research Unit comments

Given that there have been complaints by neighbours about alcohol-related anti-social behaviour by patrons of this venue, these negative off-site cumulative impacts need to be monitored and managed by the venue.

Relevant Policy considerations

The Swan Street Structure Plan defines the area as a preferred location for commercial development. The venue is located within Precinct 9, comprised of several retail and office premises while also having hospitality businesses.

Clause 21.04-3 and 22.05 of the Yarra Planning Scheme supports the development of local business and the management of residential interface and amenity issues.

Recommendations

External areas should close at 11pm Sunday to Thursday and at midnight Friday and Saturday.

A condition of any permit issued should state that meals are available on the rooftop for as long as it is open. Ensuring that patrons have access to food is a key way to minimise the risk of alcohol-related harm.

A staggering of people leaving the outside areas as well as the venue itself is recommended to avoid overcrowding and a diffusion of dispersal into the street.

Attachment 11 - Traffic Engineering Unit comments



MEMO

To: Patrick Sutton
From: Mark Pisani
Date: 7 July 2016
Subject: Application No: PL02/1103.03
 Description: Amendment to Planning Permit; Increase in Patron Numbers
 Site Address: 433 Church Street, Richmond

I refer to the above Planning Application received on 3 June 2016 and the accompanying report prepared by One Mile Grid traffic engineering consultants in relation to the increase in patron numbers at the existing tavern at 433 Church Street, Richmond. Council's Engineering Services unit provides the following information:

CAR PARKING PROVISION**Amended Proposal**

The applicant for the existing tavern (Public House) proposes to undertake buildings and works at the premises and increase patron numbers from 328 persons to 450 persons. The site is located on the east side of Church Street, approximately 41 metres south of Swan Street. No increase in parking is proposed. According to One Mile Grid traffic engineering consultants, the Public House is currently permitted to have 225 patrons through its liquor licence. The Planning Permit for the site was amended in 2013 to increase the patron numbers to 328 persons.

Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development's parking requirements are as follows:

| Proposed Use | Quantity/Size | Statutory Parking Rate | No. of Spaces |
|--------------|---------------|-------------------------------------|---------------|
| Tavern | 122 patrons | 0.4 spaces to each patron permitted | 48 spaces |

The increase in patron numbers by 122 persons would result in a car parking shortfall of 48 spaces since there would be no increase in the amount of on-site car parking.

Car Parking Demand Assessment

In reducing the number of parking spaces required for the proposed development, the Car Parking Demand Assessment would assess the following:

- *Empirical Parking Demand for Tavern Use.* According to traffic consultant, studies conducted by other consultants indicated that similar venues in the local area found parking demands to be around 0.11 spaces per patron. This would equate to 11 percent of patrons driving to the venues as a driver. This parking rate is considered appropriate, especially since the Richmond area has very good public transport services.
- *Parking Demand for Increase in Tavern Patrons.* The operator of the Public House had conducted patron count surveys at the venue on Friday 6 February 2016 and Saturday 7 February 2016 between the hours of 4:00pm and 2:00am. The number of patron present in the tavern was recorded hourly. The peak patron occupancy times were recorded at 112:00am and 1:00am on the Friday and at 11:00pm, 12:00am and 1:00am. The maximum number of patrons present was 220 persons.

Attachment 11 - Traffic Engineering Unit comments

One Mile Grid has conservatively assumed that peak increase in patron numbers would be 230 persons (= 450 maximum patron capacity minus the observed 220 patrons). Applying the car parking rate of 0.11 spaces per patron would result in 25 car parking spaces.

- *Availability of Public Transport in the Locality of the Land.* The site is within walking distance of tram services operating along Church Street and Swan Street. Rail services can be obtained from Richmond and East Richmond railway stations.
- *Variation of Car Parking Demand over Time.* The parking demand at the Public House would vary as the afternoon, evening and early morning periods progressed. The parking demand would highest at around 12:00am and 1:00am.

Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

Clause 52.06 lists a number of considerations for deciding whether the required number of spaces should be reduced. For the subject site, the following considerations are as follows:

- *Availability of Car Parking.* One Mile Grid had conducted car parking occupancy surveys in the surrounding area on Friday 6 February 2016 and Saturday 7 February 2016 between 5:00pm and 2:00am on both days. The survey area encompassed Church Street (Adelaide St to Gipps St), Swan Street (Green St to Mary St), Elm Grove, Charlotte Street, Dickmann Street, Green Street, Harvey Street, Chapel Street and sections of Clifton Street, Waverley Street, Docker Street, Chestnut Street, Adolph Street, Charles Street and Brighton Street. The times and extent of the surveys are considered appropriate. The survey also included the off-street car parks at Docker Street, Shakespeare Place and Adolph Street (east Richmond railway station). An inventory ranging from 743 to 804 publically available parking spaces was identified. The consultant did not indicate whether events had taken place at the Melbourne Sports and Entertainment Precinct during the nights of the survey. The results of the survey indicated that no fewer than 256 spaces and 212 spaces were available in the study area on the Friday night and Saturday night surveys respectively. It is well known that the level of on-street parking in the Richmond area is very high and might serve as an incentive for patrons to use public or alternative transport modes to the site.
- *Other Relevant Considerations.* The surrounding area contains a multitude of taverns and licensed venues, many without on-site car parking. Patrons attending the Public House would likely visit other venues whilst in the area. Some patrons might also attend sporting events or concerts at the Melbourne Sports and Entertainment Precinct on a Friday or Saturday night.

