



Agenda

Planning Decisions Committee

6.30pm, Wednesday 26 May 2021

Richmond Town Hall

The Planning Decisions Committee

The Planning Decisions Committee is a delegated committee of Council with full authority to make decisions in relation to planning applications and certain heritage referrals. The committee is made up of three Councillors who are rostered on a quarterly basis.

Participating in the Meeting

Planning Decisions Committee meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There is an opportunity for both applicants and objectors to make a submission to Council in relation to each matter presented for consideration at the meeting.

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. Simply raise your hand and the chair will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the chair;
- confine your submission to the planning permit under consideration;
- If possible, explain your 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 you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the chair to make further comment or to clarify any aspects.

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.

Arrangements to ensure our meetings are accessible to the public

Planning Decisions Committee meetings are held at the Richmond Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (via the entry foyer).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop and receiver accessory is available by arrangement (tel. 9205 5110).
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available.

1. Appointment of Chair

Councillors are required to appoint a meeting chair in accordance with the City of Yarra Governance Rules 2020.

2. Statement of recognition of Wurundjeri Woi-wurrung Land

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

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

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

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”

3. Attendance, apologies and requests for leave of absence

Anticipated attendees:

Councillors

Cr Edward Crossland (substitute for Cr Landes)

Cr Bridgid O’Brien

Cr Gabrielle de Vietri

Council officers

Amy Hodgen (Senior Co-ordinator Statutory Planning)

Gary O’Reilly (Senior Planner)

Cindi Johnston (Governance Officer)

4. Declarations of conflict of interest

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

5. Confirmation of Minutes

RECOMMENDATION

That the minutes of the Planning Decisions Committee held on Wednesday 12 May 2021 be confirmed.

6. Committee business reports

| Item | | Page | Rec. Page |
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| 6.1 | PLN20/0403 - 362 Brunswick Street Fitzroy - Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works. | 5 | 22 |
| 6.2 | PLN19/0221.01 - 142 Johnston Street Fitzroy North | 60 | 83 |

6.1 PLN20/0403 - 362 Brunswick Street Fitzroy - Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works.

Executive Summary

Purpose

1. This report provides Council with an assessment of an application at No. 362 Brunswick Street Fitzroy for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works.
2. The report recommends approval of the application subject to conditions.

Key Planning Considerations

3. Key planning considerations include:
 - (a) Clause 21.04 and 34.01 – Land Use and Commercial 1 Zone
 - (b) Clause 22.05 – Interfaces Uses Policy
 - (c) Clause 43.01 – Heritage Overlay
 - (d) Clause 22.09 and Clause 52.27 – Licensed Premises

Key Issues

4. The key issues for Council in considering the proposal relate to:
 - (a) Strategic Context
 - (b) The sale and consumption of liquor
 - (c) Heritage Overlay
 - (d) Buildings and works
 - (e) Objector concerns

Submissions Received

5. Eleven (11) objections were received to the application. The main concerns raised by objectors are summarised as:
 - (a) Noise impacts.
 - (b) Light pollution to the rear.
 - (c) Impacts on the value of surrounding residential properties.
 - (d) Impacts the rear acoustic wall will have on surrounding trees.
 - (e) Lack of detail and justification related to the acoustic measures
 - (f) Impacts to the safety of patrons and residents in the area.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to conditions as detailed within the 'recommendation' section of this report.

CONTACT OFFICER: Joe Byrne
TITLE: Statutory Planner
TEL: 92055206

6.1 PLN20/0403 - 362 Brunswick Street Fitzroy - Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works.

| | |
|-------------------|---------------------------------------|
| Reference | D21/48913 |
| Author | Joe Byrne - Statutory Planner |
| Authoriser | Senior Coordinator Statutory Planning |

| | |
|-----------------------------|---|
| Ward: | Nicholls Ward |
| Proposal: | Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works |
| Existing use: | Restaurant. |
| Applicant: | Roy Sassonkin |
| Zoning / Overlays: | Commercial 1 Zone; Heritage Overlay (HO311); Development Contributions Plan Overlay (Schedule 1). |
| Date of Application: | 17 June 2020 |
| Application Number: | PLN20/0403 |

Planning History

7. Planning Permit PLN18/0164 was issued on 04 April 2018 for reduction in the car parking requirement of the Yarra Planning Scheme associated with a food and drink premises (café).
8. A Section 72 Amendment to Planning Permit PLN18/0164 was submitted 25 May 2018. This application was to amend the permit to include the sale and consumption of liquor. This application was withdrawn.
9. A further Section 72 Amendment to Planning Permit PLN18/0164 was approved 22 October 2020 to further reduce the car parking requirements by increasing the leasable floor area to include the first floor and rear courtyard.
10. The site has no other planning history.

Background

11. The subject application was received by Council on 17 June 2020.
12. The application was advertised in November and December 2020 and 11 objections were received.
13. No consultation meeting was held given the COVID-19 Pandemic.
14. Post the advertising period, the applicant submitted an acoustic report assessing potential noise impacts from the rear courtyard in response to objector concerns. This was accordingly circulated to all objectors with the invitations to the PDC meeting.

The Proposal

15. This application is for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, including a canopy over the rear courtyard.

Demolition

16. Demolition of the eastern boundary 2.6m high galvanised iron and lattice fence and the 2m high northern boundary galvanised iron fence within the rear corner.

Buildings and works

17. Construct a 2.6m high acoustic wall along the eastern and part of the northern boundary (in the exact position as the proposed to be demolished fences).
18. Construct a retractable canopy over the rear courtyard (retrospective). This canopy will be fixed to the southern boundary wall at a height of 5m. The specific details of this canopy have not been specified on the plans. A condition will be recommended to be included on any decision issued, requiring details of the material and location of the canopy when fully extended to be shown.

Sale and consumption of liquor

19. The sale and consumption of liquor in association with the restaurant will occur between 10.00am and 9.00pm Monday to Sunday.
20. A maximum of 50 patrons, with 35 within the external courtyard and 15 internally.
21. Music will be limited to background music only, both internally and externally.
22. Waste bins will be located to the rear of the restaurant, however specific location is not shown on the plans. This is to be addressed via condition.

Existing Conditions

Subject Site

Subject Site

23. The site is located on the eastern side of Brunswick Street, approximately 40 metres north of Kerr Street and 45 metres south of Rose Street, in Fitzroy. The subject site (formally known as Lot 5 on Plan of Subdivision 041143) has a frontage to Brunswick Street of 4.3 metres, a depth of 21.9 metres and a rear width of 6.4m, yielding an overall site area of approximately 121sqm.
24. The site is developed with a double storey, brick, Victorian-era commercial building currently used as a restaurant. The building is constructed to the northern and southern boundary for its entire length, while is set back from the eastern title boundary. The building is predominately glazed on Brunswick Street at ground level, with a recessed entry door to the most northern part of the front façade. This is the only entry to the restaurant.
25. A paved courtyard, 48sqm in area, is located at the rear, eastern side of the site.



Image 1: The subject site as it appears to Swan Street (Google December 2020).

Surrounding Land

26. The subject site is located within the Brunswick Street Major Activity Centre (**MAC**) which provides a range of retail premises, food and drink premises and offices along Brunswick Street. East of the MAC are residentially zoned areas predominantly characterised by a mix of single storey, Victorian-era dwellings and some contemporary infill.

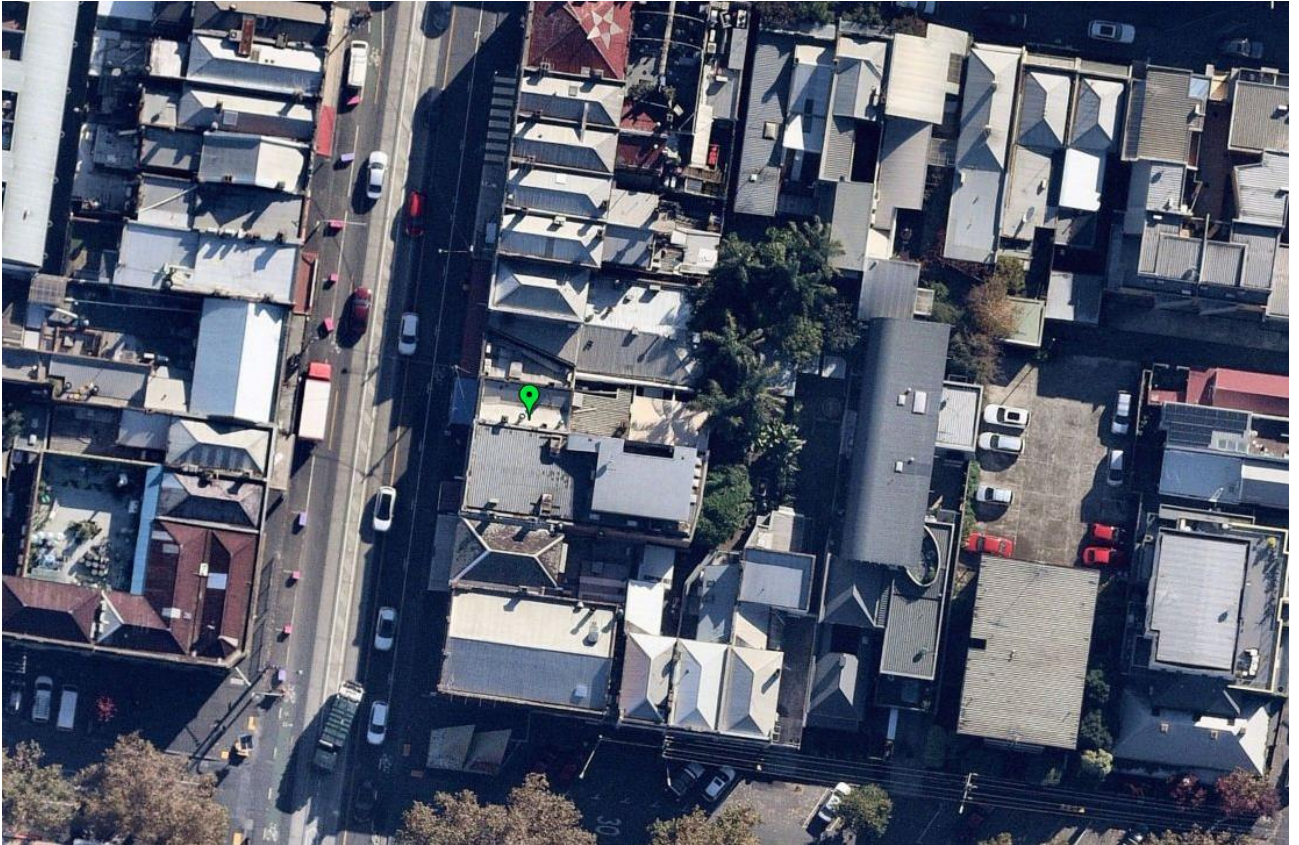


Image 2: aerial of subject site and surrounds (NearMap April 2021)

North

27. The properties along the eastern side of Brunswick Street are zoned Commercial 1 Zone and are characterised by fine grain commercial uses.
28. Immediately to the north is No. 364-366 Brunswick Street which is developed with a part double, part single storey, brick commercial building currently used as a licenced restaurant/bar. The building is constructed to all site boundaries, covering 100% of the site. No windows or outdoor areas present to the subject site.
29. This restaurant is licenced to supply liquor for consumption on the licensed premises during the following trading hours:

| | |
|--------------------------|--|
| Sunday: | Between 10am and 1am the following morning; |
| Good Friday & Anzac Day: | Between 12 noon and 1am the following morning; |
| On any other day: | Between 9am and 1am the following morning. |

30. Further north is No. 368 Brunswick Street which is developed with a double storey brick, Victorian-era commercial building. This building is currently unoccupied, although has been previously used as a take-away restaurant.

South

31. The properties to the south along the eastern side of Brunswick Street are zoned Commercial 1 Zone and characterised by fine grain commercial uses.
32. Immediately to the south is a double storey, rendered commercial building which is occupied by a retail premises at ground floor and a Pilates studio at first floor. The building is constructed to all site boundaries, covering 100% of the site. No windows or outdoor areas present to the subject site.
33. Further south at No. 360 Brunswick Street is a double storey rendered brick commercial building, which is unoccupied at ground level (previously used as a bakery) and the same pilates studio that directly abuts the subject site at first floor.

East

34. To the east of the subject site is the rear secluded private open spaces (SPOS) of double and single storey Victorian-era dwellings, facing Rose and Kerr Streets. These properties are located within the Neighbourhood Residential Zone (Schedule 1).
35. Immediately to the east of the subject site is the rear SPOS of No. 101 Kerr Street which has been developed with a double storey, brick, Victorian-era dwelling. The dwelling fronts south with access from Kerr Street.
36. Further to the east of the subject site is the rear SPOS of No. 103 and No. 105 Kerr Street. Both of these sites have been developed with double storey Victorian-era dwellings abutting Kerr Street. A single storey studio/retreat abuts the rear boundary of No. 103 Kerr Street, while sheds are contained on the northern boundary of No.105 Kerr Street.
37. Further to the direct east, is the side of a double storey residential building containing 4 units. A number of second floor habitable room windows face the subject site (set back between 13.4m and 15.2m).
38. To the north east of the subject site, facing Rose Street, is the rear SPOS areas of a row of single and double storey Victorian-era dwellings.

West

39. Properties along the western side of Brunswick Street are zoned Commercial 1 Zone and are characterised by Victorian-era commercial buildings, used as a mix of restaurants and retail premises.
40. Immediately opposite the subject site, at No. 359 Brunswick Street, is a double storey brick building, currently unoccupied (previously used as a restaurant).
41. Each side of this unoccupied restaurant contains double storey Victorian-era commercial buildings. These properties have been previously used as licenced restaurants and retail premises'.

42. *General surrounds*

43. The area is well serviced by public transport with trams running along Brunswick Street, between northern suburbs and the city, and bus routes along Johnston Street (200 metres of the site) which connects the eastern suburbs and the city.
44. Other licenced premises within immediate include:
 - (a) Evelyn Hotel, No. 351 Brunswick Street, which has a general license allowing alcohol to be consumed on the licenced premises Sunday, between 10am and 1.30am the day following, Good Friday & Anzac Day, between 12 noon and 1.30am the day following on any other day, between 7am and 1.30am the day following and a maximum of 350 patrons.
 - (b) La Bodega, No. 361 Brunswick Street has an on-premises license with the operating hours on ANZAC Day, between 12noon and 11pm and on any other day (excluding Good Friday), between 10am and 11pm and a maximum of 62 patrons.
 - (c) Babka, No. 362 Brunswick Street, has an on-premises license with the operating hours Sunday, between 10am and 11pm, Good Friday and ANZAC Day, between 12noon and 11pm and on any other day, between 7am and 11pm.
 - (d) Masti, Ground Floor No. 354-356 Brunswick Street, has an on-premises license with the operating hours Anzac Day, between 12 noon and 1am the following morning and on any other day, between 7am and 1am the following morning and a maximum of 77 patrons.
 - (e) Nyala African Restaurant, Level 1, No. 356 Brunswick Street, has an on-premises license with the operating hours Sunday, between 10am and 11pm, Good Friday & ANZAC Day, between 12noon and 11pm and on any other day, between 7am and 11pm and a maximum of 77 patrons.

Planning Scheme Provisions

Zoning

Commercial 1 Zone

45. Pursuant to Clause 34.01-1 of the Scheme, a retail premises (food and drink premises) is a Section 1 use, therefore the proposed use does not require a planning permit.
46. Pursuant to Clause 34.01-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works. Therefore, the construction of the rear canopy requires a planning permit under the zone.

Overlays

Heritage Overlay (H0311)

47. Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building and to construct a building or carry out works, including a fence, if the fence is visible from a street (other than a lane) or public park. Given that the fence is not visible from a street, no planning permit is required for construction of the acoustic fence. However, a planning permit is required for the construction of the proposed rear canopy and demolition of the existing fence.
48. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being 'contributory' to the Brunswick Street Precinct Fitzroy.

Development Contributions Plan Overlay (Schedule 1)

49. Pursuant to the schedule to the Development Contributions Plan Overlay, a development infrastructure levy and community infrastructure levy applies to an application that generates an increase in gross floor area. Given that the gross floor area is not proposed to increase, a permit is not required under the overlay.

Particular Provisions

Clause 52.27 Licensed Premises

50. Pursuant to Clause 52.27 of the Scheme, a planning permit is required to use the land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998*. The requirement to obtain a planning permit is therefore triggered under Clause 52.27 of the Scheme.
51. The policy will be discussed further in the *Assessment* section of this report.

General Provisions

52. 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 State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

Planning Policy Framework (PPF)

Clause 11.03-1S – Activity Centres

54. The objective of this clause is:
 - (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centre that are highly accessible to the community.*

Clause 13.05-1S – Noise Abatement

55. The objective of this clause is:

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

Clause 13.07-1S – Land use compatibility

56. The objective of this clause is:

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

Clause 15.01-2S – Building design

57. The objective of this clause is:

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

Clause 15.01-5S – Neighbourhood Character

58. The objective of this clause is:

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

Clause 17.01-1S – Diversified economy

59. The objective of this clause is:

(a) *To strengthen and diversify the economy.*

60. The relevant strategies set out to achieve this objective include:

(a) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*

(b) *Improve access to jobs close to where people live.*

Clause 17.02-1S – Business

61. The objective of this clause is:

(a) *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

62. The relevant strategies set out to achieve this objective includes:

(a) *Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*

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

Local Planning Policy Framework (LPPF)

Clause 21.02 – Municipal profile

Activity Centres

63. This clause recognises “Yarra’s vibrant Major Activity Centres, being the retail strips of Brunswick, Smith, Victoria and Swan Streets and Bridge Road” and contributes “these activity centres [as] a vital part of Yarra’s culture”.

64. The profile discusses the regional role of Yarra’s Major Activity Centres and envisions that the emerging character of these centres will be an “aggregation of niche offerings in fashion, hospitality, entertainment, and homewares”.

Clause 21.03 – Vision

65. A key vision for the city of Yarra is to include land use that:

(a) *Will accommodate a diverse range of people, including families, the aged, the disabled, and those who are socially or economically disadvantaged.*

Clause 21.04 – Land Use

Clause 21.04-2 Activity Centres

66. The relevant objectives of this clause include:
- (a) *To maintain the long term viability of activity centres.*
 - (b) *To encourage the arts and art venues.*

Clause 21.04-3 – Industry, office and commercial

67. The objective of this clause is:
- (a) *To increase the number and diversity of local employment opportunities.*

Clause 21.08 – Neighbourhoods

Clause 21.08-7 – Fitzroy

68. The clause specifies the following:
- (a) *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.*
69. Figure 17 (Neighbourhood Map) at Clause 21.08-7 identifies the site to be located in the Brunswick Street Major Activity Centre (BSMAC).

Relevant Local Policies

Clause 22.05 – Interface uses policy

70. This policy applies to applications for use or development within Commercial 1 Zones (amongst others).
71. The relevant objective of this clause is:
- (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 – Licensed Premises

72. This policy applies to an application under Clause 52.27 (Licensed Premises).
73. 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 the reasonable commercial opportunities for the trading of licensed premises.*

Advertising

74. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 58 letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 11 objections, the grounds of which are summarised as follows:
- (a) Noise generated from the courtyard from activity associated from liquor consumption, patron numbers and background music onto neighbouring properties to the rear.
 - (b) Light pollution from the existing courtyard onto neighbouring properties to the rear.
 - (c) Impacts a licenced restaurant would have on the value of residential properties within the area.
 - (d) Impacts the rear acoustic wall will have on surrounding trees.

- (e) Lack of detail and justification related to the acoustic measures (rear acoustic wall and canopy)
- (f) Increased number of licenced venues will affect the safety to patrons and residents in the area.

75. A planning consultation meeting was not held given the COVID-19 Pandemic.

76. The applicant submitted an acoustic report post advertising, which was circulated to the objectors with the invitations to the PDC meeting.

Referrals

External Referrals

77. The application was not required to be referred to any external referral authorities.

Internal Referrals

78. The application (as advertised in November/December 2020) was referred to the following units within Council:

- (a) Compliance (Community Amenity)

79. Referral comments have been included as attachments to this report.

External Consultants

80. An Acoustic Report (dated 15 March 2021 and prepared by Octave Acoustics) was referred to SLR Consulting (Acoustic Engineers).

81. The Acoustic report and referral comments from SLR consultants have been included as attachments to this report. The Acoustic Report will form the basis of the assessment and decision.

OFFICER ASSESSMENT

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

- (a) Strategic justification
- (b) Sale and consumption of liquor
- (c) Heritage Overlay
- (d) Buildings and works (Commercial 1 Zone)
- (e) Objector concerns

Strategic justification

83. There is strong policy support within the Planning Policy Frameworks for the sale and consumption of liquor in this location, given the commercial zoning and that the site is located within a highly accessible Major Activity Centre (**MAC**). 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.

84. The application is for sale and consumption of liquor on the premises in association with the existing restaurant. Clauses 13.04-1 and 21.04-2 of the Scheme 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). Whilst the proposal has strong strategic support from the Scheme, local policy 22.09 articulates decision guidelines.

The specific implications of the sale and consumption of liquor will be discussed further in this report, with particular regard to the purpose of the Commercial 1 Zone and interface to residential dwellings. The operation of the proposal will be considered against cumulative impact, off-site amenity impacts and the land use conflicts of the area.

85. The location of the proposed use is considered to have strategic support given the planning policies encourage the concentration of commercial and entertainment uses in and near Major Activity Centres, such as Brunswick Street, which are well connected to public transport and benefit from existing infrastructure (clauses 17.02-1S, 17.02-2S and 18.02-2R).
86. Overall, the proposed licenced venue associated with the existing restaurant, within the Commercial 1 Zone and the Brunswick Street MAC, is considered to comply with strategic planning objectives relevant to activity centres. The existing restaurant currently contributes to the vibrancy of Brunswick Street, where entertainment uses are specifically encouraged and the proposed liquor licence will not contradict the related strategic planning objectives.

Sale and consumption of liquor

87. The decision guidelines at Clause 52.27 of the Scheme, include the consideration of the impact of the sale or consumption of liquor on the amenity of the surrounding area, the impact of the hours of operation and number of patrons on the amenity of the surrounding area and the cumulative impact of any existing licensed premises and the proposed licensed premises.
88. Clause 22.09 (Licensed premises policy) of the Scheme is Council's local policy to guide the assessment of new or extended licensed premises within the municipality. It contains six key elements that will be considered in the following section.
89. The application proposes the sale of liquor for consumption on-site, in association with the existing restaurant use.

Location and Access

90. The subject site is located midblock within the Brunswick Street MAC, with a mix of commercial and residential uses within close proximity. The proposed licenced restaurant is appropriately located given the purpose of a MAC and the subject site's close proximity to multiple alternative transport modes. In addition to being within the Principal Public Transport Network (PPTN) through nearby tram and bus networks, taxi and Uber services would also be readily available. Additionally, the premise has been operating as a restaurant since 2018.
91. The proposed licenced venue has a rear open courtyard and an internal dining area at ground level. The first floor will be used primarily for storage, office use and for bathrooms. Access to and from the premises will be limited via the Brunswick Street frontage only. This will be consistent with the existing restaurant use. There is no other access to and from the site.
92. Overall, the location of the premises within the Commercial 1 Zone and Brunswick Street MAC, as well as the access to the venue limited via Brunswick Street is supported by policy at Clause 22.09.

Venue design

93. Licensed premises should ensure that:
 - (a) *The layout and design of new licensed premises incorporate safe design principles as detailed in the Design Guidelines for Licensed Venues (Victorian Commission of Gambling and Liquor Regulation 2017).*
 - (b) *The entry and exits points of a licensed premise and the areas for queuing of patrons are located away from sensitive land uses.*
 - (c) *Waste management and storage is provided on-site, and noise enclosures are provided where bottle crushers are to be used.*
94. The premises meets the relevant layout and design guidelines for the following reasons:

- (a) The glazing to the street (associated with the entry and internal dining area) provide opportunities for informal and passive surveillance of the street environment.
 - (b) The entry is clearly distinguishable.
 - (c) The entry is provided to Brunswick Street, away from the residential interface to the rear (east), providing safe and easy navigation for patrons to public transport, taxis and ride share.
 - (d) Unisex bathrooms are provided internally to the building.
95. The red line plan includes the first floor and the staircase of the existing building. It is noted that the first floor is limited to storage, bathrooms and an ancillary office space, and does not contain any dining areas for patrons. Therefore, it is recommended that a condition be included on any permit issued requiring the first floor and staircase to be excluded from the red line plan.
96. With respect to waste management, the Noise and Amenity Action Plan (NAAP) submitted confirms that waste bins will be stored at the rear of the premises and waste collections will occur twice a week, while bins will be emptied into bins between 6pm and 7pm. This complies with policy at Clause 22.09-3 of the Scheme. However, it is not reflected on the red line plan. Hence, a condition is recommended to require an amended proposed floor plan that shows the location of the bin storage area within the title boundaries of the site, showing capacity and the separate glass recycling. The submission of a satisfactory Waste Management Plan will also be required to determine the likely waste generation so the bin size and collection frequency can be confirmed and to ensure bins remain on-site, other than during collection times.
97. In addition, a condition is recommended on any permit issued requiring a sign to be erected at the exit of the venue to advise patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.

Hours of operation

98. The application proposes the sale and consumption of liquor to be carried out between 10.00am and 9.00pm, seven days a week.
99. Clause 22.09 (Licensed premises policy) provides the following guidelines, relevant to the proposal:
- (a) *Licensed premises (including packaged liquor outlets) should not commence the sale and consumption of liquor before 9am.*
 - (b) *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.*
 - (c) *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.*
 - (d) *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.*
100. The proposed hours for the sale and consumption of liquor comply with the relevant local policy guidelines and thus, should form the basis of a condition to any permit issued.
101. It is considered that the sale of liquor for consumption on the premises from 10am until 9.00pm will not adversely affect the amenity of the area.

Patron numbers

102. Policy at Clause 22.09 relating to patron numbers aim to ensure that the number of patrons do not exceed the safe and amenable operating capacity of the premises. Additionally, the number of patrons should reflect the strategic and physical context of the site and should not adversely affect the amenity of nearby properties or the surrounding area, including by any unreasonable cumulative impact.
103. The application proposes 50 patrons on the land at any one time. This includes limiting the number of patrons within the rear open courtyard to 35 and 15 internally. It is noted that the site is currently used as a restaurant and there are no existing limits on patron numbers in either the courtyard or internally.
104. Based on VCGLR's guidelines for maximum patron numbers, a ratio of one (1) person per 0.75sqm should be achieved to prevent overcrowding inside a venue. A maximum of 35 patrons within the 48sqm rear courtyard area and a maximum of 15 patrons within the 18sqm internal area would both provide a one (1) person per 1sqm ratio, which exceeds this requirement. It is considered that 50 patrons can be safely accommodated within the subject site. A condition is recommended to enforce these patron restrictions.
105. Overall, the minimal number of patrons proposed will not adversely affect the amenity of nearby properties to the east, nor will it exceed the safe and amenable operating capacity of the premises.

Noise

106. In relation to noise, Clause 22.09-3 specifies that:
- (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.*
107. It is noted that the most common objection to the proposal related to the use of the rear courtyard and the noise generated from patrons onto surrounding residential properties directly to the east of the subject site.
108. It is long held by VCAT that residentially zoned land near, or abutting, Major Activity Centres cannot expect the same level of amenity as would be afforded within a purely residential zone.
109. 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.

110. The subject site is within the Brunswick Street MAC with a Neighbourhood Residential Zone (Schedule 1) directly abutting the subject site to the east. Whilst considerations to residential amenity must be afforded for residential properties, the residential amenity expectations within adjacent land must be tempered, as is recognised in Clause 22.05 (Interface Uses Policy). Nonetheless, subject to conditions, it is considered that a reasonable level of amenity can be experienced by neighbouring uses.
111. In respect of the acoustic performance of the existing building and the proposal concerning the rear courtyard area, the applicant has submitted an acoustic report to thoroughly assess the potential noise impacts created by the proposal. It is noted that Clause 22.09 of the Scheme does not require an acoustic report for an application for a restaurant where the preferred hours of operation are met. Given that the proposed hours of operation are consistent with the preferred hours, an acoustic report is not required. However, in response to the objections received, the applicant has voluntarily submitted an acoustic report to assess patron noise.
112. The assessment carried out, determined that the most affected residential receivers are located approximately 15m directly to the east of the subject site and that compliance with noise criteria at this location is expected to result in compliance at all other potentially affected residential receivers. They also noted that the noise modelling indicates that noise transmission from the patrons in the rear courtyard of the subject site will comply with the noise trigger levels given the proposed construction of a rear acoustic fence.
113. The acoustic report recommended that the acoustic fence at the rear of the property be installed according to the following specification to mitigate patron noise levels at the nearest façade:
 - (a) The fence should be constructed at a height of 2.6m using either lapped timber paling, fibre cement sheeting, lightweight aerated concrete, transparent acrylic panels, glass, profiled sheet cladding or roofing materials as long the selected material (or combined skins) has a surface density of at least 12kg/m²;
 - (b) The fence shall have no gaps or holes in it, or the likelihood of such occurring through natural causes or deformations, thus allowing noise to pass through;
 - (c) The boundary fence must be designed and built in an acceptable manner so that noise will not pass underneath it;
 - (d) It is preferable that the selected cladding is pre-fabricated to be jointed with an overlap or rebated joint (e.g. ship lapped);
 - (e) Where the above requirement cannot be met, any butt joints shall be sealed with a fire rated weatherproof mastic or an overlapping piece of material meeting the mass requirements of 12kg/m² (minimum 35mm each side of the butt joint);
 - (f) Where acoustic timber palings are installed, all palings shall overlap by a minimum of 35mm;
 - (g) Where multiple cladding layers are used (e.g. FC sheeting over timber paling screen, or the roofing system), joints in the cladding materials shall not coincide.
114. To ensure that the appropriate acoustic is installed, a condition is recommended to be included on any permit issued, requiring the specifications of the fence to be in accordance with the above recommendations.
115. It is also noted that, although the proposed canopy would not result in noise attenuation from the proposed use, the other measures and conditions of the proposed use of the rear courtyard, would ensure the noise impacts to the residential properties to the east are not unreasonable.

