

**YARRA CITY COUNCIL**

**Internal Development Approvals Committee**

**Agenda**

**to be held on Wednesday 13 February 2019 at  
6.30pm in Meeting Rooms 1 & 2  
at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Misha Coleman  
Councillor Danae Bosler  
Councillor Daniel Nguyen

- I. ATTENDANCE**  
Nish Goonetilleke (Senior Statutory Planner)  
Amy Hodgen (Co-ordinator Statutory Planning)  
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"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**

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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	PLN18/0495 - 372-374 Brunswick Street, Fitzroy Sale and consumption of liquor (on-premises licence) from the first floor deck (Deck hours: Sunday: 10am - 11pm, Monday to Thursday: 9am - 11pm, Friday to Saturday: 9am - 1am the following day, Deck patrons: Maximum 78), part demolition and buildings and works including acoustic barriers and roof over the deck	5	30



- 
- 1.1 PLN18/0495 - 372-374 Brunswick Street, Fitzroy**  
**Sale and consumption of liquor (on-premises licence) from the first floor deck**  
**(Deck hours: Sunday: 10am - 11pm, Monday to Thursday: 9am - 11pm, Friday to**  
**Saturday: 9am - 1am the following day, Deck patrons: Maximum 78), part**  
**demolition and buildings and works including acoustic barriers and roof over**  
**the deck**
- 

## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of Planning Permit Application PLN18/0495 which affects the land at 372-374 Brunswick Street, Fitzroy and recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
- (a) Noise and off-site amenity impacts associated with the sale and consumption of liquor from the existing first floor deck (clauses 13.05-1S, 21.04-2, 22.05, 22.09 and 52.27)

### **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
  - (d) Objectors concerns

### **Submissions Received**

4. Nineteen (19) objections were received to the application, these can be summarised as:
- (a) Off-site amenity impacts (noise, anti-social behaviour, rubbish);
  - (b) Proposed hours operating past 11pm;
  - (c) Problems associated with the existing operation (amplified music, noise from plant);
  - (d) Proximity of the deck to residential zoning/residential uses;
  - (e) Confusion regarding hours/overall patrons numbers;
  - (f) Car parking and traffic.

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Further acoustic testing undertaken three months after the completion of works and commencement of the sale and consumption of liquor from the deck demonstrating that the operation of the deck complies with the relevant policies and guidelines for music, patron and operational noise.

**CONTACT OFFICER: Michelle King**  
**TITLE: Senior Statutory Planner**  
**TEL: 9205 5333**

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- 1.1 PLN18/0495 - 372-374 Brunswick Street, Fitzroy**  
**Sale and consumption of liquor (on-premises licence) from the first floor deck**  
**(Deck hours: Sunday: 10am - 11pm, Monday to Thursday: 9am - 11pm, Friday to**  
**Saturday: 9am - 1am the following day, Deck patrons: Maximum 78), part**  
**demolition and buildings and works including acoustic barriers and roof over**  
**the deck**
- 

Trim Record Number: D19/5823

Responsible Officer: Senior Coordinator Statutory Planning

<b>Proposal:</b>	Sale and consumption of liquor (on-premises licence) from the first floor deck (Deck hours: Sunday: 10am - 11pm, Monday to Thursday: 9am - 11pm, Friday to Saturday: 9am - 1am the following day, Deck patrons: Maximum 78), part demolition and buildings and works including acoustic barriers and roof over the deck
<b>Existing use:</b>	Hotel
<b>Applicant:</b>	Colonial Leisure Group C/- Priority Planning Pty Ltd
<b>Zoning / Overlays:</b>	Commercial 1 Zone Environmental Audit Overlay Heritage Overlay – Schedule 311
<b>Date of Application:</b>	12 July 2018
<b>Application Number:</b>	PLN18/0495

### Planning History

6. Planning Permit PL08/1097 was issued on 2 December 2010 for *part demolition, buildings and works and a waiver of car parking requirement associated with increased floor space for use by patrons*. This planning permit allowed the construction of the first floor deck.
7. This application determined that the use of the subject site as a Hotel enjoyed existing use rights. This planning permit includes the following restrictions on the use of the site:
  - (a) The doors in the rear (east) wall of the building allowing access onto the terrace shall be closed (fixed shut) after 11pm on any day.
  - (b) Background music must only be played inside the first floor lounge room with no external speakers, no live music, amplified music or entertainment.
8. An amendment to this permit was lodged on 9 April 2018 for the items proposed within this application, however, it was discovered that not all of the works approved under planning permit PL08/1097 were completed and accordingly the permit had expired. The amendment was therefore withdrawn on 12 July 2018 and the subject application subsequently lodged.
9. Planning Permit PLN13/1133 was issued on 14 August 2014 for a *variation to the liquor licence to allow for an increase in the area of the sale and consumption of liquor to include the whole first-floor (including the use of the existing roof terrace)*. This permit proposed a similar proposal to the current application with the major differences being:
  - (a) A maximum 125 patrons on the first floor deck (within the existing allowed 350 patrons) was granted;
  - (b) The sale and consumption of liquor from the first floor deck between 7am and 11pm everyday was granted.
  - (c) No additional noise attenuation measures were proposed.
10. The applicant has stated the permit was never acted upon and the permit has therefore lapsed.

11. It is understood that the existing first-floor terrace has been used for a number of years for the sale and consumption of alcohol, but is not covered by the red line plan of the existing liquor licence (Number 31909029).
12. The operator has been trading on the deck under the assumption that the deck area is outside of the redline plan and therefore is “off-premises” and can be used in association with the trading hours for consumption off the licenced premises which the current liquor licence allows for until 11pm on any given day.
13. This approach is not supported by Planning Officers who believe patrons can use the deck but not for the sale and consumption of liquor as this would be considered as “on premises.”
14. This application seeks to legitimatise the sale and consumption of liquor on the premises in the area of the deck.
15. The existing liquor licence is a ‘late night (general)’ licence, which sets out the following restrictions on patron numbers and hours of operation within the red line area (all internal areas):

*Maximum capacity of:*

- *public bar (90 patrons);*
- *lounge (200 patrons);*
- *terrace (20 patrons);*
- *beer garden (40 patrons);*
- *Overall ground floor maximum of 350 patrons.*

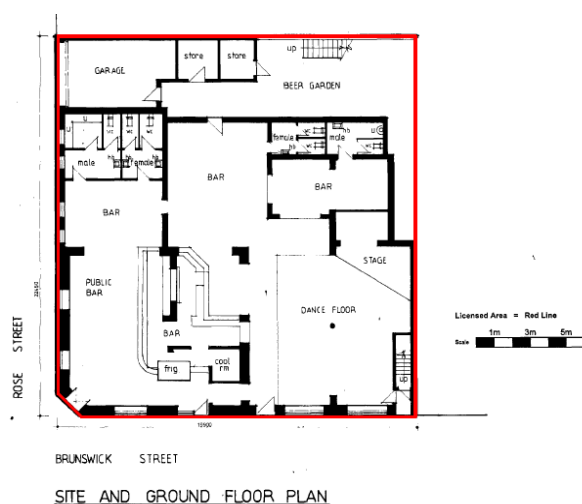
*Trading hours for the consumption of liquor off the premises of:*

- *Sunday (10am and 11pm);*
- *Good Friday and Anzac Day (12noon and 11pm);*
- *on any other day (7am and 11pm); and*

*Trading hours for the consumption of liquor on the premises as:*

- *Sunday (10am and 3am the following morning except for Anzac Day morning;*
- *Good Friday and Anzac Day (12noon and 3am the following morning);*
- *on any other day 7am and 3am the following morning.*

16. The following is the existing red line plan, showing where liquor can be sold and consumed on premises:



## Background

17. The application was received by Council on 12 July 2018. Following the submission of further information, the application was advertised and nineteen (19) objections were received.

18. A planning consultation meeting was held on 23 October 2018 and attended by fifteen objectors, the Applicant and Council Officers to discuss all issues and concerns raised in the letters of objection.
19. The Applicant did not make any commitments to make changes, moreover the proposal, as originally submitted to Council, forms the basis of assessment and decision.
20. Updated plans were provided to Council on 28 January 2019 to correct the siting and location of windows in relation to the adjoining property to the east, No. 98 Rose Street. It should form a condition of permit that the plans be updated to show this level of detail in accordance with these plans, dated 25.01.19.

## **The Proposal**

### *Demolition*

21. Demolition of the existing steel feature above the existing deck.
22. Part demolition of the eastern existing bar and existing servery walls.

### *Buildings and works*

23. The following acoustic attenuation measures are proposed to facilitate the increased red line area:
  - (a) Construction of a 2.2 metre high acoustic barrier above the existing northern and eastern on boundary walls associated with the single storey garage/cool store. The wall will have an overall height of 6 metres.
  - (b) Construction of acrylic sheeting on the inside of the existing northern corrugated sheet wall and along the eastern internal boundary of the deck.
  - (c) Construction of a 3 metre high wall along the eastern internal boundary of the deck.
  - (d) Construction of a polycarbonate roof cover partially covering the deck with an overall height of 9 metres.
24. The following buildings and works are proposed to facilitate greater integration between the first floor indoor and outdoor areas:
  - (a) Provision of a second door from the existing bar to the deck.
  - (b) Provision of a folding door from the existing servery to the deck.

### *Sale and consumption of liquor*

25. Increase the redline area to include the existing deck to allow for the sale and consumption of liquor on the deck, within the existing hours contained within liquor licence 31909029 and between the following hours:
  - (a) Sunday: between 10am and 11pm
  - (b) Monday to Thursday: between 9am to 11pm;
  - (c) Friday and Saturday: between 9am and 1am (the following day).
26. The deck area is proposed to have a maximum of 78 patrons. This will be part of the Hotel's existing overall 350 maximum patron capacity to which there will be no increase.
27. Background music will be played on the deck during the proposed licensed trading hours.
28. Food from the existing commercial kitchen will continue to be served during all licenced trading hours.

## **Existing Conditions**

### Subject Site

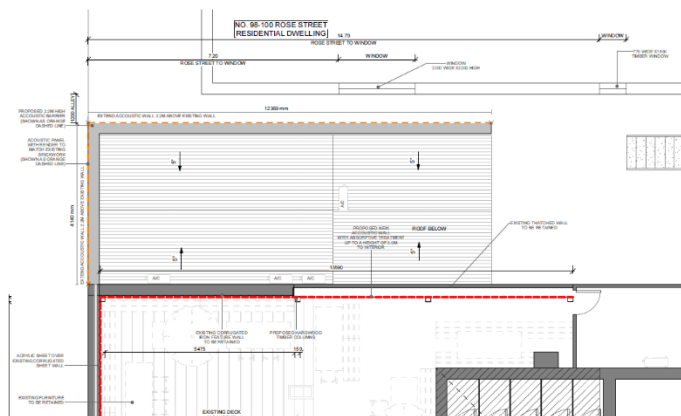
29. The subject site is located on the east side of Brunswick Street on the southern corner of Rose Street, Fitzroy. The site is a square shaped lot with street frontages to Brunswick Street (20m) and Rose Street (22.4m) yielding a total site area of 448sqm.
30. The subject site is developed with a 2-storey Victorian-era commercial building with parapet above, purpose built as a hotel. The building is built on its front (west) site boundary and both side (north and south) site boundaries for its entire length. The rear wall (east) of the main building and deck is setback by 4m, with a single storey garage built along the northern and eastern boundaries. Behind the single storey garage, and along the eastern boundary toward the west, is an external staircase.
31. The deck area has a canopy over (maximum height of 8.8m) and 3m to 4m high metal screening to Rose Street.
32. The building is currently occupied by “Bimbo Deluxe” (public bar). The front portion of the ground floor is an open-plan lounge area, and the first-floor terrace provides an outdoor seating area with bar (serving hatch), both used by patrons. The remaining ground-floor, including the single-storey outbuildings, is used for storage, bar and kitchen. The upper floor of the building provides a bar and dining/function room as well as ancillary offices and storage area. It is understood that the venue is a live music venue where DJs commonly play.
33. Patron access to the building is from the Brunswick Street and Rose Street frontages. The existing liquor licence requires that after 1am all entry and egress from the premises will be by the way of the door from the lounge into Brunswick Street. Deliveries are made to the building from access on Rose Street.
34. No on-site car parking is provided.

#### Restrictive Covenants

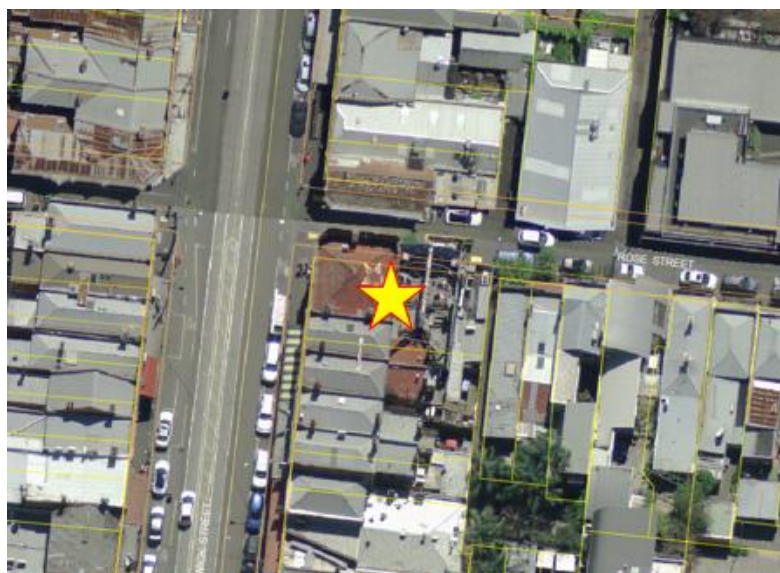
35. There are no restrictive covenants on the title submitted with the application.

#### Surrounding Land

36. The subject site is located within the Brunswick Street Major Activity Centre (MAC) with predominantly double-storey commercial buildings (retail shops, restaurants, take-away food and drink premises, cafes, taverns, a night club and bars) orientated to the street. Most buildings date to the same era as that of the subject site.
37. To the north of the subject site is Rose Street, beyond which is a 2-storey commercial premises at 378 Brunswick Street (“Veggie Bar” at the ground floor) orientated to Brunswick Street. To the east of this property is a single storey warehouse building at 99 Rose Street Fitzroy, used as a restaurant (“Transformer Fitzroy”). To the east of this building is a four storey warehouse to residential conversion, this development comprises seventeen dwellings. Some of these dwellings have private open space in the form of balconies facing Rose Street.
38. Immediately to the east of the subject site is a narrow Right-of-Way (ROW) which provides an access from Rose Street to several commercial uses orientated to Brunswick Street and to several residences on Rose Street. Beyond this narrow strip is land at 98 Rose Street, developed with a single-storey residential dwelling orientated to the street with an area of secluded private open space to the rear (south). The property has two windows facing the subject site, as documented on the updated rooftop bar plan, and shown below, these windows are setback 7.2 metres and 14.7 metres from Rose Street.



39. To the east of No. 98 Rose Street are several single dwellings oriented to face Rose Street. These dwellings all have private open space to the side or rear of the built form.
40. To the south of the subject site is land at 370 Brunswick Street, developed with a 2-storey building with a wine bar use (Kommune Canteen) at ground floor. To the south of this building are several other commercial buildings, largely containing food and drinks premises and restaurants. To the south east are several dwellings facing Kerr Street. One development, No. 107 Kerr Street, includes four dwellings and extends to the rear of the allotment, this development does not have a direct interface with the subject site.
41. To the west of the subject site is Brunswick Street, beyond which are 2-storey commercial premises (some of which have residences above) orientated to Brunswick Street. These premises contain a mix of commercial uses, from shops to food and drinks premises.
42. The below image demonstrates the location of the roof deck in regards to the surrounding area:



## Planning Scheme Provisions

### Zoning

#### *Clause 34.01 (Commercial 1 Zone)*

43. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the Scheme), a hotel, nested under retail premises, is a section 1 use within the zone and therefore as-of-right, not requiring a planning permit to operate.

44. Pursuant to Clause 34.01-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Overlays

*Clause 43.01 (Heritage Overlay Schedule 311, Brunswick Street Precinct)*

45. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to construct or carry out works and for demolition.

*Environmental Audit Overlay*

46. The Environmental Audit Overlay applies to the subject site. As the use of the land for a Hotel is not considered to be a sensitive use the requirements of the overlay do not apply.

Particular Provisions

*Clause 52.27 (Licenced Premises)*

47. The purpose of this clause is:
- (a) *To ensure that licensed premises are situated in appropriate locations.*
  - (b) *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*
48. Pursuant to Clause 52.27, a planning permit is required to use land to sell or consume liquor if the area that liquor is allowed to be consumed or supplied under a licence is to be increased.
49. Decision guidelines at clause 52.27 include:
- (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
  - (c) *The impact of the hours of operation on the amenity of the surrounding area.*
  - (d) *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

*Clause 53.06 (Live Music and Entertainment Noise)*

50. The purpose of this clause is:
- (a) *To recognise that live music is an important part of the State's culture and economy.*
  - (b) *To protect live music entertainment venues from the encroachment of noise sensitive residential uses.*
  - (c) *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
  - (d) *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*
51. Pursuant to Clause 53.06-1 this clause *applies to an application required under any zone of this scheme to use land for, or to construct a building or carry out works associated with:*
- (a) *A live music entertainment venue.*
  - (b) *A noise sensitive residential use that is within 50 metres of a live music entertainment venue.*
52. *Relevant to this proposal, pursuant to clause 53.06-3:*

- (a) *A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.*

### General Provisions

#### *Clause 65 (Decision Guidelines)*

53. 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 Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

#### Planning Policy Framework (PPF)

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

#### *Clause 11 (Settlement)*

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

55. The objective is:

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

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

56. Strategies include:

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

#### *Clause 13 (Environmental Risks and Amenity)*

##### *Clause 13.05-1S (Noise abatement)*

57. The objective is:

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

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

59. Strategies of this policy include:

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



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

60. The objective is:

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

*Clause 15 (Built Environment and Heritage)*

*Clause 15.01-1R (Urban Design – Metropolitan Melbourne)*

61. The objective is:

- (a) *To create a distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2S (Building Design)*

62. The objective is:

- (a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

*Clause 15.01-5S (Neighbourhood Character)*

63. The objective is:

- (a) *To recognise, support and protect neighbourhood character, cultural identity and a sense of place.*

64. A strategy to achieve the Objective is:

- (a) *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the:*
  - (i) *Pattern of local urban structure and subdivision.*
  - (ii) *Underlying natural landscape character and significant vegetation.*
  - (iii) *Heritage values and built form that reflect community identity.*

*Clause 15.03-1S (Heritage Conservation)*

65. The objective is:

- (a) *To ensure the conservation of places of heritage significance.*

*Clause 17.02 (Commercial)*

*Clause 17.02-1S (Business)*

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

67. A strategy of this clause includes:

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

Local Planning Policy Framework (LPPF)

*Clause 21.03 (Vision)*

68. The following is offered in this clause:

*In the City of Yarra in 2020:*

*Land Use*

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

*Clause 21.04-2 (Activity Centres)*

69. The site is located within the Brunswick Street Activity Centre. The relevant objectives and strategies of this clause are:

- (a) *Objective 4 - To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
  - (i) *Strategy 4.1 Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*
  - (ii) *Strategy 4.2 Support the regional role of the Major Activity Centres as an important component of Yarra's economy and as a metropolitan destination.*
- (b) *Objective 5 To maintain the long term viability of activity centres.*
  - (i) *Strategy 5.2. Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

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

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

*Clause 21.05 – ((Built Form (Heritage & Urban Design))*

71. The relevant objectives and strategies of this clause are:
- (a) *To protect and enhance Yarra's heritage places.*
  - (b) *Apply the Development Guidelines for sites subject to a Heritage Overlay policy at Clause 22.02;*
  - (c) *To reinforce the existing urban framework of Yarra.*
  - (d) *To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
  - (e) *To ensure that new development contributes positively to Yarra's urban fabric.*
  - (f) *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.*
  - (g) *To enhance the built form character of Yarra's activity centres.*
  - (h) *Support new development that contributes to the consolidation and viability of existing activity centres.*

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

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

*The role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all with a metropolitan focus.*

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

Relevant Local Policies

*Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)*

74. This policy applies to all new development included in a heritage overlay. The relevant objectives of this clause are:
- (a) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
  - (b) *To retain significant view lines to, and vistas of, heritage places;*
  - (c) *To preserve the scale and pattern of streetscapes in heritage places;*
  - (d) *To ensure that additions and new works to a heritage place respect the significance of the place; and*
  - (e) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
75. This policy refers to an incorporated document (City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8 (as updated from time to time), which identifies the level of significance for all buildings/sites within the Heritage Overlay. Notably, the subject site is nominated as being of 'contributory' value to the Brunswick Street Heritage Precinct.

*Clause 22.05 (Interface Uses Policy)*

76. This policy applies to applications for use or development within Business Zones (albeit now Commercial Zones), amongst others. The policy supports the objectives of the MSS by protecting Yarra's diverse land use mix and built form, reducing conflict between commercial, industrial and residential activities, and supporting appropriate industrial and commercial activity.
77. The policy has the following objectives:
- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*

*Clause 22.09 (Licenced premises)*

78. This policy applies to all applications for new licensed premises and for the extension (including the extension of hours and the extension of patron numbers) of existing licensed premises.
79. The objectives of this clause are:
- (a) *To protect the amenity of nearby properties and areas by effectively managing the location, size, operation and hours of licensed premises.*
  - (b) *To encourage best practice venue design and venue operation for licensed premises.*
  - (c) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*
  - (d) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*
80. This policy outlines a range of guidance at clause 22.09-3 including hours of operation and noise.

## Advertising

81. The application was advertised under the provisions of Section 52 of the Planning and Environment Act (1987) with 72 letters sent to surrounding owners and occupiers and two signs displayed on site. Council received 19 objections, the grounds of which are summarised as follows:
- (a) Off-site amenity impacts (noise, anti-social behaviour, rubbish);
  - (b) Proposed hours operating past 11pm;
  - (c) Problems associated with the existing operation (amplified music, noise from plant);
  - (d) Proximity of the deck to residential zoning/residential uses;
  - (e) Confusion regarding hours/overall patrons numbers;
  - (f) Car parking and traffic.
82. A planning consultation meeting was held on 23 October 2018 and attended by fifteen objectors, the Applicant and Council Officers to discuss all issues and concerns raised in the letters of objection. The Applicant did not make any commitments to make changes, moreover the proposal, as originally submitted to Council, forms the basis of assessment and decision.

## Referrals

### External Referrals

83. The application was referred to the following external consultants:
- (a) SLR Consulting (Engaged by Council for acoustic peer review)

### Internal Referrals

84. The application was referred to the following units within Council:
- (a) Community Amenity Unit
85. Referral comments have been included as attachments to this report.

## OFFICER ASSESSMENT

86. The primary considerations for this application are as follows:

- (a) Strategic Justification
- (b) Sale and consumption of liquor
- (c) Buildings and works
- (d) Objectors concerns

### Strategic Justification

87. The Planning Policy Framework, including local policies, encourage the sustainability of commercial uses. These policies seek to encourage development which meets 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, provided that a balance is achieved in relation to off-site amenity impacts.
88. Specifically, Clauses 13.04-1, 21.04-2 and 22.05 identify that noise and the interface between uses must be managed appropriately, particularly in a municipality such as Yarra where *'almost all residents are within 400m of an activity centre... 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 21.04-2).

89. The subject site is located within a Commercial 1 Zone, with the purpose of the zone including the creation of vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
90. The continued use of the building as a licensed hotel is considered to have strategic support given state and local planning policies encourage the concentration of commercial and entertainment uses in Activity Centres, such as Brunswick Street, which are well connected to public transport (clauses 11.03-1, 11.03-2 and 21.04-2).
91. The use will not alter as a result of this application, only the ability for patrons to purchase and consume liquor on the deck will result. The licensing of the deck will not only contribute to the continued vibrancy and growth of the surrounding precinct but will provide the responsible authority with more control over the operation of the existing outdoor area.
92. Significantly, the use of land within the Commercial 1 Zone as a 'hotel' does not trigger the need for a planning permit. This indicates strong strategic support for the application in its proposed location, given a hotel is defined within the Scheme as (clause 73.03):

*Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.*

93. It is noted that the deck is already in existence. The deck is not proposed to be extended. The buildings and works proposed are proposed to address issues of noise from the deck, to support the existing land use and the sale and consumption of liquor in this area to reduce off-site amenity impacts.
94. This is consistent with clause 13.05-1S, which seeks to ensure that development is not prejudiced and community amenity not reduced by noise emissions. This report will discuss further later how the proposed liquor licence extension will facilitate buildings and works that will address existing tensions between the hotel and surrounding residences.
95. Clause 22.09 encourages larger licensed premises, with capacities exceeding 200 patrons, to be located within Core Entertainment Precincts. The site is located within a Core Entertainment Precinct as outlined at clause 22.09-3, being located on Brunswick Street between Gertrude Street and Alexandra Parade.
96. The proposal to upgrade an existing venue within a Core Entertainment Precinct is encouraged by Council's local policy. Given the sale and consumption of liquor is associated with the existing operation with no increase in patron numbers or operating hours it is considered that it is unlikely to result in additional off-site amenity impacts and provides an opportunity for greater regulation of the deck.  
Sale and consumption of liquor

97. The site is already established as a hotel with an operational liquor licence as outlined earlier in this report. Therefore the key issues and considerations of this application in regards to the sale and consumption of liquor is whether the licensing of the external deck would 'tip the balance' and unreasonably impact the amenity of the area.
98. To evaluate the appropriateness of the sale and consumption of liquor from the deck, clause 22.09 (Licensed Premises Policy) and clause 52.27 (Licensed Premises) contain the relevant policy guidelines.