Another factor which would influence the amount of parking generated by the site is monitoring and enforcement of drink driving laws by Victoria Police. The patrons who intend to imbibe alcohol would choose to use alternative forms of transport or to arrange travel to the site by taxi or private driver services.

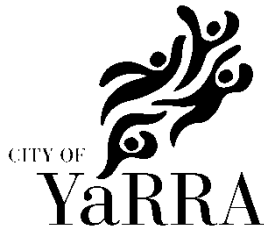
Adequacy of Car Parking

From a traffic engineering perspective, the waiver of parking associated with the increase in patrons at the existing tavern is considered appropriate. The high level of parking that takes place in the Richmond area combined with the stringent enforcement of drink-driving laws and very good accessibility to public transport services would result in a parking generation rate for the Public House than that of the statutory car parking requirement.

Engineering Services has no objection to the reduction in the car parking requirement for the site.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

Attachment 12 - Urban Design Unit comments

MEMO

TO: Patrick Sutton
 FROM: Amruta Pandhe
 DATE: 22 June 2016
 SUBJECT: 433 Church Street, Richmond
 APPLICATION NO: PL02/1103/03
 DESCRIPTION: Amendment to the current planning permit, including buildings and work to the existing building for one additional level plus a rooftop terrace and associated increase in the area for sale/consumption of liquor and other amendments.

Urban Design comments have been sought on:

- Streetscape fit
 - Height and Massing
-

COMMENTS SUMMARY

The proposal is not supported in its current form as the new addition is not considered a good fit to the existing streetscape, for the following reasons:

- The rooftop terrace concept needs to be reviewed as it will be visible from Church Street and will not present aesthetically appealing form. This is important as the subject site is located at an important transport interchange and activity node.
 - More clarity is needed about the articulation and materiality of the proposed fire rated wall.
-

Site and context

Physical and Policy Context:

The site is located on east side of Church Street, diagonally opposite the East Richmond Station. Church Street is a commercial street with a built form character of predominantly 2 storeys (equates to a typical contemporary 3 storey building). The site is located near an important activity and transport interchange node between the train corridor and Swan Street. The properties near the site have more fine-grain character. The site and adjoining properties get vehicular access from the rear from Little Lesney Street.

The site is located within Commercial 1 Zone and is covered by DDO5 (City Link Exhaust Stack Environs). It lies within the Swan Street Structure Plan area and is under Precinct 2 – Swan Street Retail Precinct. The structure plan seeks to reinforce the low scale street wall within the precinct and to visually recessive the upper levels. The 'visually recessive' form is aimed to be achieved by sufficiently setting back the upper level and through materials by creating a lightweight

Attachment 12 - Urban Design Unit comments

appearance, particularly when this is contrasted with a more 'solid' lower form. The subject site and the adjacent properties are outside heritage overlay area.

The immediate surroundings to the site include:

- To the east is Little Lesney Street providing vehicular access to properties fronting Church Street. Beyond that is two storey commercial building;
- To the west is Church Street and along Church Street are 2 storey fine grain mixed uses; and
- To the north and south are single storey commercial buildings.

Development Proposal

The proposal for the subject site is an amendment to the current planning permit to provide an additional level plus a rooftop terrace for increase hours for sale, increase patron numbers and to reduce car parking numbers.

Built form and streetscape fit:

The development proposes a total of 2 storey equivalent extension, making the building on the site about two storeys above the surrounding predominant heights. In terms of the overall height, the proposed development is acceptable; however, there are concerns about detailing of the roof top terrace.

There is proposal for a stepped treatment of the rooftop terrace and a structural frame at the street interface above the first floor. The location of the frame close to the front is acceptable.

The overall height of the stepped arrangement is about 4m. This amphitheatre like form will be visible from oblique views on Church Street and will draw attention of the viewers to the top of the building. It is felt that its overall form will not be aesthetically pleasing and will appear dominant. Considering that the subject site is located at an important transport interchange and activity node the rooftop terrace concept needs to be reviewed.

Further, the proposed south elevation presents a fire rated boundary wall for second and third levels (rooftop terrace). This wall will present a blank façade until 437-443 Church St, Richmond site is developed. Better architectural articulation/cladding treatment is required on this wall so that it fits well with the existing character.

More clarity is required on the materials used for the fire rated boundary wall. The applicant may be asked to submit material samples. Opportunity should be explored to incorporate art work to provide visual interest as this will be visible from the footpath on Church Street.