116. Council's external acoustic engineers (SLR Acoustic Consulting) reviewed the submitted acoustic report and were satisfied that the proposed patron noise from the rear courtyard is reasonable and that the submitted report addressed noise impacts and use of the area during the proposed times would be acceptable.
117. Within the NAAP, the applicant has specified that there will not be any amplified music, live music or DJs on site. However, the applicant has confirmed that they intend to have background music internal to the restaurant as well as within the rear courtyard. Council's Compliance Unit (Community Amenity) has advised that in 2019 they received a complaint in relation to music noise from within the courtyard of the restaurant.
- While the Compliance Unit specified that the current proposal poses a low risk, they did not support external speakers within the rear courtyard (i.e. to enable music to be played) given the proximity to residential properties.
118. Notwithstanding the concerns raised by Council's Compliance Unit, background music in the courtyard is expected to be sufficiently ameliorated by the proposed rear acoustic wall, noting also that the use will cease at 9pm. However, to ensure that music noise will be adequately mitigated, a condition is recommended on any decision issued that an updated acoustic report is provided assessing background music in the courtyard. A condition will also ensure any additional noise mitigation measures required are included on the plans. Further conditions will also require music to be limited to background levels and cease at 9pm. The location of speakers has not been identified on the plans. A condition is needed to identify any external speakers within the rear courtyard.
119. It is also noted that conditions are recommended to be included on any decision, requiring that the use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1) and State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2). This will ensure the use complies with these provisions at all times, thereby ensuring further noise protection for nearby residents.
120. Council's standard condition should also be included on any permit issued requiring that the emptying of bottles into bins in the outdoor area should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday.
121. *Noise and Amenity Action Plan (NAAP)*
122. Pursuant to clause 22.09 of the Scheme A NAAP is not required for the sale and consumption of liquor in association with a restaurant, however the applicant has voluntarily submitted one to address management procedures on the site.
123. The applicant submitted a NAAP (dated 05 November 2020). The Plan addresses relevant management procedures of the venue, including:
- (a) The venues complaint procedure.
 - (b) Waste collection and management.
 - (c) No more than 50 patrons on the premises at any one time.
 - (d) The sale and consumption of liquor will be between 10.00am and 9.00pm, seven days a week.
 - (e) The music will be limited to background.
124. The provisions within the NAAP are considered appropriate in managing the business operation without causing adverse amenity to the area. A condition is recommended to be included on any permit issued requiring that the operation of the business is carried out in strict adherence to the NAAP.

Cumulative Impact

125. The subject site is located within a 'cluster' of licenced premises, as there are three or more (including the proposed premises) within a radius of 100 metres of the subject site. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & ORs*) provides a potential assessment methodology for considering applications that may result in a cumulative impact. The decision also acknowledges that depending on the nature of the use, the required level of assessment will vary.
126. Applying the matrix of risk below, a reasonable consideration would suggest that a score of 1-3 would be no risk, but that a score higher than 3 would be a potential risk and require a cumulative impact assessment.

| Type of Premise | Risk Factor |
|-------------------------|-------------|
| Café / Restaurant | 0 |
| Bar / Restaurant / Café | 1 |
| Bar | 3 |
| Hotel / Tavern | 3 |
| Night Club | 3 |
| Place of Assembly | 2 |
| | |
| Size of Premise | Risk Factor |
| 0 – 49 patrons | 0 |
| 50 – 99 patrons | 1 |
| 100 – 199 patrons | 2 |
| 200+ | 3 |
| | |
| Closing hours | Risk factor |
| 11pm | 0 |
| 12am | 1 |
| 1am | 2 |
| 2am | 3 |
| 3am | 3 |
| After 3am | 4 |

127. In this instance the venue achieves a maximum score of 1, therefore the venue is considered to be no risk, thus a full cumulative impact assessment is not necessary and no further consideration is required.

Heritage

128. The relevant purpose of the Heritage Overlay is to ensure that development does not adversely affect the significance of heritage places. The building on the subject site is identified as being 'contributory' to the Brunswick Street Precinct (HO311). The guidelines for the Heritage Overlay are set out in Clause 22.02 of the Yarra Planning Scheme.
129. Clause 22.02-5.1 of the Scheme encourages the demolition of inappropriate alterations, additions and works that detract from the cultural significance of the place, while discourages the demolition of part of an individually significant or contributory buildings or contributory elements unless the part is not visible from the street or the removal would not adversely affect the contribution of the building to the heritage place. The proposed demolition is limited to the rear fence, not visible from the street. Therefore, the proposed demolition will not detract from the cultural significance of the heritage place and is considered acceptable.
130. Clause 22.02-5.7 of the Scheme seeks to ensure that new development and alterations and additions to a heritage place respect the pattern, rhythm, fenestration, roof form, materials and heritage character of the surrounding streetscape.

131. The proposed canopy will be located at the rear of the subject site, above an existing courtyard. The canopy will not be visible from Brunswick Street and will not impact the contribution of the double storey 'contributory' graded building to the surrounding historic streetscape. The form will be small in relation to the surrounding built environment and will not be a dominant feature within the heritage area. The canopy is proposed to be constructed cloth and will be retractable. Although the design and materials will be contemporary, they will be sympathetic to the heritage character and are considered acceptable.
132. Overall, the proposed works will meet the decision guidelines set out within clause 22.02 and 43.01 of the Yarra Planning Scheme and are considered appropriate.

Commercial 1 Zone (buildings and works)

133. The proposed buildings and works triggered under the Commercial 1 Zone are limited to the construction of a retractable canopy over the rear courtyard. The proposed canopy will be located at the rear and will not be visible from Brunswick Street.
- Before deciding on an application, the responsible authority must consider the movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport. The proposed canopy will be constructed on the rear boundary abutting the rear SPOS of a dwelling to the east, and will therefore not obstruct the movement of pedestrians, vehicles and cyclist. The applicant has not clearly specified the proposed material of the canopy or how far it will extend over the courtyard. A condition is recommended on any decision issued, requiring these details. Overall the proposal will appropriately respond to the decision guidelines within the Commercial 1 Zone and are considered acceptable.
134. With regard to Council's Interface Uses Policy (clause 22.05), it is considered that the proposed works would not result in unreasonable increased noise, visual impact or appearance, odour and air emissions, light spill, loading and unloading or construction noise. Although the canopy will be located opposite SPOS, the impacts will be minimal. The proposed canopy will abut a wall to the north and south and will not impact any surrounding commercial uses.

Objector concerns

135. The majority of the issues raised by objectors have been addressed throughout the assessment section of this report. For ease of reference, the concerns raised and corresponding report sections and/or paragraph numbers are outlined below, as relevant:
- Noise generated from the courtyard from activity associated from liquor consumption, patron numbers and background music onto neighbouring properties to the rear.*
136. This concern has been discussed at paragraphs 106 – 120. Various conditions have been included, regarding patron numbers, music levels, hours of sale and consumption of liquor and patron noise limits, ensuring an appropriate degree of amenity is achieved for nearby residential areas.
- Light pollution from the existing courtyard onto neighbouring properties to the rear.*
137. The rear courtyard is currently used as a restaurant and the lighting to the rear courtyard is not expected to change with the proposal.
- Impacts a licenced restaurant would have on the value of residential properties within the area.*
138. The impact on property values is not a planning consideration.

Impacts the rear acoustic wall will have on surrounding trees.

139. As specified previously within the report, a planning permit is not required for the rear acoustic fence. It is noted that the proposed fence will replace an existing fence of the same height and is setback from surrounding trees.

Lack of detail and justification related to the acoustic measures (rear acoustic wall and canopy)

140. As noted within paragraphs 115, the proposed canopy will not result in acoustic attenuation, while a condition is recommended to be included on any decision issued, requiring the acoustic fence to be of the specifications recommended within the submitted acoustic report.

Increased number of licenced venues will affect the safety to patrons and residents in the area.

141. As outlined within paragraphs 125-127, the proposed licenced venue is of no risk in terms of cumulative impact, while the proposed hours of sale and consumption of liquor and maximum patron number is reasonable. It is also noted that the proposed liquor licence is associated with an existing restaurant and the serving of food is the primary intension of the use.

Conclusion

142. The proposal, subject to conditions outlined in the recommendation below, is considered to generally comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval.

RECOMMENDATION

That having considered all the relevant planning policies, the Committee resolves to Issue a Notice of Decision to issue Planning Permit PLN20/0403 to allow for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, in accordance with the “decision plans” and subject to the following conditions:

1. Before the development or sale and consumption of liquor commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by OGT Solutions Pty Ltd, but modified to show:
 - (a) Details of any noise attenuation measures, including specifications of the proposed rear acoustic wall, in accordance with the recommendations of the endorsed Acoustic Report (condition 7);
 - (b) Location of bin storage within the title boundaries, and in accordance with the endorsed Waste Management Plan (condition 20);
 - (c) Exclude the first floor and staircase from the ‘red line’ area;
 - (d) Details of the canopy, including the material and the area of the extended canopy dashed on the ground floor plan; and
 - (e) Location of any external speakers within the rear courtyard.
2. The development and 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. Except with the prior written consent of the Responsible Authority, the sale of liquor for consumption on the premises may only occur between the hours of 10.00am – 9.00pm, seven days a week.
4. No more than 50 patrons are permitted on the land at any one time, in association with the licensed premises.
5. No more than 35 patrons are permitted in the outdoor courtyard at any one time.
6. Before the sale and consumption of liquor commences, the proposed acoustic fence must be constructed in accordance with the specifications recommended with the endorsed Acoustic Report (Condition 7).
7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 15 March 2021, but modified to address:
 - (a) Background music within the rear courtyard.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. The amenity of the area must not be detrimentally affected by the use, development or sale and consumption of liquor, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
10. 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.
11. 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.
12. 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).
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

14. The provision of music and entertainment on the land must be at a background noise level.
15. The provision of background music within the courtyard to cease at 9pm.
16. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
17. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
18. 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.
19. 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.
20. Before the commencement of the sale and consumption of liquor, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must contain the following;
 - (a) private collection (unless Council collection is otherwise agreed by the Responsible Authority);
 - (b) anticipated waste generation of different waste streams, including separate glass recycling, waste collection process;
 - (c) location of waste storage, including bin wash down area; and
 - (d) details of collection vehicle/s and frequency of collection.
21. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
22. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
23. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
24. 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; or
 - (c) the sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (d) the sale and consumption of liquor is discontinued for a period of two years.

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

Notes

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

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

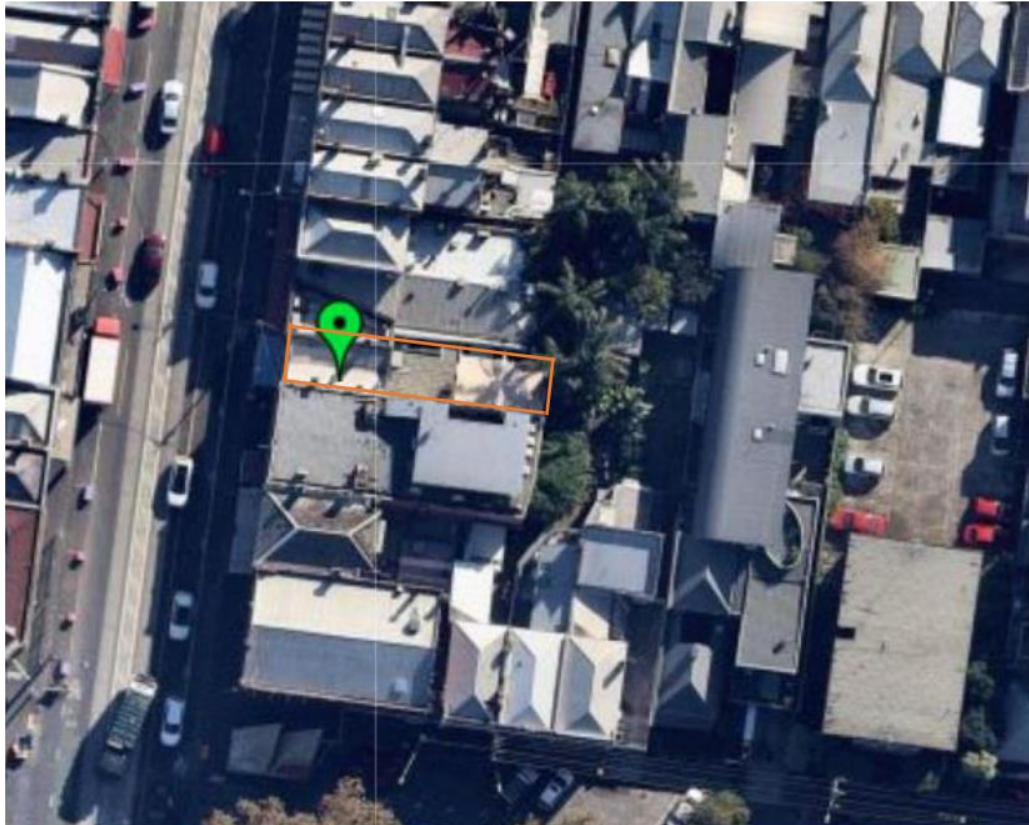
Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

Attachments

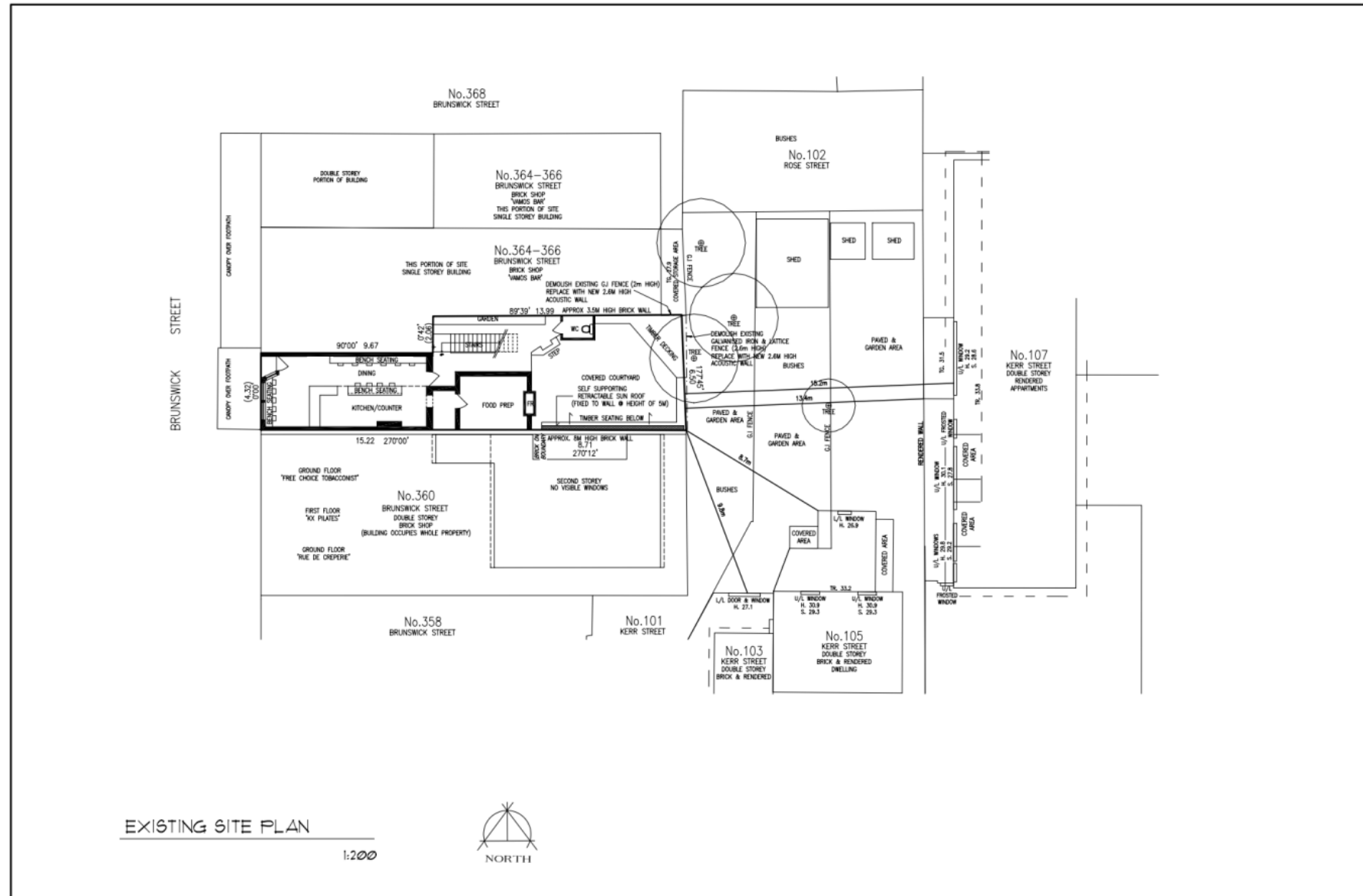
- 1 PLN20/0403 - 362 Brunswick Street Fitzroy - Subject Site Map
- 2 PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans
- 3 PLN20/0403 - 362 Brunswick Street Fitzroy - Acoustic Report PDF
- 4 PLN20/0403 - 362 Brunswick Street Fitzroy - SLR Acoustic Review PDF
- 5 PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Noise and Amenity Action Plan
- 6 PLN20/0403 - 362 Brunswick Street Fitzroy - Civic Compliance Referral Comments


Attachment 1 - PLN20/0403 - 362 Brunswick Street Fitzroy - Subject Site Map

PLN20/0403 – 362 Brunswick Street Fitzroy – Subject Site Map

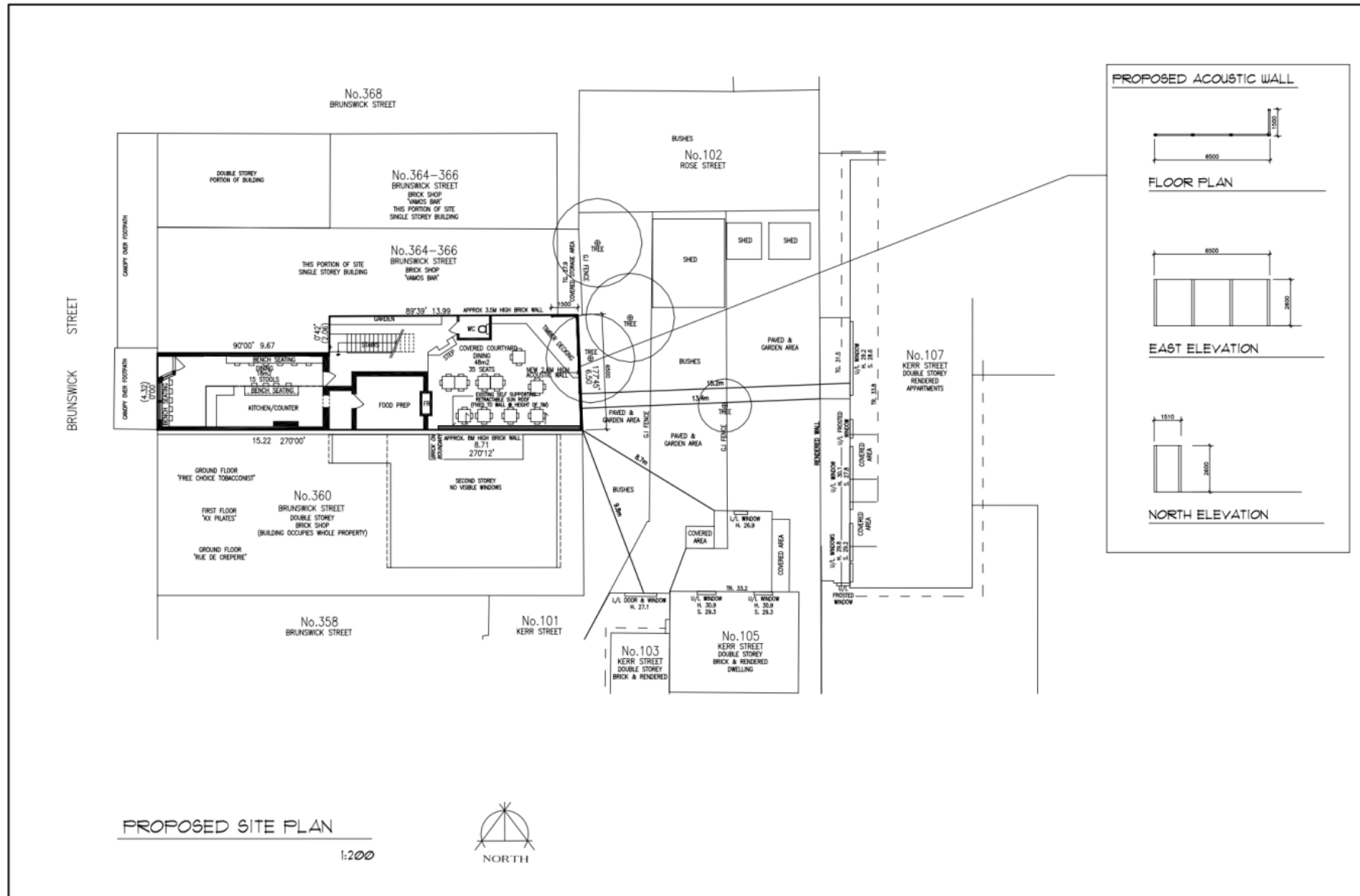



Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans

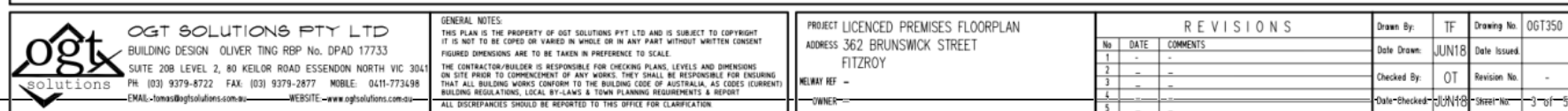


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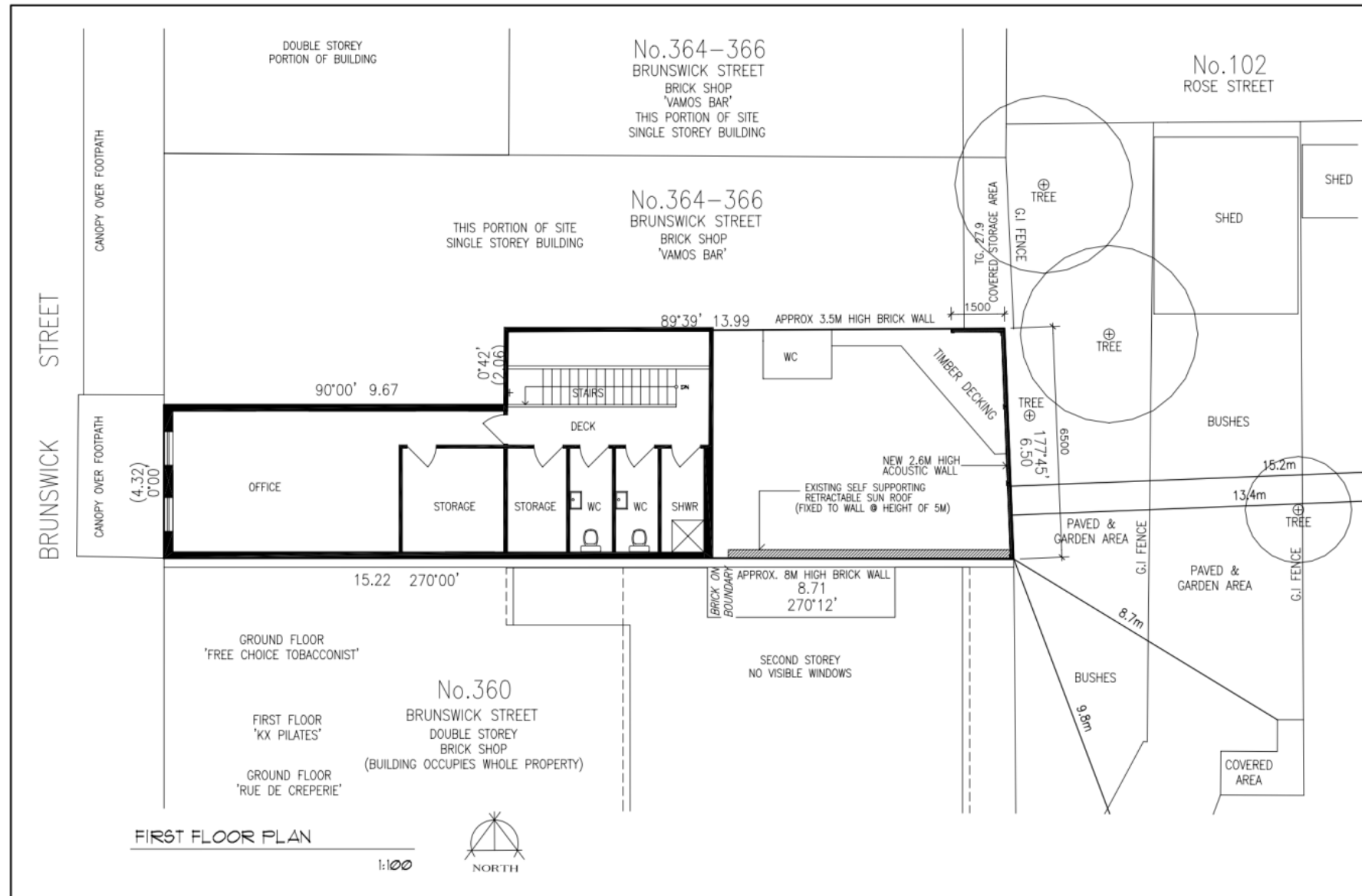
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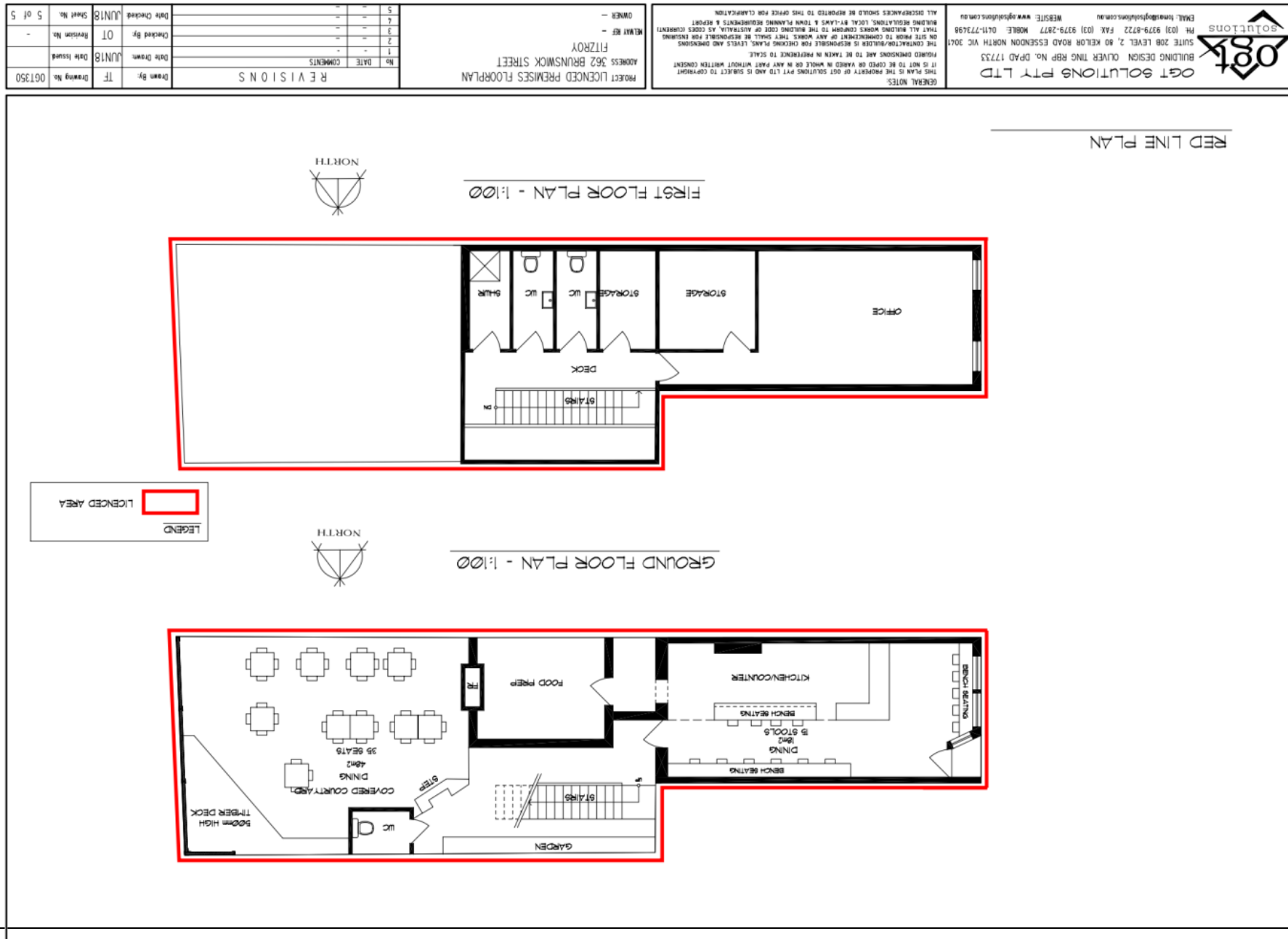


Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans



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| | EMAIL: olomas@ogtsolutions.com.au WEBSITE: www.ogtsolutions.com.au | | ALL DISCREPANCIES SHOULD BE REPORTED TO THIS OFFICE FOR CLARIFICATION. | | OWNER - | | 2 - - 3 - - 4 - - 5 - - 6 - - | | | | |

Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans



Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans

Quotation

Reference 457
Date 9th October 2020



Creative Walls & Fencing Pty Ltd.