*Location and access*

99. The site is located within the Brunswick Street Major Activity Centre; a consolidated urban neighbourhood with good access to services, infrastructure and public transport. The site has

a direct frontage to Brunswick Street and within proximity to Smith Street, Johnston Street and the major thoroughfares of Alexandra Parade and Nicholson Street.

100. The area is well served by public transport, having excellent access to the Principal Public Transport Network (PPTN) through the tram and bus network along Brunswick Street, Alexandra Parade, Johnston Street, Nicholson Street and Smith Street. These tram and bus services are within a 500 metre radius and provide connections to the city, northern suburbs, south eastern suburbs and eastern suburbs.
101. The closest tram stop to the site is only 60 metres away to the north, between Leicester Street and Rose Street, providing access to the city and other tram and bus routes. Given the site's location within a Major Activity Centre it is also considered that taxis and Uber services would be readily available in the area.
102. The location is considered appropriate for the sale of liquor for consumption of liquor on the premises given the zoning of the area, the transport modes available and due to the as-of-right nature of the use.
103. It is also noted at present patrons can use the outdoor area, so long as liquor is not sold/consumed there, at any hour. This application would legitimise an existing space associated with the hotel and provide an opportunity to improve how the use operates in regards to amenity impacts. This will be discussed further, later in the report.
104. In regards to access it is considered that the proposal will not impact on patron behaviours to or from the site as the overall patron numbers are not proposed to be increased, or modified at all. The queuing of patrons has not been raised as an issue by objectors, neither are there any complaints recorded on Council's records regarding this issue. The liquor licence, enforced through the VCGLR, requires the following:

*After 1 a.m. on any morning all entry and egress from the premises will be by way of the door from the lounge into Brunswick Street and neither of the doors into the public bar are to be used.*

105. The above measure are considered to be appropriate. It is noted that the liquor licence includes a number of conditions such as the one outlined above and that these are not included within the Noise and Amenity Action Plan (NAAP). For consistency between the two documents it can form a condition of permit that the requirements of the liquor licence be included within the NAAP.
106. As the proposal is not for a new premises, nor modifying the overall hours or patron numbers of the venue it is considered that a cumulative impact assessment is not warranted.

#### *Venue Design*

107. The policy seeks to ensure that the layout and design of a new licensed premises incorporates safe design principles, that entry and exit points and areas for queuing of patrons are located away from sensitive land uses and that waste management and storage is provided on-site and noise enclosures are provided where bottle crushers are to be used.
108. As this application does not seek to alter the layout or design of the hotel, but merely introduce the ability for patrons to consume/purchase liquor on the deck space, these policies are largely extraneous to this application.
109. In regards to waste management it is considered limited detail has been provided within the documentation provided. Whilst the deck is existing it is considered that the increase in the area for the sale and consumption of liquor may modify the existing waste arrangements. Should a permit issue it can form a condition of permit that details of waste management

(including storage and hours of collection for general rubbish and bottles associated with the licensed premise), bottle crushers, and delivery times associated with the premise be included within the NAAP.

110. It is noted that the proposed area for the sale and consumption of liquor, as shown on the red line plan, includes an area to the south of a wall/gate associated with the main deck area. To ensure that patrons do not congregate in this area and also to facilitate convenient access between the ground floor and first floor, it should form a condition of permit that this area be used for access/egress only with no congregation of patrons. This area was not covered within the acoustic testing and there is concern that if patrons were allowed to congregate in this area it may result in excessive noise to the surrounding neighbourhood.

#### *Patron Numbers*

111. The application will simply increase the area for the sale and consumption of liquor on the premises resulting in a greater spread of patrons across the site, with only a maximum of 78 patrons to be accommodated on the first floor deck.
112. At present, the number of patrons on the deck is unregulated as the use of the site for a hotel is as-of-right within the Commercial 1 Zone.
113. The applicant has submitted an assessment of the overall floor area of the deck prepared by Floreancig Smith Building Surveyors to determine the maximum number of patrons that can be physically accommodated on the deck in accordance with the requirements of clause 22.09-3.
114. The assessment determines that 78 patrons can be accommodated on the deck. It is noted at present the number of patrons on the deck is unregulated, if this application is supported a condition can be included on the permit to ensure no more than 78 patrons are on the deck at any time liquor is being sold or consumed.

#### *Hours of Operation and Noise*

115. It is important to note that the proposal does not seek to modify the overall hours for the sale and consumption of liquor associated with the existing venue. The sale and consumption of liquor on the premises, internally, will continue between the following hours:
- (a) Sunday: 10am and 3am (the following morning except for Anzac Day morning)
  - (b) Good Friday & Anzac Day: 12noon and 3am (the following morning)
  - (c) On any other day: 7am and 3am (the following morning)
116. Within the above hours the deck is proposed to operate for the sale and consumption of liquor between the following hours:
- (a) Sunday: 10am and 11pm
  - (b) Monday to Thursday: 9am to 11pm
  - (c) Friday and Saturday: 9am to 1am.
117. It is noted the applicant states alcohol is presently being consumed on the deck as this is considered to be "off the premises", and that this concludes at 11pm in accordance with the off premises restrictions on the liquor licence.
118. Whilst Council disagrees with this approach taken it is important to note that the deck structure is existing and can be used by patrons, without alcohol, unregulated at any time. This application provides an opportunity to regulate the hours for the sale and consumption of liquor on the deck, to ensure an appropriate level of amenity for the surrounding area.

119. Policy at Clause 22.09-3 provides the following relevant guidelines in regards to the hours of operation:
- (a) *Licensed premises within 30 metres of a residential zone should not provide for the sale and consumption of liquor beyond 11pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (b) *Licensed premises in a Commercial or Industrial zone should not provide for the sale and consumption of liquor beyond 1am, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (c) *For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor should not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (d) *Licensed premises (including packaged liquor outlets) should not commence the sale and consumption of liquor before 9am.*
  - (e) *Deliveries to and waste collection from a licensed premises should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday except for those allowed under any relevant local law.*
  - (f) *Emptying bottles into bins in outdoor areas should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday.*
120. The proposed commencement times for the sale and consumption of liquor meet the requirements of the policy and would not commence prior to 9am at the earliest.
121. In regards to deliveries to, and waste collection from, the venue as well as the times for emptying bottles, this can be included as a condition of permit to be within appropriate times consistent with Council's local law. Whilst it is acknowledged that the building is already operating as a hotel it is considered that these conditions are warranted for an extension of the service area as it may modify the waste, deliveries and emptying of bottles practices.
122. Whilst the proposed conclusion of operating hours aligns with expectations for premises within a commercial zone, to not operate beyond 1am, it is noted that the application is within 30 metres of a residential zone and the area to be licenced is outdoors. Policy directs in these scenarios that a closing time of 11pm and 10pm be applied, respectively, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.
123. It is clear from the objections that the subject site has a history of complaints from surrounding residents. Referral comments were sought from Council's Community Amenity Unit on the proposal who recommended:
- (a) *Background music after 11pm at any outdoor deck area Friday and Saturday;*
  - (b) *No music after 12 midnight at any outdoor area Friday and Saturday;*
  - (c) *Background music only at all other times (NAAP).*
124. It is clear from the documentation submitted with the application that background music only is proposed on the deck, at all times. Therefore recommendations (a) and (c) have been satisfied. In regards to recommendation (b) the Community Amenity Unit has noted the recommendations are based on the fact noise will generally carry from an open area.
125. It is considered that recommendation (b) and the acceptability of the sale and consumption of liquor beyond 10pm on the deck is intrinsically linked to whether the noise generated as a result of this proposal would adversely affect the amenity of the area.



126. The recent amenity complaints cannot be ignored, nor can the content of the objections, that primarily raise issues with the existing operation of the premises in regards to noise, particularly from the deck that is the subject of this application.

127. It is long held by VCAT that residentially zoned land near, or abutting, Activity Centres cannot expect the same level of amenity as would be afforded within a purely residential zone.

128. Member Rundell stated in *Cubo Group Pty Ltd v Yarra CC & Ors* (2013) at paragraph 21:

*Firstly, whilst the locality is primarily a residential precinct, it is one with less sensitivity or amenity than enjoyed in a local residential street in middle and outer Melbourne. The site is approximately 100 metres from Bridge Road, one of Yarra's major activity centres noted for its cafes, restaurants and entertainment. A hotel and a restaurant are located on the corner of Coppin Street and Bridge Road, with outdoor seating on Coppin Street. Patrons of these premises are likely to travel along Coppin Street to their residences or cars. Coppin Street is a major north-south link in the local road network. It is inevitable that residents in the nearby streets would already experience some spillover from Bridge Road to the north and Swan Street to the south. In my view, the amenity of the residential precinct is somewhat robust and less sensitive to activities such as this proposal. Hence the amenity expectations of residents in Coppin Street should be aligned with its context and anticipate some level of active street life and noise.*

129. Senior Member Rickards concluded at paragraph 24 in *Robertson v Yarra CC* (2014) that:

*Living in close proximity to a Major Activity Centre and within a mixed use zone it should be expected that there will be some level of noise over and above what might be expected in a purely residential area. The nearby residents therefore cannot expect their amenity will not be impacted to a certain extent by some level of noise from other uses within the mixed use zone.*

130. It must be reiterated that the subject site is within the Brunswick Street Major Activity Centre, with Mixed Use and Neighbourhood Residential Zones directly abutting to the east. This is clearly an interface zone, and whilst considerations to residential amenity must be afforded it is clear that residential amenity expectations within an interface zone must be tempered.

131. Clause 22.09 contains specific policy requirements for the assessment of noise, as follows:

- (a) *Noise from the operation of the licensed premises should not have an unreasonable impact on the amenity of the area.*
- (b) *Noise emissions from licensed premises should comply with the standards specified in the State Environmental Protection Policy or any other relevant requirement such as accepted sleep disturbance criteria or relevant Australian Standards.*
- (c) *On-site noise attenuation measures should be applied for licensed premises where unreasonable amenity impacts on the surrounding area may result from the proposed activities.*
- (d) *Where required, a licensed premise must be designed and managed in accordance with an acoustic report approved by the responsible authority.*

132. In respect of the acoustic performance of the building and the proposal concerning the first floor deck, the applicant submitted three acoustic reports prepared by Marshall Day Acoustics (MDA) detailing the existing conditions and proposed acoustic attenuation measures to upgrade the deck to ensure compliance with the State Environmental Protection Policies. The content and recommendations of each report are summarised below.

#### *Report 1 (19 February 2015)*

133. This report was prepared by MDA following the issue of planning permit PLN13/1133 to support a Section 80 appeal to VCAT against the decision of the Responsible Authority to restrict the

hours (for sale and consumption of liquor from the first floor deck) to 11PM every day. It is noted that this VCAT appeal was later withdrawn and the permit has lapsed.

134. Whilst this report references provision of up to 125 patrons on the deck and hours until 3AM it is reiterated that this is not sought within the current application. The parameters as outlined within the proposal section of the report apply; a maximum of 78 patrons on the deck and hours until 11PM Sunday – Thursday and 1AM Friday – Saturday.
135. The report was commissioned to address **patron noise from the first floor deck in addition to music noise emanating from within the existing venue and mechanical plant noise associated with the kitchen and refrigeration equipment.**
136. In regards to patron noise, the report found that refurbishment of the existing screens would not go far enough in addressing concerns regarding noise and recommended that further work around acoustic attenuation measures be undertaken. It is considered this has been done with the buildings and works proposed within this application, with further review contained within the 28 March 2018 report, detailed below.
137. In regards to the kitchen extract fan a number of measures were proposed to address non-compliances with SEPP N-1. As for other equipment the report recommended a more detailed analysis of the rooftop plant. This has been undertaken within the 8 March 2018 report as detailed below.
138. The report identified that the existing internal operation significantly exceeded the applicable SEPP N-2 limits and the following recommendations were made in regards to music noise:
  - (a) *A limiting device is configured to restrict internal music noise to levels that will enable compliance at the neighbouring residences.*
  - (b) *The mounting and arrangement of the speakers should be reviewed to identify if the configuration is exacerbating low frequency modes and structure borne noise.*
  - (c) *The suitability of the limited internal music noise level should be evaluated by the operators. If the limited level is ultimately too low then measures to enhance the sound insulation of the ground floor should be considered. In advance of conducting such testing, we would anticipate that remedial measures would most likely compromise upgrades to the window and creation of a lobby arrangement comprising two doors for the entrance on the north façade.*

#### *Report 2 (8 March 2018)*

139. This report was prepared by MDA to supplement the 2015 report and conducts a review of **rooftop plant noise**. The rooftop plant is located to the east of the roof deck, atop the single storey portion of the building that appears as a garage to the street.
140. Upon assessment of the rooftop plant MDA recommended a number of noise attenuation measures to ensure the rooftop plant complies with the relevant legislation and guidelines for plant noise. The recommendations are as follows:
  - (a) *The plant area be enclosed by a noise barrier to the north and east sides, constructed to be 2.2 metres in height provided it includes a further 800mm cantilevered section sloping inwards from the top of the barrier at an angle of 45 degrees.*
  - (b) *The inside of the noise barrier will require treatment with sound absorptive material with a noise reduction coefficient (NRC) of at least 0.65.*
  - (c) *Absorptive lining with a noise reduction coefficient (NRC) of at least 0.65 will also need to be provided to the wall to the west of the plant deck up to a height of 2.5 metres, generally for a length of 6 metres setback from Rose Street.*
  - (d) *A discharge attenuator be provided to the outlet of the kitchen exhaust fan.*

#### *Report 3 (28 March 2018)*

141. This report was prepared by MDA to supplement the 2015 report and conducts a review of **patron and music noise associated with the first floor deck**, as well as the construction materials proposed within the design.
142. In regards to patron noise the report commented that it would be appropriate to cap the number of patrons to 100 after 10PM. With regard to this, it is noted 78 patrons overall are proposed for the first floor deck and this aspect would be satisfied.
143. The report stated that given the worst case patron scenario it is considered that the possibility of impact is low, it is recommended that the venue be assessed with measurements once it's operational to determine typical crowd noise levels.
144. The report concluded that the outlined acoustic attenuation treatments proposed are likely to enable compliance with the relevant criteria, legislation and guidelines for music and patron noise, as long as:
  - (a) *The patron area is enclosed by walls to the east, north and south, constructed as follows:*
    - (i) *The eastern wall constructed of 9 mm thick fibre cement sheet with sound absorption on the side lining up to a height of 2.5 m. the sound absorption lining shall have a noise reduction coefficient (NRC) of 0.8.*
    - (ii) *The northern wall is constructed from sheet metal lined with a layer of acrylic sheet.*
    - (iii) *The southern wall is constructed of 9 mm thick fibre cement sheet that features a gate with an open section above.*
  - (b) *The covered roof area is constructed from clear polycarbonate panels with an area mass of 3.7kg/m<sup>2</sup> with a rated acoustic performance, provided as a weighted sound reduction, of R<sub>w</sub> 18.*
  - (c) *All gaps (e.g. between the underside of the roof and wall junction) are sealed with flexible caulking agent.*
  - (d) *It is expected that the Thermoclear/Thermoclick products that meet the minimum area mass of 3.7 kg/m<sup>2</sup> such as the 32 mm thick Thermoclear sheet or the 40 mm Thermoclick sheet will meet the acoustic performance required.*
145. In regards to impacts from music, the report determined that SEPP N-2 limits would be readily complied with at all nearby residences for background music only from the first floor deck. The report stresses that the addendum did not consider music noise breakout from other sources in the venue that may contribute to the overall music noise breakout from the venue.
146. As identified, the report from 19 February 2015 referenced hours until 3am, 7 days a week and also for more patrons than what is presently being sought. The reports prepared within 2018 provide further testing and address concerns of the previous report.
147. A permit condition should require the acoustic reports to reflect the approved hours and patron numbers to ensure consistency with any permit issued. It would also be prudent to require the 29 February 2015 report and 8 and 28 March 2018 addendums to be amalgamated into one document, also for consistency.
148. In addition to the above, it would be prudent to conditionally require the plans to include details of the acoustic treatments, where relevant, to ensure that the works are constructed in accordance with the recommendations.

#### *Noise – Patron, Music and Mechanical Equipment Noise*

149. It is clear that there are three aspects of noise sources that require a detailed assessment to ensure that the proposed sale and consumption of liquor from the deck would not result in adverse amenity impacts for the surrounding residents. These three aspects are patron noise, music noise and mechanical equipment noise and will be discussed below.

### *Patron Noise*

150. The submitted acoustic reports were reviewed by Council's external acoustic consultants, SLR Consulting (SLR). In regards to patron noise from the deck, SLR concluded that the venue will comply with the relevant patron noise targets due to the proposed noise attenuation works, particularly with regard to the cap of 78 patrons. This aspect is therefore considered satisfactory.
151. It is noted MDA recommended that compliance measurements of patron noise be undertaken once the modified outdoor patron area is operational. Whilst SLR believes this is not necessary with concluding times of 1am (not 3am as referenced in the report) it is considered the conservative approach should be undertaken considering the complaint history of the venue. This will give surrounding residents a second safeguard mechanism and assurance that the venue would have to comply with any further recommendations to ensure an appropriate level of amenity is afforded to the area. This can be dealt with by way of a planning permit condition.
152. SLR queried whether the lightweight roof was considered within the acoustic assessment to which MDA provided the basis for the noise modelling in regards to this aspect. It is clear from the updated 28 March 2018 report that this has clearly been considered, and contributes to the acceptability of the proposal when compared to the findings of the 19 February 2015 report.
153. With regard to the above it is considered that patron noise would be successfully addressed through the proposed acoustic attenuation measures. Post occupational testing would also ensure that if compliance is not achieved additional measures would be required to be implemented to guarantee compliance.

### *Music Noise*

154. In regards to music noise this has been the primary noise complaint from objectors. Social media and the objections demonstrate that DJs and amplified music have been present on the deck to date. At present, this is allowed due to the as-of-right nature of the hotel use.
155. SLR commented that the MDA 19 February 2015 report identified substantial exceedances of both music noise limits from within the venue, and mechanical plant noise limits. Both of these items presently would be the responsibility of the Environmental Protection Authority to investigate and uphold.
156. The proposal however provides an opportunity to address this. The applicant has stated that only background music will be played on the deck. This should form a condition of permit to remove any ambiguity from the type and level of music allowed on the deck. SLR has reviewed the proposal for background music only within the deck and have recommended a music noise limiter be included in the audio chain and that it is calibrated to ensure that the proposed levels are not exceeded. This should form a condition of permit to be included within the updated report for endorsement, MDA agrees with this recommendation.
157. The 28 March 2018 report includes a number of recommendations, primarily regarding specifications for the construction materials of the acoustic attenuation measures. Whilst not easily shown on plans, it can form a condition of permit that these be added as notations.
158. It can also form a condition of permit that within the post construction report an assessment of the music noise be undertaken. This will ensure that with the proposed acoustic attenuation measures and recommended limit the noise levels will achieve compliance with the relevant State Environmental Protection Policy Requirements.
159. It is considered the recommendation of the Community Amenity Unit to have no music beyond 12am, including background music, would be onerous when it is clear that issues regarding

noise can be addressed with the proposed acoustic attenuation measures.

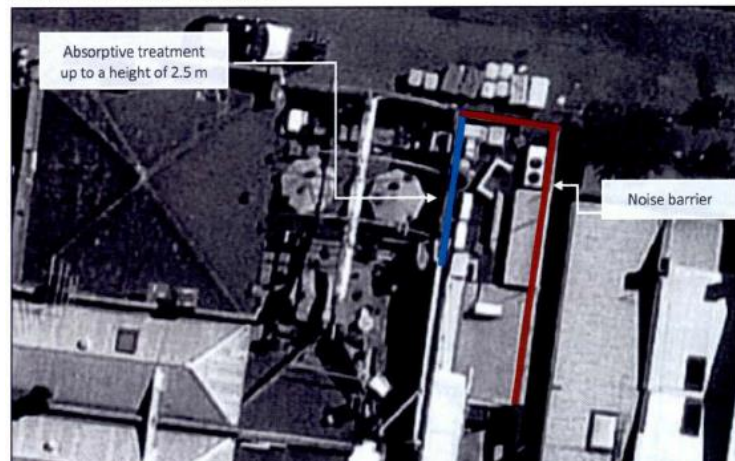
Additionally, a condition will also require verification of compliance with the relevant noise controls through a post construction acoustic assessment once operational.

160. With regard to the above it is also considered that the proposed acoustic attenuation measures have limited the impact on the amenity of the surrounding residents and would result in improved conditions. It is therefore considered that subsequent to conditions the sale and consumption of liquor until 11pm Sunday to Thursday and 1am Friday and Saturdays is appropriate.
161. In regards to the existing operation of the venue, including internal areas, social media indicates that the venue regularly hosts DJs. The requirements of Clause 53.06 (Live Music and Entertainment Noise) are triggered by the buildings and works within the Commercial 1 Zone. With regard to this it is noted that the buildings and works are associated with the deck where live music is not proposed.
162. Whilst requiring conditions to upgrade the entire venue may seem onerous, given that there will be no live music played from the deck, it is noted the submitted 19 February 2015 report identifies major exceedances to SEPP N-2 and provides recommendations to address this and ensure the venue operates in compliance.
163. This is a major area of concern for residences and the applicants' documentation confirms there is cause for concern. As discussed, the 19 February 2015 report determined that works were required to update the venue to bring it up to compliance. Whilst the 28 March 2018 does not address noise from within the venue, the report does identify that the total cumulative level of music noise from the venue would be required to meet the SEPP N-2 criteria at all nearby noise sensitive receivers.
164. It is appropriate in this instance for the recommendations of the 19 February 2015 report be implemented as it relates to music noise from the venue as a whole, with the post occupational report to demonstrate compliance with SEPP N-2 for the entire venue.
165. Additionally, a key recommendation of the 28 March 2019 report requires the southern wall of the deck to be constructed of 9 mm thick fibre cement sheet that features a gate with an open section above. This is not clear on the plans and it should form a condition of permit that this be shown on the plans to ensure this acoustic measure is implemented.
166. Furthermore, standard conditions should be included on the permit to ensure the use at all times complies with the requirements of the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2) and State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
167. This would provide Council with more control of the premises. It is noted the NAAP also outlines that to ensure no unreasonable amenity impacts result from this proposal the venue will operate in accordance with SEPP N-2 and SEPP N-1.

#### *Mechanical Equipment Noise*

168. As identified within the 19 February 2015 report, the operation of the mechanical plant resulted in substantial exceedances in acceptable noise levels. Different to the site conditions back in 2015, the current application proposes acoustic walls to the north and east of the mechanical plant area, as the 8 March 2018 report indicated in the below diagram (page 3):

Figure 1: Mechanical plant noise controls<sup>2</sup>



169. The 8 March 2018 report provides several recommendations to be adhered to, to enable compliance with the relevant legislation and guidelines for plant noise. As found with music noise, a number of these requirements are not easily shown in plan form and therefore can be required as notations on the plans.
170. One key aspect that was recommended by MDA and is not shown on the plans is as follows:
  - (a) A further 800mm cantilevered section to the proposed 2.2 metre northern and eastern wall, sloping inwards from the top of the barrier at an angle of 45 degrees.
171. It should therefore form a condition of permit that this be shown on the plans. It is considered the additional 800mm of wall sloping inwards at an angle of 45 degrees would represent an overall height increase of 600mm angled away from both the street and the ROW/residential property to the east. This is considered to be a minor increase in the proposed wall height and will be discussed further, later in the report under buildings and works.
172. In addition to the above, the post occupational acoustic report would also provide a safeguard to ensure that these issues have been resolved, and that the venue is in compliance.
173. It is considered that with regard to the conditions recommended above the proposal would result in a vast improvement to existing conditions through the construction of acoustic attenuation measures. This echoes a previous decision *Cubo Group Pty Ltd v Yarra CC & Ors* (2013) where Member Rundell found at paragraph 20:

*I am not persuaded that the sale and consumption of liquor at this restaurant would adversely affect the amenity of the surrounding area. In fact, relative to prevailing circumstances I think the grant of a permit for a restaurant with conditions relation to patron numbers, hours of operation, amenity, acoustic measures and the like would provide safeguards that are presently absent.*

174. Whilst clearly this application is for the sale and consumption of liquor and not use, it is clear the same principles apply. It is considered the grant of a permit in this instance would be the catalyst for works to upgrade the existing deck area to mitigate existing issues regarding noise.

