



**YARRA CITY COUNCIL
INTERNAL DEVELOPMENT APPROVALS
COMMITTEE
MINUTES**

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

I. ATTENDANCE

Councillor Chen Yi Mei
Councillor Stone
Councillor O'Brien

Danielle Connell (Senior Coordinator Statutory Planning)
Lara Fiscalini (Principal Planner)
Mel Nikou (Governance Officer)

II. APOLOGIES AND LEAVE OF ABSENCE

III. DECLARATIONS OF CONFLICT OF INTEREST (councillors and staff)

Nil

IV. CONFIRMATION OF MINUTES

Internal Development Approvals Committee Resolution:

Moved: Councillor Stone **Seconded:** Councillor Chen Yi Mei

That the minutes of the meeting of the Internal Development Approvals Committee held on Wednesday 18 December 2019 be confirmed.

CARRIED

Councillor O'Brien abstained

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***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri Woi-wurrung 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."***

Internal Development Approvals Committee Submissions

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

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

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

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

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

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

Extract from the Council Meeting Operations Policy, September 2019

Councillor O'Brien nominated Councillor Chen Yi Mei as Chair.

There being no other nominations, Councillor Chen Yi Mei was appointed Chair.

Councillor Chen Yi Mei assumed the Chair.

1 INTERNAL DEVELOPMENT APPROVALS COMMITTEE

Item		Page	Res. Page
1.1	PLN14/0419.03 166 Gertrude Street Fitzroy - Section 72 Amendment to Planning Permit PLN14/0419 to convert Tenancy 4 (Restaurant) into two restaurant tenancies with access to tenancy 5 from George Street, and modification to the permit preamble, permit conditions and endorsed documents.	6	12

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

Reference: D19/238746

Authoriser: Senior Coordinator Statutory Planning

[Help](#)

RECOMMENDATION

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

Permit preamble to be amended to:

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

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

1. Before the commencement of the sale and consumption of liquor, an amended Ground Floor Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
 - (a) Internal layout of the two food and drinks premises; and
 - (b) Seating for 100% of patrons within both tenancies and no more than 90 patrons within Tenancy 1 (café) and 170 patrons within Tenancy 4 (Restaurant).
 - (c) **-deleted-**
2. The use and development (including the sale and consumption of liquor) as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing consultant team, Jackson Clements Burrows or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) Oversee design and construction of the development; and
 - (b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
4. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by SBE and dated 19 June 2014 but modified to include or show:
 - (a) Inclusion of a daylight modelling report that confirms that the proposed dwellings are designed to achieve appropriate daylight outcomes.
 - (b) Confirmation that the development will achieve at least 10 per cent or half a star (whichever is greater) above BCA minimum standards.
 - (c) Incorporation where viable, high efficiency gas instantaneous or gas boosted centralised system including a solar preheat collectors with a minimum of 45% contribution to annual energy requirements.

- (d) Individual water metres installed to apartments.
 - (e) ***DELETED***
 - (f) Confirmation the air condition system efficiency is to be within one star of the highest available or equivalent COP/EER.
 - (g) Provision of cycle end of trip facilities (shower) within the disabled toilet at ground floor level.
5. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 6. Before the use and development commences, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:
 - (a) Noise impacts resulting from the proposed use and development to the surrounding properties; and
 - (b) Noise impacts from the surrounding non-residential uses (vehicles, trams, commercial premises and live-music entertainment venues) to the proposed use and development.

The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.
 7. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
 8. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 4 June 2014, but modified to include:
 - (a) The altered waste collection procedures as shown in the sketch plans submitted on 17 November 2014. In the event that the proposed loading zone is not approved by Council, the Waste Management Plan must be amended to provide an alternative pick-up location to the satisfaction of the Responsible Authority.
 9. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 10. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Urban Commons and dated 21 July 2014, but modified to include (or show):
 - (a) Further details regarding the planting adjacent to the corridor windows and the practicality of providing edible plants.
 11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) Implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) Not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) Replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park and pedestrian entries must be provided. Lighting must be located, directed, shielded and of limited intensity to the satisfaction of the Responsible Authority.
 13. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
 14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
 15. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
 16. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
 17. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor from Tenancy 1 (Café), Tenancy 4 **and Tenancy 5** (Restaurant) may only occur between 10am and 11pm, seven days per week.
 18. No more than 90 patrons are permitted within Tenancy 1 (café) and **85** patrons within **each of Tenancy 4 and Tenancy 5 (Restaurant)** at any time liquor is being sold or consumed.
 19. Before the commencement of the sale and consumption of liquor **of Tenancy 4 and 5**, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended noise and amenity action plan will be endorsed and will form part of this permit. The amended noise and amenity action plans must be generally in accordance with the noise and amenity action plan advertised, but modified to include (or show, or address):
 - (a) Include the operating hours consistent with Condition 17;
 - (b) Remove reference to two 'restaurant' tenancies and correctly reference food and drinks premises: Tenancy 1 (Café), Tenancy 4 (Restaurant) **and Tenancy 5 (Restaurant)**;
 - (c) Floor plan in the appendix consistent with the floor plan required pursuant to Condition 1;
 - (d) To include details of deliveries and collections for both premises between 9am and 10pm on any day only; and
 - (e) Details of how Tenancy **5** (Restaurant) will manage large group bookings to minimise amenity impacts on surrounding residential areas.
 20. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 21. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises

advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.

22. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) The transport of materials, goods or commodities to or from land;
 - (b) The appearance of any buildings, works or materials;
 - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
 - (d) The presence of vermin,All to the satisfaction of the Responsible Authority.
23. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only be conducted between 9am and 10pm on any day.
24. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
25. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
26. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
27. Except with the prior written consent of the Responsible Authority, speakers external to the building must not be erected or used.
28. No amplified music may be played, with the exception of background music, to the satisfaction of the Responsible Authority.
29. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
30. Car parking allocated at the following rates:
 - (a) Dwellings – 33 car spaces;
 - (b) Residential visitors – 4 car spaces; and
 - (c) Food and drink premises – 3 car spaces.
31. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the areas set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
 - (a) Constructed and available for use in accordance with the endorsed plans;
 - (b) Formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) Treated with an all-weather seal or some other durable surface; and
 - (d) Line-marked or provided with some adequate means of showing the car parking spaces,All to the satisfaction of the Responsible Authority.
32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the new vehicle crossings must be constructed:
 - (a) In accordance with any requirements or conditions imposed by Council; and
 - (b) At the permit holder's cost,All to the satisfaction of the Responsible Authority.

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

- (n) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
- (o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
- (p) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and

During the construction:

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

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

Public Submissions

The following people addressed the Committee:

Hugh Smyth, SJB Planning on behalf of the applicant.

Objectors:

Ida Schmid;

Rainer Schmid;

John Cerini;

Peter Brady;

Dave Lane;

Greg Hocking; and

Louise Elliot.

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor O'Brien

Seconded: Councillor Stone

That having considered all objections and relevant planning policies, Council resolve to issue a Notice of Refusal to Grant an Amended Planning Permit PLN14/0419.03 for Demolition of the existing building to allow for the use and development of the land for a five-storey building (plus two basement car parks) with ground floor shops, food and drinks premises, including the sale and consumption of liquor (Café and restaurant licence) with 26 dwellings, reduction in associated car parking requirements and waiver of loading bay requirement in accordance with endorsed plans at 166-182 Gertrude Street, Fitzroy, on the following ground:

1. The proposal would result in unreasonable off-site amenity impacts on nearby residents.

CARRIED

The meeting closed at 7.37pm

Confirmed at the meeting held on Wednesday 29 January 2020

Chair