PO BOX 8151
Tameit Victoria
3029

To **Swindon Town Planning**
362 Brunswick Rd
Fitzroy
3065

Tel: 0417 985 950

Email: paul@creativewallsandfencing.com

Hi Alan

Thank you for the opportunity to quote for work at the above address, we have the pleasure of providing you with the following quotation.

Please feel free to contact us with any questions you have.

Modular Wall, AcoustiSorb

Supply and Install Modular Wall AcoustiSorb Wall 8mtrs x 2.7mtrs

AcoustiSorb Panels 75mm x 2000mm x 600mm
AcousticMax Panels 75mm x 2400mm x 300mm
Vogue Classic Posts 250mm x 150mm x 3700mm
Vogue Capping Channels Flush
Vogue Posts Caps Flush
Vogue Joining Strips
Vogue 75mm Brackets
Sikaflex
Removal and Takeaway of old fence
Scaffold
Concrete
Labour

Footings 450mm x 1000mm

Painting Vogue Wall with Wattyl Solarguard Optional \$800 2 coats per side
Materials

\$12,500.00
10% GST · \$1,250.00
\$13,750.00

Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans

| | |
|-----------|-------------|
| Sub Total | \$12,500.00 |
| GST @ 10% | \$1,250.00 |

| | |
|---------------|--------------------|
| Total: | \$13,750.00 |
|---------------|--------------------|

Notes

PLEASE SIGN HERE TO ACCEPT QUOTATION.

50% REQUIRED BEFORE THE START OF THE INSTALLATION AND THE REMAINING 50% ON THE DAY OF COMPLETION. IF THE FINAL PAYMENT ISN'T MADE ON THE FINISHED DATE A 15% LATE FEE APPLIES.

IF FINAL PAYMENT ISN'T MADE THEN THE MATERIALS WILL BE REMOVE AS THE MATERIALS BELONG TO CREATIVE WALLS & FENCINGS UNTIL FINAL PAYMENT HAS BEEN MADE.

Company Registration Number: 612 522 577

GST Number: 25337385560

Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans

Quotation

Reference 456
Date 9th October 2020



Creative Walls & Fencing Pty Ltd.

PO BOX 8151
Tameit Victoria
3029

To **Swindon Town Planning**
362 Brunswick Rd
Fitzroy
3065

Tel: 0417 985 950

Email: paul@creativewallsandfencing.com

Hi Alan

Thank you for the opportunity to quote for work at the above address, we have the pleasure of providing you with the following quotation.

Please feel free to contact us with any questions you have.

Modular Wall, Vogue Wall Classic

Supply and Install Modular Wall Vogue Wall 8mtrs x 2.7mtrs

AcousticMax Panels 75mm x 2400mm x 900mm
Vogue Classic Posts 250mm x 150mm x 3700mm
Vogue Capping Channels Flush
Vogue Posts Caps Flush
Vogue Joining Strips
Vogue 75mm Brackets
Sikaflex
Removal and Takeaway of old fence
Scaffold
Concrete
Labour

Footings 450mm x 1000mm

Painting Vogue Wall with Watty! Solarguard Optional \$800 2 coats per side

Materials

\$8,500.00
10% GST - \$850.00
\$9,350.00

Attachment 2 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Plans

Sub Total \$8,500.00

GST @ 10% \$850.00

Total: \$9,350.00

Notes

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50% REQUIRED BEFORE THE START OF THE INSTALLATION AND THE REMAINING 50% ON THE DAY OF COMPLETION. IF THE FINAL PAYMENT ISN'T MADE ON THE FINISHED DATE A 15% LATE FEE APPLIES.

IF FINAL PAYMENT ISN'T MADE THEN THE MATERIALS WILL BE REMOVE AS THE MATERIALS BELONG TO CREATIVE WALLS & FENCINGS UNTIL FINAL PAYMENT HAS BEEN MADE.

Company Registration Number: 612 522 577

GST Number: 25337385560



362 BRUNSWICK ST, FITZROY

Acoustic Assessment

Swindon Town Planning

15 MARCH 2021



Attachment 3 - PLN20/0403 - 362 Brunswick Street Fitzroy - Acoustic Report PDF

Octave Acoustics
 ABN 60 615 372 873
 Ph +61 3 9492 5990
 1A, 3 Harris Street, Yarraville
 Melbourne, Vic 3013



Project 362 Brunswick St, Fitzroy
 Client Swindon Town Planning
 Document number AB331ME-01E02 Acoustic Assessment (r0)

| Revision | Date | Comment | Author | Reviewer |
|----------|------------|------------------|--------|----------|
| 0 | 15.03.2021 | Issued to client | NT | TM |
| | | | | |
| | | | | |
| | | | | |

Disclaimer:

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362 Brunswick St, Fitzroy
 Acoustic Assessment

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1 Introduction

Octave Acoustics was engaged by Swindon Town Planning to provide an acoustic assessment of patron noise impacts relating to the operation of an outdoor area at Tahina Restaurant, located at 362 Brunswick St, Fitzroy (Subject Venue/Subject Site) in support of a town planning application for City of Yarra.

It is understood that this outdoor area has a licensed capacity of 35 patrons, and operates until 9pm everyday except public holidays. It is further understood that a 2.6m high fence is proposed to be constructed at the rear boundary, replacing the existing 1.8m high fence.

The Subject Site is zoned C1Z (Commercial 1 zone) and to the east of the site is zoned NRZ1 (Neighbourhood Residential Zone 1). The potentially most affected residential receivers are the residential properties located to the east of the restaurant, at 107 Kerr St as shown in Figure 1. Compliance with noise criteria at this location is expected to result in compliance at all other potentially affected residential receivers. This document provides a summary of the assessment and resulting findings.

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2 Site Investigation

Octave Acoustics placed an unattended noise logger on site to record noise levels from Thursday the 4th of February to Thursday the 11th of February 2021. However, it was found that the recordings were affected by plant noise emanating from an adjoining building. As such, an additional attended measurement was conducted on Monday the 1st of March 2021 from 10pm to 10.30pm at the nearest representative location, which was in the carpark behind the adjacent residence (refer "Measurement Location" in Figure 1). Plant noise was not clearly audible in this location.

It has been observed that there are a few venues playing music until late along Brunswick St, across from Tahina, however, it was inaudible at any of the measurement locations.

Monitoring was carried out using an NTI XL2 sound level meter which was calibrated before and after the assessment periods using a Bruel & Kjaer 4230 calibrator. No drift in calibration was detected. The NTI XL2 complies with the requirements of IEC 61672-1:2004 Sound Level Meters and is classified as a Class 1 instrument. The calibrator complies with the requirements of IEC 60942:2004 Sound Calibrators. The XL2 carried current manufacturer's certification and the calibrator carried current NATA certification.

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FIGURE 1 – SITE CONTEXT

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3 Criteria

3.1 Patron Noise

There are no mandatory criteria or guidelines for the assessment of patron noise in the state of Victoria. Victorian members of the Association of Australasian Acoustical Consultants (AAAC) have conferred in an attempt to define an appropriate assessment framework, however, consensus has not been reached.

Assessment of patron noise in Victoria typically consists of two assessments, the first for the quasi-steady state nature of the noise, the second for transient events. The quasi-steady state assessment relates to what might otherwise be referred to as the 'general babble' noise of a crowd, whereas the transient assessment applies to maximums associated with intermittent loud laughter or shouting.

Octave Acoustics adopts noise trigger levels with which to assess patron noise against during the evening period. Experience shows that patron noise levels lower than the set trigger levels result in acceptable amenity outcomes. Patron noise levels exceeding a trigger requires specific consideration of the context, nature and magnitude in order to determine whether amenity impacts may be unreasonable. Patron noise assessment criteria adopted by Octave Acoustics are set out in Section 3.1.1 and 3.1.2 below. This is in accordance with the "MDA approach" listed in the document Guidelines – Managing Noise Impacts in Urban Development dated October 2019, published by City of Yarra.

3.1.1 Quasi-steady state criteria

TABLE 1 – QUASI-STEADY STATE PATRON NOISE TRIGGERS

| Period | Time | Minimum Ambient Background, dB L _{A90} | Criteria Adjustment | Trigger Level, dB L _{Aeq} |
|---------|---|---|---------------------|------------------------------------|
| Evening | 9pm | 41 ¹ | +10 | 51 |
| Notes: | 1. 30 min L _{A90} measured after the Subject Venue had closed. This was measured between 10pm-10.30pm on Monday 1 st of March 2021. | | | |

3.1.2 Transient Criteria

Octave Acoustics applies sleep disturbance triggers to the assessment of transient patron noise. Whilst there are currently no policies or guidelines in Victoria for the assessment of sleep disturbance, VCAT typically accepts triggers defined in accordance with the NSW Environmental Criteria for Road Traffic Noise 1999 (ECTRAN). The ECTRAN concludes that:

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- *Maximum internal noise levels below 50-55dB(A) are unlikely to awaken people from sleep; and*
- *One or two noise events per night, with maximum internal noise levels of 65-70dB(A) are not likely to affect health and wellbeing significantly*

These triggers are usually only applied between the hours 10pm to 7am. Where residential windows may be open for ventilation, it is generally accepted that the noise reduction via the open window is 10dB(A). Therefore, external noise levels need to exceed sleep disturbance triggers by more than 10dB(A) to warrant further assessment.

TABLE 2 – SLEEP DISTURBANCE NOISE TRIGGERS

| Bedroom Trigger Level, dB L _{Amax} | Correction for Outdoor Level | Associated Outdoor Trigger Level, dB L _{Amax} |
|--|------------------------------|---|
| 50-55 | +10 dB | 60-65 |

As the use of outdoor area is not proposed within the night period (e.g. ceases operation at 9pm), transient events are not considered within this report.



4 Assessment and Recommendations

4.1 Noise Modelling

A 3-D computer noise model of the restaurant, the outdoor area and residential dwellings to the east, behind the restaurant was built in CadnaA software and calculations run implementing the ISO9613 algorithms. The ISO9613 algorithms calculate the propagation of noise between source and receiver taking into account propagation effects associated with:

- Source sound power;
- Geometrical spreading;
- Atmospheric conditions;
- Air-absorption;
- Ground absorption (ground absorption was set to 0 in the model for the assessment);
- Reflections; and
- Barrier effects associated with the built form of the Subject Venue

4.2 Patron Noise

Sound power levels for patrons were calculated using the method described by Hayne et al. in *Prediction of Noise from Small to Medium Sized Crowds* (2011), but adjusted by increasing sound power levels by a further 5dB to account for influences associated with the consumption of alcohol and the provision of food. The resulting patron sound power levels are presented in Table 3.

TABLE 3 – PATRON SOUND POWER LEVELS, LEQ RE 10^{-12} WATTS

| Location | Number of Patrons | SWL, dB(A) | Octave Band Center Frequency (Hz) | | | | | | |
|--------------|-------------------|------------|-----------------------------------|-----|-----|-----|------|------|------|
| | | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Outdoor Area | 35 Max | 92 | 80 | 80 | 85 | 91 | 88 | 83 | 75 |

The patron sound source was set to a height of 1.2m above ground level in the model to represent patrons seated at the tables. Patron noise levels at the façade of the residential property overlooking the outdoor area was calculated using the CadnaA model. The results of modelling were compared with the applicable patron noise triggers.

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4.2.1 Quasi-Steady State Assessment

The resulting analysis of quasi-steady state noise, incorporating the proposed 2.6m high perimeter fence, is presented below in Table 4.

TABLE 4 - QUASI-STEADY STATE PATRON NOISE ASSESSMENT – 2.6M FENCE

| Time of Assessment | Trigger Level (dB, L_{Aeq}) | Patron Noise Level at apartment (dB, L_{Aeq}) | Further Consideration Required? | Resulting Impact Considered Acceptable? |
|--------------------|--------------------------------|--|---------------------------------|---|
| 9pm | 51 | 51 | No | Yes |

It is recommended that the acoustic fence be installed to the extent shown in Appendix B: and according to the following specification to mitigate patron noise levels at the nearest façade:

- The fence should be constructed at a height of 2.6m using either lapped timber paling, fibre cement sheeting, lightweight aerated concrete, transparent acrylic panels, glass, profiled sheet cladding or roofing materials as long the selected material (or combined skins) has a surface density of at least 12kg/m^2 ;
- The fence shall have no gaps or holes in it, or the likelihood of such occurring through natural causes or deformations, thus allowing noise to pass through;
- The boundary fence must be designed and built in an acceptable manner so that noise will not pass underneath it;
- It is preferable that the selected cladding is pre-fabricated to be jointed with an overlap or rebated joint (e.g. ship lapped);
- Where the above requirement cannot be met, any butt joints shall be sealed with a fire-rated weatherproof mastic or an overlapping piece of material meeting the mass requirements of 12kg/m^2 (minimum 35mm each side of the butt joint);
- Where acoustic timber palings are installed, all palings shall overlap by a minimum of 35mm;
- Where multiple cladding layers are used (e.g. FC sheeting over timber paling screen, or the roofing system), joints in the cladding materials shall not coincide.

5 Conclusion

Octave Acoustics has carried out an assessment of potential patron noise impacts associated with the outdoor area at the Tahina restaurant, located at 362 Brunswick St, Fitzroy. The potentially most affected residential receivers are located approximately 15m directly to the east of the Subject Venue. Compliance with noise criteria at this location is expected to result in compliance at all other potentially affected residential receivers.

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Noise modelling indicates that noise transmission from the patrons in the outdoor area of the Subject Venue will comply with the noise trigger levels if an acoustic fence is installed at the back courtyard boundary of the facade as specified in Section 4.2.1.



Appendix A: Glossary of Acoustic Terms

'A' FREQUENCY WEIGHTING

The 'A' frequency weighting roughly approximates to the Fletcher-Munson 40 phon equal loudness contour. The human loudness perception at various frequencies and sound pressure levels is equated to the level of 40 dB at 1 kHz. The human ear is less sensitive to low frequency sound and very high frequency sound than midrange frequency sound (i.e. 500 Hz to 6 kHz). Humans are most sensitive to midrange frequency sounds, such as a child's scream. Sound level meters have inbuilt frequency weighting networks that very roughly approximates the human loudness response at low sound levels. It should be noted that the human loudness response is not the same as the human annoyance response to sound. Here low frequency sounds can be more annoying than midrange frequency sounds even at very low loudness levels. The 'A' weighting is the most commonly used frequency weighting for occupational and environmental noise assessments. However, for environmental noise assessments, adjustments for the character of the sound will often be required.

AMBIENT NOISE

The ambient noise level at a particular location is the overall environmental noise level caused by all noise sources in the area, both near and far, including all forms of traffic, industry, lawnmowers, wind in foliage, insects, animals, etc. Usually assessed as an energy average over a set time period 'T' ($L_{Aeq,T}$).

AUDIBLE

Audible refers to a sound that can be heard. There are a range of audibility grades, varying from "barely audible", "just audible" to "clearly audible" and "prominent".

BACKGROUND NOISE LEVEL

Total silence does not exist in the natural or built-environments, only varying degrees of noise. The Background Noise Level is the minimum repeatable level of noise measured in the absence of the noise under investigation and any other short-term noises such as those caused by all forms of traffic, industry, lawnmowers, wind in foliage, insects, animals, etc. It is quantified by the noise level that is exceeded for 90 % of the measurement period 'T' ($L_{A90,T}$). Background Noise Levels are often determined for the day, evening and night time periods where relevant. This is done by statistically analysing the range of time period (typically 15 minute) measurements over multiple days (often 7 days). For a 15-minute measurement period the Background Noise Level is set at the quietest level that occurs at 1.5 minutes.

'C' FREQUENCY WEIGHTING

The 'C' frequency weighting approximates the 100 phon equal loudness contour. The human ear frequency response is more linear at high sound levels and the 100 phon equal loudness

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contour attempts to represent this at various frequencies at sound levels of approximately 100 dB.

DECIBEL

The decibel (dB) is a logarithmic scale that allows a wide range of values to be compressed into a more comprehensible range, typically 0 dB to 120 dB. The decibel is ten times the logarithm of the ratio of any two quantities that relate to the flow of energy (i.e. power). When used in acoustics it is the ratio of the square of the sound pressure level to a reference sound pressure level, the ratio of the sound power level to a reference sound power level, or the ratio of the sound intensity level to a reference sound intensity level. See also Sound Pressure Level and Sound Power Level. Noise levels in decibels cannot be added arithmetically since they are logarithmic numbers. If one machine is generating a noise level of 50 dB, and another similar machine is placed beside it, the level will increase to 53 dB (from $10 \log_{10}(10^{(50/10)} + 10^{(50/10)})$) and not 100 dB. In theory, ten similar machines placed side by side will increase the sound level by 10 dB, and one hundred machines increase the sound level by 20 dB. The human ear has a vast sound-sensitivity range of over a thousand billion to one, so the logarithmic decibel scale is useful for acoustical assessments.

dBA – See 'A' frequency weighting

dB(C) – See 'C' frequency weighting

EQUIVALENT CONTINUOUS SOUND LEVEL, L_{Aeq}

Many sounds, such as road traffic noise or construction noise, vary repeatedly in level over a period of time. More sophisticated sound level meters have an integrating/averaging electronic device inbuilt, which will display the energy time-average (equivalent continuous sound level - L_{Aeq}) of the 'A' frequency weighted sound pressure level. Because the decibel scale is a logarithmic ratio, the higher noise levels have far more sound energy, and therefore the L_{Aeq} level tends to indicate an average which is strongly influenced by short-term, high level noise events. Many studies show that human reaction to level-varying sounds tends to relate closer to the L_{Aeq} noise level than any other descriptor.

'F'(FAST) TIME WEIGHTING

Sound level meter design-goal time constant which is 0.125 seconds.

FREE FIELD

In acoustics a free field is a measurement area not subject to significant reflection of acoustical energy. A free field measurement is typically not closer than 3.5 metres to any large flat object (other than the ground) such as a fence or wall or inside an anechoic chamber.

FREQUENCY

The number of oscillations or cycles of a wave motion per unit time, the SI unit is the hertz (Hz). 1 Hz is equivalent to one cycle per second. 1000 Hz is 1 kHz.

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The volume to which a sound is audible to a listener is a subjective term referred to as loudness. Humans generally perceive an approximate doubling of loudness when the sound level increases by about 10 dB and an approximate halving of loudness when the sound level decreases by about 10 dB.

MAXIMUM NOISE LEVEL, LAFmax

The root-mean-square (rms) maximum sound pressure level measured with sound level meter using the 'A' frequency weighting and the 'F' (Fast) time weighting. Often used for noise assessments other than aircraft.

MAXIMUM NOISE LEVEL, LASmax

The root-mean-square (rms) maximum sound pressure level measured with sound level meter using the 'A' frequency weighting and the 'S' (Slow) time weighting. Often used for aircraft noise assessments.

NOISE

Noise is unwanted, harmful or inharmonious (discordant) sound. Sound is wave motion within matter, be it gaseous, liquid or solid. Noise usually includes vibration as well as sound.

OFFENSIVE NOISE

Reference: Dictionary of the NSW Protection of the Environment Operations Act 1997).

"Offensive Noise means noise:

(a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:

(i) is harmful to (or likely to be harmful to) a person who is outside the premise from which it is emitted, or

(ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

(b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances prescribed by the regulations."

'S' (SLOW) TIME WEIGHTING

Sound level meter design-goal time constant which is 1 second.

SOUND ATTENUATION

A reduction of sound due to distance, enclosure or some other device. If an enclosure is placed around a machine, or an attenuator (muffler or silencer) is fitted to a duct, the noise emission

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is reduced or attenuated. An enclosure that attenuates the noise level by 20 dB reduces the sound energy by one hundred times.

SOUND EXPOSURE LEVEL (LAE)

Integration (summation) rather than an average of the sound energy over a set time period. Use to assess single noise events such as truck or train pass by or aircraft flyovers. The sound exposure level is related to the energy average ($L_{Aeq,T}$) by the formula $L_{Aeq,T} = LAE - 10 \log_{10} T$. The abbreviation (SEL) is sometimes inconsistently used in place of the symbol (LAE).

SOUND PRESSURE

The rms sound pressure measured in pascals (Pa). A pascal is a unit equivalent to a newton per square metre (N/m^2).

SOUND PRESSURE LEVEL, L_p

The level of sound measured on a sound level meter and expressed in decibels (dB). Where $L_p = 10 \log_{10}(P_a/P_o)^2$ dB (or $20 \log_{10}(P_a/P_o)$ dB) where P_a is the rms sound pressure in Pascal and P_o is a reference sound pressure conventionally chosen is $20 \mu Pa$ (20×10^{-6} Pa) for airborne sound. L_p varies with distance from a noise source.

SOUND POWER

The rms sound power measured in watts (W). The watt is a unit defined as one joule per second. A measures the rate of energy flow, conversion or transfer.

SOUND POWER LEVEL, L_w

The sound power level of a noise source is the inherent noise of the device. Therefore, sound power level does not vary with distance from the noise source or with a different acoustic environment. $L_w = L_p + 10 \log_{10} 'a'$ dB,

re: $1pW$, (10^{-12} watts) where 'a' is the measurement noise-emission area (m^2) in a free field.

SOUND TRANSMISSION LOSS

The amount in decibels by which a random sound is reduced as it passes through a sound barrier. A method for the measurement of airborne Sound Transmission Loss of a building partition is given in Australian Standard AS1191 - 2002.

STATISTICAL NOISE LEVELS, L_n

Noise which varies in level over a specific period of time 'T' (standard measurement times are often 15-minute periods) may be quantified in terms of various statistical descriptors with some common examples:

The noise level, in decibels, exceeded for 1% of the measurement time period, when 'A' frequency weighted and 'F' time weighted is reference to as $L_{AF1,T}$. This may be used for describing short-term noise levels such as could cause sleep arousal during the night.

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The noise level, in decibels, exceeded for 10% of the measurement time period, when 'A' frequency weighted and 'F' time weighted is reference to as $L_{AF10,T}$. In most countries the $L_{AF10,T}$ is measured over periods of 15 minutes, and is used to describe the average maximum noise level.

The noise level, in decibels, exceeded for 90% of the measurement time period, when 'A' frequency weighted and 'F' time weighted is reference to as $L_{AF90,T}$. In most countries the $L_{AF90,T}$ is measured over periods of 15 minutes, and is used to describe the average minimum or background noise level.

WEIGHTED SOUND REDUCTION INDEX, R_w

This is a single number rating of the airborne sound insulation of a wall, partition or ceiling. The sound reduction is normally measured over a frequency range of 100 Hz to 3.150 kHz and averaged in accordance with ISO standard weighting curves (Refer AS/NZS 1276.1:1999). Internal partition wall R_w+C ratings are frequency weighted to simulate insulation from human voice noise. The R_w+C is similar in value to the STC rating value. External walls, doors and windows may be R_w+C_{tr} rated to simulate insulation from road traffic noise. The spectrum adaptation term C_{tr} adjustment factor takes account of low frequency noise. The weighted sound reduction index is normally similar or slightly lower number than the STC rating value.

'Z' FREQUENCY WEIGHTING

The 'Z' (Zero) frequency weighting is 0 dB within the nominal 1/3 octave band frequency range centred on 10 Hz to 20 kHz. This is within the tolerance limits given in AS IEC 61672.1-2004: 'Electroacoustics - Sound level meters – Specifications'.

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Appendix B: Acoustic Fence Mark-Up

362 Brunswick St, Fitzroy
Acoustic Assessment

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19 April 2021

640.10090.06830 362 Brunswick St Fitzroy 20210419.docx

Yarra City Council
PO Box 168
RICHMOND 3121

Attention: Joe Byrne

Dear Joe

**362 Brunswick Street, Fitzroy
Development Application Acoustic Review
PLN 20/0403**

SLR Consulting Pty Ltd (SLR) has been retained by the City of Yarra to provide a review of the acoustic assessment report for the proposed changes to the operation of the restaurant at 362 Brunswick Street, Fitzroy.

Details of the report are as follows.

- Title: 362 Brunswick Street, Fitzroy, Acoustic Assessment
- Reference: AB331ME-01E02 Acoustic Assessment (r0)
- Date: 15 March 2021
- Prepared for: Swindon Town Planning
- Prepared by: Octave Acoustics

The report has been prepared to address noise impacts from the proposed outdoor patron area of the existing restaurant at the subject address.

1 Background Information

(Sections 1, of the acoustic report)

The venue is proposing to create an outdoor patron area. Details of the proposal are as follows:

- Patron capacity: 35
- Hours of operation, up to 9 pm daily
- Potentially most impacted noise sensitive receiver is identified as the apartment development at 107 Kerr Street.
- A 2.6 m high fence is proposed to be constructed to replace the existing 1.8 m high fence.

Attachment 4 - PLN20/0403 - 362 Brunswick Street Fitzroy - SLR Acoustic Review PDF

Yarra City Council
362 Brunswick Street, Fitzroy
Development Application Acoustic Review
PLN 20/0403

SLR Ref: 640.10090.06830 362 Brunswick St Fitzroy
20210419.docx
Date: 19 April 2021

SLR Comments: From our review of the area, the land between the subject site and the residential development at 107 Kerr Street is private open space for the dwellings at 101, 103 and 105 Kerr Street. However, the development at 107 Kerr Street appears to be three levels high and upper levels may consequently have more exposure to noise from the proposed outdoor area than ground level receivers in the private open space of 101, 103 and 105 Kerr Street. As such, 107 Kerr Street is likely to be the most impacted receiver location.

Octave have clarified to us via email that they have assessed noise to ground and level one receivers at 107 Kerr Street. This is a reasonable approach as, from the photo provided by Octave, the third level of 107 Kerr Street does not have windows in the western façade.

The outdoor patron area is described on the plans as having a retractable sun roof fixed to the existing south wall at a height of 5 m. The area is also described on the plans as being 'covered courtyard dining'. Octave have clarified that the roof over the outdoor patron area is shade cloth / acoustically transparent. As such, its presence is not expected to affect sound propagation from the area.

A photo of the outdoor patron area looking towards the nearest noise sensitive receiver, as provided to us by Octave, is included below.



2 Background noise measurements

(Sections 2 and 3.1.1 of the acoustic report)

Attended measurements of background noise were conducted on Monday 1 March 2021 from 10 pm to 10:30 pm, in the carpark east of 107 Kerr Street. Mechanical plant and music noise from nearby businesses were noted to be inaudible at this location. The measured noise level was 41 dBA L90.

SLR Comments: The measurement time and location is reasonable for providing a conservative estimation of background noise levels at upper levels of 107 Kerr Street.

Attachment 4 - PLN20/0403 - 362 Brunswick Street Fitzroy - SLR Acoustic Review PDF

Yarra City Council
362 Brunswick Street, Fitzroy
Development Application Acoustic Review
PLN 20/0403

SLR Ref: 640.10090.06830 362 Brunswick St Fitzroy
20210419.docx
Date: 19 April 2021

3 Patron noise criteria

(Section 3 of the report)

Patron noise is proposed to be assessed to Leq targets of 'background + 10 dB'. The identified limit (described as a trigger level) is 51 dBA Leq. Patron noise has not been assessed to L_{max} / sleep disturbance targets due to the fact that the outdoor patron area is not proposed to be used at night.

SLR Comments: *The proposed criteria are reasonable.*

4 Patron noise assessment

(Section 4 of the report)

A computer noise model has been prepared to predict patron noise to the identified sensitive receiver location. A sound power level of 92 dBA has been assumed for the 35 patrons. The level is based on predictive algorithms provided in a paper prepared by Hayne et al. for 'Noise from Small to Medium Sized Crowds'. The calculated sound power level has been increased by a further 5 dB to allow for the effects of alcohol.

Patron noise has been modelled as a source at 1.2 m high.

A noise level of 51 dBA is predicted at the façade of 107 Kerr Street, which is noted to comply with the identified trigger level.

Octave provide advice for the proposed fence to assist in noise control. The location and extent of the fence is shown in Appendix B.

SLR Comments: *The proposed patron sound power level is considered reasonable for an outdoor crowd of 35 people.*

Our indicative calculations of noise to first floor receivers at 107 Kerr Street agree with Octave's.

5 Summary

SLR Consulting Australia has reviewed the acoustic report prepared to support the proposed outdoor patron area at the restaurant at 362 Brunswick Street, Fitzroy.

In our opinion the report addresses noise impacts from the proposal and use of the area during the times proposed would be acceptable.