#### *Noise and Amenity Action Plan*

175. To ensure a venue is managed appropriately, Council's local policy at clause 22.09 requires submission of a NAAP which outlines management procedures aimed at ensuring good patron management. This document outlines the specific management procedures to be followed at all times, and includes details relating to staffing, responsible service of alcohol and complaint management procedures.

176. It is noted the NAAP indicates that smokers can use the deck, however, the planning documentation states food would be available. With the new laws it is considered that smoking within an eating area cannot happen concurrently. It will therefore form a condition of permit that the NAAP clarify where in the venue food will be available and at what times on the deck.
177. The NAAP is considered to be satisfactory in mitigating negative cumulative impacts associated with the venue. To ensure the venue is managed in accordance with these specifications, the NAAP should be endorsed by way of planning permit condition, on any permit issued.
178. It is noted that the NAAP references 'lightly amplified' background music. The reference to 'lightly amplified' will be removed to ensure there is no ambiguity with the type of music allowed on the deck.
179. The NAAP also states that *staff will monitor the number and behaviour of patrons on the deck and patrons therein will also be requested to respect the peace and quiet of the neighbourhood especially after 10pm on any day.* A condition of permit can be included to ensure further details are provided on how the venue will manage patrons who do not respect the peace and quiet of the neighbourhood.
180. In addition to these measures, Council's Local Law No.8 prohibits the consumption of liquor in public places and Council's Community Amenity Unit and Victoria Police are charged with ensuring these venues operate in an appropriate manner. Victoria Police generally focus on patron behaviour on the street and Council's Community Amenity Unit generally deals with issues of noise from within premises.

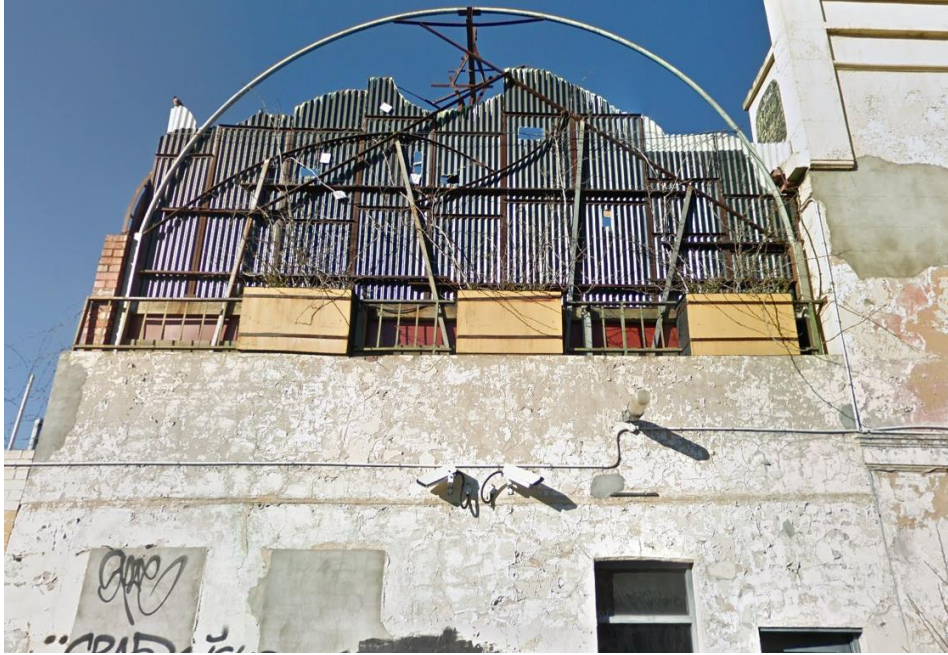
Buildings and works (including demolition)

181. The buildings and works require consideration in terms of both the heritage impacts and general off-site amenity (referring to clauses 22.02, 34.01-4, 43.01 and 52.43, as required).
182. The demolition works proposed include the existing steel feature above the deck and part demolition of the eastern wall of the existing bar and servery. These areas are either non-original or affect building areas that are not visible from the street. The demolition works would therefore not impact the heritage significance of the place or the precinct.
183. The majority of the proposed works relate to upgrading the roof deck to ameliorate concerns regarding noise transfer from the use of the deck by patrons.
184. The two items that are not proposed for acoustic attenuation are the provision of a second door from the existing bar to the deck and the provision of a folding door from the existing servery to the deck. These works would not be seen from the public realm and would not alter the overall appearance of the building and are therefore acceptable.
185. There are three buildings and works components associated with the deck itself, as follows:
  - (a) Construction of acrylic sheeting on the inside of the existing northern corrugated sheet wall and along the eastern internal boundary of the deck.
  - (b) Construction of a 3 metre high wall along the eastern internal boundary of the deck.
  - (c) Construction of a polycarbonate roof cover partially covering the deck with an overall height of 9 metres.
186. The proposed works listed above would be clearly associated with non-contributory fabric of the building. The proposed roofing would be the most prominent, however, it adopts a



traditional pitched roof form that would be clearly discernible from the high parapet of the retained portion of the building. It is therefore considered an acceptable addition. Whilst the roofing will be constructed around the rear chimney it is considered that this is not visible from the street and is acceptable on that basis.

187. The other works are considered internal to the site and would be concealed from view. It is noted that the demolition of the existing steel feature presents an opportunity to 'neaten' the building as it presents to Rose Street, consistent with policy contained within clause 22.02. Below is an image of the Rose Street façade submitted by the applicant:



188. Should a permit issue it is recommended that the existing and proposed northern elevation be updated to show the existing planter boxes with the proposed northern elevation to include details of new plantings with a maintenance schedule and notation confirming that all dead or dying vegetation will be replaced. Alternatively, the planter boxes can be demolished and the northern elevation of the corrugated iron feature can be reclad and painted shale grey.
189. The proposed 2.2 metre high acoustic barrier will be above the existing northern and eastern 3.8 metre high on boundary walls associated with the single storey garage/cool store must also be assessed in relation to off-site amenity impacts. As recommended above it can form a condition of permit that an 800mm cantilevered section above the proposed 2.2 metre northern and eastern wall, sloping inwards from the top of the barrier at an angle of 45 degrees, also be incorporated into the design. This would result in an additional 600mm of height.
190. It is considered that the other works proposed under this application will be well set back from sensitive residential interfaces and thus would not result in any impact to surrounding dwellings.
191. Of relevance to off-site amenity impacts is Clause 22.05 (Interface Uses Policy) which requires consideration of the off-site amenity impacts to residential properties from commercial development (including overshadowing and visual bulk) and also the Objectives and Standards of Clause 54 as required by the decision guidelines of the Commercial 1 Zone.
192. The acoustic barrier is proposed opposite the front portion of the existing dwelling to the east, 98 Rose Street, to a depth of 11.6 metres from the Rose Street front boundary line. Council records indicate that 'Asset 1836,' a pedestrian ROW, separates the subject site from this dwelling by 1.3 metres.



193. Whilst the proposed acoustic barrier is located along the site boundary it would be prudent to assess the wall pursuant to Standard A10 (Side and rear setbacks), not pursuant to Standard A11 (Walls on Boundaries) due to this 1.3 metre separation.
194. In regards to Standard A10, a 6.03 metre high wall (proposed) and 6.63 metre high wall (conditional) setback 1.3 metres from the adjoining properties boundary would not comply with the requirement for a 1.73 metre and 1.91 metre setback. Strict application of Standard A10 is not justified in this instance due to the zoning of the land and location within an Activity Centre.
195. Considering the strategic direction of the Activity Centres and the C1Z to encourage higher density developments, the expectation for intensive development of the site and surrounding land within the Brunswick Street Activity Centre is anticipated. It is considered an additional 2.6 metres in height would be akin to a two storey development. It is also noted that the height above 2.2 metres would be angled away from the adjoining property. This type of development would not be unreasonable with regard to the Activity Centre context and the transition in height of height of one storey is considered reasonable.
196. Whilst the development will be opposite one habitable room it is considered the proposal would not drastically change the outlook due to the existing 3.8 metre high wall in this location. Further contributing to the developments acceptability, it is noted that the proposal would comply with the Standard A12 (Daylight to existing windows) requirement to provide a light court to the existing windows of 3 square metres in area, with a minimum setback in excess of 1 metre due to the existing ROW that is clear to the sky.
197. The proposal would not be located opposite any north-facing windows, nor would the location result in any overlooking and would provide a secondary barrier from the existing deck walls. In regards to overshadowing due to the location of the wall there would be no increased overshadowing to the adjoining properties secluded private open space area.
198. In regards to potential off-site amenity impacts not covered by Clause 54 and covered by Clause 22.05, the proposal directly responds to noise by providing for a high level of acoustic protection to the adjoining residential property through the construction of the acoustic barrier itself. The new wall will also conceal much of the roof plant associated with the existing operation of the building. It is considered that the existing and proposed wall along the eastern boundary of the deck would presently limit light spill and views.
199. The proposed acoustic wall is clearly associated with the single storey garage and would not impact on the heritage value of the existing building. It is therefore considered that the buildings and works do not impact the amenity of the area or the heritage significance of the place.

Objectors concerns:

200. Off-site amenity impacts (noise, anti-social behaviour, rubbish):
  - (a) Noise is addressed at paragraphs 115-174;
  - (b) Anti-social behaviour is addressed at paragraph 104;
  - (c) Rubbish and waste is addressed at paragraph 109.
201. Proposed hours operating past 11pm;
  - (a) Hours of operation are addressed at 115-174.
202. Problems associated with the existing operation (amplified music, noise from plant):

- (a) Noise is addressed at paragraphs 115-174.

203. Proximity of the deck to residential zoning/residential uses;

- (a) The location of the premises is addressed at paragraphs 99-106.

204. Confusion regarding hours/overall patrons numbers;

- (a) The proposal is clearly outlined at paragraphs 21-28.

205. Car parking and traffic.

- (a) Pursuant to clause 52.06-1, Clause 52.06 (Car parking) applies to:
  - (i) *a new use; or*
  - (ii) *an increase in the floor area or site area of an existing use; or*
  - (iii) *an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.*
- (b) The proposal is not for a new use, an increase in floor area or site area of the existing use and would not increase the measure specified in Column C of Table 1 of Clause 52.06-5 for that use, being the leasable floor area. This clause therefore does not apply.
- (c) As identified in Paragraphs 100 to 102, the location is considered appropriate for the sale of liquor for consumption on the premises given the zoning of the area, the transport modes available and due to the as-of-right nature of the use. It is not considered that the application would modify patron behaviour to and from the site as the 78 patrons proposed to consume liquor on the deck would be from the existing 350 patrons that are permitted to frequent the site.

## Conclusion

206. The proposal is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework. The proposal, subject to conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit be issued for the sale and consumption of liquor (on-premises licence) from the first floor deck, part demolition and buildings and works including acoustic barriers and roof over the deck at 372-374 Brunswick Street, Fitzroy generally in accordance with the plans noted previously as the “decision plans” and subject to the following conditions:

1. Before the sale and consumption of liquor and 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 the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Directitude Management dated 10.07.2018, but modified to show:
  - (a) Layout of the adjoining property at No. 98 Rose Street in accordance with the plans dated 25.01.2019;

- (b) Above the proposed 2.2 metre high northern and eastern acoustic walls, a 800mm cantilevered extension sloping inwards from the top of the walls at an angle of 45 degrees;
  - (c) The southern wall of the deck to be constructed of 9 mm thick fibre cement sheeting that features a gate with an open section above.
  - (d) A maximum of 78 patrons to the deck area annotated on the red line plan;
  - (e) The planter boxes on the existing and proposed northern elevation plans, including either:
    - (i) Details of proposed new plantings within the planter boxes including details of maintenance and a notation confirming that all dead or dying vegetation will be replaced; or
    - (ii) Demolition of the planter boxes and the corrugated iron feature reclad along the northern elevation and painted shale grey.
  - (f) Any requirement of the endorsed acoustic report required prior to commencement (condition 7) where relevant to show on plans and specific requirements annotated.
2. The sale and consumption of liquor 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.
  3. The area to the south of the fence/gate on the first floor deck is to be used for access/egress between the ground and first level only with no congregation of patrons within this area without the prior written consent of the Responsible Authority.

#### Liquor Licence

4. No more than 78 patrons are permitted on the first floor deck at any time liquor is being sold or consumed.
5. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor on the first floor deck may only occur between the following hours:
  - (a) Sunday 10am to 11pm
  - (b) Monday to Thursday 9am to 11pm
  - (c) Friday and Saturday 9am to 1am (the following day)
6. Before the sale and consumption of liquor commences, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan prepared by Priority Planning and dated 12 July 2018, but modified to include:
  - (a) The patron numbers and hours for the sale and consumption of liquor from the deck in accordance with Conditions 3 and 4.
  - (b) The requirements of Liquor Licence 31909029;
  - (c) Details of waste management and bottle crushers (including storage and hours of collection for general rubbish and bottles);
  - (d) Delivery and collection of goods to and from the land must not occur after 10pm on any day, before 8am Monday to Saturday, or before 9am on a Sunday or public holiday;
  - (e) Clarification on whether food will be served on the deck;
  - (f) Management of smokers on the premises;

- (g) Removal of the words “lightly amplified” in regards to background music. The NAAP is to reference background music only;
  - (h) Details on how the venue will manage patrons who do not respect the peace and quiet of the neighbourhood.
7. The provisions recommendations and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
8. Before the sale and consumption of liquor from the first floor deck commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Reports prepared by Marshall Day Acoustics and dated 25 February 2015, 8 March 2018 and 28 March 2018, but modified to include (or show, or address):
- (a) The assessment, recommendations and content of the report and letters prepared by Marshall Day Acoustics dated 29 February 2015, 8 March 2018 and 28 March 2018 consolidated into one document.
  - (b) Details of a noise limiter to be included in the audio chain for the first floor deck and details of calibration to ensure that noise levels are not exceeded.
  - (c) The patron numbers and hours for the sale and consumption of liquor from the deck in accordance with Conditions 3 and 4.
9. The provisions, recommendations and requirements of the endorsed Acoustic Report be implemented and complied with to the satisfaction of the Responsible Authority.
10. Before the sale and consumption of liquor from the first floor deck commences, all acoustic attenuation measures and recommendations contained within the report required pursuant to Condition 7 are to be constructed and implemented to the satisfaction of the Responsible Authority.
11. Within 3 months of the commencement of the sale and consumption of liquor from the first floor deck, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the updated post-commencement Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:
- (a) Confirm that the recommendations of the endorsed acoustic report required as part of Condition 7 have been implemented;
  - (b) To assess their effectiveness in meeting the predicted patron noise level and SEPP N-1 and SEPP N-2 requirements as outlined within the endorsed acoustic report required as part of Condition 7; and
  - (c) If non-compliance with Condition 9b is measured, the venue must implement additional acoustic measures as recommended by the amended acoustic report within one month of the date of the amended acoustic report.
12. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the first floor deck must be at a background noise level only.
13. Speakers external to the building must not be erected or used.

14. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent uses and to leave in a quiet and orderly manner.
15. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
16. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
17. Except with the prior written consent of the Responsible Authority, the collection of waste by a private contractor must not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday.
18. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land must not occur after 10pm on any day, before 8am Monday to Saturday, or before 9am on a Sunday or public holiday.
19. Except with the prior written consent of the Responsible Authority, emptying bottles into bins in outdoor areas must not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday.
20. This permit will expire if the sale and consumption of liquor from the first floor deck is not commenced within two years from 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.

#### Buildings and works

21. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
23. 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.
24. This permit will expire if:
  - (a) the development (excluding the acoustic attenuation works required by Condition 11) is not commenced within two years of the date of this permit; or
  - (b) the development (excluding the acoustic attenuation works required by Condition 11) is not completed within four years of the date of this permit.

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

**NOTES:**

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

**CONTACT OFFICER:** Michelle King  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5333

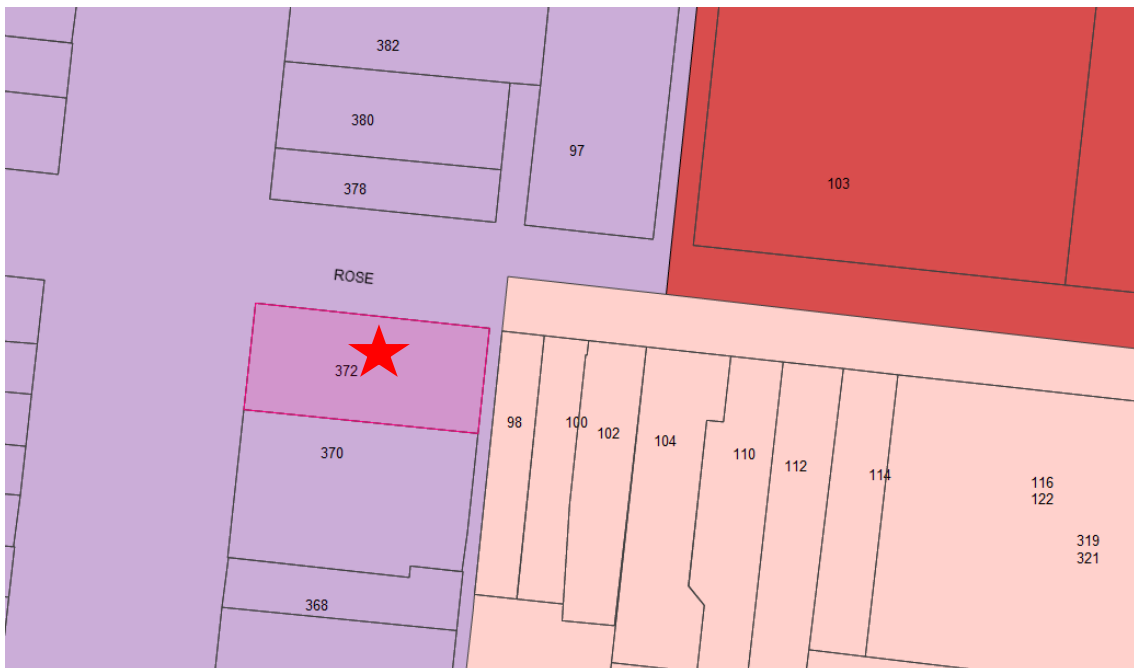
**Attachments**

- 1 PLN18/0495 - 372-374 Brunswick Street Fitzroy - Site Plan
- 2 PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)
- 3 PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (Red Line Plan)
- 4 PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan
- 5 PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)
- 6 PLN18/0495 - 327-374 Brunswick Street Fitzroy - Community Amenity Unit Referral Response
- 7 PLN18/0495 - 372-374 Brunswick Street Fitzroy - SLR Acoustic Referral Response

Attachment 1 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Site Plan

# ATTACHMENT 1

**SUBJECT LAND: 372-374 Brunswick Street Fitzroy**






Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)

P11 TOWN PLANNING SUBMISSION


### TOWN PLANNING - PROPOSED ACCOUSTIC CANOPY TO EXISTING ROOF TOP BAR

**BIMBO DELUXE - APPLICATION  
372-374 BRUNSWICK STREET FITZROY**

CONTENT		
SHEET NUMBER	SHEET NAME	CURRENT REVISION
TP-000	COVER	10.07.2018
TP-001	CONCEPTUAL PERSPECTIVES	10.07.2018
TP-002	CONCEPTUAL PERSPECTIVES	10.07.2018
TP-008	EXISTING SITE PLAN	10.07.2018
TP-009	EXISTING GROUND FLOOR PLAN	10.07.2018
TP-009	EXISTING EXTERIOR ELEVATIONS	10.07.2018
TP-010	EXISTING / DEMOLITION FIRST FLOOR PLAN	10.07.2018
TP-010	PROPOSED RED LINE PLAN	10.07.2018
TP-011	PROPOSED ROOFTOP BAR PLAN	10.07.2018
TP-012	PROPOSED ROOF PLAN	10.07.2018
TP-020	PROPOSED EXTERIOR ELEVATION	10.07.2018
TP-021	PROPOSED EXTERIOR ELEVATION	10.07.2018
TP-030	EXISTING / PROPOSED TERRACE ELEVATIONS	10.07.2018
TP-031	EXISTING / PROPOSED TERRACE ELEVATIONS	10.07.2018



SUBJECT SITE  
372-374 BRUNSWICK  
STREET, FITZROY

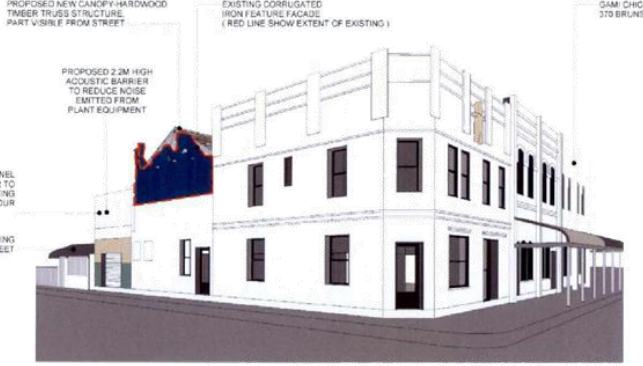


EXISTING ROOF TOP BAR CONDITION PHOTOS

**NOTE:** PLEASE REFER TO ACCOUSTIC ENGINEER'S REPORT



2 EXTERIOR 3D VIEW



3 EXTERIOR 3D VIEW

**PROJECT** >>> **BIMBO DELUXE**

No	AMENDMENTS	DATE
8	PG	25.05.2018
9	PG	29.05.2018
10	PG	05.07.2018
11	P11	10.07.2018

**D**  
**M**  
Directitude  
Management

HEAD OFFICE: SUITE 1, 11 BRUNSWICK ST, BRUNSWICK VIC 3069  
PH: 03 9437 0000 FAX: 03 9437 0001  
E: info@directitude.com.au W: www.directitude.com.au

TITLE		COVER	
ADDRESS	BIMBO DELUXE 372-374 BRUNSWICK ST, FITZROY	DATE	10.07.2018
CLIENT	Owner	DATE	10.07.2018
JOB NO.	18010	SCALE	1:500 @ A2
DATE	10.07.2018	DWG NO.	TP-000
		REVISION	P11




Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)





Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)

P11 TOWN PLANNING SUBMISSION




PROPOSED  
ACOUSTIC PANEL TREATMENT  
UP TO A HEIGHT OF 3.0M -  
TIMBER SHINGLES OVER PANEL

PROPOSED  
HARDWOOD TIMBER  
SUPPORT TRUSSES  
WITH RUSTED  
JUNCTION PLATES

EXISTING ROOF  
TOP DECKING

1 PROPOSED TERRACE VIEW



EXISTING BAR

ACRYLIC SHEET OVER  
EXISTING CORRUGATED  
SHEET WALL  
NEW PAINTED  
GRAPHICS OVER

PROPOSED  
ACOUSTIC PANEL  
TREATMENT UP TO A  
HEIGHT OF 3.0M WITH  
TIMBER SHINGLES OVER

ACOUSTIC  
ENGINEERED  
RATED CLEAR  
POLYCARBONATE  
PANELS

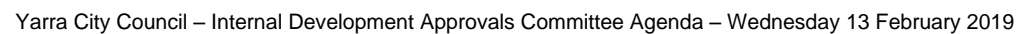
2 PROPOSED TERRACE VIEW



HEAD OFFICE: SUITE 2, LEVEL 2, 100 BRUNSWICK ST, MELBOURNE VIC 3000  
PH: 03 9594 1234 FAX: 03 9594 1235  
M: 0415 487 789 T: 03 9594 1234