Regards,



Dianne Williams
Principal – Acoustics

| |
|----------------|
| Reviewed by JA |
|----------------|

Attachment 5 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Noise and Amenity Action Plan

5 November 2020



36 Mountain View Road
Montmorency Victoria 3094
Mobile 0411 226 606
Fax 03 9435 2909
Email aswindon1@bigpond.com

NOISE & AMENITY ACTION PLAN

Tahina Fitzroy 362 Brunswick Street Fitzroy 3065

1. It is intended to conduct the business by an experienced operator who already has a similar licensed cafe in High Street Northcote i.e. the dominant activity is the serving of food in the form of traditional and modern Middle Eastern cuisine.
2. Noise is to be limited to conversations among patrons. There is to be no internal or external amplified music, only background music. Entry and exit is via Brunswick Street.
3. The dining area is situated at the front of the premises fronting Brunswick Street and in a rear courtyard. The premises backs onto Residential uses to the east. The nearest habitable rooms would be some 30 metres east of the frontage of the cafe and separated by the open space of three backyards of homes fronting Kerr Street. These spaces act as a buffer in the event of potential noise.
4. A manager of the business will be on duty at all times when the premises are trading, and will act positively to any harmful noise source that may arise. The manager will ensure that satisfactory commercial, occupational and residential harmony is maintained, so as to avoid a detrimental impact on the existing amenity. Staff will report any complaints to the appointed manager who will liaise directly with the complainant, as practicable as possible, with the aim of achieving an expeditious resolution of the complaint, for all parties concerned.
5. There will be a staggering of rostering of staff with an anticipated maximum of five persons on duty at any one time, comprising a manager, kitchen and waiting staff. The nature and capacity (50 patrons) of the business will not require security staff.
6. All staff dispensing liquor will be required to complete the one day responsible Serving of Alcohol course at an approved training institution or through an approved provider by the Director of Liquor Licensing. The operator has completed the Licensee's First Step Course, which is in addition to the above RSA course. Staff will not serve intoxicated patrons and staff will have an adequate understanding of liquor law and best practice in managing the licensed premises.

Attachment 5 - PLN20/0403 - 362 Brunswick Street Fitzroy - Advertising S52 - Noise and Amenity Action Plan

5 November 2020



36 Mountain View Road
Montmorency Victoria 3094
Mobile 0411 226 606
Fax 03 9435 2909
Email aswindon1@bigpond.com

7. The premises incorporating the Liquor licence will operate flexible trading hours to serve patrons between 10am to 9pm seven days a week. Open times will depend on demand.
8. Adequate lighting will be provided internally and externally to ensure a safe and secure environment for staff and patrons. Sufficient lighting will be available over the entry of the building to create a safe environment and easy access for patrons.
9. Security lighting for the restaurant/cafe will not be necessary as there is no rear access for the public, and the premises adjoin commercial uses to the east and north with similar adjacent uses west and south.
10. The provision of music will be at a minimum, as it is not intended to create an entertainment venue, and there will be no live bands or DJs as such. Any provision of music will be background .
11. The storage of waste bins is located in a secure waste collection area at the rear of the cafe. There will be separate recyclable bins for bottles and cardboard. Waste collection will take place twice a week. Bottles will be emptied into bins early in the evening between 6pm and 7pm and all bins will be washed regularly. Appropriate health and safety measures will be observed in accordance with the requirements of Council's Public Health Unit.
12. Any noise level emitted from mechanical equipment will comply with SEPP (Control of Noise Industrial, Commercial and Trade Premises) N1.
Appropriate signage will be erected requesting patrons to respect other businesses, persons and residents in the neighbourhood.
The business will be managed with the intention of avoiding conflict and detriment by maintaining the existing amenity of the area.

Attachment 6 - PLN20/0403 - 362 Brunswick Street Fitzroy - Civic Compliance Referral Comments

MeMO

TO: Joe BYRNE
cc:
FROM: Brad Speechley
DATE: 7 December 2020
APPLICATION: PLN20/0403
SUBJECT: Amenity Enforcement Referral

Dear Joe,

Thank you for your referral dated 23 November 2020, in relation to 362 Brunswick Street FITZROY.

Planning Enforcement has received complaints in relation to the 'use' of the land. The last complaint received was on the 1 April 2019, in relation to loud music noise coming from the land. I have reviewed the documentation supplied for the proposed use of the land for the sale and consumption of liquor (Restaurant and Café licence) (Monday-Sunday, 10am – 9pm, for a maximum of 50 Patrons). This proposal poses a low amenity risk, however, the Compliance Branch has concerns with the courtyard and music noise.

Although it has been noted that this is to be at a background level only we do not support any external speakers being placed in the courtyard due to the close proximity of residential properties.

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

Regards,



Brad Speechley
Senior Team Leader – Civic Compliance

6.2 PLN19/0221.01 - 142 Johnston Street Fitzroy North

Executive Summary

Purpose

1. This report provides an assessment of the proposed amendment to Planning Permit PLN19/0221 which seeks to change the operation type (including increased patrons) of the previously approved restricted recreation facility (fitness studio) and relocate from 142 Johnston Street to 270 Young Street, with changes to signage.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 13.05-1S – Noise Abatement;
 - (b) Clause 22.05 – Interface Uses Policy, and
 - (c) Clause 52.06 - Car parking provision.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Use-site amenity impacts;
 - (b) Car parking, traffic and bicycle provisions; and
 - (c) Objector concerns.

Submissions Received

4. Twelve (12) objections were received to the application and can be summarised as:
 - (a) Off-site amenity impacts (noise and sign lighting);
 - (b) Car parking, traffic impacts and pedestrian safety;
 - (c) Issues during construction (noise, traffic); and
 - (d) Impacts to mental health and community of residents within apartment building;
5. Fourteen (14) support letters were received to the application and can be summarised as:
 - (a) Cyclebar (gym) is desired in the local area; and
 - (b) Would like to use the Cyclebar (gym).

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and key considerations, and should therefore be supported, subject to conditions generally requiring limited changes.

CONTACT OFFICER: Alexandra Paraskevakis
TITLE: Statutory Planner
TEL: 9205 5024

6.2 PLN19/0221.01 - 142 Johnston Street Fitzroy North

| | |
|-------------------|--|
| Reference | D21/38226 |
| Author | Alexandra Paraskevakis - Statutory Planner |
| Authoriser | Senior Coordinator Statutory Planning |

| | |
|-----------------------------|---|
| Ward: | Nicholls |
| Proposal: | PLN19/0221.01 - 142 Johnston Street Fitzroy North Johnston Street to 270 Young Street, with changes to signage. |
| Existing use: | Commercial (vacant) |
| Applicant: | OTP Invest |
| Zoning / Overlays: | Commercial 1 Zone (C1Z) Heritage Overlay (Schedule 334) Environmental Audit Overlay (EAO) Design and Development Overlay 10 (DDO10) Development Contributions Plan Overlay – Schedule 1 (DCPO1) |
| Date of Application: | 1 December 2020 (for Section 72 amendment) |
| Application Number: | PLN19/00221 |

Planning History

7. Council records show Planning Permit PLN15/0632 was issued at the direction of VCAT, to land at Nos. 142-144 Johnston Street and 3 Chapel Street, Fitzroy on 22 September 2016 for:
 - (a) the demolition of existing buildings;
 - (b) the construction of a six storey building above two basement levels;
 - (c) the use of the land for dwellings;
 - (d) a reduction of car parking requirements; and
 - (e) a waiver of the loading bay requirements;
 in accordance with the endorsed plans.
8. No endorsed plans were issued under Planning Permit PLN19/0221.
9. Planning permit PLN15/0632 was issued, at the direction of VCAT, on 22 September 2016 for:
 - (a) the demolition of existing buildings;
 - (b) the construction of a six storey building above two basement levels;
 - (c) the use of the land for dwellings;
 - (d) a reduction of car parking requirements; and
 - (e) a waiver of the loading bay requirements;
 in accordance with the endorsed plans at 142-144 Johnston Street and 3 Chapel Street Fitzroy.
10. The development included two ground floor retail (shop/showroom) tenancies in addition to dwellings at first floor and above. The development has since been constructed and represents the existing on-site conditions.
11. Planning Permit SP18/0027 was issued by Council for a 32-lot subdivision at Nos. 142-144 Johnston Street Fitzroy. The subdivision was subsequently finalised and new titles created on 11 October 2018. The new lots were assigned addresses as follows:
 - 142 Johnston St – former subject site (front ground floor commercial tenancy)
 - 270 Young St – subject site (rear ground floor commercial tenancy).
 - Units 101 – 502 / 272 Johnston Street Fitzroy – 30 residences over levels 1 – 6.

12. Planning Permit PLN19/0221 was issued by Council on 28 April 2020 for *Use of the land as a restricted recreation facility (fitness studio) and construction and display of business identification signage* at No. 142 Johnston Street, Fitzroy. No plans were endorsed under this planning permit.

Background

13. The application was received by Council on 1 December 2020 and additional information was received on 10 February 2021. The application was advertised on 23 February 2021 and twelve (12) objections and fourteen (14) support letters were received.
14. Whilst the advertising process was occurring, Council sought and received external referral comments from Acoustic Consultants (SLR).

The Proposal

15. The proposal is to amend the current planning permit to locate the fitness studio to the rear commercial tenancy at No. 270 Young Street, increase the number of patrons, amend the hours of operation and construct and display signage. Further details of the amended proposal are as follows (as shown on the decision plans and reports):

16. Amend the planning permit address from No. 142 Johnston Street, Fitzroy to No. 270 Young Street, Fitzroy.

17. Amend Condition 5 (patron numbers) from:

No more than 12 patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.

To:

*No more than **39** patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.*

18. Amend Condition 7 (hours of operation) from:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am – 10:00pm;
- (b) Saturday: 6:30am – 7:00pm; and
- (c) Sunday: 8:00am – 7:00pm.

To:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am – **8:00pm**;
- (b) Saturday: 6:30am – 7:00pm; and
- (c) Sunday: 8:00am – 7:00pm.

19. Plans show entry is from Young Street (from the existing access), with the front portion of the tenancy to be utilised for ancillary areas (reception, a retail area, changerooms, bike parking, DDA compliant WC and waiting area).

20. The workout area (84.8sqm of floor area) is located to the east of the reception area and backs onto the stairs, bicycles and service area of the subject building. All bicycles are contained in this room which has no windows. To the south of the workout area are the change rooms and reception area.

21. The fitness studio will provide fitness cycling classes with 15 minute gaps between classes; and uses a variety of stationary (magnetic resistance) bicycles. Background music would be provided and the instructor would use a microphone.
22. Two car parking spaces would be utilised within the basement car park, for full-time staff associated with the fitness studio. Three wall-mounted bicycle racks are shown in the foyer area near the change rooms.
23. Advertising signage is proposed as follows:

| | Type | Location | Area |
|---------------|--|---|----------|
| Sign 1 | Internally illuminated business identification sign of 5mm acrylic lettering (LED 800 Lumens with dimmable function) | Young Street awning fascia | 0.834sqm |
| Sign 2 | Vinyl decal sign of 50% transparency | Young Street central window | 7.35sqm |
| Sign 3 | Opaque vinyl decal sign | Young Street window adjacent tenancy entrance | 6.76sqm |
| Sign 4 | Vinyl decal sign of 50% transparency | Chapel Street east window | 7.10sqm |

Existing Conditions

Subject Site

24. For clarity the tenancy will be referred to as the subject site, with the building within which it is contained referred to as the subject building.
25. The subject building is located on the south side of Johnston Street, on the east side of Young Street and is bound by Chapel Street to the south. The subject building is a 6 storey mixed use building (plus basement), with a maximum overall height of 20.27m (excluding the lift overrun) and street-wall height of 11.47m (above natural ground level (NGL)).
26. The subject site is located at the south-west corner of the building at ground floor, with a frontage to Young Street. The subject site (Tenancy 2) has an area of 198sqm, and is currently vacant. The subject site is accessed directly from Young Street (there is no internal access from the subject building into Tenancy 2).
27. The front commercial tenancy (Tenancy 1) is currently used as an office; while all five (5) levels above the ground floor tenancies contain apartments which are accessed via the foyer from Young Street.
28. The subject site is described on title as Lot 2 on Plan of Subdivision 801044P. This title incorporates Tenancy 2 and two car spaces at the north end of Basement Level 1. There is no caveat on title.



Figure 1 - Subject site viewed from Johnston St (corner Young Street) - March 2020. Source: Google Streetview.



Figure 2 - Subject site (Tenancy 2 entrance) viewed from Young Street, looking toward Chapel Street - March 2020. Source: Google Streetview.



Figure 3 - Subject site (Tenancy 2 entrance) viewed from Young Street, looking toward Johnston Street - March 2020. Source: Google Streetview.

Surrounding Land

29. The subject site (and subject building) is located within Commercial 1 Zoned land associated with the Johnston Street Neighbourhood Activity Centre, and the subject building fronts an arterial road (Johnston Street). Along Johnston Street is a predominance of commercial premises, including food and drink premises, entertainment venues, shops, bulky retail and offices. There are also a number of residences fronting Johnson Street including dwellings on single lots, and more recently constructed apartment-style dwellings. In the smaller side streets, away from Johnston Street, the commercial uses transition to predominantly residential land use.
30. Commercial premises fronting Johnston Street typically have some form of business identification signage along the Johnston Street frontage, in a variety of forms including internally illuminated signs hanging from the underside of verandahs, window decals and signs applied to verandah fascias.
31. Properties immediately to the south and west of the subject site (on the opposite side of Chapel and Young Streets respectively) are former commercial buildings which are now used as dwellings.
32. The site is also located between two designated Major Activity Centres (Brunswick Street – 95m to the west and Smith Street – 270m to the east) which are both vibrant commercial hubs.
33. The locality is very well serviced by various modes of public transport including bus routes along Johnston Street, and tram routes along Brunswick Street and Smith Street.

34. To the north of the subject site is Johnston Street, a four-lane arterial road. Beyond this is a 24-hour BP service station. To the west of the service station is “The Night Cat”, a late night live music nightclub; and to the east of the service station is a furniture sales showroom.
35. To the east of the subject building (northern portion) is a Victorian-era single-storey brick dwelling, the westernmost of a row of four similar dwellings (the two easternmost with a double-storey component at the rear) all of which are located within the Commercial 1 Zone and front Johnston Street. The dwellings have ground level secluded private open space at the rear. The immediately abutting dwelling is constructed to the shared boundary with the subject building for the depth of the building.
36. To the east of the subject building (central portion) is a right-of-way at the rear of the dwellings fronting Johnston Street. On the south side of this right-of-way is a recently constructed four storey building. The building contains five dwellings with roof terraces (approved under planning permit PLN15/0334) and is addressed as No. 3 Hertford Street.
37. To the south of this building are two single-storey, double-fronted brick Victorian-era dwellings fronting Chapel Street (No. 7 & 9 Chapel Street).
38. To the south of the subject site is Chapel Street, a narrow two-way street. On the south side of Chapel Street are dwellings (two, single-storey warehouse conversions and three, three-storey contemporary townhouses with roof terraces).
39. To the west is Young Street, a narrow one-way street (south to north), beyond which are two properties - a single-storey circa 1960s showroom/warehouse fronting Johnston Street (No. 134 Johnston Street) and a double-storey brick building which appears to contain offices at ground floor and a dwelling above (No. 121-125 Victoria Street). The building has its primary pedestrian entry from Victoria Street (southern frontage).



Figure 4 – Subject site and surrounds (arrow showing entrance to subject site) Source: Council GIS Aerial Imagery. Date: 8 January 2021.

Planning Scheme Provisions

Zoning

40. The subject site is zoned Commercial Use Zone 1 (C1Z). The following provisions apply:
- (a) Pursuant to Clause 34.01-1 a planning permit is required to use the land for a restricted recreation facility.
 - (b) Pursuant to Clause 34.01-9, advertising sign requirements are at Clause 52.05. This zone is in Category 1.

Overlays

41. The subject site is affected by the Heritage Overlay (Schedule 334 – South Fitzroy Precinct). The following provisions apply:
- (a) Pursuant to Clause 43.01-1, a planning permit is required to *construct or display a sign*.
 - (b) Pursuant to Clause 43.01-4, an application for *construction or display of a sign* is exempt from the Notice Requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82(1) of the Act.
42. The subject site is affected by the Design & Development Overlay (Schedule 10 - Johnston Street Precinct - West of Smith Street).
- (a) Pursuant to Clause 43.02-4 sign requirements are at Clause 52.05 unless otherwise specified in a schedule to this overlay. There are no requirements for signs specified at Schedule 10 to the Overlay.
43. The subject is affected by the Environmental Audit Overlay. The following provisions apply:
- (a) Pursuant to Clause 45.03-1: Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:
 - (i) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
 - (ii) An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use
44. The use is not a sensitive use and therefore this overlay does not apply. Further a planning permit is not triggered under this control.
45. The subject site is affected by the Development Contribution Plan Overlay (Schedule 1) clause 45.06. This overlay requires developers to pay a contribution towards essential city infrastructure such as roads and footpaths, as well as community facilities. However, this does not apply to the construction or carrying out of works specifically excluded by the Schedule to the Overlay, including renovations or alterations to an existing dwelling.
46. The proposed use of the site does not increase the commercial floor space, being located within Tenancy 2; a commercial tenancy was already constructed prior to the gazettal of this overlay. As the application does not construct additional commercial floor space, the property is exempt from development contribution in accordance with Section 4 of Schedule 1 to Clause 45.06.

Particular Provisions

Clause 52.05 - Advertising signs

47. Category 1 at Clause 52.05-11 states that a business identification sign does not require a planning permit where the following conditions are met:
- (a) *The total display area of all signs to each premises must not exceed 8 sqm. This does not include a sign with a display area not exceeding 1.5 sqm that is below a verandah or, if no verandah, that is less than 3.7 m above pavement level.*

48. The proposed total display area of all signs to the premises is 22.04sqm, and all signs are more than 1.5sqm, except the internally illuminated sign. Therefore, a planning permit is required for the proposed advertising signs.
49. An internally illuminated sign does not require a planning permit where the following conditions are met.
- (a) *The total advertisement area to each premises must not exceed 1.5 sq m.*
 - (b) *No part of the sign may be above a verandah or, if no verandah, more than 3.7 m above pavement level.*
 - (c) *The sign must be more than 30 m from a residential zone or pedestrian or traffic lights.*
50. The proposed internally illuminated business identification sign requires a planning permit under this provision.

Clause 52.06- Car parking

51. Pursuant to Clause 52.06-2, before a new use commences or the floor area of an existing use is increased or the measure specified in Column C of Table 1 to Clause 52.06-5 for that use is increased, the required car parking spaces must be provided on the land. Where a use is not specified in the table to clause 52.06-5, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.
52. As the proposed use is not listed in the table to clause 52.06-5, car parking is to the satisfaction of the Responsible Authority.

Clause 52.34 – Bicycle facilities

53. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage are provided on the land. The following table identifies the bicycle parking requirement under Clause 52.34-3, the provision on site, and the subsequent reduction below the statutory requirement:

| Use | Statutory Requirement | No. Required | On-site Provision | Reduction requested |
|---|--|--------------|-------------------|---------------------|
| Minor sports and recreation facilities | 1 space to each 4 employees. | 1 | 3 | N/A |
| | 1 visitor space to each 200m ² of net floor area. | 1 | | |
| Total | | 2 | 3 | N/A |

54. The proposal exceeds the minimum number of bicycles required.

[General Provisions](#)

Clause 65 - Decision Guidelines

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

[Planning Policy Framework \(PPF\)](#)

56. Relevant clauses are as follows:

Clause 13.05-1S (Noise abatement)

57. The objective is *to assist the control of noise effects on sensitive land uses*; while the strategy is *to 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)

58. The objective is *to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

Clause 17 (Economic development)

Clause 17.02-1S (Business)

59. The objective is *to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services.*

Clause 18.02-1S – (Sustainable personal transport)

60. The objective is *to promote the use of sustainable personal transport.* Relevant strategies include:
- (a) *Encourage the use of walking and cycling by creating environments that are safe and attractive.*
 - (b) *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
 - (c) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
 - (d) *Ensure provision of bicycle end-of-trip facilities in commercial buildings.*

Clause 18.02-1R (Sustainable personal transport- Metropolitan Melbourne)

61. Strategies include:
- (a) *Improve local travel options for walking and cycling to support 20 minute neighbourhoods.*
 - (b) *Develop local cycling networks and new cycling facilities that support the development of 20-minute neighbourhoods and that link to and complement the metropolitan-wide network of bicycle routes - the Principal Bicycle Network*

Clause 18.02-2S (Public Transport)

62. The objective is *to facilitate greater use of public transport and promote increased development close to high-quality public transport routes.*

Clause 18.02-2R (Principal Public Transport Network)

63. A relevant strategy of this clause is *to maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Clause 18.02-4S (Car Parking)

64. The objective is *to ensure an adequate supply of car parking that is appropriately designed and located.*
65. A relevant strategy is *to protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

66. The following LPPF provisions of the Scheme are relevant:

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

67. This policy applies to all permit applications for advertising signs or for development which incorporates an advertising sign, with the relevant objectives as follows;

- (a) *To allow for the promotion of goods and services.*
- (b) *To ensure that signs contribute to and do not detract from the visual amenity of commercial precincts, activity centres and residential areas.*
- (c) *To minimise visual clutter.*
- (d) *To ensure that signs are not the dominant element in the streetscape.*
- (e) *To protect and enhance the character and integrity of places of heritage significance.*
- (f) *To protect major view corridors and vistas.*
- (g) *To maintain vehicular and pedestrian safety.*

Clause 22.04 (Advertising Signs)

68. The relevant policy is:

- (a) *Signage should be well designed and located to respect the streetscape or host site. The placement and quality of advertising signs should also contribute positively to the character of an area.*

69. The relevant objectives are:

- (a) *To allow for the promotion of goods and services.*
- (b) *To ensure that signs contribute to and do not detract from the visual amenity of commercial precincts, activity centres and residential areas.*
- (c) *To minimise visual clutter.*
- (d) *To ensure that signs are not the dominant element in the streetscape.*
- (e) *To protect and enhance the character and integrity of places of heritage significance.*
- (f) *To maintain vehicular and pedestrian safety*

Clause 22.05 (Interface Uses Policy)

70. The relevant policy is:

- (a) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*

Incorporated Documents

71. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 identifies the subject site as being “Not-contributory” to the South Fitzroy Precinct (as identified by Schedule 334 to the Heritage Overlay).

Advertising

72. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 98 letters sent to surrounding owners and occupiers and by three signs displayed on site; one at the Johnston Street frontage, one on the Young Street façade near the subject site entrance, and the other on the rear Chapel Street frontage.

73. Twelve (12) objections were received to the application and can be summarised as:

- (a) Off-site amenity impacts (noise and sign lighting);
- (b) Car parking, traffic impacts and pedestrian safety;

- (c) Issues during construction (noise, traffic); and
- (d) Impacts to mental health and community of residents within apartment building.

74. Fourteen (14) support letters were received to the application and can be summarised as:

- (a) Cyclebar (gym) is desired in the local area; and
- (b) Would like to use the Cyclebar (gym).

Referrals

Internal Referrals

75. The application was referred to Council's Strategic Transport unit and Traffic and Civil Engineering unit. Both were supportive of the proposal.

Acoustic Consultant (SLR Acoustics)

76. The acoustic report and acoustic floorplan, (together with proposed plans, and management plan) were referred to external acoustic consultants SLR who were supportive of the proposal subject to conditions.

77. Referral comments have been included as attachments to this report.

Internal Referrals

Strategic Transport Unit

78. Council's Strategic Transport Unit provided referral comments in relation to the bike parking arrangements within the fitness studio during the original permit application process. The recommendation from the Strategic Transport Unit was that a permit condition require the wall mounted bicycle rack be spaced at 500mm as per AS2890.3 or otherwise to the satisfaction of the responsible authority.

79. The decision plans for the proposed amendment show an annotation which states the bicycle racks (to be installed internally within the premises) will be spaces 500mm apart. As the decision plans for the amendment satisfy both the number of bicycle spaces required, and the spacing requirements as per the permit condition, the amended application was not referred to the Strategic Transport Unit.

Acoustic Consultant (SLR Acoustics)

80. The acoustic report and acoustic floorplan, (together with proposed plans, and management plan) were referred to external acoustic consultants SLR, who were supportive of the revised proposal. All comments have been included as attachments to this report.

81. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

82. The considerations for this application are as follows:

- (a) Policy and strategic support;
- (b) Use;
- (c) Advertising signs;
- (d) Car parking, bicycle parking and traffic;
- (e) Objector concerns; and
- (f) Planning Permit changes.

Policy and Strategic Support

83. The amendment proposal for use of the premises as a gym is clearly supported by both State and local policies, having regard to clauses 13.07, 17.02, and 22.05 particularly as the site is located between the Brunswick Street the Smith Street Major Activity Centres, and is located within the Johnston Street Neighbourhood Activity Centre.
84. The proposed use of the site provides a personal service within the local community, for the local day-to-day needs of residents and would contribute to the economic growth of the activity centre as stated in the Municipal Strategic Statement. The use is also supported given the planning permit previously considered the commercial zoning of the land and its location within an activity centre. As can be seen by the zoning map below, the entirety of the subject building and adjacent land is zoned Commercial 1 (coloured purple). With residentially zoned land (Neighbourhood Residential Schedule 1 and General Residential Schedule 1) starting further to the south of Chapel Street (coloured pink).

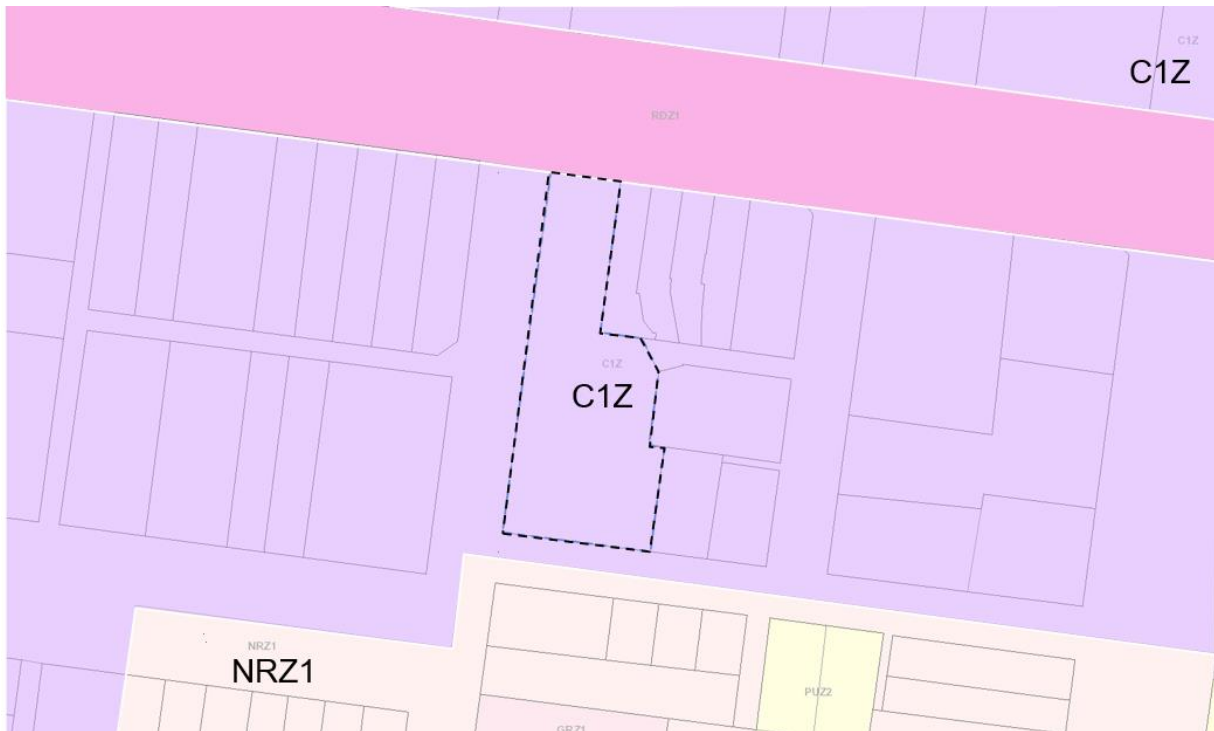


Figure 5 – Zoning map showing subject building outlined, located in Commercial 1 zone (Source: Department of Environment, Land, Water and Planning; <https://mapshare.vic.gov.au/vicplan/>)

85. Commercial 1 zone purposes include:
- (a) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
 - (b) *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
86. The issuing of the initial development on site (PLN15/0632) showed a range of uses including two retail/shop/showroom tenancies at ground floor, and dwellings above. Under the commercial zoning, the dwellings required a planning permit and not the retail tenancies. The continued use of these commercial areas has not been altered, nor the floor area increased. As such commercial activity within this area at ground level is expected and supported in creating a vibrant mixed use centre.
87. The consideration of a ground level tenancy for a fitness studio was also previously considered under PLN19/0221. As stated in the previous officer report, it was found that:

The proposed use is generally considered to be a good fit with the relevant purposes of the zone. The nature of the activities carried out on site (a variety of fitness classes) would provide

a service for residents in both the immediate and wider area. The proposed use would contribute to the overall vibrancy of the area and the site is well-positioned between two major activity centres to attract multipurpose trips.

88. These considerations have not changed. However, the scale of the proposal has increased in numbers (from 12 to 39) and been located closer to the residentially zoned land to the south. Therefore close consideration of off-site amenity impacts must be undertaken and will be discussed in more detail later in the report. However it is sufficient at this stage to state that the use is supported by both the commercial zoning and location within an activity centre.