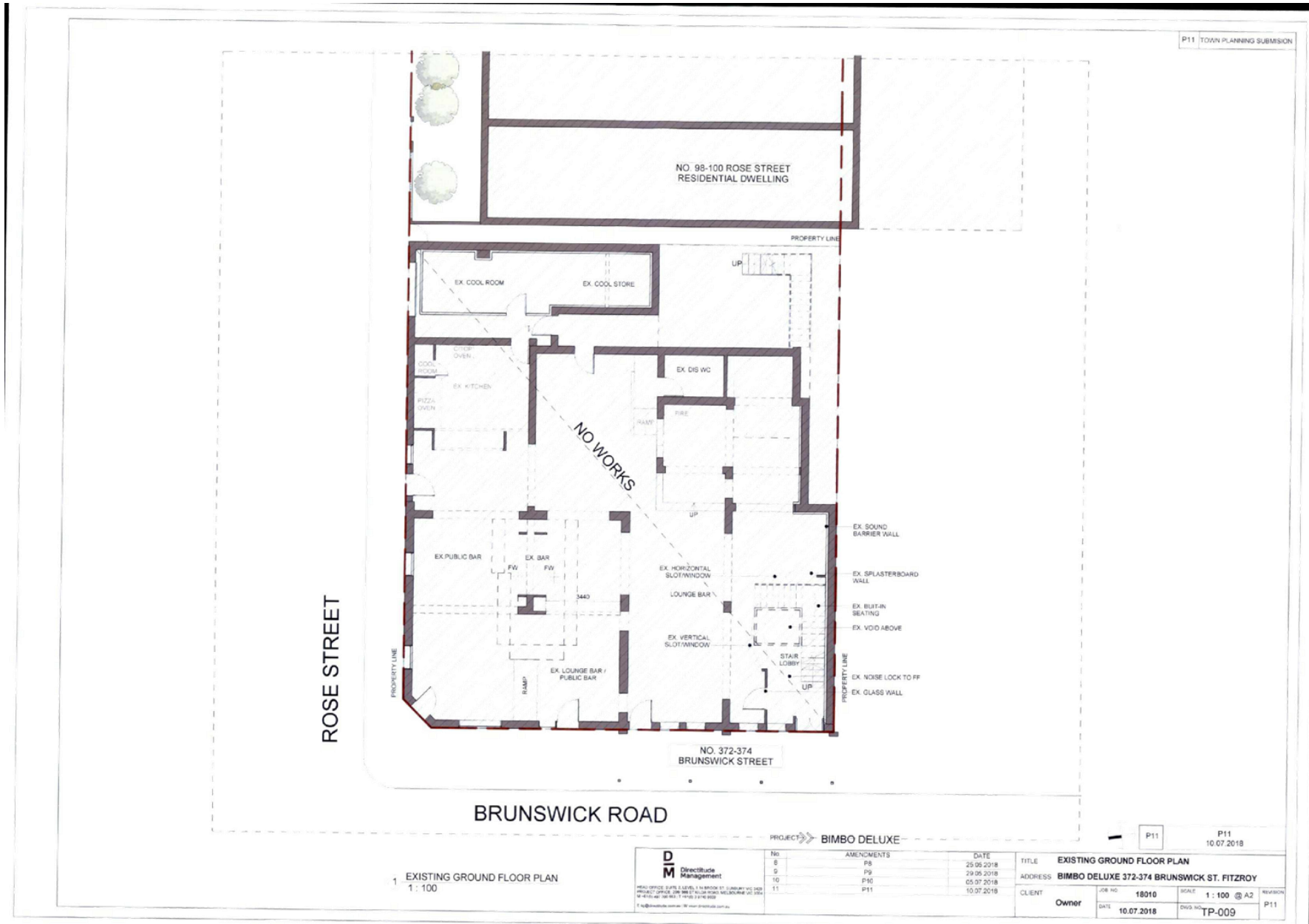
PROJECT >>> BIMBO DELUXE		
NO.	AMENDMENTS	DATE
8	P8	25.05.2018
9	P9	29.05.2018
10	P10	05.07.2018
11	P11	10.07.2018

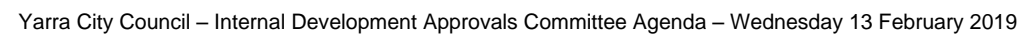
TITLE CONCEPTUAL PERSPECTIVES			
ADDRESS BIMBO DELUXE 372-374 BRUNSWICK ST. FITZROY			
CLIENT	Owner	ASR NO. 18010	SCALE @ A2
DATE	10.07.2018	DWG NO. TP-002	REVISION P11



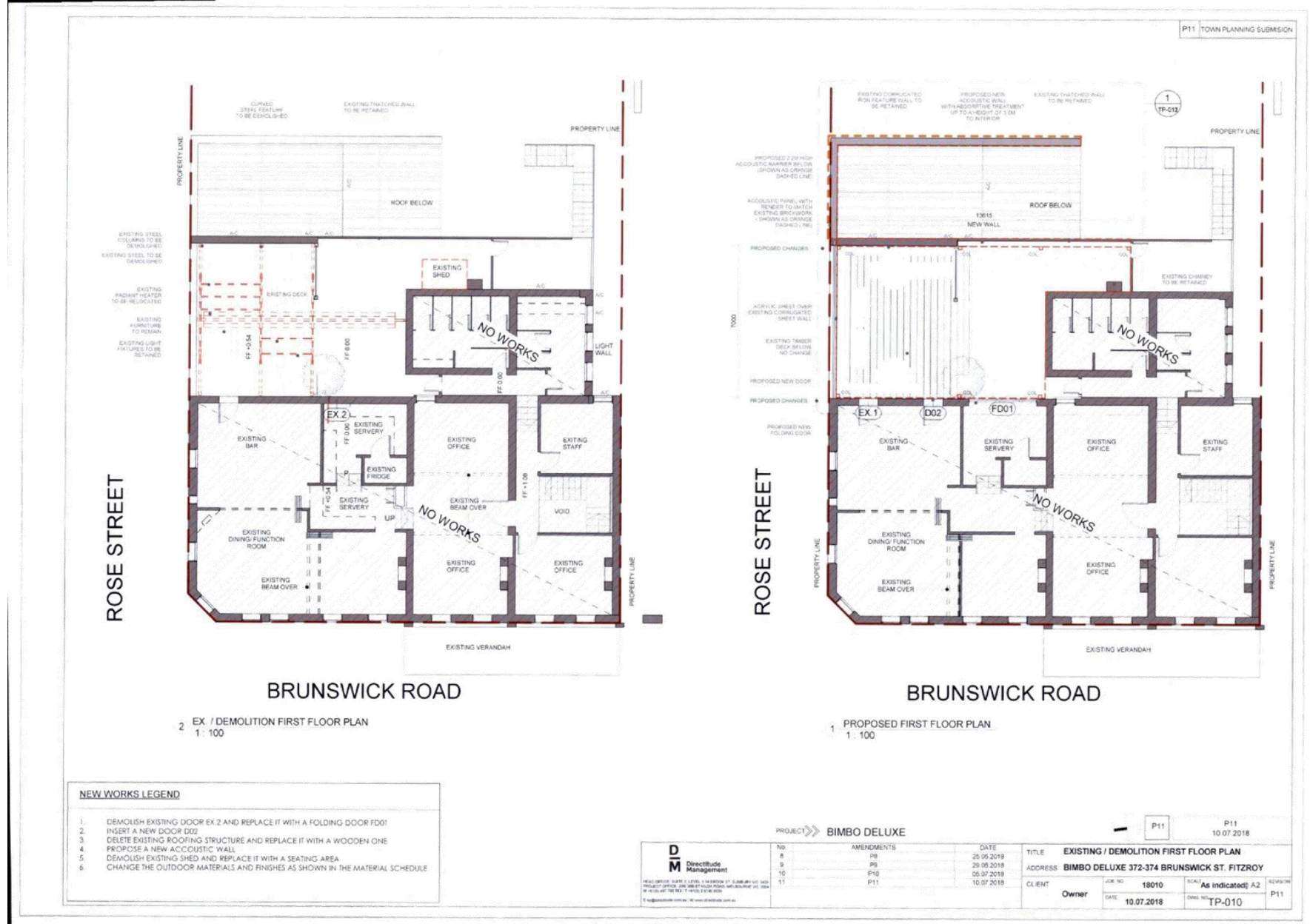


Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)



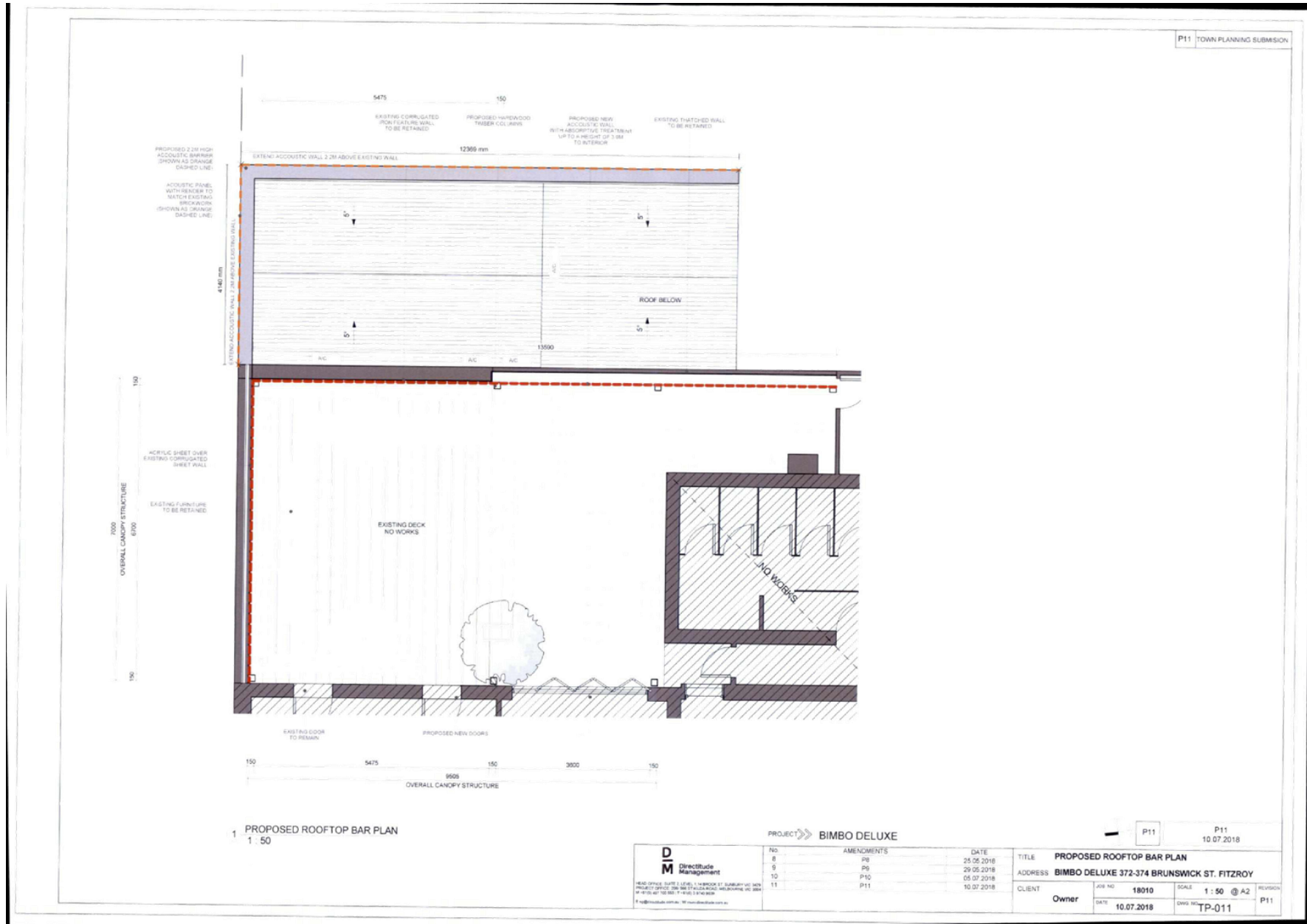


Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)

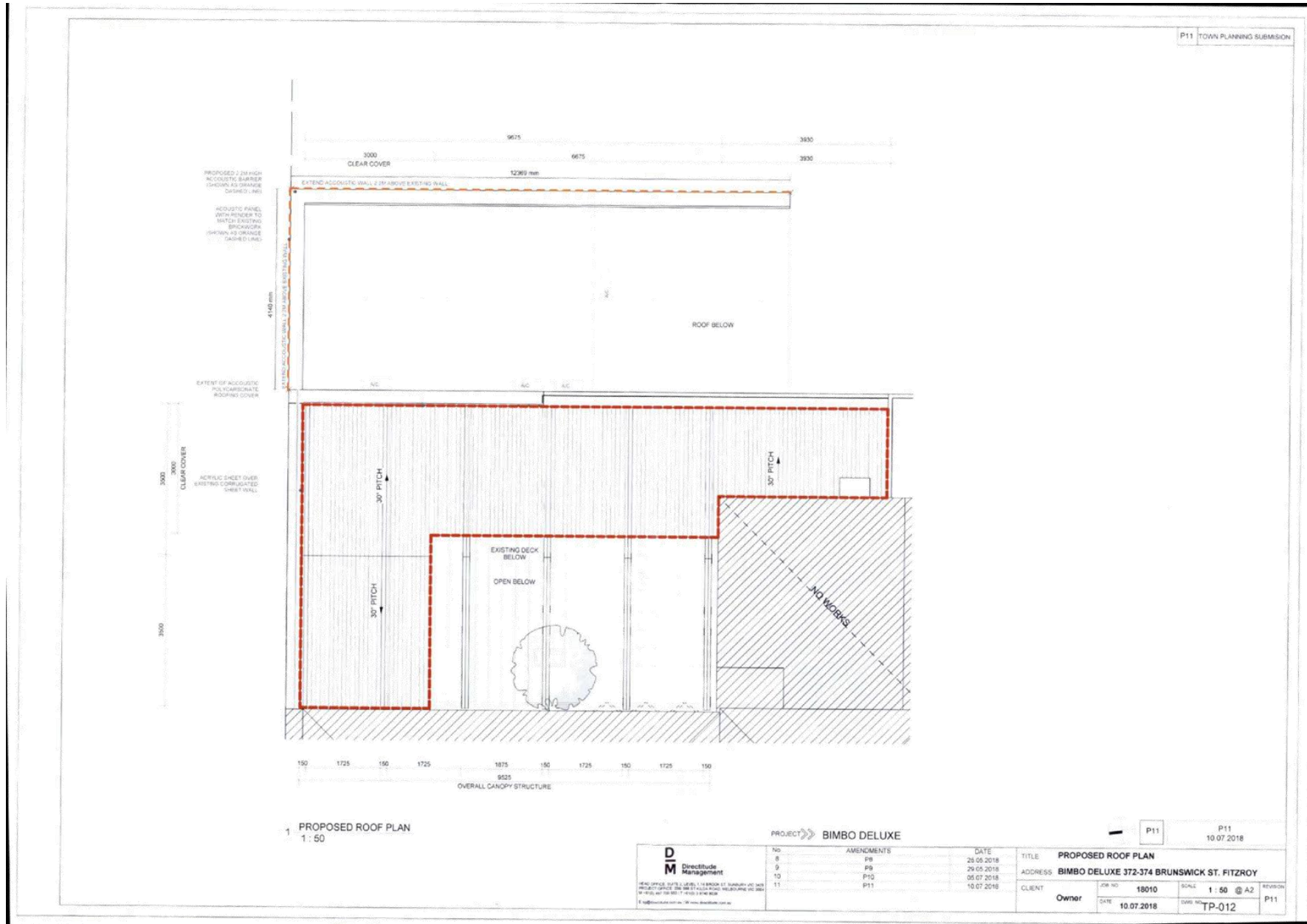




Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)



Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)

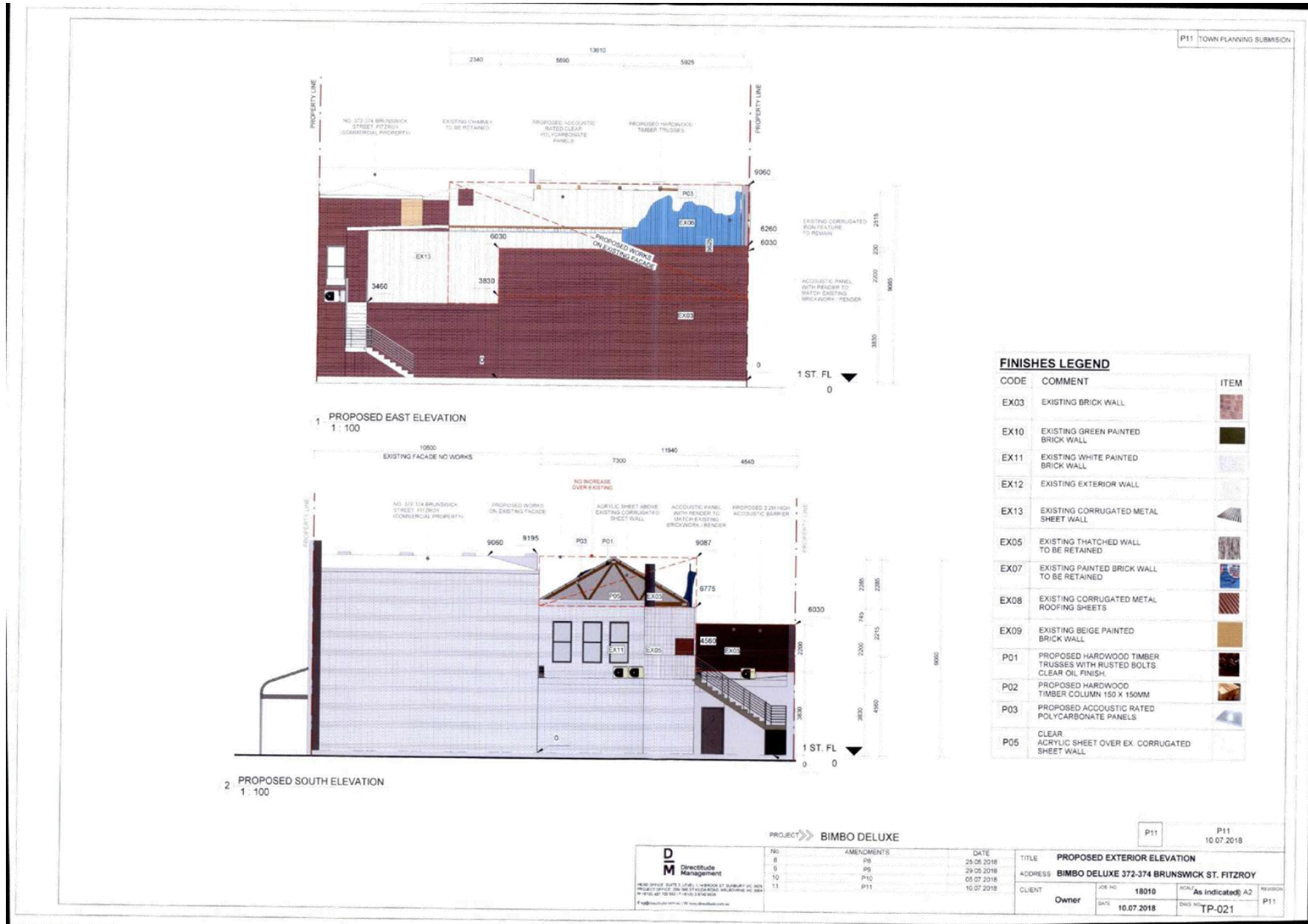




## Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&amp;W)

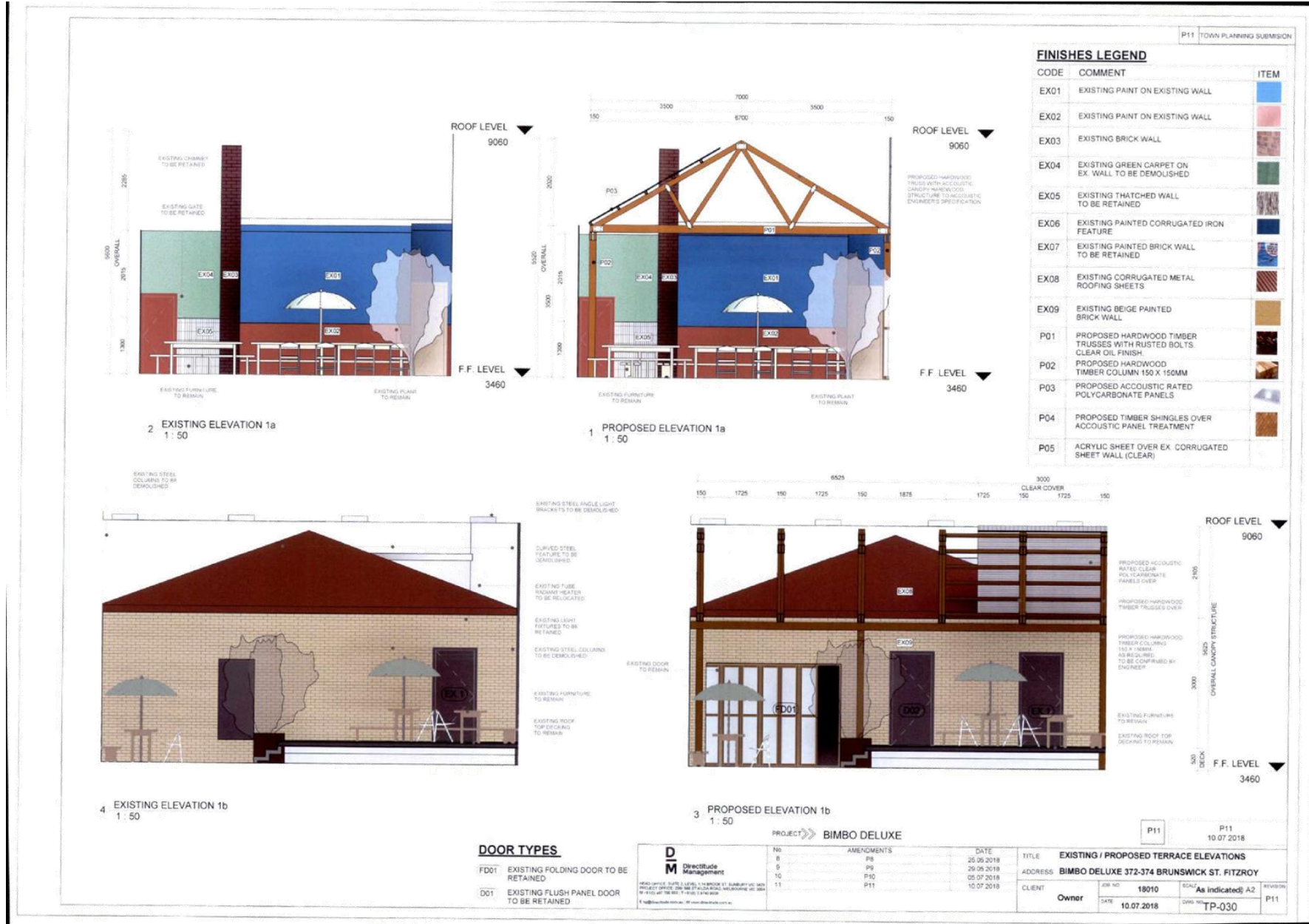


Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)





Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)

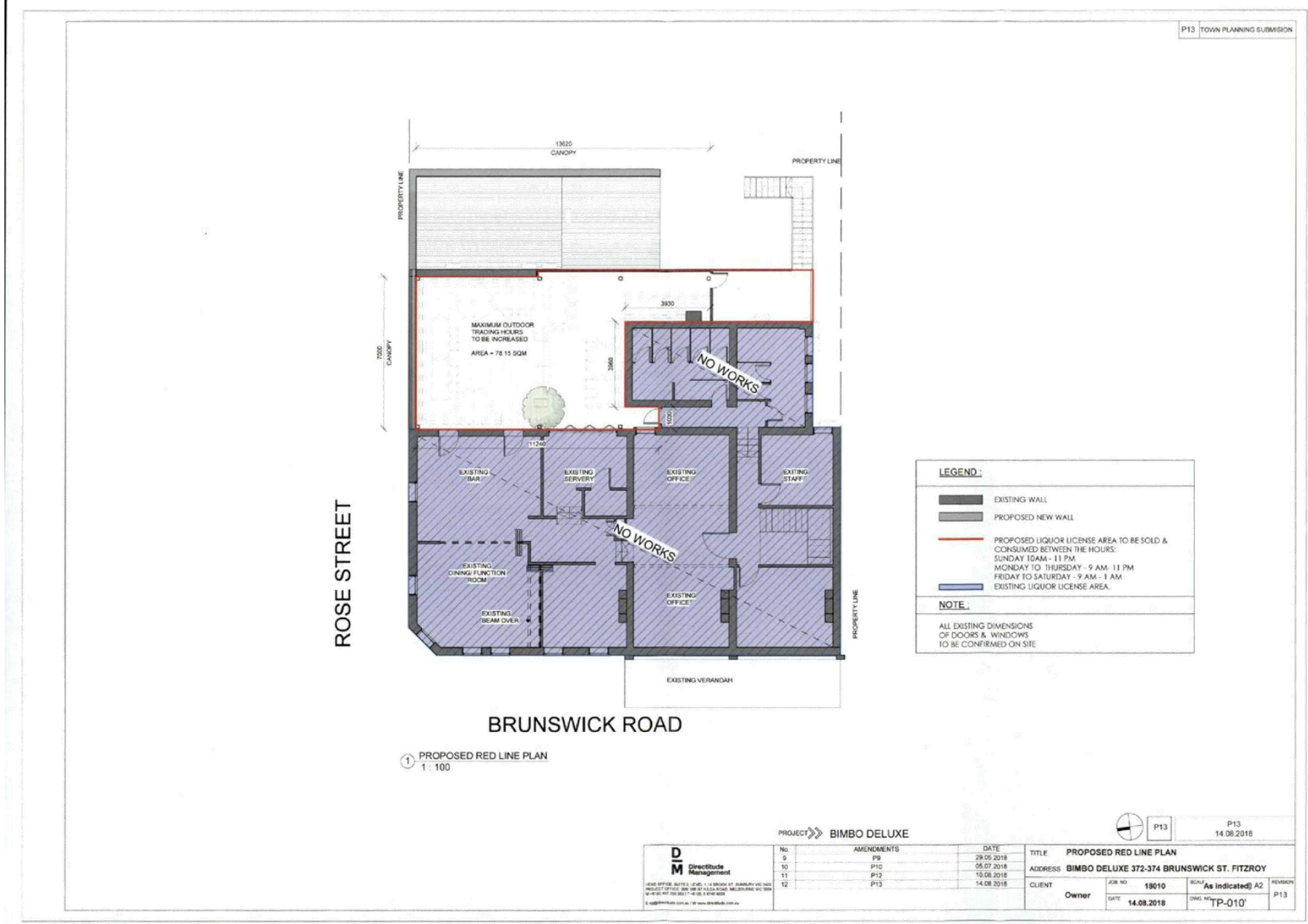


Attachment 2 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (B&W)





Attachment 3 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Decision Plans (Red Line Plan)



**Attachment 4 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan**



**Application for Planning Permit**

**Noise and Amenity Action Plan**

**372-374 Brunswick Street Fitzroy**



**12 July 2018**

**PRIORITY PLANNING PTY LTD**  
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TELEPHONE: 9639 9599 MOBILE: 0407 845 686  
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## Attachment 4 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan

Noise and Amenity Action Plan  
372-374 Brunswick Street Fitzroy

### **Noise and Amenity Action Plan for licensed premises at 372-374 Brunswick Street, Fitzroy**

This Noise and Amenity Action Plan (NAAP<sup>1</sup>) relates to the licensed premises (Hotel) at 372-374 Brunswick Street Fitzroy ("the licensed premises").

The purpose of the NAAP is to allow the licensed premises to provide an appropriate standard of service to patrons while maintaining an appropriate standard of amenity for Neighbours with minimal disturbance, particularly from noise from the premises itself or from patrons leaving the premises.

It is also a necessary management strategy for the operation of the licensed premises.

Current and future operators will abide by, and have ownership of, the Noise and Amenity Action Plan.

The Noise and Amenity Action Plan is to form the basis of a sustainable business operation of the licensed premises, allowing the Hotel operator/permit holder/licensee, neighbours and the Yarra City Council to peacefully coexist.

### **Details of the Plan**

<b>Requirement</b>	<b>Response</b>
<i>Procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of Council or the Victorian Commission for Gambling and Liquor Regulation.</i>	<p>The duty Manager and/or management staff will deal with any complaints against the licensed premises in a professional and courteous manner.</p> <p>Neighbours of the immediate area will be provided with the telephone number of the duty manager so as to maintain open communication regarding any issues they may have with the operation of the hotel and its related activities.</p> <p>Upon receiving a complaint, a staff member at management level will immediately seek to determine the cause of the complaint and take appropriate steps to address it if it is found to be associated with the use of the premises or patrons who have left the premises.</p> <p>The permit holder will keep an up-to-date register of any complaints against the licensed premises, including:</p> <ul style="list-style-type: none"> <li>• the time;</li> <li>• date;</li> <li>• the name, address and phone number of the person lodging the complaint;</li> <li>• nature of the complaint; and</li> <li>• measures taken to address the complaint.</li> </ul> <p>The register will be kept on the premises and made available for inspection to:</p> <ul style="list-style-type: none"> <li>• Officers of Victoria Police;</li> <li>• The responsible authority; and/or</li> </ul>

<sup>1</sup> This document has been prepared in accordance with the Licensed Premises policy at Clause 22.09 of the Yarra Planning Scheme



# Attachment 4 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan

Noise and Amenity Action Plan  
372-374 Brunswick Street Fitzroy

	<ul style="list-style-type: none"> <li>• Authorised Officers of VCGLR</li> </ul> <p>during all hours of operation.</p>
<i>The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed.</i>	<p>There is no change to the patron capacity and will remain at 350 78 of which will be accommodated on the first floor deck.</p> <p>Allowing the deck to operate to 1am on Fridays and Saturdays will result in greater dispersal of patrons rather than all patrons congregating on the ground floor level as is currently the case when the roof deck is closed.</p> <p>Signage will also be displayed at the Brunswick Street exit requesting patrons leave in a quiet and orderly manner at all times and not to congregate on the footpath in front of the premises.</p> <p>The signage will also advise patrons that the premises depends on good relations with residents living nearby and their amenity must be respected.</p> <p>Staff members will use all reasonable and practical methods to ensure that patrons leave the premises in an orderly and proper manner at all times the Hotel is operating and immediately after closing time.</p> <p>If required, staff will assist patrons leaving the premises by calling taxis or directing them to public transport.</p> <p>Patrons will also be requested not to linger on Brunswick Street in front of the site.</p>
<i>The management of large group bookings.</i>	<p>It's unusual for the premises to take large bookings. In the event that this occurs, patrons will be allocated a space inside the venue for their function and treated in the same manner as all other patrons.</p>
<i>The management of smokers and on and off-site smoking areas (particularly where liquor may not be allowed to be sold and consumed within the smoking area after a particular time).</i>	<p>Patrons wishing to smoke may do so on the deck. The smoking area will have the same operating hours as the rest of the premises.</p> <p>Currently smokers are directed onto the footpath after the rooftop closes at 11pm.</p>
<i>The management of external queues.</i>	<p>Given the operating profile of the hotel, a queuing system is generally not required.</p> <p>However, if patron access to the premises needs, from time to time, to be regulated and controlled, a queuing system can be implemented.</p> <p>This queuing arrangement utilises a defined section of the footpath at the front of the premises on Brunswick Street.</p> <p>The queuing area will be defined by a portable barrier system which, while managing prospective patrons, allows clear pedestrian access along the footpath on Brunswick Street.</p>



# Attachment 4 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan

Noise and Amenity Action Plan  
372-374 Brunswick Street Fitzroy

	Notwithstanding the context of the subject site and surrounds, security staff will ensure that, at all times the queuing system is in operation, the behaviour and conduct of patrons is properly managed and does not adversely impact on the amenity of the area.
<i>How the movement and exit of patrons is to be managed, particularly where there is a requirement to close different sections of the venue at different times.</i>	With respect to movement of patrons upon exit, currently the rooftop deck closes at 11pm and patrons are directed to the ground floor which results in the overall patron numbers reducing at this time.
<i>Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.</i>	No music other than at background levels is proposed to be played on the roof deck.
<i>Any other measures to be undertaken to ensure no unreasonable amenity impacts from the licensed premises.</i>	<p>Patrons will be encouraged to catch alternative means of transport (ie other than private cars) to the premises via social media (eg Facebook or website).</p> <p>The building and the external area will continue to be lit during the hours of operation.</p> <p>All staff members will be given a personal copy of this Noise and Amenity Action Plan and be required to familiarise themselves with it.</p> <p>Staff members will use their best endeavours to ensure that patrons on the premises will conduct themselves in a quiet and orderly manner, without causing a nuisance to the amenity of the area by way of noise and/or boisterous behaviour.</p> <p>Staff members will also use all reasonable and practical methods to ensure that patrons leave the premises in a quiet and orderly manner at all times the use is operating and immediately afterwards.</p> <p>The licensed premises operator/permit holder or a current staff member at a management level will ensure that, on request, a copy of this Plan is made available to any person freely and without charge.</p> <p>In the event of any significant and ongoing noise complaints, measurements of noise emissions from the licensed premises may be taken by an appropriately qualified person and submitted either to the Responsible Authority or VCGLR.</p> <p>Management of the licensed premises will maintain membership and continue the work of the Yarra Liquor Licensing Accord, including regularly attending its meetings.</p> <p>Specifically, in relation to the roof deck, again there will be lightly amplified background music only.</p>

# **Attachment 4 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Noise and Amenity Action Plan**

Noise and Amenity Action Plan  
372-374 Brunswick Street Fitzroy

	<p>Staff will monitor the number and behaviour of patrons on the deck and patrons therein will also be requested to respect the peace and quiet of the neighbourhood especially after 10 pm on any day.</p> <p>Other mitigating factors include:</p> <ul style="list-style-type: none"> <li>• Providing seats for a large proportion of patrons.</li> <li>• Serving food on the premises.</li> <li>• The first floor deck being appropriately noise attenuated.</li> <li>• Operating in accordance with State Environment Protection Policies Control of Noise from Commerce Industry and Trade No. N-1 ("SEPP N-1") and Music Noise from Public Premises No. N-2 ("SEPP No-2") as well as all the recommendations in the sound report.</li> <li>• No drink cards.</li> </ul>
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**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



**BIMBO DELUXE  
Proposed Extension of Hours - Noise Assessment  
Rp 001 2015003ML**

**19 February 2015**



# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



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Project: **BIMBO DELUXE**

Prepared for: **Bimbo Deluxe**  
**376 Brunswick Street**  
**Fitzroy VIC 3065**  
**AUSTRALIA**

Attention: **Mr Josh Leeman**

Report No.: **Rp 001 2015003ML**

## Disclaimer

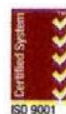
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## Document control

Status:	Rev:	Comments	Date:	Author:	Reviewer:
Final			19 Feb 2015	J Adcock	R Leo





## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



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#### APPENDIX A GLOSSARY OF TERMINOLOGY

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



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APPENDIX D	DISCUSSION OF PATRON NOISE GUIDELINES
APPENDIX E	SEPP N-2 LEGISLATION
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APPENDIX G	UNATTENDED SURVEY DATA
APPENDIX H	PATRON NOISE DATA

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)****1.0 INTRODUCTION**

This report presents an assessment of noise considerations relating to the proposed extended hours of operation of the existing first-floor external deck (the *first-floor deck*) at Bimbos Deluxe, located at 372-374 Brunswick Street Fitzroy (the *venue*).

In December 2013, an application was lodged with the City of Yarra to increase the licensed area to enable sale and consumption of alcohol within the first-floor deck area until 0300hrs, seven days a week.

The City of Yarra subsequently issued a Planning Permit in August 2014 that allowed for a variation to the liquor license to permit the sale and consumption of alcohol within the first-floor deck until 2300hrs on any day and a maximum of 125 patrons within the first-floor deck. The operators of the venue are appealing the conditions to seek extended operation until 0300hrs, consistent with the permitted hours of use of the remainder of the venue.

This report is primarily concerned with noise considerations related to patron noise emanating from the use of the first-floor deck during the extended hours that have been requested. Reference is also made to the findings of a separated noise study, conducted by Marshall Day Acoustics (MDA) at the request of the venue, of measures for the control of music noise from first-floor deck, as documented in MDA report *Rp 001 204101ML dated 1 May 2014*.

In addition to matters specifically related to patron noise, the operators of the venue have commissioned MDA to conduct a separate and broader audit of noise considerations associated with existing permitted use of the venue to 0300hrs, having regard to:

- Music noise emanating from within the venue; and
- Mechanical plant noise associated with the kitchen and refrigeration equipment.

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

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 2.0 SITE DESCRIPTION

Bimbo Deluxe is located on the corner of Brunswick Street and Rose Street in Fitzroy and is bounded by the following:

- Rose Street to the north and Commercial and residential buildings beyond
- Residential buildings to the east
- Commercial buildings to the south
- Brunswick Street to the west.

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

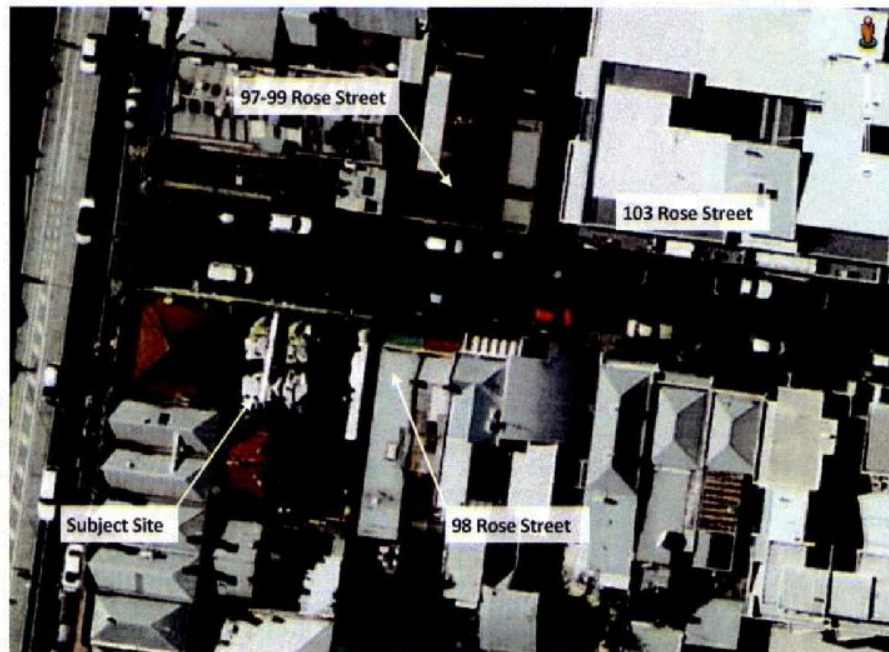


Figure 1: Aerial photograph of subject site and surrounds (image courtesy of Google Earth)

The key existing sensitive receivers are:

- A single storey residential dwelling located at 98 Rose Street directly to the east of the venue, and neighbouring residential dwellings to the east along the south side of Rose Street
- A three storey residential dwelling to the east at 103 Rose Street on the north side of Rose Street.
- A zoning map of the area is provided in Appendix B.



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



In addition to existing residential dwellings, we understand that planning approval has been granted for the development of a four storey building which includes apartments at 97-99 Rose Street. While this development represents a potential new sensitive receiver to factor into the assessment, the VCAT Order for the development (VCAT reference number P755/2012, Permit Application Number PLN11/0518 – see web link [here](#)) introduces conditions which place an onus on the development to account for existing sources of noise in the area, including Bimbo Deluxe. Specifically, Condition 5 of the VCAT Order states:

*Except with the consent of the Responsible Authority, before the plans are endorsed, a report prepared by a suitably qualified and experienced acoustic expert to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Acoustic Report will then form part of this permit. The Acoustic Report must demonstrate that:*

- a) Measures to be undertaken to address all noise sources from commercial uses (including Bimbos) affecting the bedrooms of all dwellings on the land having regard to industry accepted sleep disturbance criteria and in accordance with the relevant Australian Standards....*

The current permit for the first-floor deck of the venue is understood to allow the use of the area until 2300hrs. The period 2200-2300hrs forms part of the night period which the proposed development at 97-99 Rose Street would need to account for as part of the requirements of Condition 5 detailed above. The proposed extension of the venue's operating hours to 0300hrs therefore represents an extension of the night-time operations that are already permitted to occur, and must be factored into the development of 97-99 Rose Street. Accordingly, the VCAT order places the onus of addressing the new development site's exposure to night-time noise from the venue on developers of the 97-99 Rose Street. However, it is unclear how this VCAT order would be enforced if the development were to proceed and future occupants complained about noise from the venue. Specifically, it is not clear how the VCAT order would protect the venue if noise levels at the new development site breached SEPP N-1 or SEPP N-2. It would therefore be prudent to seek clarification from legal counsel on this matter.

In addition to the above matters, Condition 34 of the VCAT Order states:

*This permit will expire if any of the following occur:*

- (a) The development is not commenced within two (2) years from the date of this permit;*
- (b) The development is not completed within four (4) years from the date of this permit;*

The date of the order is 12 March 2013, suggesting that unless the development has been commenced, or is due to commence within a month, the planning approval for the site may lapse.

Based on the above matters, the proposed development at 97-99 is not directly factored into the compliance assessments presented in this report. However, it would be prudent to have regard to the development site when preparing any new or modified noise mitigation strategies for the venue.

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 3.0 ENVIRONMENTAL NOISE GUIDELINES AND POLICIES

The following provides an overview of the key environmental noise policies, guidelines and legislation applicable to operation of the venue. The guidance considered in this section comprises criteria related to:

- Patron noise
- Music noise
- Mechanical plant noise.

#### 3.1 Patron Noise

There are currently no legislative controls or endorsed guidelines which can be applied to assess patron noise. 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.

In lieu of an established state policy or criterion, MDA has developed a set of design targets which have been referenced as part of numerous planning applications and VCAT hearings for proposed external patron noise areas.

In relation to patron noise occurring during the night-time period (2200-0700 hours), the structure of the patron noise design targets is summarised in Table 1.

**Table 1: Recommended design targets for night-time patron noise**

Description	Design Target	Purpose
Semi-steady noise levels - $L_{Aeq}$	40dB or background noise ( $L_{A90}$ ) + 5dB, whichever is higher	Amenity protection
Short-term maximum noise levels $L_{Amax}$	60-65dB	Sleep disturbance protection

Further details of the design targets, their derivation, and the criteria for other periods are provided in Appendix C and Appendix D.

#### 3.2 Music Noise

Music noise levels from entertainment venues are controlled in Victoria 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 in the State of Victoria.

The structure of the SEPP N-1 limits for indoor venues is summarised in Table 2.

**Table 2: SEPP N-2 criteria**

Time period	Noise limit
Day & Evening	Music noise ( $L_{Aeq}$ ) not permitted to exceed background noise ( $L_{A90}$ ) plus 5dB
Night	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



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



The separation between day/evening and the night period is dependent on the number of times an indoor operates per week. For a venue operating more than three (3) times per week, the night-time period is defined as follows:

- Commences at 2100hrs on Sundays and 2200hrs on all other days; and
- Finishes at 1000hrs on Saturdays, 1200hrs on Sundays and 0900hrs on all other days.

Further details about SEPP N-2 are provided in Appendix E.

### 3.3 Mechanical Plant Noise

Noise associated with air-conditioning, ventilation, exhaust and refrigeration equipment from commercial premises the Melbourne metropolitan area is governed by *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 for all commercial premises in the Melbourne metropolitan area under section 46 of the *Environment Protection Act 1970* (Act).

The SEPP N-1 limits are derived on the basis of the land zoning and background noise levels in the area around the receiver locations where noise is to be assessed. The limits are separately defined for the day, evening and night periods as defined in Table 3.

**Table 3: SEPP N-1 time periods**

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

Further details about SEPP N-1 are provided in Appendix F.

### 3.4 Discussion

Noise criteria applicable to the operation of the venue are defined separately for day, evening and night-time periods. In the case of patron noise, the criteria represent design targets, while the criteria for music and plant noise represent mandatory compliance limits.

In all cases, the criteria are defined as a balance between amenity protection for surrounding residents and providing a viable framework for the operation of licensed venues. Accordingly, compliance with the criteria does not mean that the noise will be inaudible. Instead, the criteria represent levels that are intended to provide a reasonable level of protection for the majority of people.

All of the criteria are defined in recognition of the background noise level in the absence of noise associated with operation of the venue. The background noise represents the levels which occur during underlying periods of quiet during lulls in traffic and local activity.

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 4.0 BACKGROUND NOISE LEVELS

Background noise measurements have been undertaken to enable appropriate criteria to be defined for the venue.

The purpose of this assessment is to consider noise levels from the venue for the most sensitive operating periods. The measurements were therefore primarily focussed on evaluating background noise levels during the period 2200-0300hrs.

To establish background noise levels in the absence of the influence of the venue, the measurements comprised a combination of late night attended measurements at a distance from the venue, and unattended logging of noise levels at the exterior of the venue when the venue is not operating. The measurements are summarised in the following sections.

### 4.1 Attended Measurements

As part of a previous investigation of music noise from the first-floor deck (see MDA report *Rp 001 2014101ML* dated 1 May 2014), background noise levels measured at 97 Leicester St, Fitzroy between 0030 and 0100hrs on Tuesday 15 April 2014.

The results of these background measurements are shown in Table 4.

**Table 4: Night-time background noise levels,  $L_{A90,15min}$  dB**

Description	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1000	2000	4000	
Background noise levels	45	42	38	36	36	29	17	39

### 4.2 Unattended Measurements

As part of the current assessment, unattended logging of noise levels was undertaken above the first-floor roof deck area during the period Friday 23 to Friday 30 January 2015.

Measured noise levels have been derived for consecutive 15 minute periods over the survey period. A sample of the logged data for the underlying levels ( $L_{A90}$ ), the average levels ( $L_{Aeq}$ ) and typical upper levels ( $L_{A10}$ ) is presented in Figure 1 and Figure 2. The data logged over the entire survey period is presented in Appendix G.

Note that the measured levels related to the total combined noise of the ambient environment and operation of the venue. Accordingly, with respect to background noise levels, consideration is given to the logged levels during the period 0100-0300hrs when it is evident that use of the first floor roof deck and operation of the external plant has ceased. In particular, the logged data for 28 January 2015 indicates the background  $L_{A90}$  levels (green line) fall sharply from 0100 hours onwards which we would expect to be consistent with the time the kitchen extract fan of the venue was turned off.



# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)

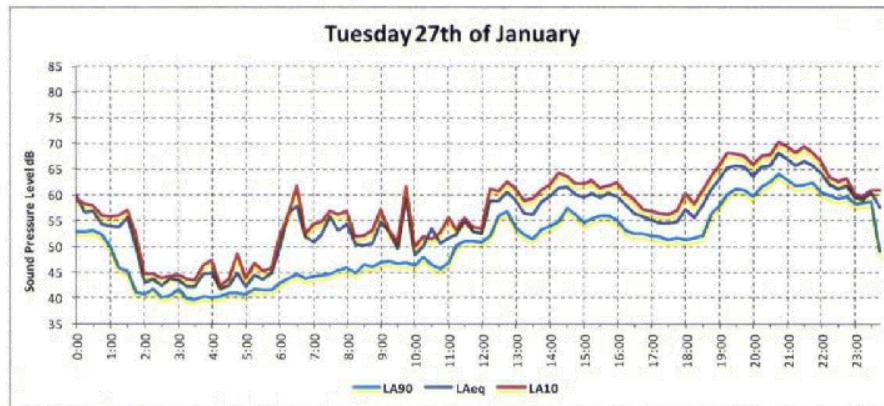


Figure 2: Unattended measured levels above first-floor deck of the venue – 27 January 2015

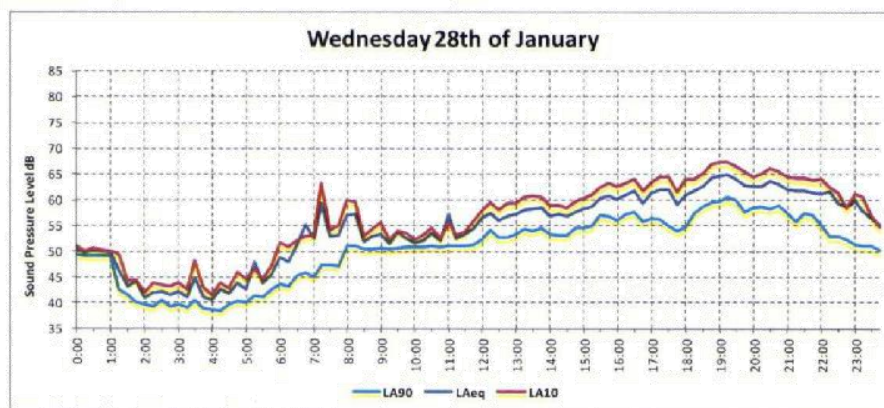


Figure 3: Unattended measured levels above first-floor deck of the venue – 28 January 2015

## 4.3 Summary

The attended measurements in 2014 and the unattended measurements in 2015 are generally consistent. In the absence of operation of the venue, typical recurring lower backgrounding noise for the night period to 0300hrs equate to approximately 39-42dB  $L_{A90,15\text{ minute}}$ .

The variations in background noise levels exhibited by the unattended measurement records indicate marginally higher values than the attended measurement of 39dB  $L_{A90,15\text{ minute}}$ . Given the unattended logging was undertaken at an elevated position with greater exposure to Brunswick Street and associate premises than residents along Rose Street, the lower value of 39 dB  $L_{A90,15\text{ minute}}$  represents the appropriate level to reference in the assessment of patron and music noise.

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



In relation to the assessment of plant noise, the applicable policy (SEPP N-1) defines background noise levels in a different way. Specifically, the background noise level is defined on the basis of the average of the 1 hour background noise levels ( $L_{A90, 1\text{hour}}$ ) for each assessment time period. Accordingly, the background values for the purpose of the SEPP N-1 assessment will be higher than 39dB  $L_{A90, 15\text{minute}}$ . It is not possible to reliably determine this value from the logged data, due to the influence of noise associated with the venue. However, based on the observed noise level trends, the applicable background would be expected to be in the range 40-45dB  $L_{A90, 1\text{hour}}$ .

Based on the above, the following night-time background noise levels apply to this assessment:

- Patron and music noise assessments: 39dB  $L_{A90, 15\text{minute}}$  (2300-0300hrs)
- Machine noise assessments: 40-45dB  $L_{A90, 1\text{hour}}$  (2200-0700hrs)

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 5.0 PATRON NOISE ASSESMENT

This section presents a summary of the patron noise assessment as follows:

- The design target applicable to night-time use of the first-floor deck;
- The prediction method used to model patron noise associated with the first-floor deck;
- Noise data used to represent the behaviour of patrons in the first-floor deck;
- Predicted noise levels for the existing arrangement of the first-floor deck; and
- Conceptual noise mitigation measures to control patron noise.