Use

89. Assessment of the proposed use will be guided by relevant decision guidelines of the Commercial 1 Zone and the Interface Uses Policy at clause 22.05 of the Scheme.
90. As stated earlier in the report, the purpose of the Commercial 1 Zone includes:
- (a) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
 - (b) *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
91. The proposed use is generally considered to be a good fit with the relevant purposes of the zone. The nature of the activities carried out on site (cycling fitness classes) would provide a service for residents in both the immediate and wider area. The proposed use would contribute to the overall vibrancy of the area and the site is well-positioned between two major activity centres to attract multipurpose trips and is located in a part of the building that has already been set aside for commercial activity (within Tenancy 2).
92. The location of the business at ground level and with its own separate entrance (i.e. not having to go through the common areas of the building) is an appropriate response. While the use is located in a part of the building most suited to the commercial activity, the potential amenity impacts of the use upon neighbouring residential properties will be discussed in more detail below.
93. The remainder of the assessment will be structured around the following relevant decision guidelines of the Commercial 1 Zone, with reference to the Interface Uses Policy where applicable.

The interface with adjoining zones, especially the relationship with residential areas

94. The subject site itself does not adjoin any residential zoned land, however is located immediately north of residential zoned land (Neighbourhood Residential Zone Schedule 1) which includes the southern half of Chapel Street (with a number of dwellings located opposite the subject building's basement car park entry as well as opposite the subject site). The nearest residences to the subject site are located within the Commercial 1 Zone as follows:
- (a) Apartments located within the same building (addressed as No. 272 Young Street) including those directly above the subject tenancy at first floor;
 - (b) The east-adjoining single storey dwelling fronting Johnston Street to the east (No. 146 Johnston Street).
95. Other nearby residences (also within the Commercial 1 Zone) are:
- (a) The townhouse development at No. 3 Hertford Street.
 - (b) The first floor dwelling located opposite the subject tenancy on the western side of Young Street (No. 121-125 Victoria Street).
 - (c) Dwellings on the northern side of Chapel Street (No. 7 and 9)

96. Clause 22.05 (Interface Uses Policy), states that while the mix of land use creates “a diverse and interesting inner city character” it may also create conflict at the interface between the land uses, with areas of concern including
- (a) Noise;
 - (b) Visual impact and appearance;
 - (c) Overlooking;
 - (d) Odour and air emissions;
 - (e) Light spill;
 - (f) Loading and unloading;
 - (g) Rubbish removal and storage; and
 - (h) Construciton noise.
97. Given that the tenancy already exists, matters relating to visual impact and appearance, and to construction noise are not relevant. However the remaining matters will be discussed below.
98. The proposal to use Tenancy 1 (addressing Johnston Street) as a gym was considered under the original planning permit. The original officer's report discussed the use of Tenancy 1 as a gym and the potential amenity impacts of the use as follows;
99. *Other light industrial / commercial uses within the immediately surrounding area (including the other commercial ground floor (retail) tenancy in the same building) would not be particularly sensitive to amenity impacts such as lightspill, noise or additional pedestrian or vehicle traffic to the area associated with the use.*
100. *Clause 22.05 of the Scheme provides more specific guidance in relation to potential impacts on nearby residences, with a focus on noise (from music and patrons), lightspill, overlooking and waste.*
101. *The site is a ground floor tenancy and thus overlooking is not relevant.*
102. In relation to overlooking, the use of Tenancy 2 as a gym would not create any concern as this tenancy is also on the ground floor.
103. In relation to lightspill, the proposed cycle studio is not expected to adversely impact nearby dwellings as the only light emitted from the site would be through ground floor glazing and the illuminated sign to Young Street.
104. The property to the west is located in the Commercial 1 zone and therefore does not require specific consideration under the above decision guideline. Similarly the dwellings within the subject building are also zoned Commercial 1 and are not afforded the same consideration as if they were in residentially zoned land. However impacts from the proposed business should be considered within this context. The building on the opposite side of Young Street has commercial areas at the ground floor, and residential space at the upper level and therefore the only impact to the residential component would be from the internally illuminated sign. The applicant has agreed to a condition to turn off the illuminated sign (Sign 1) outside of business hours (as outlined earlier in response to concern raised by objectors. This would also address issues of any light spill from the sign to the first and second floor windows and balconies of the subject building above the tenancy. Given that the hours of operation would be limited to 8.00pm (latest) the impact of the illuminated sign would be minimal. A condition will be added to require this.
105. The nearest residentially zoned land is located to the south of Chapel Street. The ground level residence to the south that faces the subject site has no north-facing windows, therefore there will be no impact on this property from light. It is also worth noting there is a streetlight on the corner of Chapel Street and Young Street which already illuminates this section of the street;

and the dwellings above the subject site would be illuminated at night which would also contribute to lighting in the area. The ground floor tenancy is not located opposite the townhouses further east and therefore would have no lighting impact to these properties.

106. In relation to waste management, the use would not be expected to generate significant quantities of waste. The gym applicant has confirmed in their written submissions that the waste management processes will be consistent with the endorsed waste management plan associated with planning permit PLN15/0632 (condition 8) for the overall building. Condition 15 of the current planning permit requires that waste be collected by private vehicle. There will be no change to this condition.
107. Similarly a condition is already on the planning permit regarding deliveries and collection of goods. This will not be altered by the proposal.
108. The remaining issue relates to noise. Potential noise sources associated with the proposed use include:
 - (a) noise generated internal to the site (e.g. patrons, music, and staff (including microphones)); and
 - (b) noise generated external to the site (e.g. patrons and vehicles).
109. The applicant's Acoustic Report (as amended, dated February 2021) assessed these noise sources and found that, subject to some key recommendations, noise emissions would meet SEPP-N1, SEPP-N2 and relevant sleep disturbance criteria to the nearest noise sensitive receivers (apartments within the same building (Level 1, No. 272 Johnston St); No. 146 Johnston Street); No 266 Chapel Street; and No. 121-125 Victoria Street). These recommendations include a range of measures - physical, technological and behavioural (including adherence to the Management Plan) with key recommendations summarised as follows:
110. Control of external noise sources (patrons and vehicle noise) are addressed through the management plan and these include;
 - (a) Instruction of patrons and staff not to park along Chapel Street during night-time hours (10pm to 7am) to reduce likelihood of sleep disturbance to residences from car doors closing (item 11 of management plan);
 - (b) Erection of signs at entries and exits of studio to instruct patrons not to generate excessive noise (item 12 of management plan);
 - (c) Staff to monitor patron behaviour to ensure noise is kept to a minimum, in particular, when entering or leaving the facility (item 10 of management plan).
 - (d) Control of internal noise sources (music, patrons, staff and equipment) by;
 - (i) Doors and window of the gym to be kept closed at all times (other than when patrons enter or exit – item 9 of management plan).
 - (e) Acoustic treatments undertaken to the building before use commences (as set out in the acoustic report), including:
 - (i) Two layers of plasterboard installed above the tenancy on solid joists fixed to the concrete slab, to form a 150mm gap between the plasterboard and the building structure, to recommended specifications,
 - (ii) Construction of a secondary, perforated ceiling within all areas of the gym tenancy to recommended specifications,
 - (iii) Walls of the cycle studio (internal walls) to be lined with acoustic wall covering (minimum NRC of 0.4),
 - (iv) Floor finish in studio area should be REGUPOL Everoll Core (4mm thick),
 - (v) Internal walls between studio and reception constructed of 2 layers of 13mm fire rated plasterboard with cavity infill of 75mm, glasswool,
 - (vi) Treatment to timber frame above the entry door (internal),
 - (vii) Glazing to the windows at the adjacent noise sensitive receivers – 5mm annealed glass,

- (viii) Treatments to ceiling penetrations and other ductwork, including between tenancies,
- (ix) Acoustic sealants applied to external doors and operable windows (page 8 of acoustic report)
- (x) Door between studio and reception area constructed of 10.76mm laminated glass with compressible acoustic seals, to remain closed when session is in progress,
- (f) Ongoing internal noise levels limited to $L_{Aeq} \leq 45$ dBA (measured in the nearest bedroom) by the following methods:
 - (i) Provision of a sound limiter to be installed to continuously measure the sound pressure level in the cycle studio, and to cut the power to the system amplifier if it exceeds the values detailed in page 8 of the report;
 - (ii) Conducting of an internal and external compliance noise emission measurement during using pink noise signal to ensure compliance is met;
 - (iii) Sound limiter to be locked once compliance measurements have been carried out, so settings cannot be changed,

111. The Acoustic Report (as amended) has been supported by Council's Acoustic Consultant, with a condition to require a post occupancy acoustic report to ensure the measures achieve the outcomes specified. A condition will require a post occupancy acoustic report.

112. The original planning officer's report made the following observations in relation to a gym use in Tenancy 1 of No. 142 Johnston Street;

In relation to potential noise impacts, the dwellings most affected by the proposed use (apartments above the subject tenancy and the dwelling immediately to the south) are also located in the Commercial 1 Zone and in the inner city, within a Neighbourhood Activity Centre and between two Major Activity Centres. It is commonly accepted that it is not reasonable for dwellings located in Commercial zones and Activity Centres to expect the same level of amenity as those in residential zones. A balance between protecting residential amenity and facilitating appropriate commercial uses which contribute to the vibrancy of these areas must be found.

113. The proposed amendment to relocate the gym use to Tenancy 2, toward the rear of the building at No. 142 Johnston Street, similarly impacts apartments directly above the tenancy, in the same building, and residential properties to the south, east and further west. The residential properties within the building, and to the east and west are located within the Commercial 1 Zone, while the residential properties to the south are located in a Neighbourhood Residential Zone, directly behind the Neighbourhood Activity Centre of Johnston Street.

114. Despite the relocation to the rear tenancy and closer proximity to residentially zoned properties, the principle objective to find the balance between facilitating appropriate commercial uses and protecting residential amenity is still applicable. The residential properties in this area cannot reasonably expect the same level of amenity as in residential areas located away from neighbourhood activity centres. The management plan and acoustic report outline a number of measures taken to mitigate the potential noise impact of the gym use at the site upon the adjoining residential properties, and ensure noise generated by the use is limited, although not entirely eliminated.

115. In regard to operating hours, the fitness studio is proposing to reduce its weekday closing hours from 10.00pm to 8.00pm. There would be no change to the weekend operating hours (which closes at 7pm), and no change to the approved opening hours. The operating hours in the evening therefore do not encroach into the times where more stringent "night time" standards

(ie. later than 10pm) are applicable under SEPP N-1 and SEPP N-2 which is indicative of times when residences would be more sensitive to noise.

116. While the early morning starts 5:30am on weekdays; 6:30am on Saturday and 8:00am on Sundays are within the more stringent “night time” period of the SEPP-N1 (except on Sundays) and SEPP-N2, the range of measures in place for controlling external and internal noise sources are considered to be sufficient to ensure that the venue is at low risk of causing a noise disturbance.
117. A correction is required to the acoustic report as the hours of operation listed in the acoustic report for weekdays are 05:30am – 10:00pm. This contradicts the proposed hours as shown in the management plan; 05:30am – 8:00pm. A condition will require the acoustic report be amended to reflect the proposed operating hours.
118. The number of patrons would be limited to a maximum of 39 (increase of 27 from that previously approved). To limit the impact of a potential 78 people at one time particularly in the early morning, there would be a fifteen minute period between classes (also stipulated in the Plan of Management). In addition, the management plan identifies that there would be a maximum of 5 classes on any weekday, with 2 classes each on Saturday and Sunday. Given the limited number of classes, this would also reduce the impact of patrons coming and going. As such a condition will require compliance with the management plan.
119. Standard conditions on the planning permit will be maintained so that the use does not detrimentally affect the surrounding area through transport of goods, appearance of the building and emissions (as stipulated at clause 34.01-2 of the Scheme).
120. In summary, the proposal has been designed to minimise impacts to residential properties both within the commercially zoned subject building, and to surrounding residentially zoned dwellings.

The effect that existing uses may have on the proposed use.

121. As the existing uses surrounding the site are either commercial or residential it is not anticipated that these uses would adversely impact operation the proposed gym through noise, emissions or other activities. The surrounding uses have not significantly changed since the issue of the original permit, except to note that Tenancy 1 (fronting Johnston Street) is now being used as an office. As assessed above, the proposed use in Tenancy 2 is considered to be compatible with the existing uses in the area subject to conditions.

The effect of traffic to be generated on roads.

122. Traffic will be discussed in the following section.

Car parking, bicycle parking and traffic

Car parking

123. Clause 52.06 is the main consideration guiding assessment of car parking provision. As outlined earlier, car parking for the proposed use must be provided to the satisfaction of the responsible authority (no specified rate in the Scheme). Although there are no decision guidelines at clause 52.06 for determining whether car parking provision is satisfactory, the decision guidelines for car parking reductions are considered to provide a framework for relevant factors and will be used in this assessment.
124. During the original planning application process for the fitness studio, Council's Engineers found that the provision of two car parking spaces for staff would be adequate and "should not adversely impact on existing parking conditions in the area". Council's Engineering Unit

provided comment on the proposed relocation of the recreation facility to Tenancy 2, which will still provide two car parking spaces for staff within the basement car parking.

125. In support of the proposed parking arrangements, the following is noted:

- (a) The site is within walking distance of several public transport options, including:
 - (i) Johnston Street bus services (50 metres);
 - (ii) Brunswick Street tram services (100 metres);
 - (iii) Smith Street tram services (390 metres); and
 - (iv) Nicholson Street tram services (410 metres);
- (b) The site has good pedestrian and cycling connectivity;
- (c) The premises would be expected to draw patronage from residents and employees in the immediate surrounds located within walking or cycling distance of the site;
- (d) Patrons to the site are likely to combine their visit with other activities within in the area;
- (e) The provision of bicycle spaces (3) satisfies the requirement under clause 52.34 of the Scheme and encourages patrons to cycle to the site which also has good access to the bicycle network;
- (f) The surrounding street network is generally restricted to short term parking (1-2 hours) at least during weekday business hours which will encourage turnover of spaces.
- (g) There are significant areas of permit-only parking in the surrounding street network which would reduce competition for on-street parking with residents, including:
 - (i) The southern side of Victoria Street;
 - (ii) The northern side of Victoria Street (outside of weekday business hours during which time 1 hour parking restrictions apply);
 - (iii) The northern side of Chapel Street, immediately adjacent the subject building.
- (h) For morning and evening classes (i.e. before 7am and after 7pm), there would be less competition with other surrounding businesses for car parking.

Bicycle Parking

126. As mentioned earlier in the report, the bicycle parking provided satisfies the requirement under the Scheme and is a positive aspect of the proposal. Condition 1(c) of the original permit required the wall-mounted bicycle racks to be spaced at least 500mm apart (as per the relevant Australian Standard). The decision plans for this amendment show the wall-mounted bicycle racks appropriately spaced, as per the existing permit condition 1(c) and as supported by Council's Strategic Transport Unit.

Traffic

127. A use of this nature (gym/recreation facility) with restricted patron numbers are likely to interest residents or employees of neighbouring businesses in the immediate vicinity. These patrons are unlikely to drive to the subject site, as they would either reside within walking distance or would combine their routine travel to work (via public transport) with their gym visit.

128. Given the maximum number of staff (4), and the limited number of classes per day (between 2-5), it is anticipated the proposed use would not substantially impact traffic in the area.

129. Overall, it is considered that the provision of car and bike parking facilities is sufficient for the premises and will not adversely impact the amenity of the surrounding area.

Advertising signs

130. The proposed signs are consistent with the heritage policy at clause 22.02 and advertising sign policy at clause 22.04 of the Scheme. Relevant objectives of these clauses require consideration of the number of signs, prevention of visual clutter, that signs not obscure

important views or vistas, that illuminated signs not create light spill onto adjacent properties, nor cause hazard or nuisance to vehicular traffic.

131. Generally, the proposed signs are integrated into the design of the host building and are appropriate to the scale of the building. In particular, the signs will not conceal any "contributory" heritage fabric, being associated with a recently constructed building that is graded as "not contributory" to the South Fitzroy Heritage Precinct. The signs would not interfere with any street signs, or traffic lights, being located well away from any traffic lights and set back from the kerb.
132. The illumination of the sign is not supported by policy at clause 22.04 for heritage areas, however given the contemporary building the sign is located on, in this context it is considered appropriate.
133. Lightspill is not considered to be an issue due to the only illuminated sign will be internally lit (rather than externally lit).
134. However as discussed earlier in the report, the applicant has agreed to a condition which requires the illumination within Sign 1 to be turned off outside business hours. Given that the site is located adjacent to an area with a high concentration of commercial premises and that the illuminated sign is located adjacent to a streetlight (on the corner of Chapel and Young Streets), the illuminated sign can be supported. Standard conditions will ensure the signage is not flashing or intermittent, and the remaining signs continue to be non-illuminated.
135. The proposed vinyl adhesive (signs 2 and 3) to be applied to the Young Street windows north of the entrance, are shown as 50% opacity (sign 2) and opaque (sign 3). These two signs are proposed to cover the full height and width of the windows and will therefore limit interaction with the street and passive surveillance.
136. In discussed with the applicant, Sign 2 (on Window 1) and Sign 3 (on Window 2) will be at least 75% transparent, thus improving interaction with the street in the reception/entry area of the gym. The current decision plans show these signs as being 50% opacity (Sign 2) and opaque (Sign 3). A condition will require that signs 2 and 3 have a minimum of 75% transparency, to ensure a level of interaction and activation to this street frontage.
137. The acoustic floorplan (as advertised) erroneously shows a notation with an arrow indicating the west window (beside the entry door) will be internally lined with plaster board and glasswool for acoustic treatment. This annotation was originally applied because the bike studio room was to be located against the west (external) wall of the tenancy. The layout of the premises was revised prior to advertising, to locate the bike studio room away from all external walls, as shown on the advertised floor plan and advertised acoustic floor plan.
138. The acoustic report (as advertised) does not propose lining the external walls or windows of the premises (except for a small section of wall directly above the entry door. A condition will require the acoustic floorplan is corrected to remove the erroneous annotation.
139. As the windows will not be internally lined, 2 and 3 can have a minimum of 75% transparency, to ensure a level of interaction and activation to this street frontage, as will be required by permit condition.
140. Overall, together with the conditions as outlined above, the proposed signs are considered to be generally consistent with relevant guidelines and policies and can be supported.

Objector concerns

141. The objector concerns have generally been discussed in the above report as noted below:
 - (a) *Off-site amenity impacts (noise and sign lighting);*

Matters relating to noise are discussed at paragraphs 93-102. Matters relating to illuminated signage are discussed at paragraphs 90-91 and 124-127.

- (b) *Car parking, traffic impacts and pedestrian safety;*
Matters relating to car parking and traffic impacts are discussed at paragraphs 114, 115, and 118 – 120.
- (c) *Issues during construction (noise, traffic);*
Existing permit condition (condition 4) relating to the hours of construction work will remain on the permit, unchanged by this amendment. However the building works are entirely related to the internal fit out, and therefore unlikely to require any road or footpath closures. However any use of the road or footpath would require a Local Laws permit and is not a planning matter.
- (d) *Impacts to mental health and community of residents within apartment building.*
A number of matters were raised in relation to the apartment building. They include the following:
 - (i) The impacts of noise to surrounding residences has been discussed at paragraphs 93 – 102.
 - (ii) In relation to the security of the apartment building, the proposed floor plan shows Tenancy 2 has an entrance directly from Young Street into the reception area of the gym, and there is no access between Tenancy 2 and the apartment building foyer, or into the basement car park.
 - (iii) A concern was raised in relation to the lack of bathroom facilities for the proposed use. The provision of bathroom facilities is a building permit process, and not a planning consideration. However there are three toilets and one shower provided within the gym.

Planning Permit changes

142. Given the new considerations as a result of the movement of the tenancy within the building, and changes to the operation of the business, a number of changes are required to the planning permit. These are discussed below.

Planning Permit Address

143. Since the issue of the original permit, the parent building (i.e. No.142 Johnston Street Fitzroy) has been subdivided. The subject site is now known as No. 270 Young Street, Fitzroy. The address on the amended permit will be changed from No. 142 Johnston Street Fitzroy to No. 270 Young Street Fitzroy to reflect this.

Planning Permit Preamble

144. Amended to include the internally illuminated sign from:

Use of the land as a restricted recreation facility (fitness studio) and construction and display of business identification signage,

to:

Use of the land as a restricted recreation facility (fitness studio) and construction and display of internally illuminated business identification signage,

Planning Permit Conditions

Condition 1

145. Due to the change in location, and the revised gym type, the original condition 1 of the permit is no longer relevant to the proposed amended gym use. Condition 1 will be deleted and replaced with a new condition 1 to show the new premises and layout.

146. Condition 1 will be changed from;

Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (received 1 July 2019) but modified to show:

- (a) A notation on the floor plan indicating that the fitout of the tenancy will be in accordance with the recommendations of the endorsed Acoustic Report at condition 9 of the permit;*
- (b) Deletion of extraneous notations on basement plans unrelated to planning application (bubbled text);*
- (c) Notation confirming the wall mounted bicycle racks are spaced at a minimum 500mm.*

To:

Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (dated 8 February 2021) but modified to show:

- (a) Signs 2 and 3 to be shown as a minimum 75% transparent.*

Condition 5

147. This condition will be changed from:

No more than 12 patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.

to:

*No more than **39** patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.*

Condition 7

148. This condition will be changed from:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am - 10:00pm;*
- (b) Saturday: 6:30am - 7:00pm; and*
- (c) Sunday: 8:00am - 7:00pm.*

to:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am - **8:00pm**;*
- (b) Saturday: 6:30am - 7:00pm; and*
- (c) Sunday: 8:00am - 7:00pm.*

Condition 9

149. This condition refers to the acoustic report provided during the original permit application process. As a new acoustic report has been provided for the new location, condition 9 will be deleted and replaced with a new condition to read;

Before the use commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, but modified to include (or show, or address):

- (a) *The hours of operation as shown in the Acoustic Report amended to reflect the operating hours as per condition 7 of this planning permit.*
- (b) *The acoustic floorplan annotation corrected to indicate treatments to be undertaken to the (internal) walls of the studio, rather than to the external (west) wall and windows.*

150. Additionally, a new condition will be inserted after Condition 9, which requires acoustic testing and a new acoustic report to be produced after the completion of construction in accordance with the endorsed acoustic report. The condition will read as follows:

Before the use commences and following installation of all acoustic treatments in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, acoustic testing must be carried out by a suitably qualified acoustic engineer and a Post Construction Acoustic Report 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) *Using a pink noise signal to ensure the noise level of the gym (including sound system) does not exceed those levels as recommended by the acoustic report (per condition 9);*
- (b) *Ensuring the sound limiter is installed to continuously measure the sound pressure level in the cycle studio, and to cut the power to the system amplifier if it exceeds the values detailed in the acoustic report (per condition 9);*
- (c) *Ensuring the sound limiter is locked.*

The Post Construction Acoustic Report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with the advertised acoustic report (per condition 9). Where the Post Construction Acoustic Report finds the noise levels of the use do not satisfy the requirements outlined in the acoustic report (per condition 9), additional works as recommended to ensure compliance with the advertised acoustic report are to be undertaken prior to the use commencing, and an additional Post Construction Acoustic Report must be submitted to and approved by the Responsible Authority.

151. Given the additional condition, condition numbers will be altered as shown below:

Condition 11 (new condition 12)

152. Condition 11 of the existing planning permit refers to a plan of management as relevant to the original gym location. As the gym is to be relocated, and the gym type will also change, the management plan must also be revised. Existing condition 11 will be deleted and replaced with;

Before the use commences, an amended Plan of Management to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Plan of Management will be endorsed and will form part of this permit. The amended Plan of Management must be generally in accordance with the

Plan of Management received by Council 15 February 2021, but modified to include (or show, or address):

- (a) *Classes to begin no earlier than 5:45am;*
- (b) *Correct hours of operation, as per Condition 7*
- (c) *Confirmation that waste management will be undertaken in accordance with the endorsed Waste Management Plan associated with planning permit PLN15/0632.*

153. Conditions 12-16 (new conditions 13-17) remain unaltered.

154. New condition 18 inserted to read;

The illuminated awning sign must only be illuminated during business operating hours as per Condition 7.

155. Conditions 17 – 18 (new conditions 19-20) remain unaltered.

156. New condition 21 inserted to read;

Signs 2, 3 and 4 must not be illuminated by external or internal light.

157. Conditions 19 – 20 (new conditions 22 – 23) remain unaltered.

Conclusion

158. Based on the report, the amended proposal is considered to comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval, subject to conditions.

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue an amended Planning Permit PLN19/00221 for use of the land as a restricted recreation facility (fitness studio) and construction and display of internally illuminated business identification signage, at No. 270 Young Street Fitzroy, subject to the following conditions

Planning Permit Preamble
Amended to:

Use of the land as a restricted recreation facility (fitness studio) and construction and display of internally illuminated and business identification signage.

1. **Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (dated 8 February 2021) but modified to show:**
 - (a) **Signs 2 and 3 to be shown as a minimum 75% transparent.**
2. The use and development as shown on the endorsed plans (including location and details of the signs) 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. Within two (2) months of completion of the works, 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.
4. 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.

Use

5. **No more than 39 patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.**
6. No more than 4 staff/instructors are permitted on the land at any one time, without the prior written consent of the Responsible Authority.
7. **Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:**
 - (a) **Monday to Friday: 5:30am - 8:00pm;**
 - (b) **Saturday: 6:30am - 7:00pm; and**
 - (c) **Sunday: 8:00am - 7:00pm.**
8. The amenity of the area must not be detrimentally affected by the use, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
9. **Before the use commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, but modified to include (or show, or address):**
 - (a) The hours of operation as shown in the Acoustic Report amended to reflect the operating hours as per condition 7.
 - (b) The acoustic floorplan annotation corrected to indicate treatments to be undertaken to the (internal) walls of the studio, rather than to the external (west) wall and windows.
10. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

11. **Before the use commences and following installation of all acoustic treatments in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, acoustic testing must be carried out by a suitably qualified acoustic engineer and a Post Construction Acoustic Report 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) **Using a pink noise signal to ensure the noise level of the gym (including sound system) does not exceed those levels as recommended by the acoustic report (per condition 9);**
 - (b) **Ensuring the sound limiter is installed to continuously measure the sound pressure level in the cycle studio, and to cut the power to the system amplifier if it exceeds the values detailed in the acoustic report (per condition 9);**
 - (c) **Ensuring the sound limiter is locked.**

The Post Construction Acoustic Report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with the advertised acoustic report (per condition 9). Where the Post Construction Acoustic Report finds the noise levels of the use do not satisfy the requirements outlined in the acoustic report (per condition 9), additional works as recommended to ensure compliance with the advertised acoustic report are to be undertaken prior to the use commencing, and an additional Post Construction Acoustic Report must be submitted to and approved by the Responsible Authority.

12. **Before the use commences, an amended Plan of Management to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Plan of Management will be endorsed and will form part of this permit. The amended Plan of Management must be generally in accordance with the Plan of Management received by Council 15 February 2021, but modified to include (or show, or address):**
- (a) **Classes to begin no earlier than 5:45am**
 - (b) **Correct hours of operation, as per Condition 7**
 - (c) **Waste management to be undertaken in accordance with the requirements of the endorsed waste management plan under PLN15/0632**
13. **The provisions, recommendations and requirements of the endorsed Plan of Management must be implemented and complied with to the satisfaction of the Responsible Authority.**
14. **The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).**
15. **The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).**
16. **The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.**
17. **Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.**

Advertising Signs

18. **The illuminated awning sign must only be illuminated during operating hours as per Condition 7.**

19. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
20. The **internally illuminated** sign must not include any flashing or intermittent light.
21. **Signs 2, 3 and 4 must not be illuminated by external or internal light.**

Expiry

22. The signage component of this permit expires 15 years from the date of the permit.
23. This permit will expire if:
 - (a) the signs are not displayed within two years of the date of this permit; or
 - (b) the use is not commenced within two years of the date of this permit.

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

Notes:

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

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

Attachments

- 1 PLN19/0221.01 - 142 Johnston Street Fitzroy - Engineering Referral comments
- 2 PLN19/0221.01 - 142 Johnston Street - Existing Planning Permit
- 3 PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title
- 4 PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans
- 5 PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans
- 6 PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility Management Plan
- 7 PLN19/0221.01 - 142 Johnston Street Fitzroy - Acoustic Report
- 8 PLN19/0221.01 - 142 Johnston Street Fitzroy - Acoustic Floorplan
- 9 PLN19/0221.01 - 142 Johnston Street Fitzroy - Internal acoustic referral comments
- 10 PLN19/0221.01 - 142 Johnston Street Fitzroy - Strategic Transport referral comments

Attachment 1 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Engineering Referral comments



MEMO

To: Alexandra Paraskevakis
From: Artemis Bacani
Date: 23 April 2021
Subject: Application No: PLN19/0221.01
 Description: Amendment for Gym Use
 Site Address: 142 Johnston Street, Fitzroy

I refer to the above Planning Application received on 22 April 2021 in relation to the proposed development at 142 Johnston Street Fitzroy. Council's Engineering Referral team provides the following information:

Drawings and Documents Reviewed

| | Drawing No. or Document | Revision | Dated |
|--------------------------|------------------------------|----------|-----------------|
| City of Yarra | Planning Permit – PLN19/0221 | | 20 April 2020 |
| Andrew Carija Architects | A102 Proposed Floor Plan | C | 8 February 2021 |
| | A102 Basement Floor Plan | A | 8 February 2021 |

The amendment for Planning Application PLN19/0221.01 proposes an increase in the number of patrons from 12 to 39 – an increase of 27 patrons. The number of staff at the fitness studio will remain at four.

No additional car spaces is proposed within the basement car park.

CAR PARKING PROVISION

Proposed Development

Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development's parking requirements are as follows:

| Proposed Use | Quantity/ Size | Statutory Parking Rate | No. of Spaces Required | No. of Spaces Allocated |
|---|----------------|------------------------|--|-------------------------|
| Restricted Recreation Facility (Fitness Studio) | 27 patrons | Rate Not Specified | To the satisfaction of the Responsible Authority | 0 |

* Since the site is located within the Principal Public Transport Network Area, the parking rates in Column B of Clause 52.06-5 now apply.