#### 5.1 Design Targets

The derivation of the applicable semi-steady night-time design target for patron noise is summarised in Table 5, based on the method defined in Section 3.1 and the background noise data presented in Section 4.0

**Table 5: Derivation of semi-steady night-time patron noise design targets**

Item	Level
Minimum design target	40dB $L_{Aeq, 15 \text{ minute}}$
Background noise level	39dB $L_{A90, 15 \text{ minute}}$
Background level based design target (background + 5dB)	44dB $L_{Aeq, 15 \text{ minute}}$
Applicable design target (maximum of minimum and background based target)	44dB $L_{Aeq, 15 \text{ minute}}$

In addition to the semi-steady design target of 44dB  $L_{Aeq, 15 \text{ minute}}$ , it is also noted that the design target of 60-65dB  $L_{Amax}$  also applies to address sleep disturbance considerations.

#### 5.2 Noise Prediction Method

Access to a key receiver location at 103 Rose Street was not able to be obtained to conduct measurements of noise levels that currently occur as a result of patron activity within the first-floor deck. Accordingly, predictions have been used to extrapolate empirical and measured patron noise emissions to the surrounding receiver locations.

To predict patron noise, the following factors must be considered:

- The amount of noise being generated within first-floor deck
- The distance between the sources and receivers
- The presence of obstacles such as buildings or screens that obstruct the sound path
- The ground between the source and receiver
- The presence of hard reflective surfaces that may enable additional sound paths.

The following sub-sections describe the data used to quantify the noise generated within the first-floor deck, and the modelling used to extrapolate the data to surrounding receiver locations, accounting for the above factors.



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 5.2.1 Patron Noise Source Data

Marshall Day Acoustics and other acoustic consultants in Melbourne have measured patron noise from several different venues. 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.

Details of measurements made at a number of different types of areas are provided in 0. For the purpose of predicting noise levels from a venue, external patron areas are categorised according to the descriptions outlined in Table 6.

**Table 6: Patron area use categories**

Area use category	Reference data	Area use definition
Vertical drinking (‘worst-case’ crowd)	Appendix H1	Standing patrons drinking and talking Focus of activity on drinking and socialising
Taverns with significant food offerings	Appendix H2	Predominantly seated patrons, drinking, dining and talking Focus of activity on drinking, whilst dining and socialising
Restaurant dining	Appendix H3	Seated patrons, drinking, dining and talking Focus of activity on dining and socialising
Small smoking areas	Appendix H4	Patrons using area for smoking Focus of activity on smoking rather than socialising (however data includes outdoor areas with alcohol consumption)

In addition to empirical data obtained from a range of different venues, the unattended measurements described in Section 4.2 of this report provide a representation of actual patron noise levels at the venue for a range of different situations. These measurement records were reviewed in conjunction with CCTV records for the first-floor deck.

Comparing the unattended measurement data for periods with the highest patron noise numbers indicated that the use of the first-floor deck closely corresponded with the empirical data for vertical consumption. The empirical data for vertical consumption has therefore been adopted as the basis for patron noise predictions presented in this assessment.

The first-floor deck can cater for up to 125 patrons. The empirical data for a vertical drinking crowd outlined in Appendix H1 has been adjusted accordingly to account for the maximum number of patrons utilising the space. The sound power level associated with 125 patrons involved in vertical consumption is provided in Table 7. It should be noted that the use of vertical drinking data for the venue is a worst-case scenario in terms of patron noise and is considered to be a conservative approach. The unattended measurement data demonstrates that patron noise varies significantly and there will be many instances when patron noise will be significantly lower than predicted using these worst case reference values.



# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)

Table 7: Patron noise sound power level data, dB

Vertical drinking (125 patrons) (worst-case crowd)	Octave Band Centre Frequency, Hz							A
	63	125	250	500	1k	2k	4k	
Semi-steady state component, $L_{eq}$	92	94	95	102	100	96	89	104
Maximum noise level, $L_{max}$	98	100	101	108	106	104	97	110

## 5.2.2 Calculation Method

A 3-dimensional digital model of the venue and surrounding built environment has been created using SoundPLAN proprietary modelling software (version 7.3).

Geometry data for the model has been sourced from public aerial photography, visual inspections of the area, and building heights defined on the basis of standard assumed heights per floor level. The geometries in the model are simplified representations of the built environment that have been configured to a level of detail that is appropriate for noise calculation purposes. An example of the geometry represented in the model is illustrated in Figure 4.

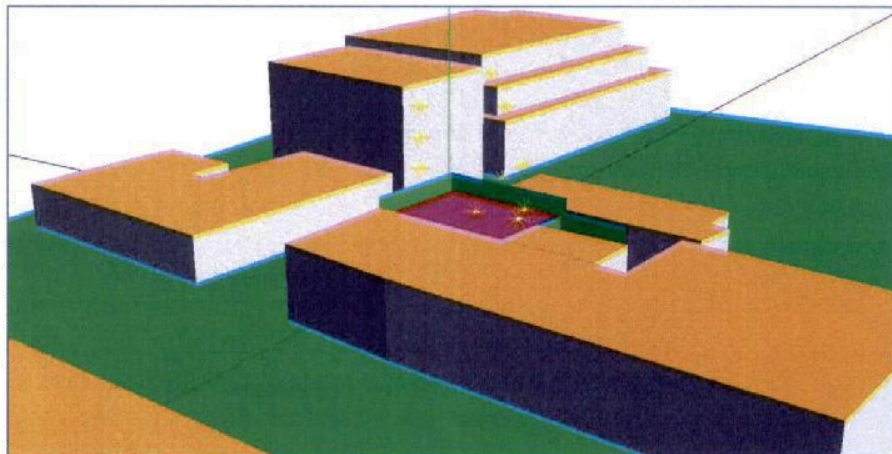


Figure 4: Illustration of 3d model geometry looking to the northeast

The SoundPLAN digital model has been used to calculate noise levels using the International Standard *ISO 9613-2: 1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* (ISO 9613). ISO 9613 is a general environmental noise calculation standard that has been used extensively throughout Australia, New Zealand, and Europe since its publication in 1996.

The implementation of ISO 9613 within proprietary noise modelling software enables multiple sound transmission paths, including reflected and screened paths, to be accounted for in the calculated noise levels. While atmospheric effects are expected to have a negligible effect on the transmission of sound from the venue to neighbouring sensitive receiver locations, it is noted that the ISO 9613 predicts noise levels for conditions which favour the propagation of sound.

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### 5.3 Predicted Noise Levels

Noise predictions have been prepared for the existing first-floor deck configuration and a range of conceptual noise mitigation options.

The objective of the predictions was to establish if existing noise levels could achieve the design target detailed in Section 5.1 without modification of the structure. The predictions have demonstrated that mitigation measures would be required to achieve the design target. The conceptual mitigation options considered in this assessment are summarised in Table 8.

**Table 8: Noise modelling - conceptual mitigation options considered**

Mitigation Option	Description
Option 1: Screen refurbishment	The existing screening structure around the first-floor deck includes a number of openings, gaps and varied light-weight panel constructions. Refurbishment would involve enhancing or replacing panels to form a heavier construction that is free from any gaps or openings.
Option 2: Screen height increase	This option involves the refurbishment described above but with an increase in height of the order of 1.5m.
Option 3: Partial enclosure	<p>This option involves the refurbishment described above in combination with the provision of partial roof structure over the first-floor deck. For the purpose of this study, a partial roof covering an area 3m in from the north and east perimeters of the first-floor deck has been modelled. The partial roof structure would need to be arranged to prevent any gaps between the roof and screen structure (i.e. roof extending inwards from the top of the north and east perimeter screens).</p> <p>The partial roof has been modelled within the increased barrier height and the inclusion of absorptive surfaces to the underside of the roof to control the build-up for reflective noise within the space.</p>

The results of the modelling confirmed that the 3<sup>rd</sup> floor balcony area of the residential building located at 103 Rose Street is the most critical receiver location with respect to predicted noise levels and the design of mitigation measures. In addition, the modelling confirmed the semi-steady noise levels ( $L_{Aeq, 15\text{minute}}$ ) to be the controlling design factor rather than short term maximum noise levels associated with individual voices.

As part of the assessment process, attended measurements were conducted at ground level near 103 Rose Street (discussed further subsequently in Section 0) to obtain measurements of patron activity for the existing first-floor deck arrangement. At the time of the measurements, patron numbers and activity within the first-floor deck was relatively low. As a result, patron noise associated with the venue could not be directly measured amidst the ambient noise environment. In the absence of measurement data at the 3<sup>rd</sup> floor balcony, during periods of increased patron activity, the limited available off-site measurement data was used to refine and validate the modelling.



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A summary of the predicted semi-steady noise levels at the 3<sup>rd</sup> floor balcony of 103 Rose Street is provided in Table 9 for the existing configuration and the conceptual treatment options described in Table 8.

**Table 9: Predicted semi-steady worst-case patron noise levels - 3<sup>rd</sup> floor balcony of 103 Rose Street**

First-floor deck configuration	Predicted Noise Level $L_{Aeq, 15 \text{ minute}}$	Margin above design target
Existing situation	55	11dB
Option 1 – Screen refurbishment	55	11dB
Option 2 – Screen height increase	48	4dB
Option 3 – Partial enclosure	44	0dB (compliant)

In addition to the semi-steady noise levels presented above, the predictions also confirmed that the Option 3 partial enclosure would enable short term maximum noise levels below the design target of 60-65dB  $L_{Amax}$ .

### 5.4 Discussion

The results presented in Section 5.3 demonstrate that the existing screening structures around the first-floor deck area are not sufficient to control noise levels to the design target, based on the highest noise levels which could occur when maximum patron capacity is reached. While the design targets do not form mandatory criteria, the predicted noise levels are high and are considered likely to attract complaint.

Refurbishment of the existing screen has been shown to result in a negligible improvement in the predicted noise levels. While such a refurbishment would provide benefits for residential receivers at lower heights (e.g. 1<sup>st</sup> floor of 103 Rose Street or at the adjacent house at 98 Rose Street), the height of the 3<sup>rd</sup> floor balcony at 103 Rose Street is the limiting factor.

Refurbishment of the screen in combination with increasing the screen height by approximately 1.5m results in a significant reduction in patron noise levels. The predicted noise levels are however still above the design target.

The mitigation option incorporating a roof structure to partially enclosure the first-floor deck provides substantial mitigation that is sufficient to reach the design target.

The modelling conducted for the conceptual mitigation options is primarily for feasibility purposes. To support the proposed extension of hours for the first-floor deck, we recommend that viable mitigation options are reviewed with architectural and planning consultants to develop a preferred solution. A revised detailed model should then be prepared to represent the preferred design solution. As part of this process, we recommend that the height of the first-floor deck, all associated structures and the 3<sup>rd</sup> floor balcony of 103 Rose Street is confirmed.

Further, due to constraints on access to 103 Rose Street, the model has been validated on the basis of limited measurements at ground floor. If a final preferred design solution is onerous or provides marginal outcomes with respect to the design target, it would be prudent to revisit the option of seeking access to the 3<sup>rd</sup> floor balcony to obtain measurement data which could enable the model to be refined further.

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## 6.0 MUSIC NOISE ASSESMENT

This section presents a summary of the music noise assessment as follows:

- The applicable noise limits under SEPP N-2
- Sample attended music noise measurements for comparison with the noise limits
- A discussion of recommendations for the control of music noise.

### 6.1 Noise Limits

Based on the background noise data presented in Section 4.0, the applicable night-time SEPP N-2 limits are detailed in Table 10.

**Table 10: Night-time music noise limits**

Description	Octave band mid frequency							Hz
	63	125	250	500	1k	2k	4k	
Night-time $L_{A90, 15 \text{ minute}}$	45	42	38	36	36	29	17	dB
Plus 8dB	+8	+8	+8	+8	+8	+8	+8	dB
SEPP N-2 noise limit $L_{A10, 15 \text{ minute}}$	53	50	46	44	44	37	25	dB

These limits apply to the noise level measured at the exterior of any neighbouring residence

### 6.2 Compliance Measurements

Sample attended measurements of music noise were conducted during the period 2300-0000hrs on Sunday 25 January 2015.

The attended measurements were undertaken at ground level near to 98 and 103 Rose Street.

Throughout the survey period, music noise associated with the ground floor of the venue was clearly audible on most occasions amidst the general ambient noise associated with activity (people and traffic) on Brunswick Street. Low frequency beat noise in the 63Hz octave band was however prominent and directly measurable. However, direct measurements of music noise from 125Hz upwards were not possible due to the relatively high and variable ambient noise levels at the time of the survey.

As a result of ambient noise influences, short measurements of 5-10minute duration were conducted to represent the  $L_{Aeq, 15 \text{ minute}}$  music noise level. The levels for audible beat noise that could be directly measured in the 63Hz octave band are presented in Table 11.

**Table 11: Measured low-frequency music noise levels**

Location	63Hz Music Noise Level $L_{10, 15 \text{ minute}}$	Margin above limit
98 Rose Street	75	22dB
103 Rose Street	68-70	15-17dB



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The results presented in Section 6.1 indicate the measured noise levels were significantly higher than the applicable SEPP N-2 limits at the 63Hz octave band. This outcome is consistent with the subjective impressions of the noise during the survey.

Observations during the survey indicated that the major sound transmission path from the ground floor of the venue was the glazed windows and door on the northern facade of the building.

The most practical method of achieving compliance is expected to comprise a combination of appropriate limiting internal music noise levels and upgrades to the sound insulation of the ground floor venue. In the first, we recommend that a limiting device is configured to restrict internal music noise to levels that will enable compliance at the neighbouring residences. As part of this process, the mounting and arrangement of the speakers should be reviewed to identify if the configuration is exacerbating low frequency modes and structure borne noise.

Given the magnitude of the margin above the limits at low frequencies, we anticipate that mitigation based on internal limiting alone may not be suitable for the venue. The suitability of the limited internal music noise level should however be evaluated by the operators. If the limited level is ultimately too low, then measures to enhance the sound insulation of the ground floor should be considered. The specific form and extent of these measures would need to be determined from dedicated sound insulation tests. In advance of conducting such testing, we would anticipate that remedial measures would most likely comprise upgrades to the window (by way of thicker glass panes or inclusion of a secondary glass pane with a relatively large air gap) and creation of a lobby arrangement comprising two doors for the entrance on the north facade.

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### 7.0 MECHANICAL PLANT NOISE ASSESSMENT

This section presents a summary of the music noise assessment as follows:

- The applicable noise limits under SEPP N-1
- Sample attended plant noise measurements for comparison with the noise limits
- A discussion of recommendations for the control of plant noise.

### 7.1 Noise Limits

The kitchen, refrigeration and ventilation plant may operate for extended periods during the day evening and night periods. The limiting period for the assessment of compliance is therefore the night-time period. The derivation of the applicable night-time noise limit for equipment that operates during the period 2200-0700hrs is summarised in Table 12.

**Table 12: Derivation of SEPP N-1 night-time noise limit**

Item	Level
Estimated background noise levels	40-45dB $L_{A90,1hour}$
SEPP N-1 background level classification	Neutral to high
Zoning level	45dB $L_{eff}$
Applicable limit	45dB $L_{eff}$

### 7.2 Compliance Measurements

Sample attended measurements of plant noise were undertaken concurrently with music noise measurements during the period 2300-0000hrs on Sunday 25 January 2015.

The attended measurements were undertaken at ground level near to 98 and 103 Rose Street.

Consistent with ambient noise descriptions provided in Section 6.2, music noise associated with the ground floor of the venue was clearly audible on most occasions amidst the general ambient noise associated with activity (people and traffic) on Brunswick Street. As a result, direct measurement of the equivalent plant noise levels was not possible.

However, during lulls in ambient noise, mechanical plant associated with the venue was clearly audible on most occasions. In particular, the kitchen extract fan associated with the venue was constant and audible throughout all such lulls. In addition, an intermittent item of plant was observed to periodically operate and result in a significant increase in plant noise levels.

Given these characteristics, the  $L_{A90}$  measurement parameter was used to quantify the underlying steady noise level associated with mechanical plant. This measurement parameter excludes the upper 90% of noise levels that occur during the period, thus providing a suitable method of quantifying mechanical plant noise (i.e. momentary increases in noise related to traffic, patrons or music are effectively filtered from the measurement).

A summary of the derived levels for plant noise primarily related to the kitchen extract fan and compressor plant are provided in Table 13 and Table 14 respectively.

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**Table 13: Kitchen extract fan measurements**

Description	98 Rose Street	103 Rose Street
Measured total noise level	56dB	51dB
Estimated noise level solely related to venue mechanical plant	54dB	50dB
Duration of operation in 30 minute period	30 minutes	30 minutes
Duration correction	-	-
Equivalent 30 minute noise level	54dB $L_{Aeq, 30 \text{ minute}}$	50dB $L_{Aeq, 30 \text{ minute}}$

**Table 14: Compressor plant measurements**

Description	103 Rose Street
Measured total equivalent plant noise level (estimate from $L_{A90}$ )	59
Measured level immediately prior to operation of plant ( $L_{A90}$ )	52
Estimated noise level solely related to venue mechanical plant	59
Duration of operation in 30 minute period	2 minutes
Duration correction	12dB
Equivalent 30 minute noise level	47dB $L_{Aeq, 30 \text{ minute}}$

Based on the measured noise levels for the kitchen extract fan and compressor plant presented in Table 13 and Table 14, an assessment of compliance with the applicable SEPP N-1 noise limit is provide in Table 15.

**Table 15: SEPP N-1 assessment**

Description	98 Rose Street	103 Rose Street
Equivalent 30 minute noise level – kitchen extract fan	54dB $L_{Aeq, 30 \text{ minute}}$	50dB $L_{Aeq, 30 \text{ minute}}$
Equivalent 30 minute noise level – compressor plant	47dB <sup>1</sup> $L_{Aeq, 30 \text{ minute}}$	47dB $L_{Aeq, 30 \text{ minute}}$
Total equivalent 30 minute plant noise level	55dB $L_{Aeq, 30 \text{ minute}}$	52dB $L_{Aeq, 30 \text{ minute}}$
Tonality correction	-	-
Impulse correction	-	-
Intermittency adjustment	+2dB	+2dB
Effective level for assessment	57dB $L_{eff}$	54dB $L_{eff}$
Applicable limit	45dB $L_{eff}$	45dB $L_{eff}$
Margin above limit	12dB	9dB

1 Assumed minimum contribution in the absence of direct measurement data



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### 7.3 Discussion

The results presented in Section 7.2 indicate that noise levels associated with external mechanical plant are significantly higher than the limits specified in SEPP N-1. Mitigation measures are therefore necessary to achieve compliance. The following recommendations are provided.

#### 7.3.1 Kitchen Extract Fan

The dominant emissions from the kitchen extract fan are likely to be from the ductwork discharge, however noise breaking out of the ductwork may also be a contributing factor given the height discharge point.

In this respect, it should be noted that the measurements were only obtained near ground level residential positions. Higher positions such as the level 3 balcony of 103 Rose Street may experience higher noise levels from the ductwork discharge.

The following course of action is recommended:

- Check the maintenance status of the fan to identify the ductwork is clear and the fan is operating at the correct duty
- Conduct repeat noise measurements during a quiet night-time period (i.e. early hours of a weekday), with and without the kitchen extract fan. Measurements should be undertaken at height (e.g. either by accessing the plant deck if safety considerations permit, or by use of a microphone boom from the first-floor deck) in the vicinity of the fan casing, ductwork and ductwork discharge
- Based on the additional measurement detail, establish the contribution of each key component of the kitchen extract fan at surrounding residential locations, including the 3<sup>rd</sup> floor balcony of 103 Rose Street
- Produce a detailed specification of mitigation measures addressing, where required, fan speed changes, fan-casing lagging, ductwork lagging and silencer specifications for the discharge
- Implement the specified mitigation measures and re-measure if considered appropriate.

#### 7.3.2 Compressor Plant & Other Ancillary Equipment

The precise location of the compressor plant could not be identified during the brief periods of observed operation. In addition, amidst the relatively high noise level of kitchen extract plant, the residual contribution of other plant items such as condensers could not be identified.

The observed noise levels appeared to be consistent with an older item of plant, or an item of plant potentially requiring maintenance.

A review of the plant deck is recommended to catalogue all items of plant which may operate during the night-time period. Ideally, this equipment should be measured with on-off testing at the same time as any testing for the kitchen extract fan. The findings of these measurements would then be used as the basis for specifying any additional maintenance or mitigation measures needed to reduce total noise levels to the applicable SEPP N-1 limit.



**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)****8.0 SUMMARY**

An assessment of noise considerations primarily relating to the proposed extended hours of operation of the first-floor deck has been carried out. In addition, a broader audit of considerations relating to music and mechanical plant noise has also been conducted on the basis of sample attended measurements.

The assessment of patron noise levels is not governed by mandatory compliance limits in Victoria. However, recommended design targets have been considered as part of numerous planning applications and VCAT hearings in Melbourne.

The assessment of patron noise levels against these design targets indicates that modifications to the first-floor deck would be required to control patron noise to the design targets. Conceptual modifications capable of providing the required mitigation have been modelled and comprise refurbishment and increasing the height of the perimeter screen, in combination with the provision of a roof structure over part of the area to form a partial enclosure. Recommendations have been prepared for the refinement of a preferred design solution which could be subsequently used to support the proposed extension of hours for first-floor deck. It is also recommended that considerations relating to the proposed residential development at 97-99 Rose Street are reviewed with legal counsel to clarify the venue's obligations or otherwise with respect to potential future receiver locations.

The sample audit of music and mechanical noise also identified levels above the applicable limits. Recommendations have been provided for the course of action required to reduce the noise levels in each instance. These items are not specifically related to the issue of extended hours of operation of the first-floor deck. However, permission to extend the hours of use of the first-floor deck may be partly influenced by the perceived credibility of the venue's noise management strategy. In the absence of clearly defined endorse noise policies for patron noise, the credibility afforded by compliance with relevant State Environment Protection Policies is expected to assist the application for extended hours.

Based on the above findings, the proposed extended hours of use is considered viable and supportable, subject to addressing the findings of this assessment.

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### APPENDIX A GLOSSARY OF TERMINOLOGY

<b>Frequency</b>	The number of pressure fluctuation cycles per second of a sound wave. Measured in units of Hertz (Hz).
<b>Hertz (Hz)</b>	Hertz is the unit of frequency. One hertz is one cycle per second. One thousand hertz is a kilohertz (kHz).
<b>Octave Band</b>	A range of frequencies where the highest frequency included is twice the lowest frequency. Octave bands are referred to by their logarithmic centre frequencies, these being 31.5 Hz, 63 Hz, 125 Hz, 250 Hz, 500 Hz, 1 kHz, 2 kHz, 4 kHz, 8 kHz, and 16 kHz for the audible range of sound.
<b>Noise</b>	A sound that is unwanted by, or distracting to, the receiver.
<b>Ambient</b>	The ambient noise level is the noise level measured in the absence of the intrusive noise or the noise requiring control. Ambient noise levels are frequently measured to determine the situation prior to the addition of a new noise source.
<b>SPL or <math>L_p</math></b>	<u>Sound Pressure Level</u> A logarithmic ratio of a sound pressure measured at distance, relative to the threshold of hearing (20 $\mu$ Pa RMS) and expressed in decibels.
<b>SWL or <math>L_w</math></b>	<u>Sound Power Level</u> A logarithmic ratio of the acoustic power output of a source relative to $10^{-12}$ watts and expressed in decibels. Sound power level is calculated from measured sound pressure levels and represents the level of total sound power radiated by a sound source.
<b>dB</b>	<u>Decibel</u> The unit of sound level.  Expressed as a logarithmic ratio of sound pressure P relative to a reference pressure of $P_r=20 \mu\text{Pa}$ i.e. $\text{dB} = 20 \times \log(P/P_r)$
<b>A-weighting</b>	The process by which noise levels are corrected to account for the non-linear frequency response of the human ear.
<b><math>L_{Aeq}(t)</math></b>	The equivalent continuous (time-averaged) A-weighted sound level. This is commonly referred to as the average noise level.  The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.