To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

Attachment 1 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Engineering Referral comments

Car Parking Demand Assessment

In reducing the number of parking spaces required for the proposed development, the Car Parking Demand Assessment would assess the following:

- *Parking Demand for the Restricted Recreational Facility Use.*

All parking for the additional patrons would be accommodated off-site. Restricted recreation facilities in the municipality (including pilates studios, gymnasiums, dance schools etc) have been approved with either no on-site parking or with one or two on-site spaces. The table below provides some recently approved recreation facilities in Yarra:

| Development Site | Approved Parking |
|--|--|
| Cremorne | |
| Yoga Studio 94 Cubitt Street PLN15/0019 issued 4 May 2016 | 2 on-site spaces (32 patrons) |
| Abbotsford | |
| Gymnasium (24 hour) 563 Victoria Street PLN16/0948 issued 3 February 2017 | No on-site car parking (40 patrons) |
| Yoga Studio 96 Nicholson Street PLN14/1065 issued 27 July 2015 | No on-site car parking (12 patrons) |
| Fitzroy | |
| Gymnasium (24 hour) 224 Brunswick Street PLN14/0892 issued 14 January 2015 | No on-site car parking (40 patrons) |

The site is located along a bus route allowing staff and patrons to commute to and from the site by public transport.

- *Availability of Public Transport in the Locality of the Land.*

The following public transport services can be accessed to and from the site by foot:

- Johnston Street bus services – 50 metre walk
- Brunswick Street tram services – 100 metre walk
- Smith Street tram services – 390 metre walk
- Nicholson Street tram services – 410 metre walk

- *Multi-Purpose Trips within the Area.*

Patrons to the site might combine their visit by engaging in other activities or business whilst in the area.

- *Convenience of Pedestrian and Cyclist Access.*

The site is easily accessible by pedestrians and bicycles.

Attachment 1 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Engineering Referral comments

Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

Clause 52.06 lists a number of considerations for deciding whether the required number of spaces should be reduced. For the subject site, the following considerations are as follows:

- *Availability of Car Parking.*

Due to the COVID-19 restrictions, car parking occupancy surveys cannot be undertaken at this time as it would not provide an accurate representation of the car parking demands in the surrounding area.

The on-street parking in this part of Fitzroy is generally high during business hours and in the evenings. The area surrounding the subject site is blanketed in time-based parking restrictions which ensure that parking turns over frequently. Visitors to the site during business hours should be able to find an on-street car space near the site.

- *Relevant Local Policy or Incorporated Document.*

The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use.

Adequacy of Car Parking

From a traffic engineering perspective, the reduction of parking for the site is considered appropriate in the context of the development and the surrounding area. The operation of the development should not adversely impact on existing on-street parking conditions in the area. The site is also well positioned to various public transport services.

The Engineering Referral team has no objection to the reduction in the car parking requirement for this site.

Attachment 2 - PLN19'0221.01 - 142 Johnston Street - Existing Planning Permit

Helping you understand your planning needs



PLANNING PERMIT

Permit No: PLN19/0221

Planning Scheme: Yarra

Responsible Authority: City Of Yarra

ADDRESS OF THE LAND:

142 Johnston St Fitzroy VIC 3065

THE PERMIT ALLOWS:

Use of the land as a restricted recreation facility (fitness studio) and construction and display of business identification signage.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (received 1 July 2019) but modified to show:
 - (a) A notation on the floor plan indicating that the fitout of the tenancy will be in accordance with the recommendations of the endorsed Acoustic Report at condition 9 of the permit.
 - (b) Deletion of extraneous notations on basement plans unrelated to planning application (bubbled text);
 - (c) Notation confirming the wall mounted bicycle racks are spaced at a minimum 500mm.
2. The use and development as shown on the endorsed plans (including location and details of the signs) 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. Within two (2) months of completion of the works, 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.

Date: 28 April 2020

Julian Larkins

Signature for the Responsible Authority

Planning and Environment Regulations 2015 No. 33/2015 Form 4 Sections 63, 64 64A and 86

Page 1 of 3

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

Attachment 2 - PLN19'0221.01 - 142 Johnston Street - Existing Planning Permit

4. 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.

Use

5. No more than 12 patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.
6. No more than 4 staff/instructors are permitted on the land at any one time, without the prior written consent of the Responsible Authority.
7. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:
 - (a) Monday to Friday: 5:30am - 10:00pm;
 - (b) Saturday: 6:30am - 7:00pm; and
 - (c) Sunday: 8:00am - 7:00pm.
8. The amenity of the area must not be detrimentally affected by the use, including through:
 - (d) the transport of materials, goods or commodities to or from land;
 - (e) the appearance of any buildings, works or materials;
 - (f) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (g) the presence of vermin.

to the satisfaction of the Responsible Authority.
9. Before the use commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Dynamics and dated 18 December 2019, but modified to include (or show, or address):
 - (a) A music noise limiter/compressor installed and calibrated by a suitably qualified acoustic consultant to ensure SEPP N-2 compliant music levels are not exceeded at any time, with access to settings restricted to fitness studio management.
 - (b) The upgraded floor system incorporating springs and Regupol 4080 rubber matting (as set out in Table 3.9) for use under all parts of the workout area (including running machines and cardio area); or alternatively, post construction (fitout) tests conducted demonstrating that noise from the 12 running machines used concurrently (or as many as are likely to be used concurrently) meet the design L_{max} and L_{eq} targets in the apartments above.
10. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Date: 28 April 2020


 Julian Larkins
 Signature for the Responsible Authority

Attachment 2 - PLN19'0221.01 - 142 Johnston Street - Existing Planning Permit

11. Before the use commences, an amended Plan of Management to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Plan of Management will be endorsed and will form part of this permit. The amended Plan of Management must be generally in accordance with the Plan of Management submitted to Council on 22 January 2020 but modified to include (or show, or address):
 - (a) Consistency with the relevant recommendations contained within the acoustic report endorsed under Condition 9 of the permit; and
 - (b) Confirmation that waste management will be in accordance with the endorsed Waste Management Plan associated with planning permit PLN15/0632.
12. The provisions, recommendations and requirements of the endorsed Plan of Management must be implemented and complied with to the satisfaction of the Responsible Authority.
13. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
16. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.

Advertising Signs

17. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
18. The signs must not include any flashing or intermittent light.

Expiry

19. The signage component of this permit expires 15 years from the date of the permit.
20. This permit will expire if:
 - (a) the signs are not displayed within two years of the date of this permit; or
 - (b) the use is not commenced within two years of the date of this permit.

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

Notes:

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

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

Date: 28 April 2020


Julian Larkins
Signature for the Responsible Authority

Attachment 2 - PLN19'0221.01 - 142 Johnston Street - Existing Planning Permit

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

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

WHEN DOES A PERMIT BEGIN?

A permit operates:

- from the date specified in the permit; or
- if no date is specified, from—
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must be served on the responsible authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Planning and Environment Regulations 2015 No. 33/2015 Form 4 Sections 63, 64, 64A and 86

Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title

ATTACHEMENT A

TITLE INFORMATION

Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title



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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 12022 FOLIO 665

Security no : 124086875062N

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LAND DESCRIPTION

Lot 2 on Plan of Subdivision 801044P.
PARENT TITLE Volume 08997 Folio 521
Created by instrument PS801044P 11/10/2018

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
INVEST ASSIST PTY LTD of UNIT 301 26 WILSON STREET SOUTH YARRA VIC 3141
AR590767V 25/10/2018

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AR590768T 25/10/2018
PERPETUAL CORPORATE TRUST LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PS801044P FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 272 YOUNG STREET FITZROY VIC 3065

OWNERS CORPORATIONS

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS801044P

DOCUMENT END

Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title



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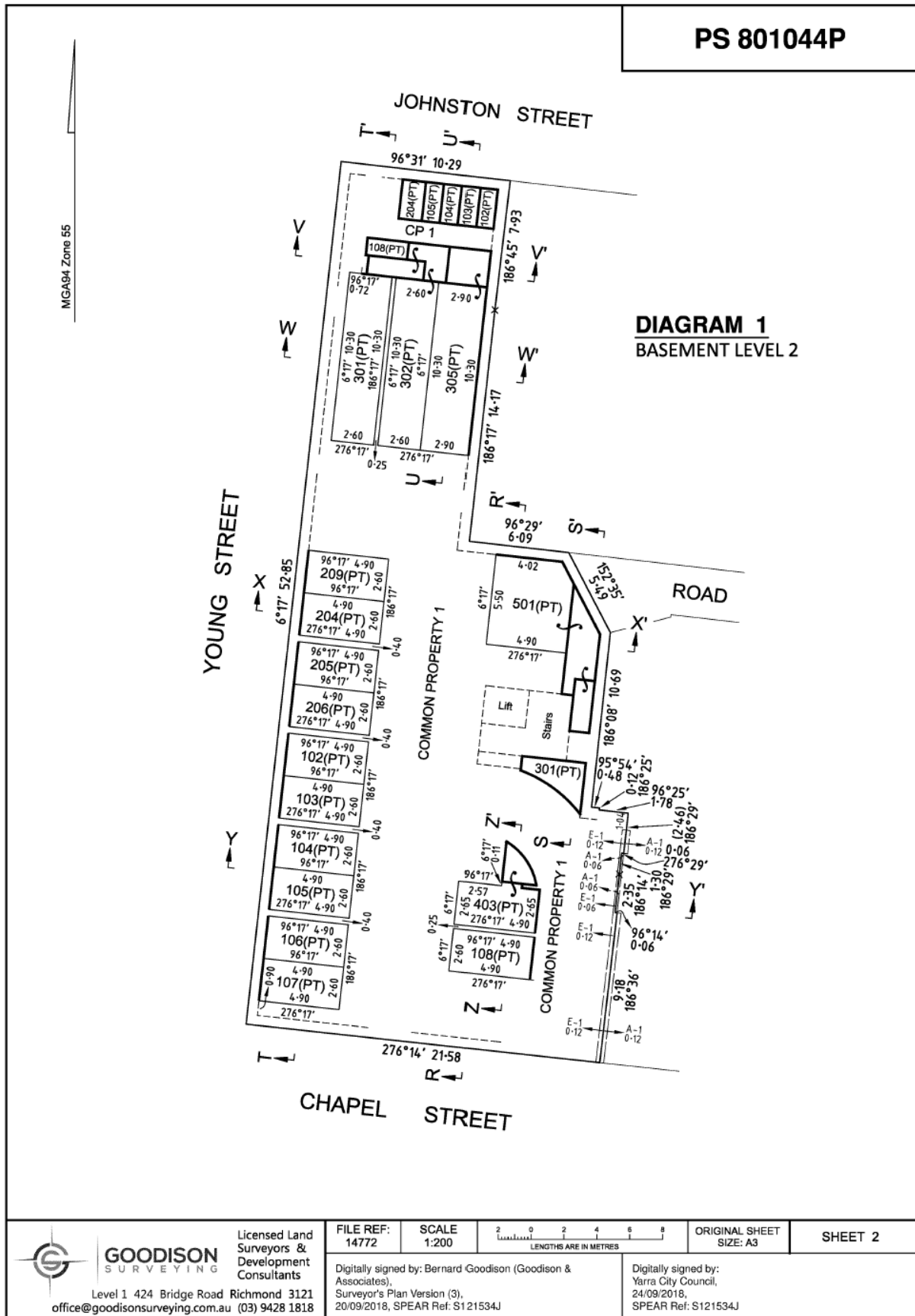
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| PLAN OF SUBDIVISION | | | EDITION 1 | | PS 801044P | | | | | | | | | | | | | | | | | | | | | |
|--|---------------------|----------------|--|-----------------------------|--|-----|--|---------|----------------|--------|-----------------------------|-----|------------|----------|---------|------------------|-----|------------|----------|---------|------------------|-----|---------------|----------|------------------|-------------|
| LOCATION OF LAND PARISH: JIKA JIKA TOWNSHIP: SECTION: CROWN ALLOTMENT: CROWN PORTION: 72 (PART) TITLE REFERENCE: Vol. 8997 Fol. 521 Vol. Fol. Vol. Fol. LAST PLAN REFERENCE: CP101780 POSTAL ADDRESS: 142-144 JOHNSTON STREET (at time of subdivision) FITZROY 3065 MGA CO-ORDINATES: E: 322 130 ZONE: 55 (of approx centre of land N: 5 814 580 GDA 94 in plan) | | | Council Name: Yarra City Council Council Reference Number: SC18/0035 Planning Permit Reference: SP18/0027 SPEAR Reference Number: S121534J Certification This plan is certified under section 6 of the Subdivision Act 1988 Statement of Compliance This is a statement of compliance issued under section 21 of the Subdivision Act 1988 Public Open Space A requirement for public open space under section 18 of the Subdivision Act 1988 has been made and the requirement has been satisfied Digitally signed by: Vasiliky Grillakis for Yarra City Council on 24/09/2018 | | | | | | | | | | | | | | | | | | | | | | | |
| VESTING OF ROADS AND/OR RESERVES <table border="1"> <thead> <tr> <th>IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> </thead> <tbody> <tr> <td>Nil</td> <td>Nil</td> </tr> </tbody> </table> | | | IDENTIFIER | COUNCIL/BODY/PERSON | Nil | Nil | NOTATIONS Total site area : 848m ² Number of lots : 32 Boundaries shown by thick continuous lines are defined by buildings. Location of boundaries defined by buildings: Interior Face : All boundaries ----- Lines shown thus define a structure of the building that does not constitute a boundary. Common Property 1 is all the land in the plan except the lots and it includes the structure of all walls, floors, ceilings, windows, doors and balustrades which define boundaries. CP 1 - Common Property 1 Bal - Balcony Ter - Terrace Lots 1,2,101,302,305,403,404,501 & 502 comprise of 2 parts. Lots 102,103,104,105,106,107,108,109,201,202,203,204,205,206,207,208,209, 301,303,304,401,402 & 405 comprise of 3 parts. All internal columns, service ducts, pipe shafts, cable ducts & service installations within the building are deemed to be part of common property No.1. The positions of these columns, service ducts, pipe shafts, cable ducts & service installations may not have been shown on the diagrams contained herein. Lots in this plan may be affected by one or more Owners Corporations. For details of Owners Corporation(s) including; purpose, responsibility and entitlement and liability, see Owners Corporation search report, Owners Corporation rules and Owners Corporation additional information. | | | | | | | | | | | | | | | | | | | |
| IDENTIFIER | COUNCIL/BODY/PERSON | | | | | | | | | | | | | | | | | | | | | | | | | |
| Nil | Nil | | | | | | | | | | | | | | | | | | | | | | | | | |
| NOTATIONS DEPTH LIMITATION: Does not apply SURVEY: This plan is/is not based on survey. STAGING: This is/is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s). In Proclaimed Survey Area No. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| EASEMENT INFORMATION LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road) Section 12(2) of the Subdivision Act 1988 applies to all the land in this plan | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Easement Reference</th> <th>Purpose</th> <th>Width (Metres)</th> <th>Origin</th> <th>Land Benefited/In Favour Of</th> </tr> </thead> <tbody> <tr> <td>A-1</td> <td>Party Wall</td> <td>See Plan</td> <td>LP33922</td> <td>Lot 3 on LP33922</td> </tr> <tr> <td>E-1</td> <td>Party Wall</td> <td>See Plan</td> <td>LP33922</td> <td>Lot 4 on LP33922</td> </tr> <tr> <td>E-1</td> <td>Any Easements</td> <td>See Plan</td> <td>See V.8997 F.521</td> <td>Unspecified</td> </tr> </tbody> </table> | | | | | | | Easement Reference | Purpose | Width (Metres) | Origin | Land Benefited/In Favour Of | A-1 | Party Wall | See Plan | LP33922 | Lot 3 on LP33922 | E-1 | Party Wall | See Plan | LP33922 | Lot 4 on LP33922 | E-1 | Any Easements | See Plan | See V.8997 F.521 | Unspecified |
| Easement Reference | Purpose | Width (Metres) | Origin | Land Benefited/In Favour Of | | | | | | | | | | | | | | | | | | | | | | |
| A-1 | Party Wall | See Plan | LP33922 | Lot 3 on LP33922 | | | | | | | | | | | | | | | | | | | | | | |
| E-1 | Party Wall | See Plan | LP33922 | Lot 4 on LP33922 | | | | | | | | | | | | | | | | | | | | | | |
| E-1 | Any Easements | See Plan | See V.8997 F.521 | Unspecified | | | | | | | | | | | | | | | | | | | | | | |
|  GOODISON SURVEYING Licensed Land Surveyors & Development Consultants Level 1 424 Bridge Road Richmond 3121 office@goodisonsurveying.com.au (03) 9428 1818 | | | SURVEYORS FILE REF: 14772 (20/9/18) Digitally signed by: Bernard Goodison (Goodison & Associates), Surveyor's Plan Version (3), 20/09/2018, SPEAR Ref: S121534J | | ORIGINAL SHEET SIZE: A3 SHEET 1 OF 12 PLAN REGISTERED TIME: 12:09 PM DATE: 11 / 10 / 2018 Laura Campbell Assistant Registrar of Titles | | | | | | | | | | | | | | | | | | | | | |