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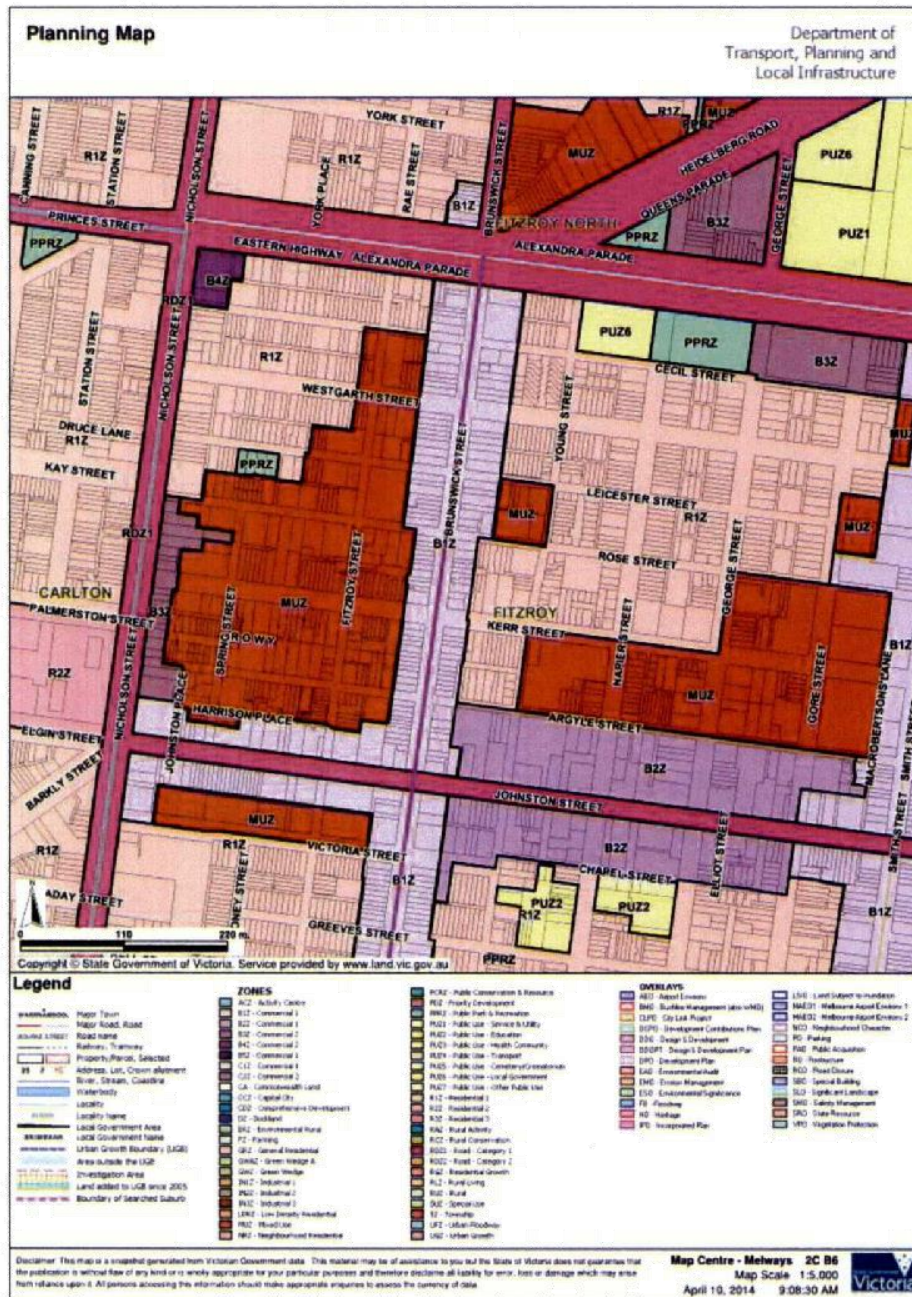
$L_{A90}(t)$	<p>The A-weighted noise level equalled or exceeded for 90% of the measurement period. This is commonly referred to as the background noise level.</p> <p>The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.</p>
$L_{A10}(t)$	<p>The A-weighted noise level equalled or exceeded for 10% of the measurement period. This is commonly referred to as the average maximum noise level.</p> <p>The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.</p>
$L_{Amax}$	<p>The A-weighted maximum noise level. The highest noise level which occurs during the measurement period.</p>
$L_{eff}$	<p>The effective noise level when measured and assessed in accordance with SEPP N-1.</p>



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## APPENDIX B ZONING MAP





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### APPENDIX C PATRON NOISE – RECOMMENDED DESIGN TARGETS

There is currently no legislation or government policy that regulates noise from peoples' voices in outdoor areas. There has been extensive discussion between members of the Association of Australian Acoustic Consultants (AAAC) regarding suitable criteria but consensus has not yet been reached.

MDA proposes that the targets provided in Table 16 be used to inform the design process.

**Table 16: Proposed patron noise design targets, dB**

Time period		Energy average, $L_{Aeq}$ (+)	Maximum levels, $L_{Amax}$ (*)
Day	0700hrs-1800hrs	The higher of $L_{Aeq}$ 50 or $L_{A90}$ + 15	-
Evening	1800hrs-2200hrs	The higher of $L_{Aeq}$ 45 or $L_{A90}$ + 10	-
Night	2200hrs-0700hrs	The higher of $L_{Aeq}$ 40 or $L_{A90}$ + 5	60-65

**Notes:**

- + The 'energy average' component of the criteria is intended to represent the quasi-steady component or 'babble' associated with many people talking at once.
- \* Maximum noise levels relate to short term levels and are used to assess potential for sleep disturbance and are therefore applied only in the night-time period.

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### APPENDIX D DISCUSSION OF PATRON NOISE GUIDELINES

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

Where noise from voices is not associated with music, 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 Music 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 music 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 music 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.

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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 17.

**Table 17: 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.



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### APPENDIX E 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, SEPP N-2 sets noise limits as shown in Table 18.

**Table 18: SEPP N-2 criteria (music on more than 3 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	



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## APPENDIX F SEPP N-1 LEGISLATION

### F1 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.*

### F2 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, reformatory 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.

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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 19.

**Table 19: SEPP N-1 time periods**

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

### F3 Calculation of noise limits

SEPP N-1 noise limits are calculated taking into account land 'zoning types' within a 70m and 200m radius of a noise sensitive building. Zoning types are categorised as type 1, 2 or 3.<sup>1</sup> 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 200m 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.

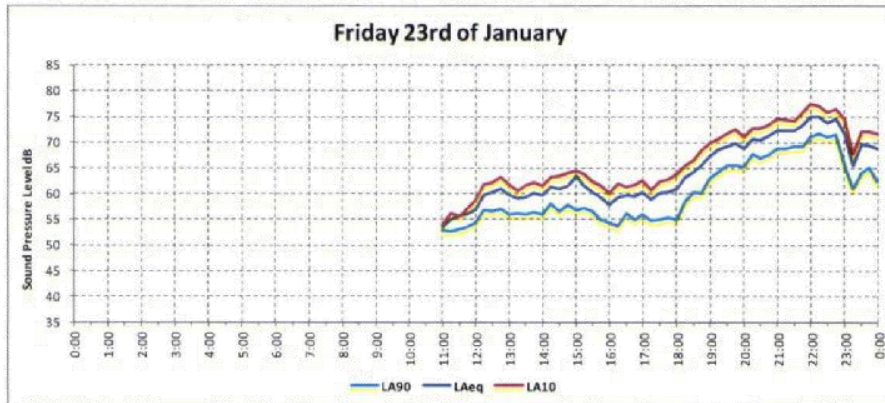
<sup>1</sup> EPA Publication no.: 316a, 17 February 2000, *Designation of Types of Zones and Reservations in the Metropolitan Region Planning Schemes for the Purposes of State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* <<http://www.epa.vic.gov.au/our-work/publications/publication/2000/february/316a>>

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**

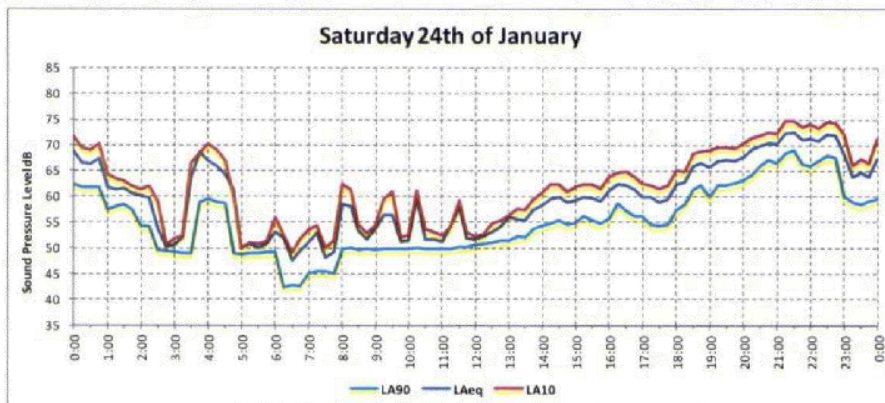


**APPENDIX G UNATTENDED SURVEY DATA**

The following figures present the logged data for the underlying levels ( $L_{A90}$ ), the average levels ( $L_{Aeq}$ ) and typical upper levels ( $L_{A10}$ ) obtained from the unattended monitoring system that was placed above the first-floor deck for a period of 7 days.



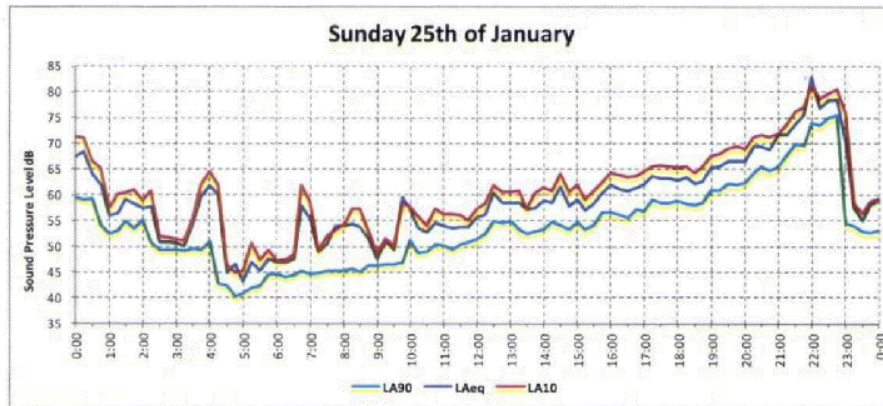
**Figure 5: Unattended measured levels above first-floor deck of the venue – 23 January 2015**



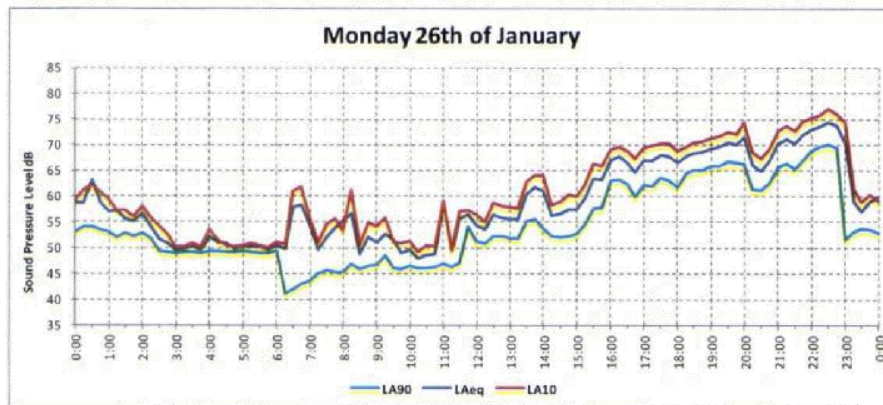
**Figure 6: Unattended measured levels above first-floor deck of the venue – 24 January 2015**



**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



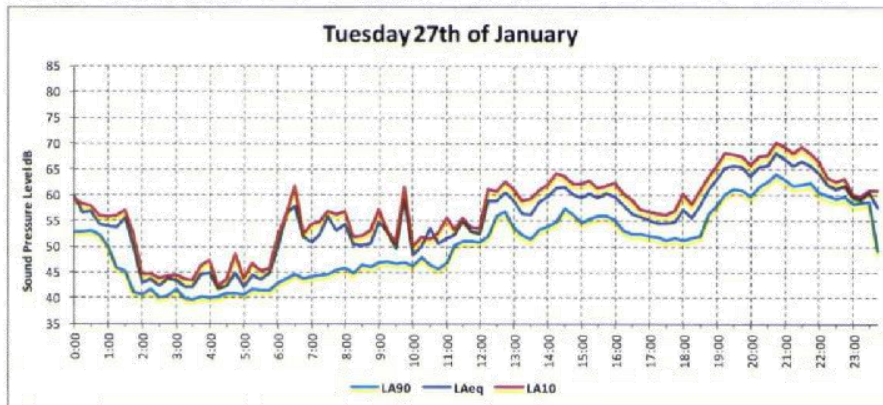
**Figure 7: Unattended measured levels above first-floor deck of the venue – 25 January 2015**



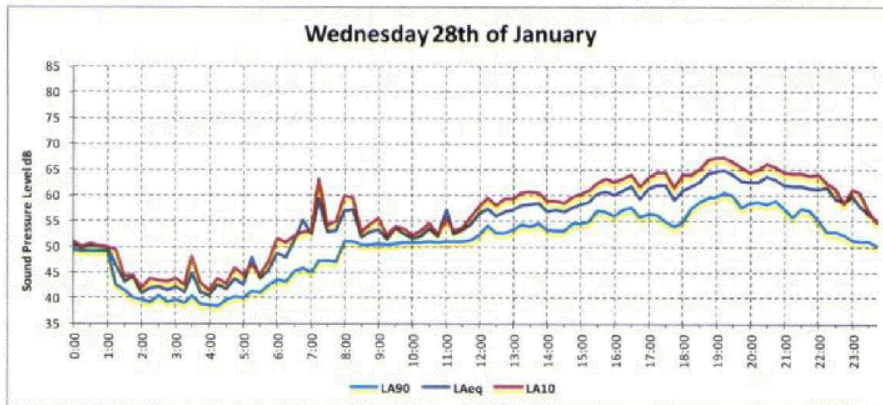
**Figure 8: Unattended measured levels above first-floor deck of the venue – 26 January 2015**



**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**

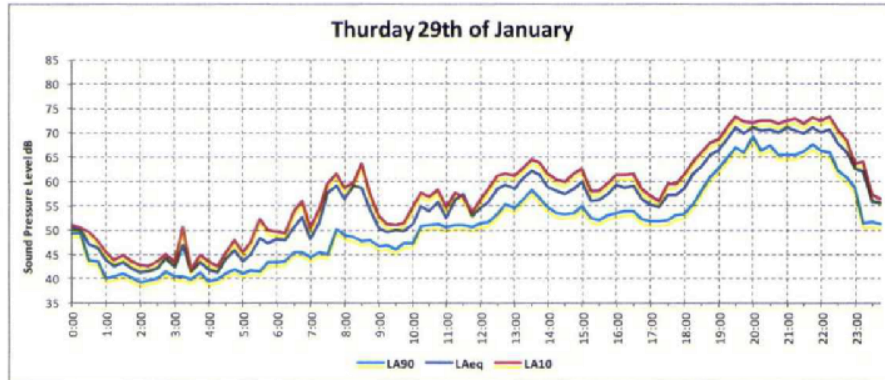


**Figure 9: Unattended measured levels above first-floor deck of the venue – 27 January 2015**



**Figure 10: Unattended measured levels above first-floor deck of the venue – 28 January 2015**

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



**Figure 11: Unattended measured levels above first-floor deck of the venue – 29 January 2015**

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### APPENDIX H 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).

#### H1 Vertical drinking

The noise levels of a rowdy group of 30-50 people drinking and talking are provided in Table 20 and are considered to represent a typical 'worst-case' scenario or vertical drinking.

Table 20: Patron noise levels, dB

Description	Noise level at 30m
L <sub>Amax</sub>	68
L <sub>A10</sub>	64
L <sub>Aeq</sub>	62

Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table 21.

Table 21: Patron noise sound power level data, dB

	Octave Band Centre Frequency, Hz							A
	63	125	250	500	1000	2000	4000	
Vertical drinking (100 patrons) 'worst-case' crowd	91	93	94	101	99	95	88	103

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### H2 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 22.

**Table 22: Reverberant patron noise levels in the Public House courtyard**

Parameter	Octave Band Centre Frequency, Hz							A
	63	125	250	500	1000	2000	4000	
L <sub>10</sub>	71	73	74	81	79	75	68	83
L <sub>eq</sub>	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<sub>Aeq</sub>.

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 23.

**Table 23: Measured noise levels at T'Gallant**

Description	Parameter	Octave Band Centre Frequency, Hz							A
		63	125	250	500	1000	2000	4000	
70 patrons at 2m	L <sub>10</sub>	60	58	64	74	77	73	65	80
	L <sub>eq</sub>	56	56	64	71	77	69	61	78



# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table 24.

**Table 24: Patron noise sound power level data, dB**

Description	Octave Band Centre Frequency, Hz							A
	63	125	250	500	1000	2000	4000	
Taverns with significant food offerings (80-100 patrons)	60	58	64	74	77	73	65	80

### H3 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 25.

**Table 25: Patron noise level data used for predictions, dBW**

Description	Parameter	Octave Band Centre Frequency, Hz							A
		63	125	250	500	1000	2000	4000	
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 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### H4 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 26.

Table 26: Patron noise level, dB

Parameter	Noise level at 2m
L <sub>Amax</sub>	84
L <sub>A10</sub>	72
L <sub>Aeq</sub>	69

Representative sound power level data for this category of use, and which is used in our noise predictions, are provided in Table 27.

Table 27: Patron noise sound power level data, dB

Description	Octave Band Centre Frequency, Hz							A
	63	125	250	500	1000	2000	4000	
Small smoking areas (20 patrons)	70	72	73	80	78	74	67	82

# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Marshall Day Acoustics Pty Ltd  
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28 March 2018

Directitude  
 Suite 2, Level 1,  
 14 Brook Street  
 Sunbury VIC 3429

Attention: Scott Gregory

Dear Scott

## BIMBO DELUXE - REVISED ROOFTOP PLANT NOISE ASSESSMENT

Directitude have requested that Marshall Day Acoustics (MDA) conduct a review of rooftop plant noise at the Bimbo Deluxe venue, located at 372-374 Brunswick Street in Fitzroy.

MDA has previously conducted an environmental noise assessment for the venue in 2015 as part of the application for extension in operating hours, which have been referred to as part of this assessment:

- Rp 001 2015003ML – *Bimbo Deluxe Proposed Extension of Hours – Noise Assessment* (issued 19 February 2015) (herein referred as the '2015 report')

This review references the noise criteria established in the previous assessment. MDA also provided initial advice for indicative noise control treatments for Bimbo Deluxe via e-mail correspondence on the 24<sup>th</sup> July 2017.

Table 1 details the drawings have been reviewed as part of this assessment.

Table 1: Drawings reviewed

Drawing Title	Job No.	Sheet No.	Revision	Date
Cover	18010	TP-000	P4	07/02/2018
Existing Ground/First Floorplan	18010	TP-010	P4	07/02/2018
Existing Elevation	18010	TP-020	P4	07/02/2018

## ASSESSMENT CRITERIA

The kitchen, refrigeration and ventilation plant at Bimbo Deluxe may operate for extended periods during the day evening and night periods. The limiting period for the assessment of compliance is therefore the night-time period. The derivation of the applicable night-time noise limit for equipment that operates during the period 2200-0700 hrs is summarised in Table 2.



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Table 2: Derivation of SEPP N-1 night-time noise limit<sup>1</sup>

Item	Level
Estimated background noise level	40-45dB $L_{A90,1hour}$
SEPP N-1 background level classification	Neutral to high
Zoning level	45dB $L_{eff}$
<b>Applicable SEPP N-1 limit</b>	<b>45dB <math>L_{eff}</math></b>

### ASSESSMENT

MDA has assessed noise propagation from the plant associated with the Bimbo Deluxe venue.

A noise model was prepared to predict noise levels at the nearest noise sensitive premises to the venue. Predictions have been undertaken in accordance with ISO-9613-2:1996 *Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* (ISO 9613-2).

The implementation of ISO 9613-2 within proprietary noise modelling software enables multiple sound transmission paths, including reflected and screened paths, to be accounted for in the calculations. While atmospheric effects are expected to have a negligible effect on the transmission of sound from the venue to neighbouring sensitive receiver locations, it is noted that the ISO 9613-2 predicts noise levels for conditions which favour the propagation of noise.

Geometric data for the noise model has been sourced from public aerial photography, the site plans including, building heights and areas as per current architectural plans. The geometries in the model are simplified representations of the built environment that have been configured to a level of detail that is appropriate for noise calculation purposes.

Measurement data has been taken from Table 13 and Table 14 of the 2015 report.

### RECOMMENDATIONS

It is recommended that the plant area be enclosed by a noise barrier to the north and east sides, constructed as follows:

- Whilst a 1.2 m high wall to the plant area is documented on the drawings, it is understood that a 2.2 m high barrier will be installed to the extent shown in Figure 1. This height of wall is predicted to enable compliance with the relevant SEPP N-1 noise limit provided it includes a further 800 mm cantilevered section sloping inwards from the top of the barrier at an angle of 45 degrees
- The inside of the noise barrier will require treatment with sound absorptive material with a noise reduction coefficient (NRC) of at least 0.65
- Absorptive lining with a noise reduction coefficient (NRC) of at least 0.65 will also need to be provided to the wall to the west of the plant deck up to a height of 2.5 m to the extent shown in Figure 1.

Further it is recommended that a discharge attenuator be provided to the outlet of the kitchen exhaust fan.

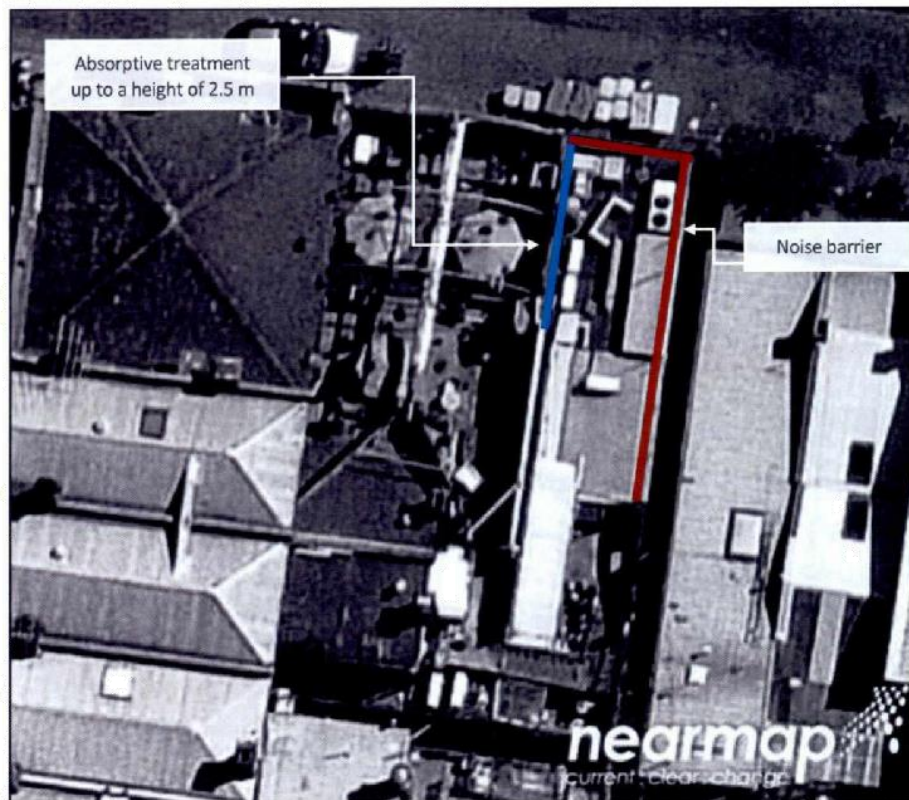
<sup>1</sup> Refer Table 12 of the 2015 report



**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**



Figure 1: Mechanical plant noise controls<sup>2</sup>



This review has concluded that the proposed treatment options as detailed above are likely to enable compliance with the relevant legislation and guidelines for plant noise.

We trust this information is commensurate to your needs at this time. If you have any further questions, please do not hesitate to contact us.

Yours faithfully,

**MARSHALL DAY ACOUSTICS PTY LTD**

A handwritten signature in black ink, appearing to read 'SMcH'.

**Simon McHugh**  
**Senior Consultant**

<sup>2</sup> Figure 1 was previously provided, via e-mail on 24 July 2017

# Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)

## MARSHALL DAY Acoustics

Marshall Day Acoustics Pty Ltd  
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8 March 2018

Directitude  
Suite 2, Level 1,  
14 Brook Street  
Sunbury VIC 3429

**Attention: Scott Gregory**

Dear Scott Gregory

### REVISED ROOFTOP ASSESSMENT

Directitude have requested that Marshall Day Acoustics (MDA) conduct a review of the revised rooftop layout for the external first floor patron area at the Bimbo Deluxe venue. This review considers patron and music noise predictions associated with the proposed design as well as an evaluation of construction materials proposed. MDA have previously conducted an environmental noise assessment for the venue in 2015 as part of their application for extension in operating hours, which have been referred as part of this assessment

- Rp 001 2015003ML – *Bimbo Deluxe Proposed Extension of Hours – Noise Assessment* (issued 19 February 2015) (herein referred as the '2015 report')

This review references the noise criteria established in the previous assessments. MDA also provided advice for indicative noise control treatments for Bimbo Deluxe via email correspondence on the 24<sup>th</sup> of July 2017.

Table 1 details the drawings have been reviewed as part of this assessment.