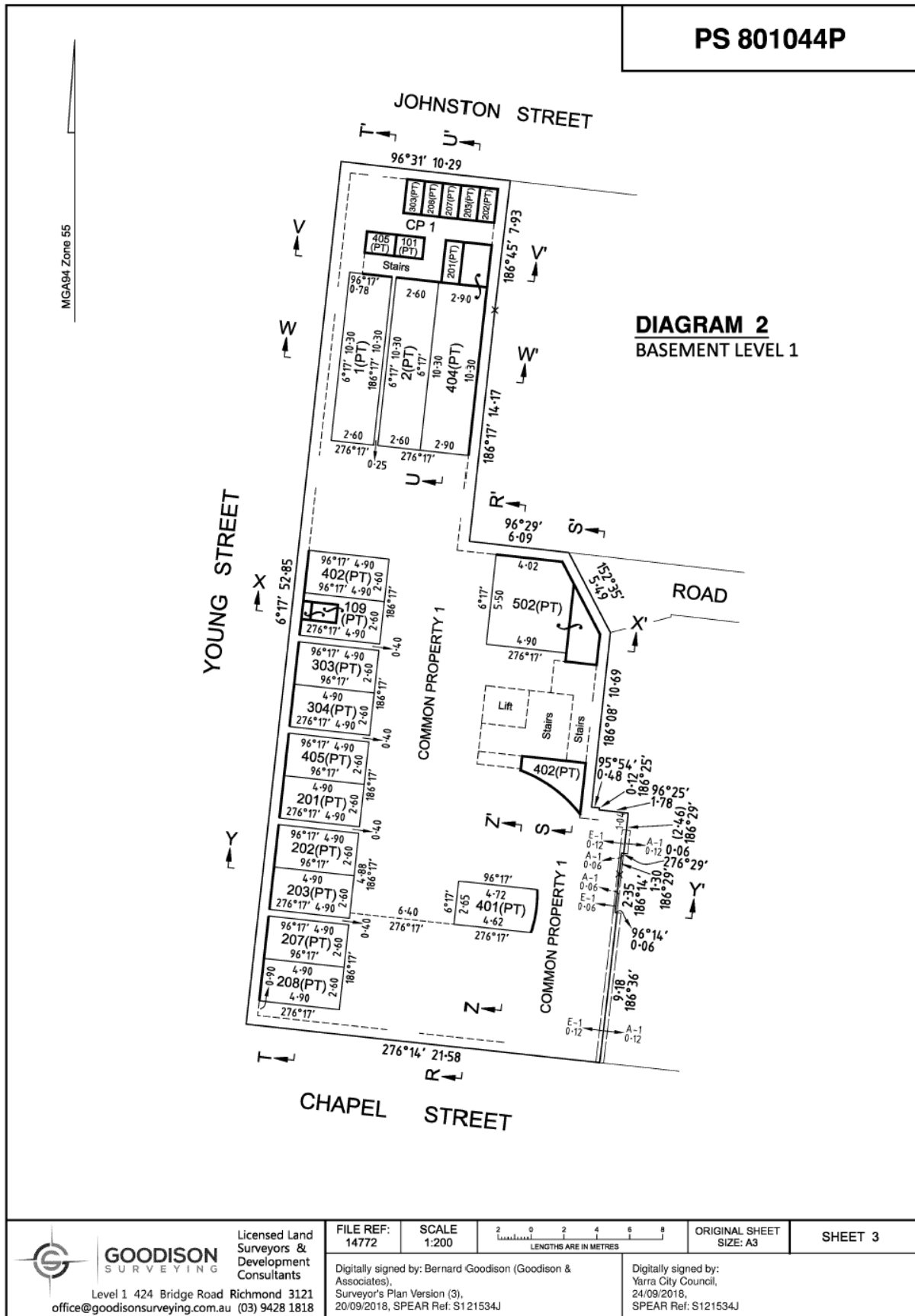
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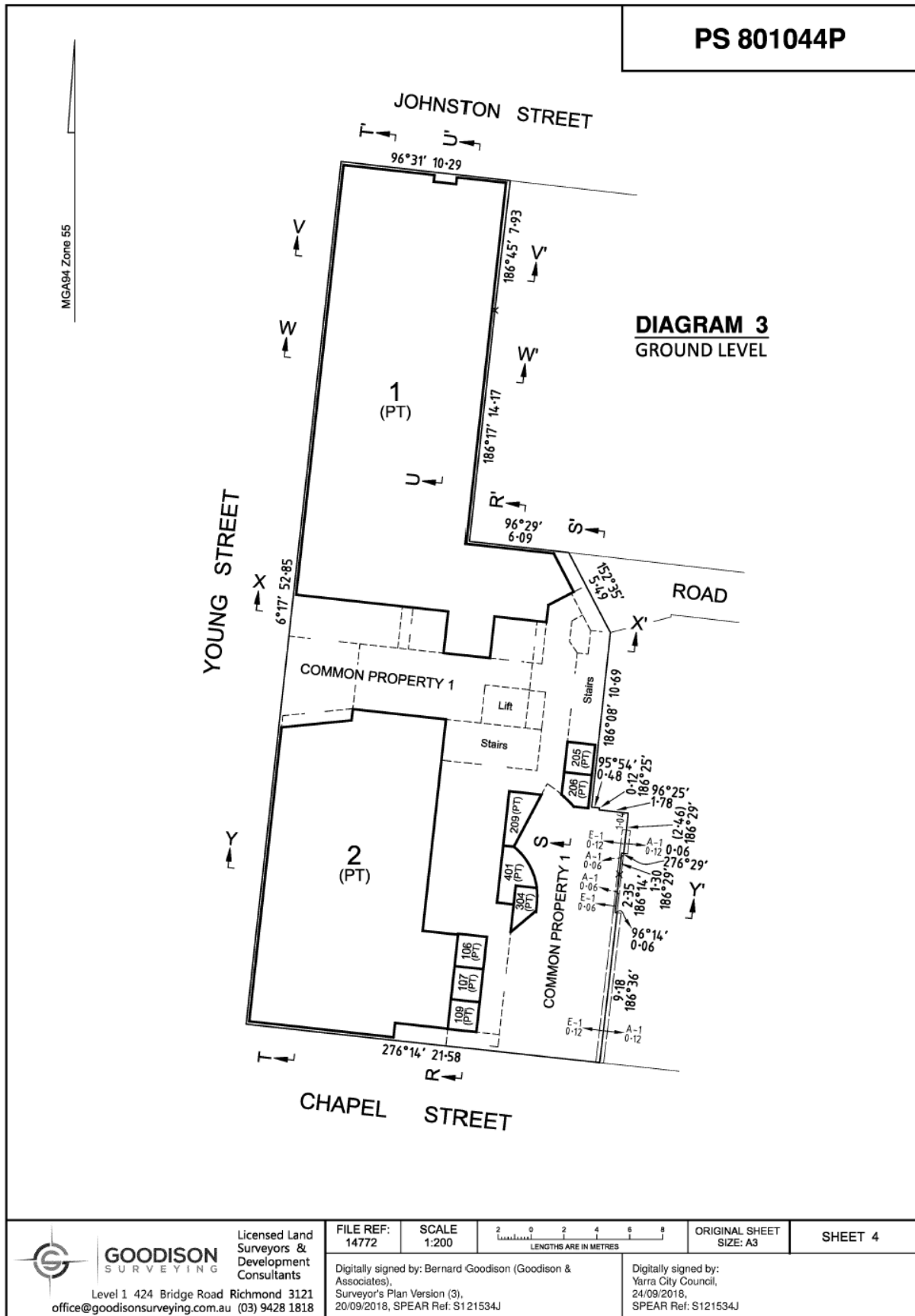
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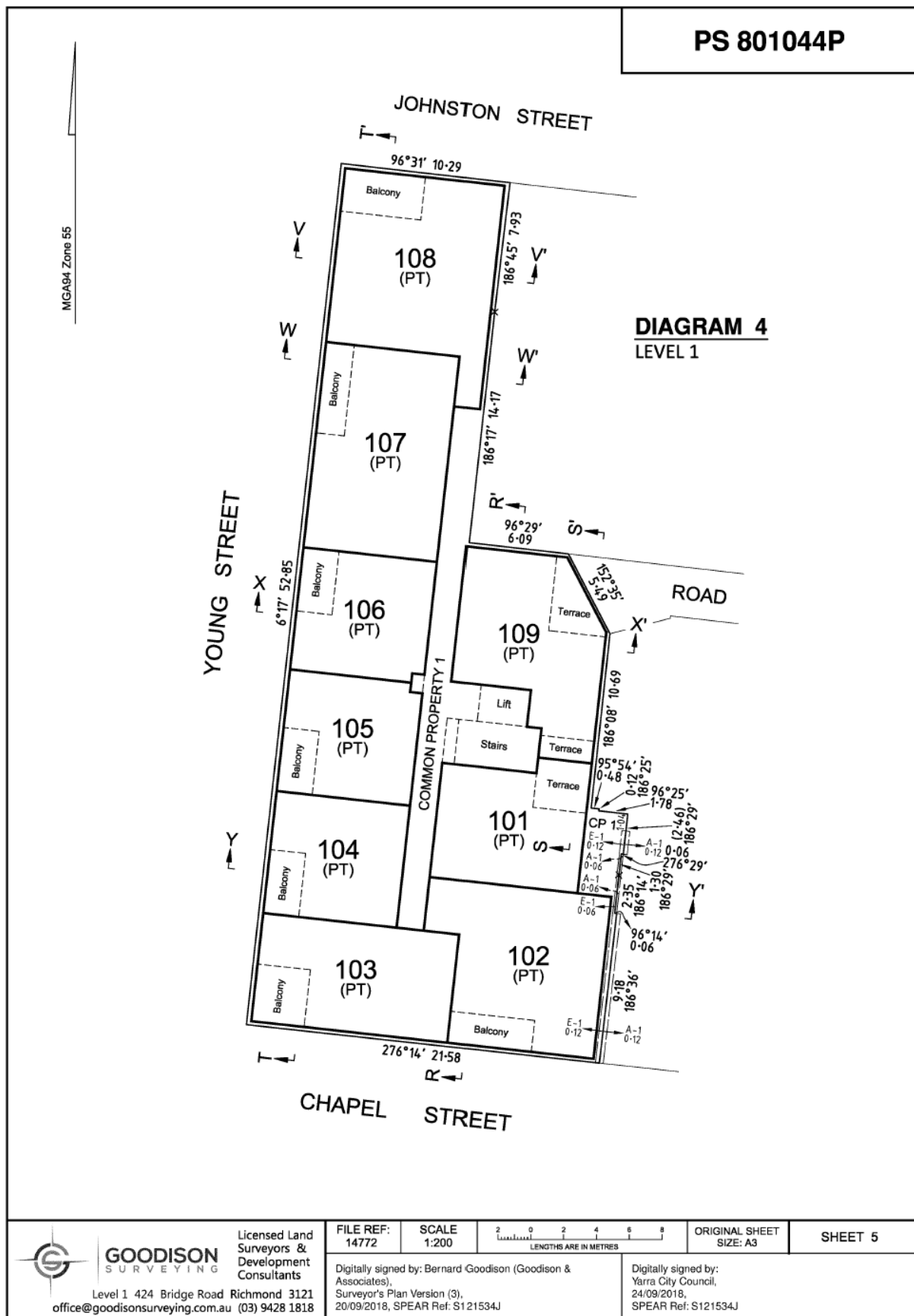
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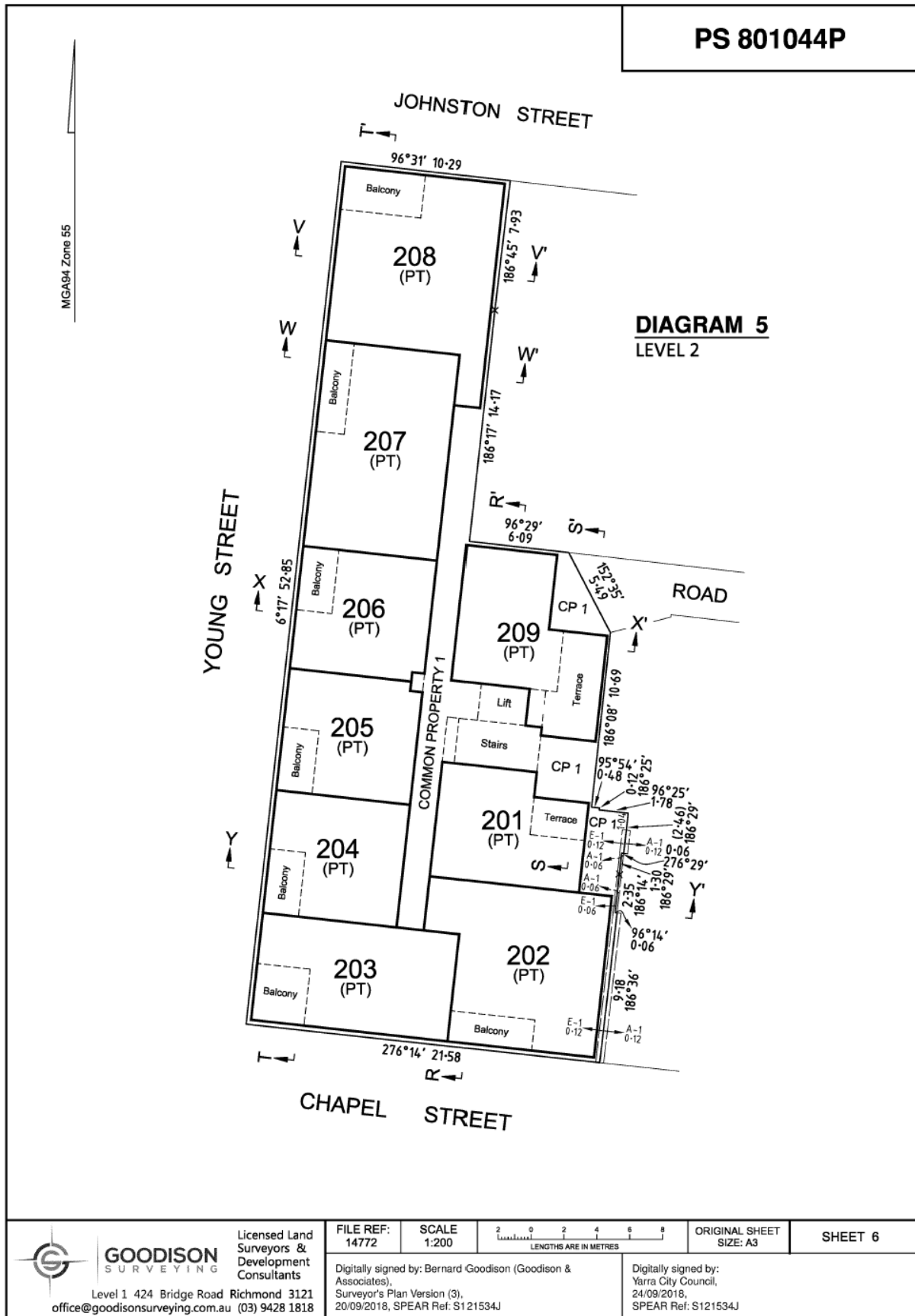
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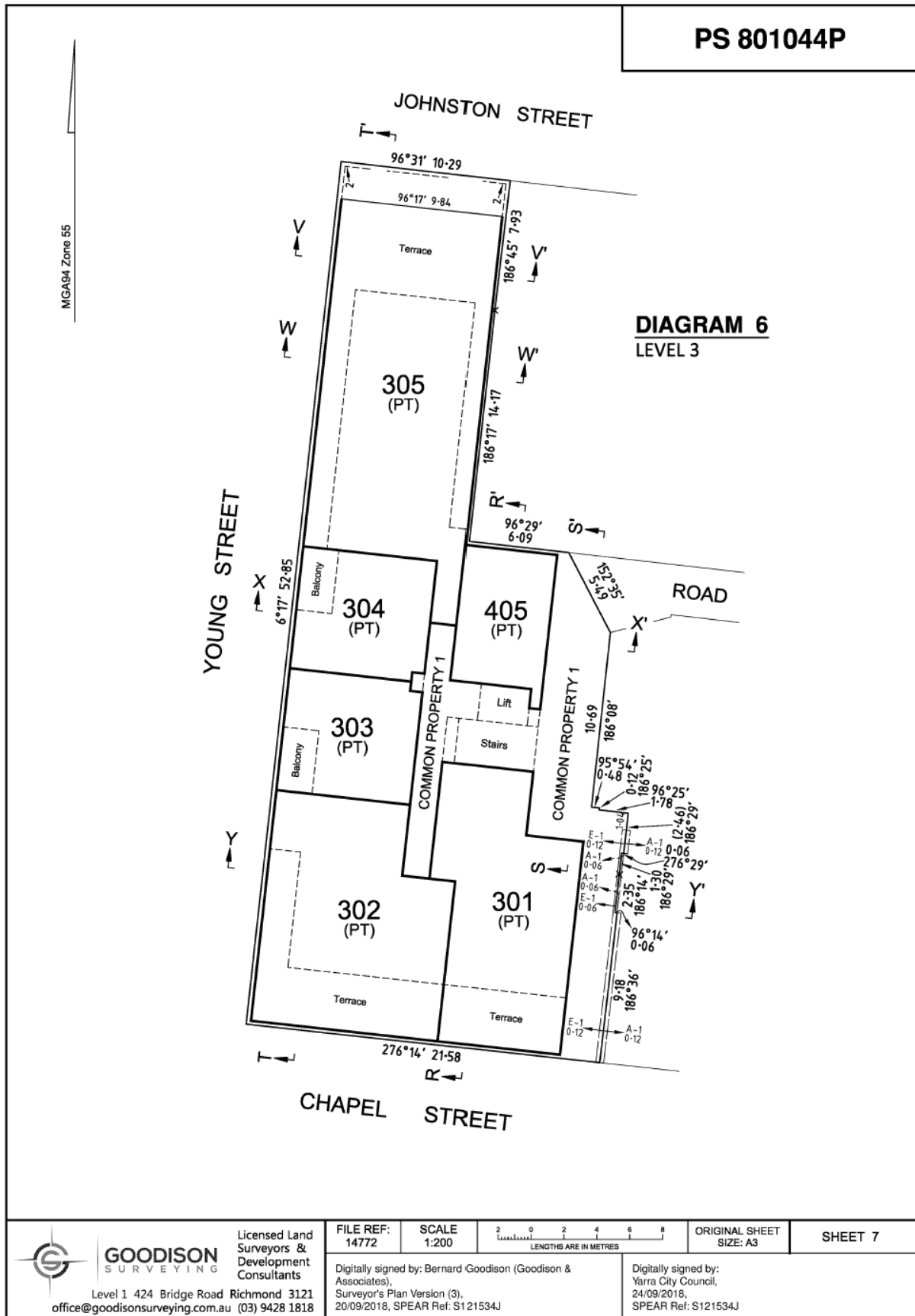
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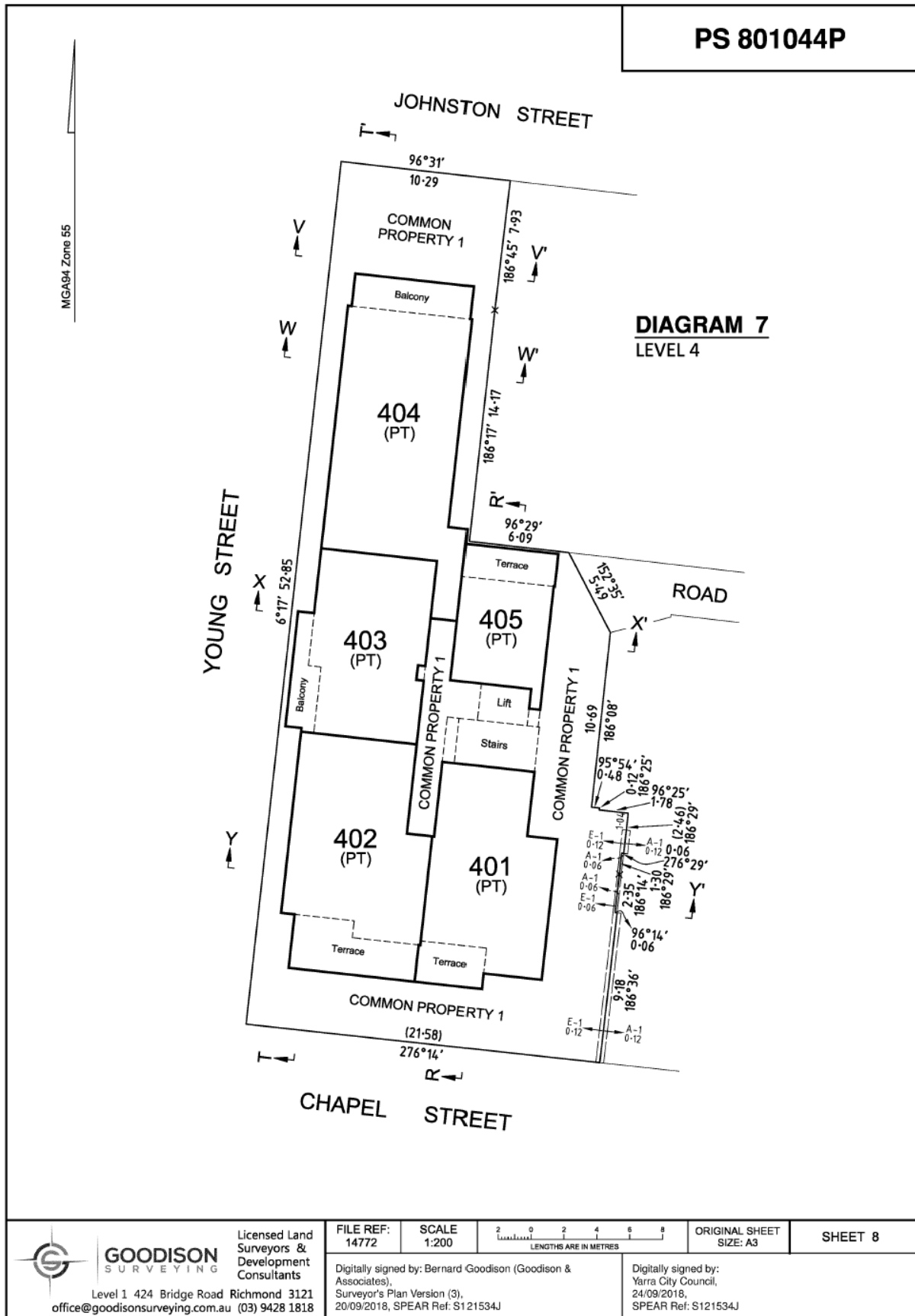
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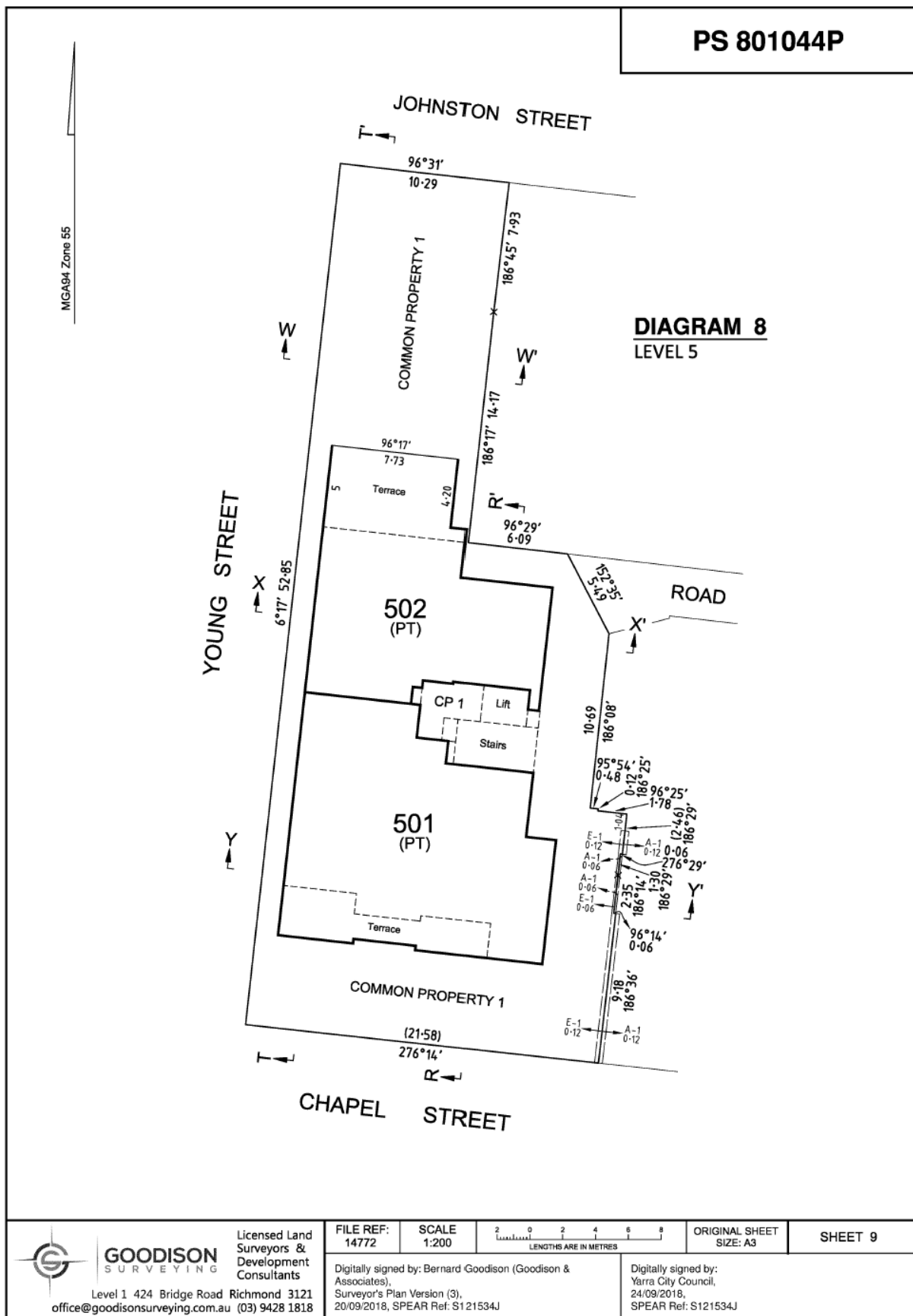
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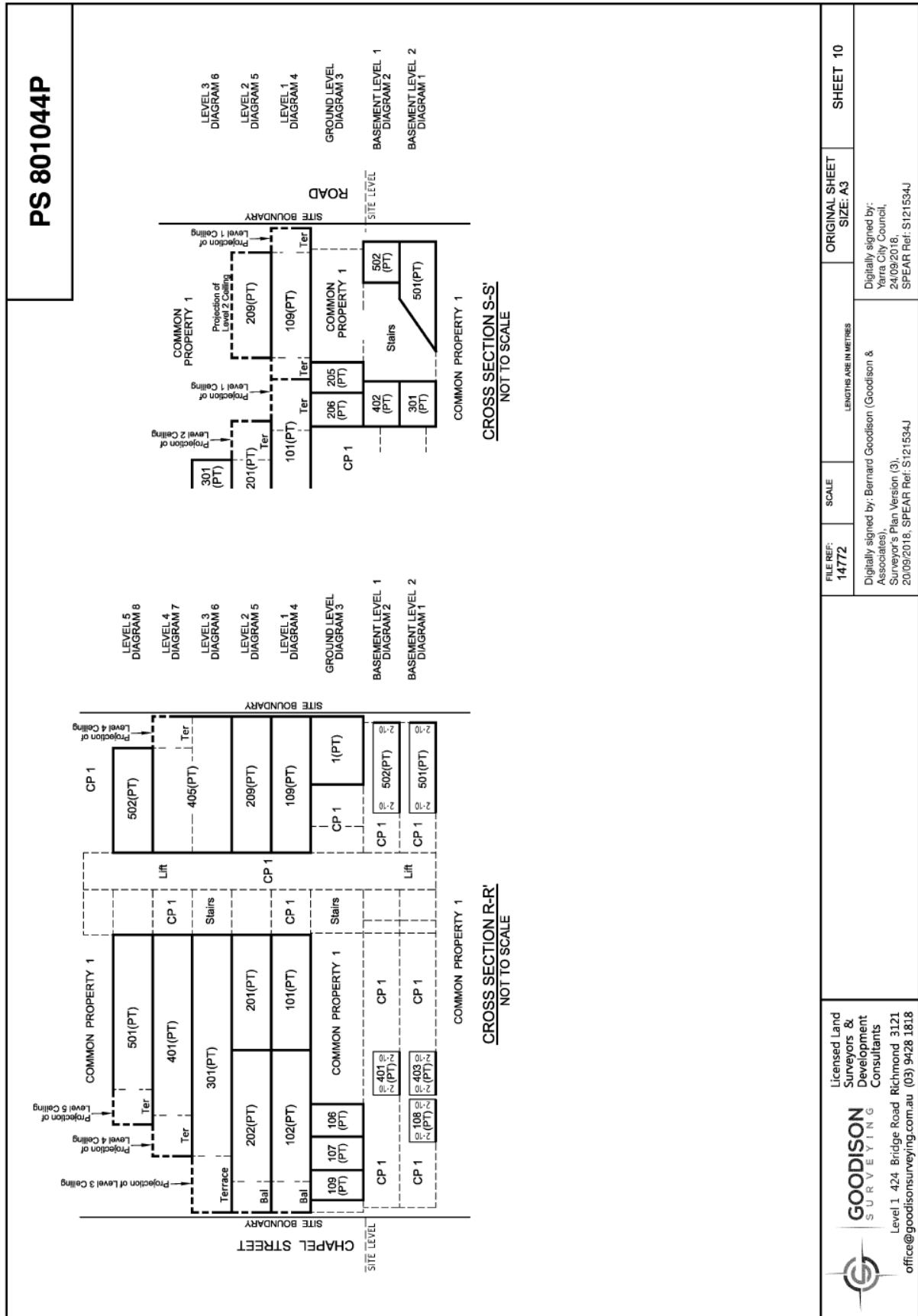
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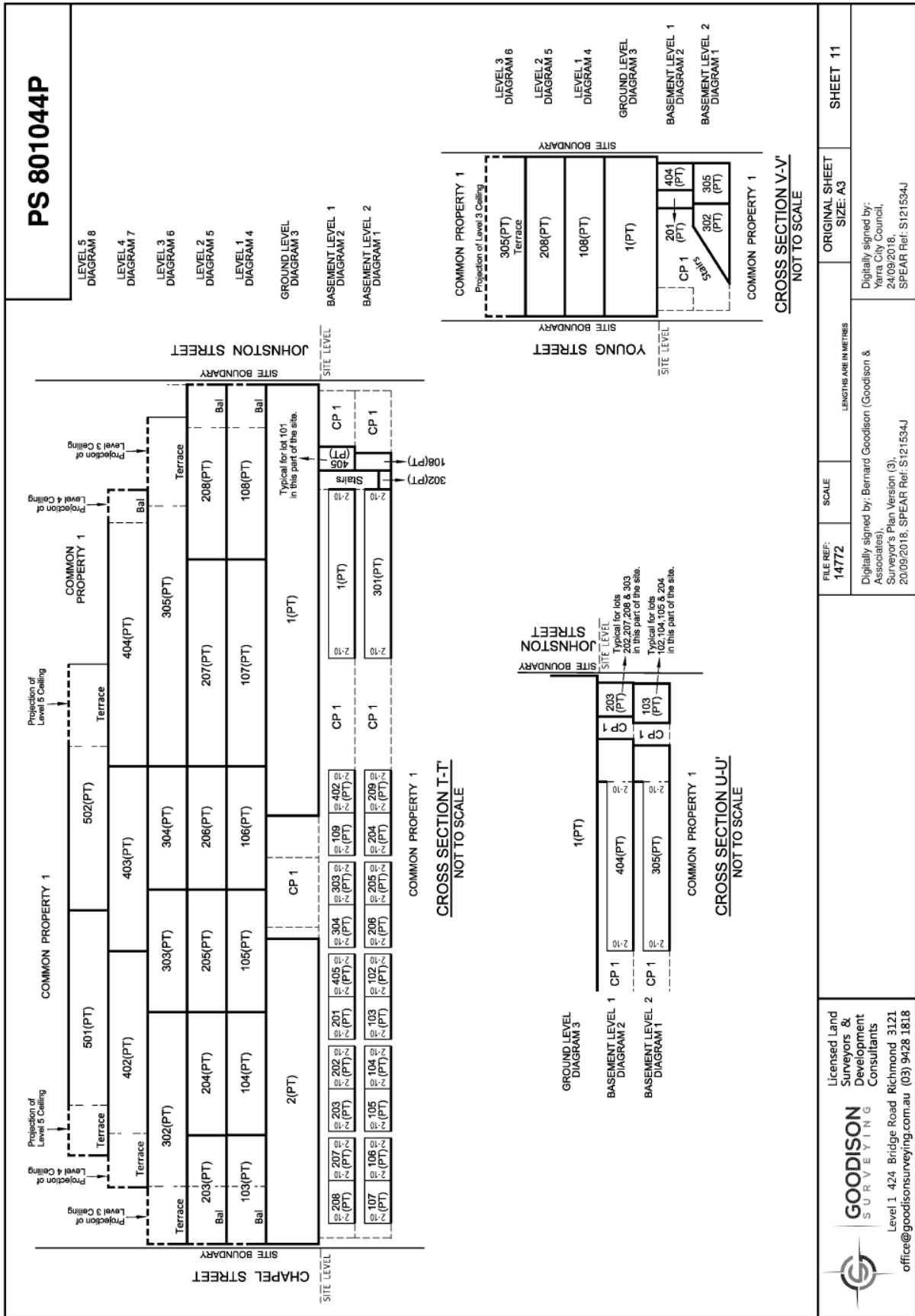
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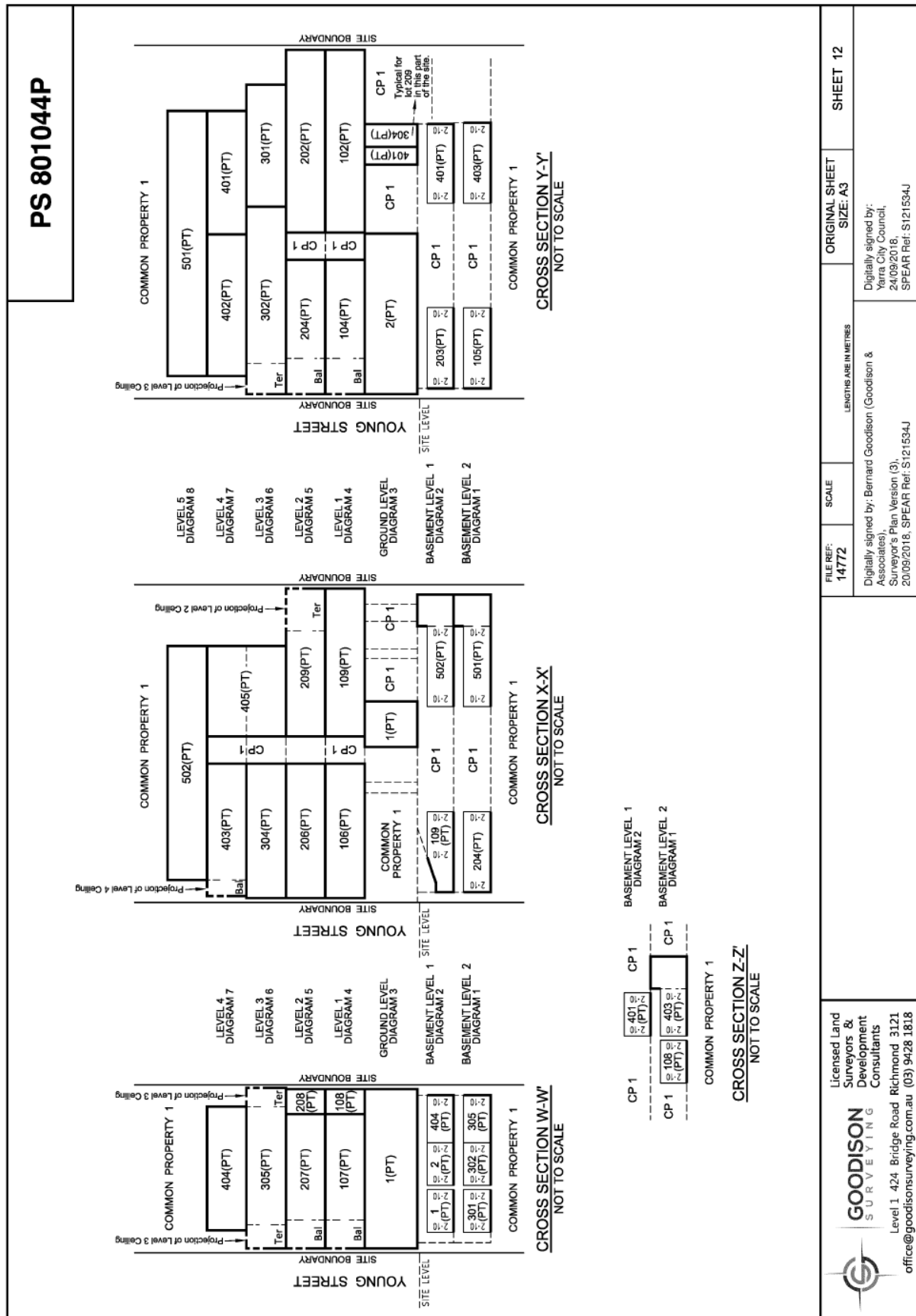
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Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title

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Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

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OWNERS CORPORATION 1
PLAN NO. PS801044P

The land in PS801044P is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1, 2, 101 - 109, 201 - 209, 301 - 305, 401 - 405, 501, 502.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

99 DRUMMOND STREET CARLTON VIC 3053

OC041184F 11/10/2018

Owners Corporation Manager:

NIL

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

1. OC041185D 11/10/2018

Additional Owners Corporation Information:

OC041184F 11/10/2018

Notations:

NIL

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

| Land Parcel | Entitlement | Liability |
|-------------------|-------------|-----------|
| Common Property 1 | 0 | 0 |
| Lot 1 | 53 | 53 |
| Lot 2 | 39 | 39 |
| Lot 101 | 16 | 16 |
| Lot 102 | 30 | 30 |
| Lot 103 | 25 | 25 |
| Lot 104 | 18 | 18 |

LAND USE VICTORIA, 2 Lonsdale Street Melbourne Victoria 3000
GPO Box 527 Melbourne VIC 3001, DX 250639
ABN 90 719 052 204

Page 1 of 3



Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 01/12/2020 10:22:48 AM

OWNERS CORPORATION 1
PLAN NO. PS801044P

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

| Land Parcel | Entitlement | Liability |
|--------------|----------------|----------------|
| Lot 105 | 18 | 18 |
| Lot 106 | 18 | 18 |
| Lot 107 | 31 | 31 |
| Lot 108 | 32 | 32 |
| Lot 109 | 22 | 22 |
| Lot 201 | 17 | 17 |
| Lot 202 | 31 | 31 |
| Lot 203 | 26 | 26 |
| Lot 204 | 18 | 18 |
| Lot 205 | 18 | 18 |
| Lot 206 | 18 | 18 |
| Lot 207 | 32 | 32 |
| Lot 208 | 33 | 33 |
| Lot 209 | 18 | 18 |
| Lot 301 | 38 | 38 |
| Lot 302 | 41 | 41 |
| Lot 303 | 20 | 20 |
| Lot 304 | 20 | 20 |
| Lot 305 | 55 | 55 |
| Lot 401 | 31 | 31 |
| Lot 402 | 41 | 41 |
| Lot 403 | 30 | 30 |
| Lot 404 | 50 | 50 |
| Lot 405 | 31 | 31 |
| Lot 501 | 75 | 75 |
| Lot 502 | 55 | 55 |
| Total | 1000.00 | 1000.00 |

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan,

LAND USE VICTORIA, 2 Lonsdale Street Melbourne Victoria 3000
GPO Box 527 Melbourne VIC 3001, DX 250639
ABN 90 719 052 204

Page 2 of 3



Attachment 3 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Certificate of Title



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 01/12/2020 10:22:48 AM

OWNERS CORPORATION 1
PLAN NO. PS801044P

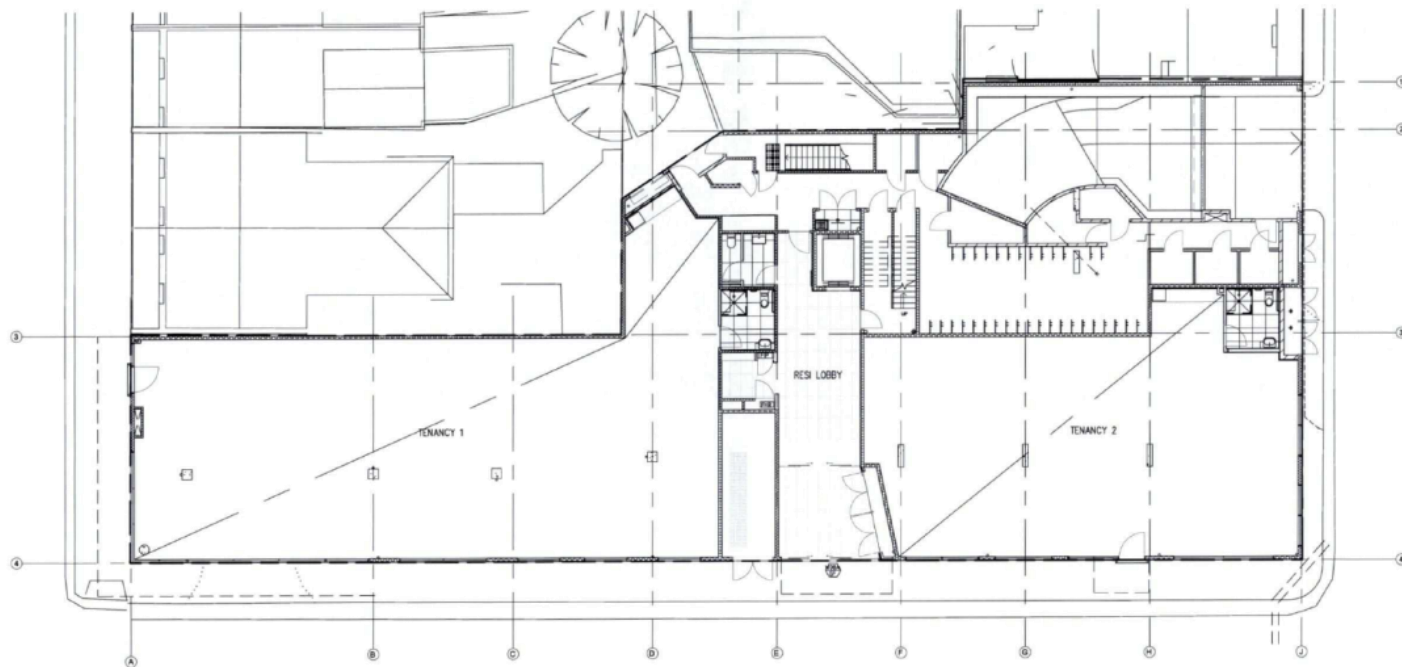
Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