**Table 1: Drawings reviewed**

Drawing Title	Job No.	Sheet No.	Revision	Date
Cover	18010	TP-000	P4	07/02/2018
Conceptual Perspectives	18010	TP-001	P4	07/02/2018
Conceptual Perspective	18010	TP-002	P4	07/02/2018
Conceptual Perspective B/W	18010	TP-003	P4	07/02/2018
Conceptual Perspective B/W	18010	TP-004	P4	07/02/2018
Existing Ground/First Floorplan	18010	TP-010	P4	07/02/2018
Existing Elevation	18010	TP-020	P4	07/02/2018
Proposed Terrace Elevation	18010	TP-030	P4	07/02/2018



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



### ASSESSMENT CRITERIA

#### Patron Noise

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

In lieu of an established state policy or criterion, MDA has developed a set of design targets which have been referenced as part of numerous planning applications and VCAT hearings for proposed external patron noise areas.

In relation to patron noise occurring during the night-time period (2200-0700 hours), the structure of the patron noise design targets is summarised in Table 2.

Table 2: Recommended design targets for night-time patron noise

Description	Design Target	Purpose
Semi-steady noise levels - $L_{Aeq}$	40 dB or background noise ( $L_{A90}$ ) + 5dB, whichever is higher	Amenity protection
Short-term maximum noise levels $L_{Amax}$	60-65 dB	Sleep disturbance protection

The night-time background noise level referenced from the 2015 report is 39 dB  $L_{A90, 15\text{minute}}$ . The design target for semi-steady night-time patron noise levels is therefore 44 dB  $L_{Aeq, 15\text{ minute}}$ . The design target of 60-65 dB  $L_{Amax}$  also applies to address sleep disturbance considerations.

#### Music Noise

Music noise levels from entertainment venues are controlled in Victoria 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 in the State of Victoria.

The SEPP N-2 limits for indoor venues is summarised in Table 3, based on the time of day.

Table 3: SEPP N-2 criteria

Time period	Noise limit
Day & Evening	Music noise ( $L_{Aeq}$ ) not permitted to exceed background noise ( $L_{A90}$ ) plus 5dB
Night	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

The separation between day/evening and the night period is dependent on the number of times an indoor operates per week. For a venue operating more than three (3) times per week, the night-time period is defined as follows:

- Commences at 2100hrs on Sundays and 2200hrs on all other days; and
- Finishes at 1000hrs on Saturdays, 1200hrs on Sundays and 0900hrs on all other days.

Based on the measured background noise data in the 2015 report, the applicable night-time SEPP N-2 limits are detailed in Table 4. Compliance with the night-time limit demonstrates compliance with the day/evening limit.



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Table 4: Night-time SEPP N-2 music noise limits

Description	Octave Band Centre Frequency, Hz						
	63	125	250	500	1000	2000	4000
Night-time background level, dB $L_{Aeq, 15 \text{ minute}}$	45	42	38	36	36	29	17
Plus 8 dB	+8	+8	+8	+8	+8	+8	+8
SEPP N-2 noise limit dB $L_{A10, 15 \text{ minute}}$	53	50	46	44	44	37	25

These limits apply to the noise level measured at the exterior of any neighbouring residence.

### ASSESSMENT

#### Methodology

MDA has assessed noise propagation from both music and patron noise associated with the proposed design for the first-floor external patron area at Bimbo Deluxe venue.

A noise model was prepared to predict noise levels at the nearest noise sensitive premises to the venue. Predictions have been undertaken in accordance with ISO-9613-2:1996 *Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* (ISO 9613-2).

The implementation of ISO 9613-2 within proprietary noise modelling software enables multiple sound transmission paths, including reflected and screened paths, to be accounted for in the calculated noise levels. While atmospheric effects are expected to have a negligible effect on the transmission of sound from the venue to neighbouring sensitive receiver locations, it is noted that the ISO 9613-2 predicts noise levels for conditions which favour the propagation of noise.

Geometry data for the noise model has been sourced from public aerial photography, the site plans including, building heights and areas as per current architectural plans. The geometries in the model are simplified representations of the built environment that have been configured to a level of detail that is appropriate for noise calculation purposes.

#### Patron Noise

The first-floor external deck is permitted to cater to up to 125 patrons. To minimise impacts from patron noise, it is recommended that the capacity in the external deck area should be restricted to 100 patrons after 2200 hours. Previous assessments have indicated that the semi-steady state component,  $L_{eq}$ , of the patron noise is the controlling design parameter. Therefore, this assessment has not considered an  $L_{max}$  assessment of noise from patrons.

The empirical data for a vertical drinking crowd has been adjusted from the levels reported for 125 patrons in the 2015 report to account for the recommended number of patrons utilising the space. The sound power level associated with 100 patrons involved in vertical consumption is provided in Table 5.

Table 5: Patron noise sound power level data

Vertical drinking (100 patrons) (worst-case crowd)	Octave Band Centre Frequency, Hz							
	A	63	125	250	500	1000	2000	4000
Semi-steady state component, dB $L_{eq}$	103	91	93	94	101	99	95	88

It should be noted that the use of vertical drinking data for the venue is a worst-case scenario in terms of patron noise and is considered to be a conservative approach. Unattended measurements conducted in the external deck area previously demonstrate that patron noise varies significantly and there will be many instances when patron noise will be significantly lower than predicted using these worst-case reference values.



## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Predictions of noise from patron activity in the external deck area during the night-time period have been made and a summary of the assessment is shown in Table 6. The predictions represent the night-time situation of a maximum of 100 patrons in the first-floor external deck area and take in to account the attenuation provided by the proposed walls and partially enclosed roof area.

**Table 6: Predicted patron noise levels, dB**

Description	98 Rose Street, GF	100 Rose Street, GF	102 Rose Street, F1	103 Rose Street, F3
Predicted noise level, $L_{Aeq}$ , 15 minute	41	39	45	47
Night-time design target, $L_{Aeq}$ , 15 minute	44	44	44	44
Compliance?	Yes	Yes	+1 dB exceedance	+3 dB exceedance

As shown in Table 6, patron noise levels within the first-floor external deck is predicted to exceed at nearby receivers 102 Rose Street and 103 Rose Street by up to 3 dB. When considering patron noise and the analysis of the results, the following is considered:

**Table 7: Interpretation of patron noise assessment results**

Predicted noise levels	Action
Meets the proposed criteria or exceeds the proposed criteria by up to 2 dB	No impact likely
Exceeds the criteria by 3-5 dB	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 5-8 dB	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 8 dB	There will be noise impact and major changes to the design and/or operation of the proposed outdoor area will be required

Based on the above and given the worst-case patron noise scenario has been considered, it is expected that the possibility of impact is low. It is recommended the venue be assessed with measurements once it is operational to determine typical crowd noise levels.

### Music Noise

Background music is proposed for the first-floor external deck area. For reference, the meaning of background music was discussed in *Whiting v Hosier Bar Pty Ltd (Occupational and Business)* [2005] VCAT 814. The Tribunal interpreted background music to mean:

*music ... played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree.*

This is equivalent to an internal music noise level of approximately 65-70 dB  $L_{A10}$ , with example spectra as shown in Table 8.

## Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)



Table 8: Example reverberant background music spectra

Description	Octave Band Centre Frequency, Hz							
	A	63	125	250	500	1000	2000	4000
Example background music spectra (reverberant level), dB L <sub>50</sub>	67	67	65	65	65	60	60	60

Results from the noise model has indicated that the SEPP N-2 limits are readily complied with at all nearby residences for background music only.

- This assessment of music noise has only considered noise from the external first floor patron area at Bimbo Deluxe and does not consider music noise breakout from other sources in the venue which may contribute to the overall music noise breakout from the venue. It should be noted that the total cumulative level of music noise from the venue is required to meet the SEPP N-2 criteria at all nearby noise sensitive receivers. The predicted background music noise levels proposed for the first-floor external deck area are more than 10 dB below the SEPP N-2 limit and therefore its contribution towards the cumulative assessable level of the total music noise from the venue is considered negligible.

### RECOMMENDATIONS

MDA has reviewed the proposed roof and wall design for the external first floor patron area at the Bimbo Deluxe venue. This review has considered impacts from music and patron noise break out from the subject area, based on the latest architectural plans and proposed construction material. The analysis was based on the following building assumptions:

- The patron area is enclosed by walls to the east, north and south, constructed as follows
  - The eastern wall is constructed of 9 mm thick fibre cement sheet with sound absorption on the inside lining up to a height of 2.5 m. the sound absorption lining shall have a noise reduction coefficient (NRC) of 0.8
  - The northern wall is constructed from sheet metal lined with a layer of acrylic sheet
  - The southern wall is constructed of 9 mm thick fibre cement sheet that features a gate with an open section above
- The covered roof area is constructed from clear polycarbonate panels with an area mass of 3.7 kg/m<sup>2</sup> with a rated acoustic performance, provided as a weighted sound reduction, of Rw 18
- All gaps (e.g. Between the underside of the roof and wall junction) are sealed with a flexible caulking agent.

It is understood that the proposed product to be used for the covered roof area is Lexan Thermoclear/Thermoclick multiwall polycarbonate sheet. It is expected that the Thermoclear/Thermoclick products that meet the minimum area mass of 3.7 kg/m<sup>2</sup> such the 32 mm thick Thermoclear sheet or the 40 mm Thermoclick sheet will meet the acoustic performance required.

This review has concluded that the proposed treatment options are likely to enable compliance with the relevant noise criteria, legislation and guidelines for music and patron noise.

**Attachment 5 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - Acoustic Reports (Marshall Day Acoustics)**

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We trust this information meets your current needs. If you have any further questions, please do not hesitate to contact us.

Yours faithfully,

**MARSHALL DAY ACOUSTICS PTY LTD**

A handwritten signature in black ink, appearing to read 'Henry Reay'.

**Henry Reay**

**Consultant**

**Attachment 6 - PLN18/0495 - 327-374 Brunswick Street Fitzroy - Community Amenity Unit Referral Response**

**TO:** Michelle KING  
**cc:**  
**FROM:** Brad SPEECHLEY  
**DATE:** 24/08/2018  
**APPLICATION:** PLN18/0495  
**SUBJECT:** Community Amenity Enforcement Referral

---

Dear Michelle,

Thank you for your referral dated 23 August 2018, in relation to 372-374 Brunswick Street, Fitzroy.

The Compliance Branch has received recent amenity noise complaints in relation to this property. The last recorded complaint was on the 19 March 2018 and it's in relation to amplified music on the rooftop.

I have had an opportunity to review the Noise and Amenity Action Plan and the Town Planning Report, however given the proximity to the nearest residential premises and the proposal to increase the licensed deck to a maximum of (78) patrons and the hours being;

- Sunday between 10am and 11pm;
- Monday to Thursday 9am to 11pm;
- Friday and Saturday between 9am and 1am (the following morning).

The Compliance branch recommends the following:

1. Background music after 11pm at any outdoor deck area Friday and Saturday
2. No music after 12 midnight at any outdoor area Friday and Saturday
3. Background music only at all other times (NAAP).

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 have a tendency to impact the amenity.

Should you wish to discuss the application further, please feel free to contact me on 9205-5166.

Regards,



**Brad Speechley**  
**Acting Coordinator – Civic Compliance**



## Attachment 7 - PLN18/0495 - 372-374 Brunswick Street Fitzroy - SLR Acoustic Referral Response



26 September 2018

640.10090.03140 372-374 Brunswick St 20180924.docx

City of Yarra  
P.O. Box 168  
Richmond VIC 3121

**Attention: Michelle King**

Dear Michelle

### 372-376 Brunswick Street, Fitzroy Development Application Acoustical Review PLN 18/0495

SLR Consulting Pty Ltd (SLR) has been retained by the City of Yarra to provide a review of the acoustic assessment report for the changes to the outdoor patron area proposed for 372-376 Brunswick Street, Fitzroy.

Details of the report are as follows:

- Title: Bimbo Deluxe, Proposed Extension of Hours – Noise Assessment
- Reference: Rp 001 2015003ML
- Date: 19 February 2015
- Prepared for: Bimbo Deluxe
- Prepared by: Marshall Day Acoustics (MDA)

The report (subsequently referred to as the *MDA 2015 report*) includes an attachment prepared 8 March 2018 entitled 'Revised Rooftop Assessment' (subsequently referred to as the *MDA 2018 letter*). The attachment assesses patron noise taking into consideration the proposed semi-enclosure of the roof top outdoor patron area.

The current application is for: *Sale and consumption of liquor (on-premises licence) to include the first floor deck (Deck hours: Sunday: 10am - 11pm, Monday to Thursday: 9am - 11pm, Friday to Saturday: 9am - 1am the following day, Deck patrons: Maximum 78), part demolition and buildings and works including acoustic barriers and roof over the deck.*

SLR were retained by City of Yarra to review an earlier version of the MDA report.

## 1 Background Information

*(Sections 1 to 3 of the report and MDA letter)*

The proposal is to extend the hours of operation of the first floor outdoor patron area at Bimbo Deluxe. The area currently has a license to operate until 11 pm, 7 days a week, with a maximum of 125 patrons.

The provided assessment is for an extension of operating hours to 3 am on any day.

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City of Yarra  
372-374 Brunswick Street, Fitzroy  
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Potential noise impacts from the proposal are identified as:

- Patrons on the outdoor deck
- Music from inside the venue
- Mechanical plant

The nearest noise sensitive receivers are identified as:

- Single level residential dwelling at 98 Rose Street, directly east of the venue and the neighbouring dwellings beyond that
- Three level residential development at 103 Rose Street (approximately 30 m from venue).
- Proposed four storey mixed use development at 97-99 Rose Street, Fitzroy (approximately 12 m from the venue).

**SLR Comments:** Subsequent to the preparation of the acoustic report the application has been modified for shorter operating hours. The venue is applying to use the outdoor deck until 1 am Friday and Saturday nights. No changes are currently proposed for Monday to Thursday nights. The current application is also for a reduced number of patrons (78 instead of the 125 identified by MDA in the MDA 2015 report, and 100 discussed in the MDA 2018 letter). These changes can be expected to result in less noise impacts than MDA have allowed for.

The existing multi-level residential development at 103 Rose Street is four storeys high rather than three, however the MDA noise model shown in Figure 4 of the report indicates that the upper level has been modelled, and has not been overlooked in the assessment.

The height of the development proposed for 97-99 Rose Street may be incorrect (our records suggest that it was proposed to be 5 levels rather than the 4 levels given by MDA). However the additional level is unlikely to change the outcome of MDA's assessment.

## 2 Background Noise Measurements

(Section 4.1 and Appendix D of the acoustic report)

Attended measurements of background noise were carried out between 12:30 am and 1 am on Tuesday 15 April 2014, outside 97 Leicester Street. The measured level was 39 dBA L<sub>90</sub>. An octave band spectrum for identifying SEPP N-2 night noise limits is included in Table 4 of the report.

Unattended noise logging was also conducted on the roof of the venue from Tuesday 27 January to Wednesday 28 January. Logging data is included in Figure 3 of the report. MDA note that the noise level drops after 2 am, presumably when mechanical plant associated with the venue is switched off.

For the purpose of setting noise limits, MDA have nominated a level of 39 dBA L<sub>90</sub> for patron and music noise (commensurate with the lowest likely single hour at the time these sources will occur), and 40-45 dBA L<sub>90</sub> for mechanical plant noise (commensurate with the likely night time average levels, based on the noise data obtained, and removing the impact of project related mechanical plant).

**SLR Comments:** The background noise monitoring and conclusions are appropriately conservative given that MDA did not have access to monitor at the noise sensitive receiver locations. We would expect slightly higher levels at receiver locations due to their lesser shielding to Brunswick Street.

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*Given the reduced hours of operation currently proposed, the background levels critical to the current application are between midnight and 1 am on Friday and Saturday nights. These levels are also likely to be higher than MDA have used.*

### 3 Patron Noise Assessment

#### 3.1 Legislative Requirements

*(Section 5.1 of the report)*

Patron noise is proposed to be assessed to 'background + 5 dB' during the night period. The identified limit is 44 dBA Leq.

**SLR Comments:** *We agree that 'background + 5 dB' targets are reasonable for night. As indicated, a higher noise limit (56 dBA Leq) would be appropriate given the results of background monitoring conducted by SLR at receiver locations, and in light of the reduced operating hours currently sought. If a further extension of operating hours is likely to be applied for in the future, it would be appropriate to design to achieve lower noise levels.*

#### 3.2 Patron Noise Levels and Prediction Methodology

*(Section 5.2 of the report and pages 2 to 4 of the MDA letter)*

A patron sound power level of 104 dBA Leq has been used in modelling of patron noise from the outdoor area to potentially affected receivers. The level is based on the MDA data for 'vertical drinking (125 patrons)' and is noted to be representative of worst case.

Noise has been modelled using the SoundPLAN noise modelling software package. A 3D image of the model is provided in Figure 4 of the report. The predicted noise levels are presented in Table 9 of the report, and are well above the identified limits.

In the 2018 letter MDA assess patron noise assuming a reduced number of patrons (100) and semi-enclosure of the outdoor area. The architectural drawings referenced in the letter show the outdoor patron area to include the following (see also **Figure 1**):

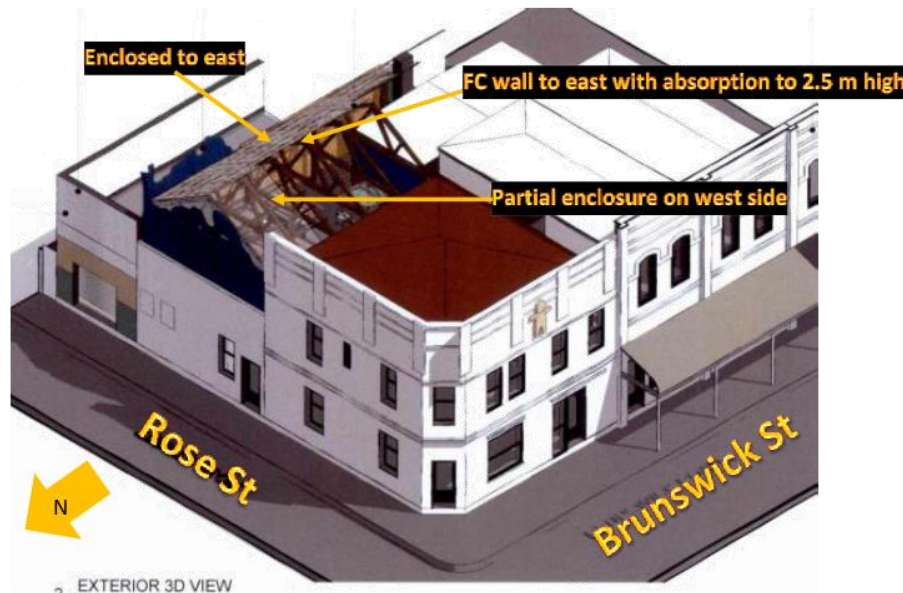
- Pitched roof with a north south apex
- East side of roof - polycarbonate cladding almost to the apex
- West side of roof – polycarbonate cladding to the section closest to Rose Street, and the remaining area open
- Polycarbonate cladding to have an acoustic rating of not less than  $R_w = 18$  dB and a surface mass of not less than  $3.7 \text{ m}^2$
- The eastern wall is to comprise 9 mm thick fibre cement sheet with sound absorptive lining to the inside, to a height of 2.5 m. The absorptive lining is to have an NRC rating of 0.8.

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**Figure 1 Outdoor patron area roof treatments**



With the recommended treatments in place patron noise to the first floor of 102 Rose Street, and the third floor (Level 4) of 103 Rose Street is predicted to exceed the identified limit by 1 and 3 dB respectively. MDA observe that the predicted exceedances are within an acceptable margin, and that any actual exceedances, should they occur, could be managed through administrative or retrofit building controls. They recommend that a post construction assessment be conducted to determine whether further controls are required.

**SLR Comments:** *The proposed works are extensive, and we agree that relatively small predicted exceedances could in principle be quantified and addressed once the venue is operating. It is also of consideration that higher noise limits are likely to apply given the currently proposed operating hours and the conservative background data used by MDA.*

*The proposed roof cladding is however very lightweight and has a low Rw rating. Our indicative calculations suggest that noise through the roof may contribute to the overall noise level at overlooking receiver locations. We would like to confirm that noise through the roof has been taken into consideration in the noise modelling.*

### 3.3 Patron Noise to 97-99 Rose Street

*(Section 2 of the acoustic report)*

The multi-level mixed use development proposed for 97-99 Rose Street will be the closest receivers to the development. MDA discuss the application in Section 2 of their report, where they note that Condition 5 of the VCAT order for the development requires 'measures to be undertaken to address all noise sources from commercial uses (including Bimbos) affecting the bedrooms of all dwellings on the land having regard to industry accepted sleep disturbance criteria and in accordance with the relevant Australian Standards'.



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They observe that Bimbos currently operates until 11 pm, and that as such, the development should have been designed to address patron noise from the rooftop outdoor area during the 'night' period.

They also point out that the VCAT order has a condition which states that the permit will expire if the development is not completed within 4 years of the permit being issued (the four years has lapsed).

Based on the above, MDA conclude that further consideration of noise to 97-99 Rose Street is not warranted.

**SLR Comments:** *On the basis of the information provided we agree that further consideration of patron noise to 97-99 Rose Street is not warranted. We also note that the currently proposed changes are unlikely to result in increased patron noise impacts to 97-99 Rose Street.*

### 4 Music Noise

*(Section 6 of the MDA report and pages 4 and 5 of the MDA letter)*

SEPP N-2 noise limits are identified in Section 6.1 of the acoustic report. MDA conducted an assessment of music in 2015 and identified exceedances of up to 22 dB due to music played within the venue (Table 11 of the MDA report). Recommendations for controlling music noise were provided in Section 6.2, and include installing a music noise limiter (in the first instance), and implementing building works if the resultant music levels were found by the venue operator to be too low.

The MDA 2018 letter addresses music from the outdoor patron area, and includes the recommendation that background music only be played outdoors. The recommended octave band maximum music levels are provided in Table 8 of the report. The levels are predicted to comply with SEPP N-2 at all locations.

The 2018 letter does not assess music noise from within the venue.

**SLR Comments:** *We agree that the levels of music proposed for the outdoor patron area are likely to comply with SEPP N-2. Some method for controlling music levels within the space is, however, recommended. This could include installation of a noise limiter in the audio chain, and calibration of the limiter by an acoustical consultant.*

*It is unclear whether the music exceedances from the venue that were documented in 2015 have been addressed. Our preference would be for the venue to be able to demonstrate compliance with SEPP N-2 before further operational changes are permitted.*

### 5 Mechanical Plant

*(Section 7 of the MDA report)*

An assessment of noise from existing mechanical plant is provided in the report and an exceedance of up to 12 dB has been identified. MDA include a recommended course of action for addressing the measured and predicted exceedances.

The 2018 letter does not address noise from mechanical plant.

**SLR Comments:** *Our preference would be for the venue to be able to demonstrate compliance with SEPP N-1 before further operational changes are permitted.*

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### 6 SLR Summary

A review of the 2015 acoustic report and the 2018 letter prepared by MDA to address noise from Bimbo Deluxe to nearby apartments has been conducted by SLR. A summary of findings and recommendations is provided below.

- The report and letter were prepared to address impacts from use of the proposed outdoor patron area until 3 am, 7 days a week. The proposed change of hours has subsequently been reduced to 1 am Friday and Saturday nights (no changes to Sunday to Thursday nights). The revised application is also for a lesser number of patrons. These changes effectively result in a further element of conservatism in the MDA assessment. Slightly less noise is likely to be generated and noise limits are likely to be higher. Taking into consideration the above, and the semi-enclosure of the outdoor patron area proposed by MDA, we are of the opinion that the venue will comply with relevant patron noise targets.
- It is unclear whether MDA have taken the contribution of noise through the proposed lightweight roof into consideration. While contribution from this source appears unlikely to cause an exceedance of noise limits relative to the currently proposed operating hours, our indicative calculations suggest it may be a problem if the venue were to operate until 3 am, 7 days a week. For this reason we would recommend that this aspect of the assessment be reviewed if a further extension of operating hours is likely.
- MDA recommend that compliance measurements of patron noise are undertaken once the modified outdoor patron area is operational. In our opinion these measurements are not necessary for the current (reduced) application, however they should be conducted in the future if a further extension of operating hours is sought.
- Background music only has been proposed for the outdoor patron area. We recommend that a music noise limiter be included in the audio chain, and that it is calibrated to ensure that the proposed levels are not exceeded.
- The 2015 report identified substantial exceedances of both music noise limits for music from within the venue, and mechanical plant noise limits. It is unclear whether these exceedances have been rectified. In our opinion the current application presents an opportunity for addressing these environmental noise issues. However, ultimately it is up to the City of Yarra to decide whether this approach is appropriate. The proposed outdoor patron area will not exacerbate the existing noise exceedances, and it could be considered an independent issue.

Regards,



Dianne Williams  
Associate - Acoustics

Checked/ Authorised by: JA
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