Attachment 4 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans



Attachment 4 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans



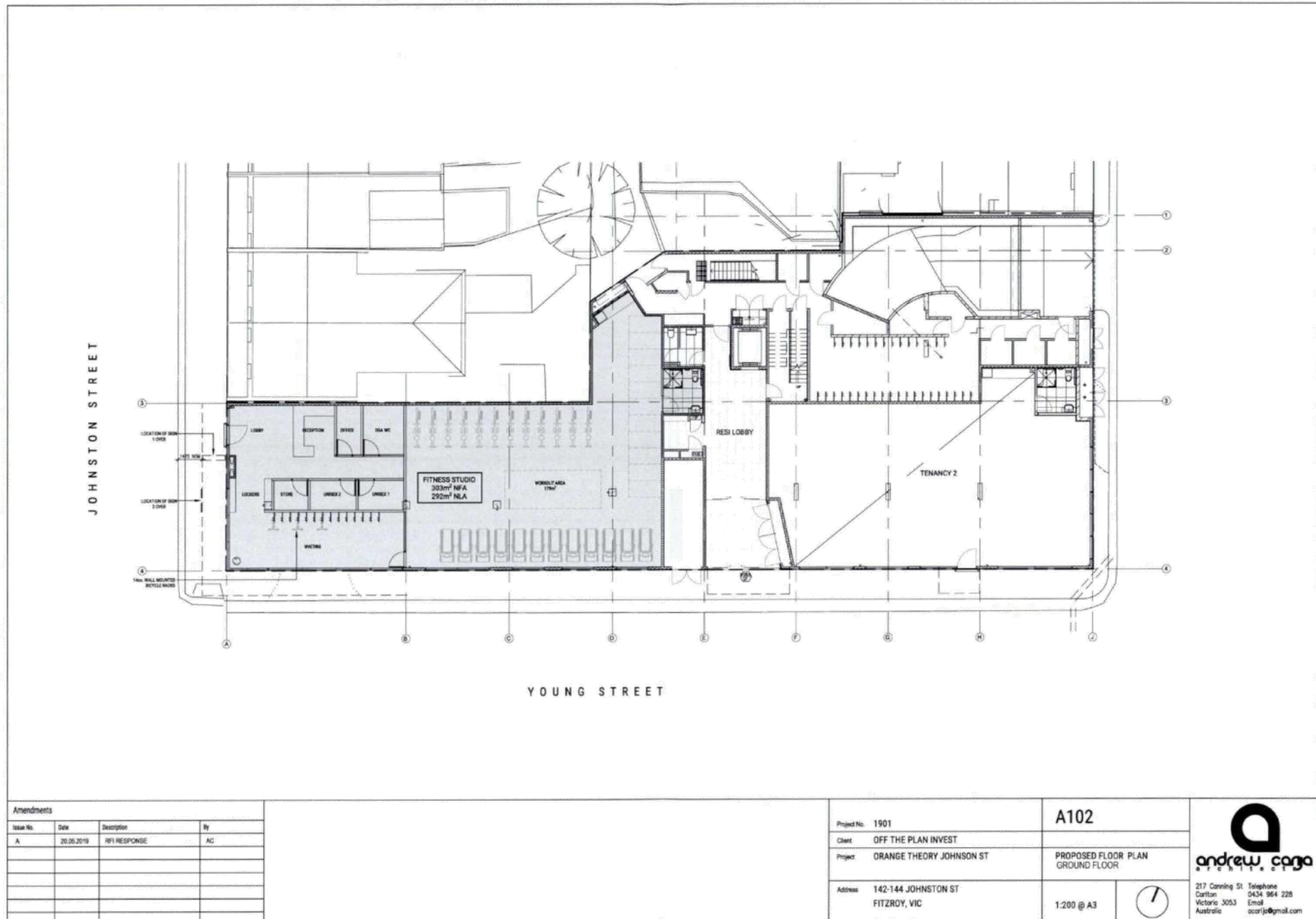
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| B | 20.05.2019 | RPI RESPONSE | AC |
| | | | |
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| | | |
|-------------|-------------------------------------|---|
| Project No. | 1901 | A101 |
| Client | OFF THE PLAN INVEST | |
| Project | ORANGE THEORY JOHNSON ST | EXISTING FLOOR PLAN(GROUND) AS APPROVED UNDER PLANNING PERMIT PLN150632 |
| Address | 142-144 JOHNSTON ST FITZROY, VIC | 1:200 @ A3 |

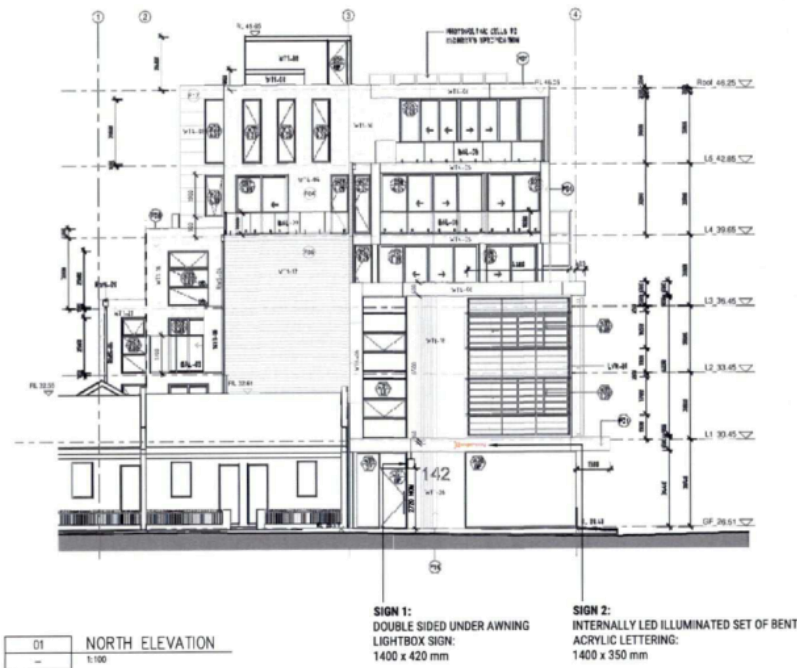


217 Canning St Telephone
Carlton 0434 964 228
Victoria 3053 Email
Australia acogan@gmail.com


Attachment 4 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans



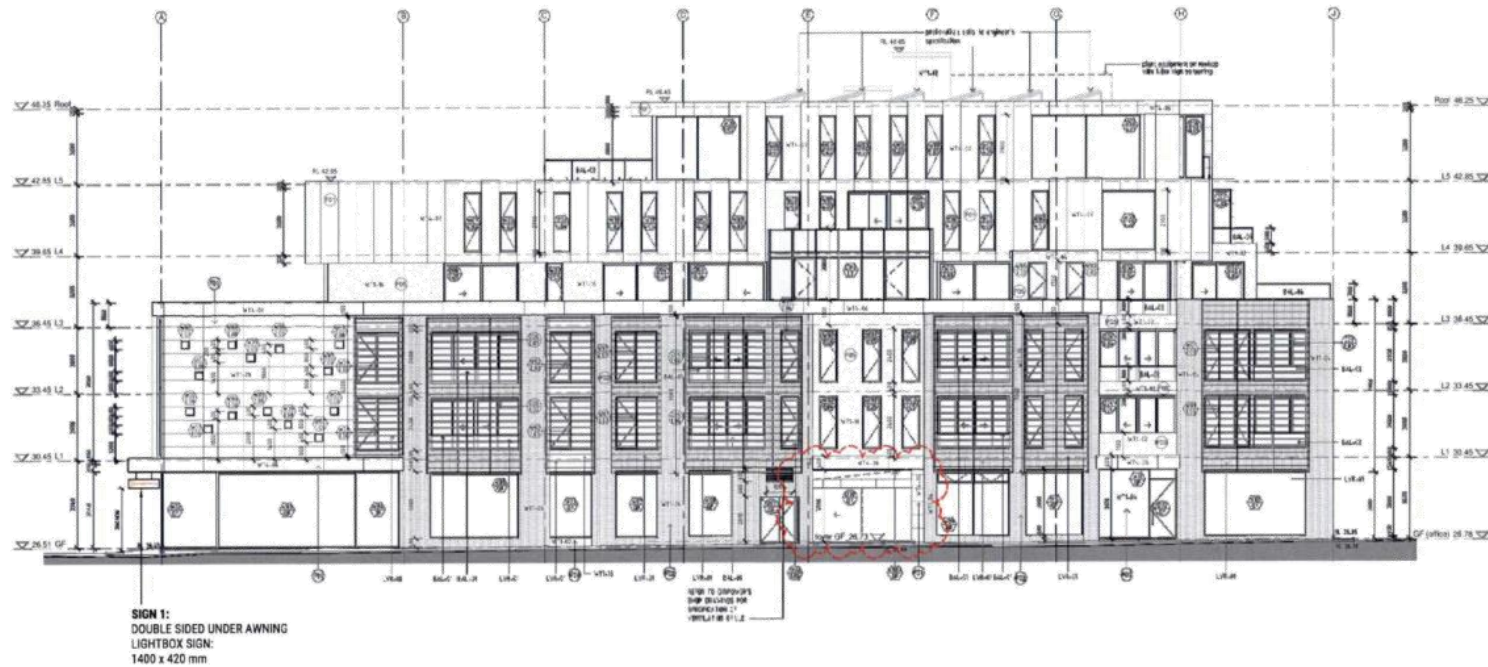
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| B | 20.05.2019 | RPI RESPONSE | AC |
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|-------------|-------------------------------------|-----------------|--|
| Project No. | 1901 | A400 | |
| Client | OFF THE PLAN INVEST | NORTH ELEVATION | |
| Project | ORANGE THEORY JOHNSON ST | | |
| Address | 142-144 JOHNSTON ST FITZROY, VIC | 1:200 @ A3 |  <div> 217 Canning St Carlton Victoria 3053 Australia Telephone 0434 964 228 Email acogan@gmail.com </div> |

Attachment 4 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans

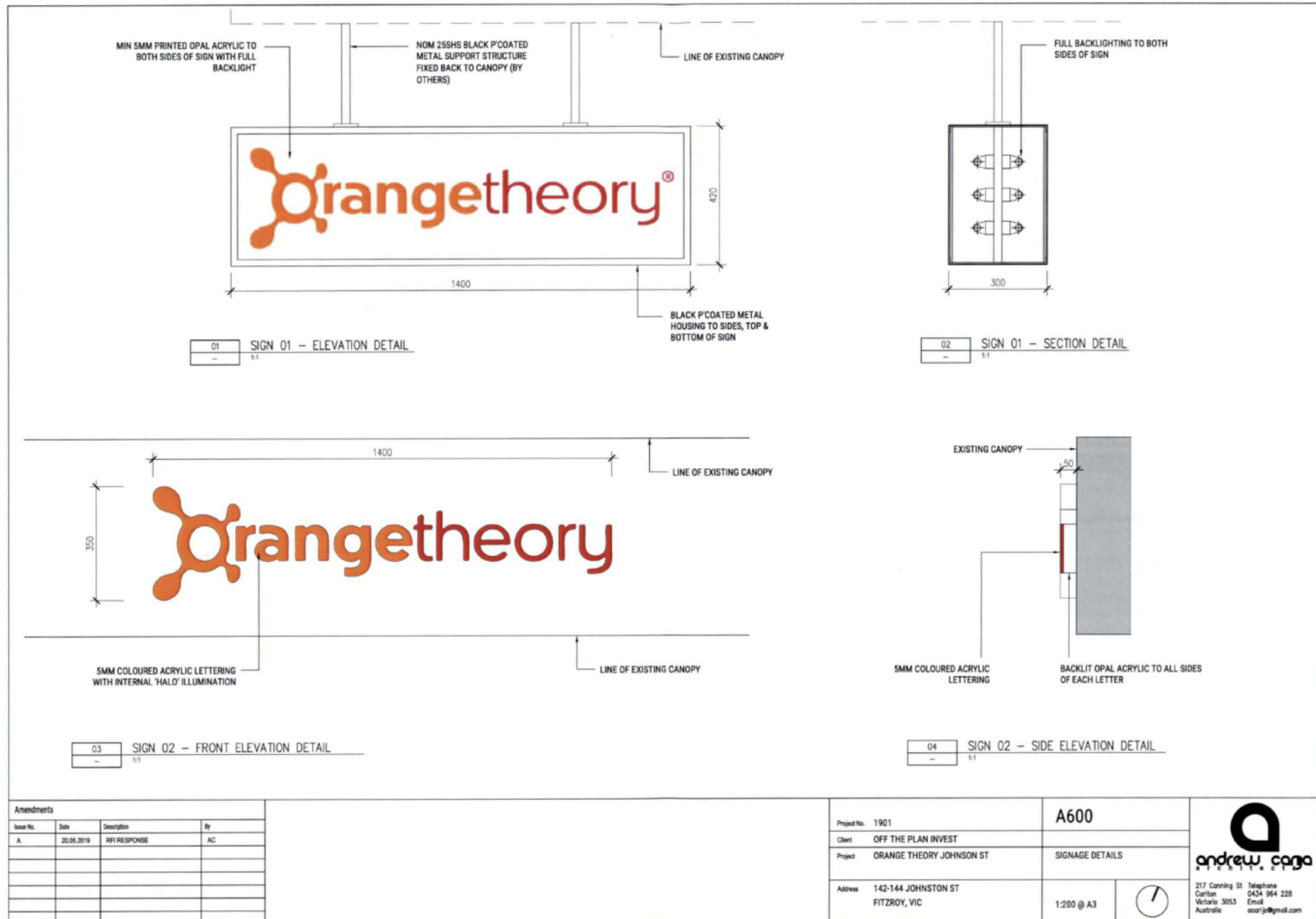


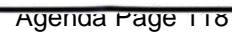
01 WEST ELEVATION
1:100

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|-------------|-------------------------------------|----------------|---|
| Project No. | 1901 | A401 | |
| Client | OFF THE PLAN INVEST | | |
| Project | ORANGE THEORY JOHNSON ST | WEST ELEVATION | |
| Address | 142-144 JOHNSTON ST FITZROY, VIC | 1:200 @ A3 |  <p>217 Canning St Telephone Carlton 0434 964 228 Victoria 3053 Email Australia scarij@gmail.com</p> |

Attachment 4 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Advertising S52 - Original Permit Decision Plans



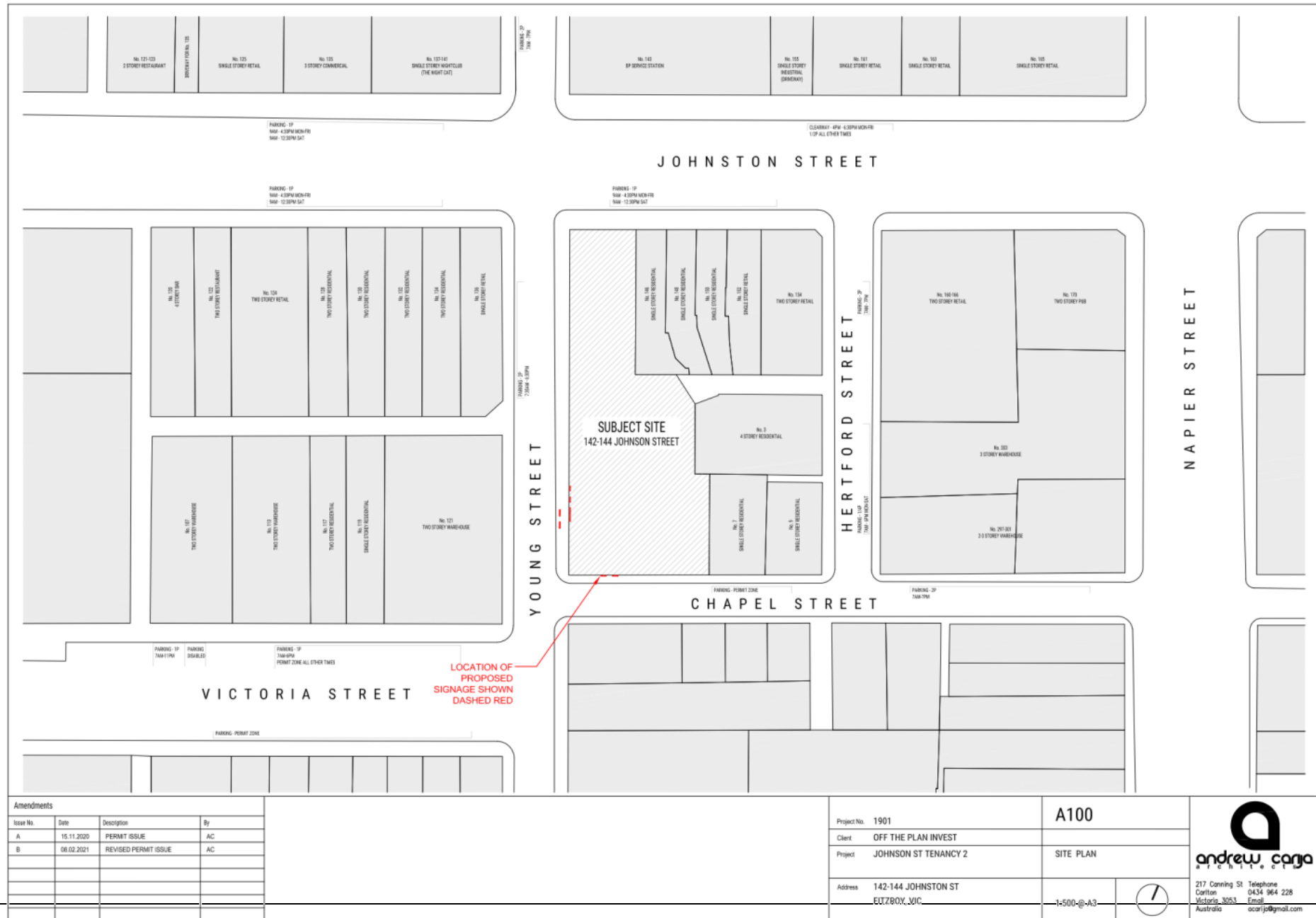


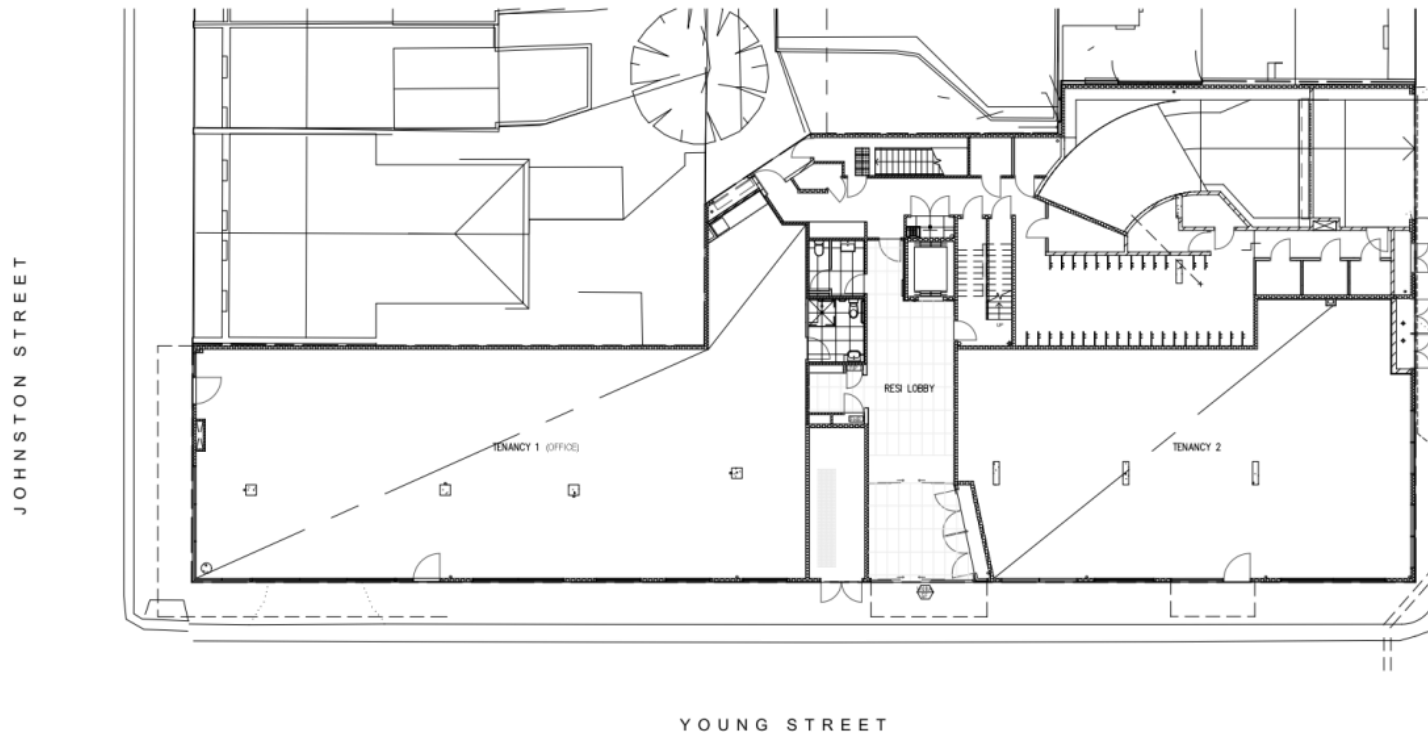
Attachment 5 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans



ATTACHEMENT C

**PLANS SHOWING THE LAYOUT AND DETAILS OF
PROPOSAL (INCLUDING SIGNAGE DETAILS)**

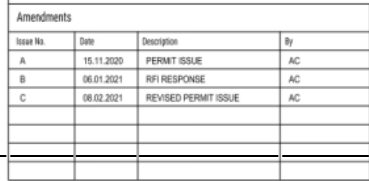
Attachment 5 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans




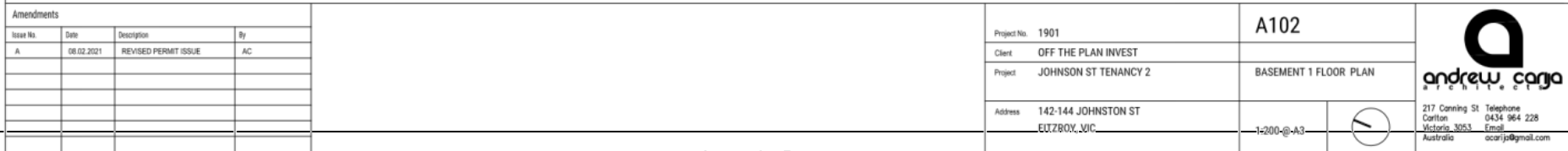


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|------------|------------|----------------------|----|---------------------|----------------------|---|--|---|
| Amendments | | | | Project No. 1901 | | A101 | |  andrew carja architects |
| Issue No. | Date | Description | By | Client | OFF THE PLAN INVEST | | | |
| A | 15.11.2020 | PERMIT ISSUE | AC | Project | JOHNSON ST TENANCY 2 | | | |
| B | 08.02.2021 | REVISED PERMIT ISSUE | AC | EXISTING FLOOR PLAN | | | | |
| | | | | Address | 142-144 JOHNSTON ST | 1-200-@-A3 | | |
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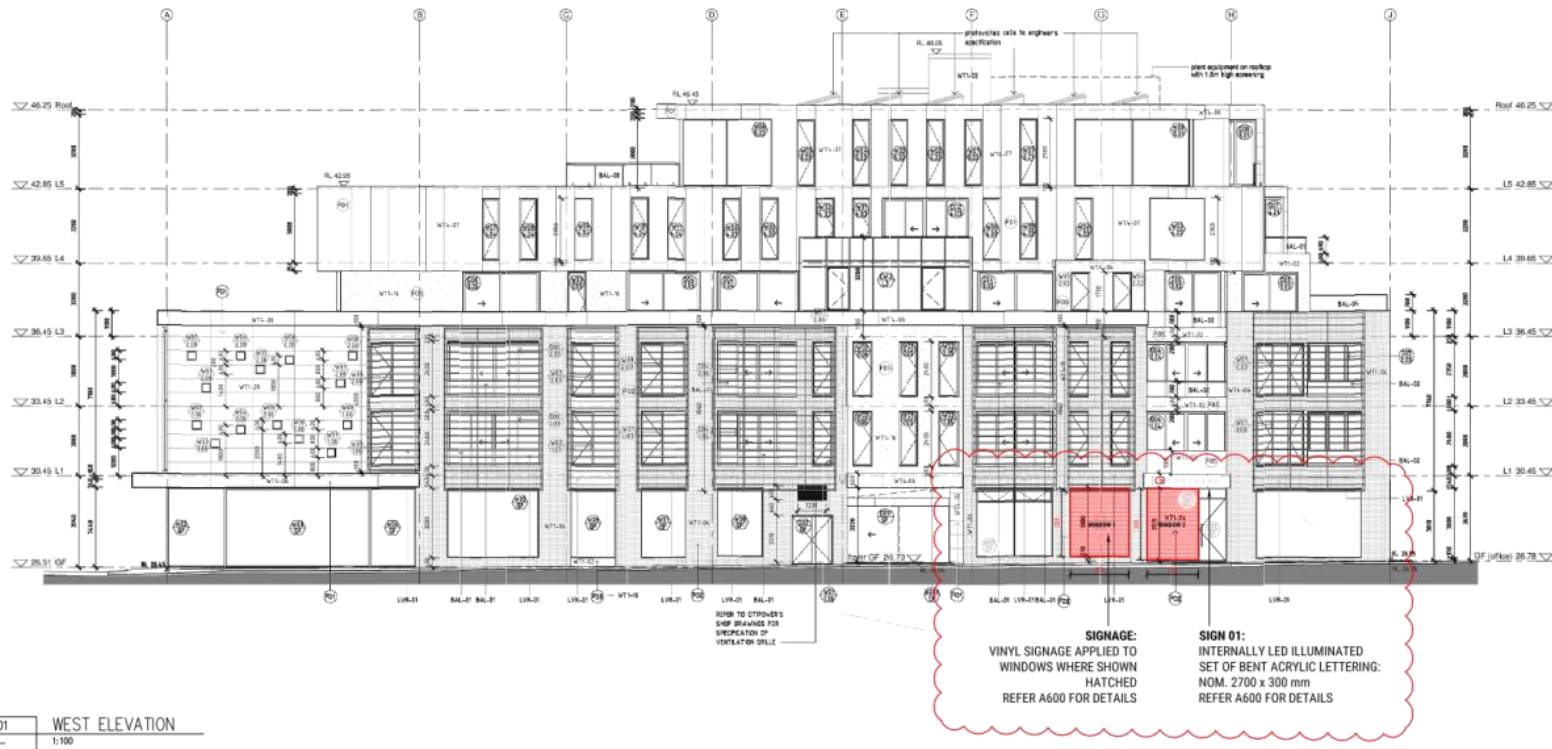
| | |
|--|--|
| 217 Canning St Telephone Carlton 0434 964 228 Victoria 30053 Email Australia acarja@gmail.com | |
|--|--|




| | | | | |
|--|--|------|---|---------------------|
| Project No. 1901 | | A102 |  | |
| Client OFF THE PLAN INVEST | | | | |
| Project JOHNSON ST TENANCY 2 | | | | PROPOSED FLOOR PLAN |
| Address 142-144 JOHNSTON ST EUTROXY VIC | | | | 1:200 @ A3 |
| | | | 217 Canning St Telephone Carlton 0434 964 228 Victoria 3053 Email Australia scogan@a1.com.au | |



Attachment 5 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans




| Amendments | | | |
|------------|------------|----------------------|----|
| Issue No. | Date | Description | By |
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| B | 06.01.2021 | RFI RESPONSE | AC |
| C | 06.02.2021 | REVISED PERMIT ISSUE | AC |
| | | | |
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| | | | |
|-------------|------------------------------------|---|--|
| Project No. | 1901 | A400 | |
| Client | OFF THE PLAN INVEST | | |
| Project | JOHNSTON ST TENANCY 2 | WEST ELEVATION | |
| Address | 142-144 JOHNSTON ST EUTROX VIC. | 1:200 @ A3 | |
| | |  <p>217 Canning St Telephone Carlton 0434 964 228 Victoria 3053 Email Australia acarga@gmail.com</p> | |

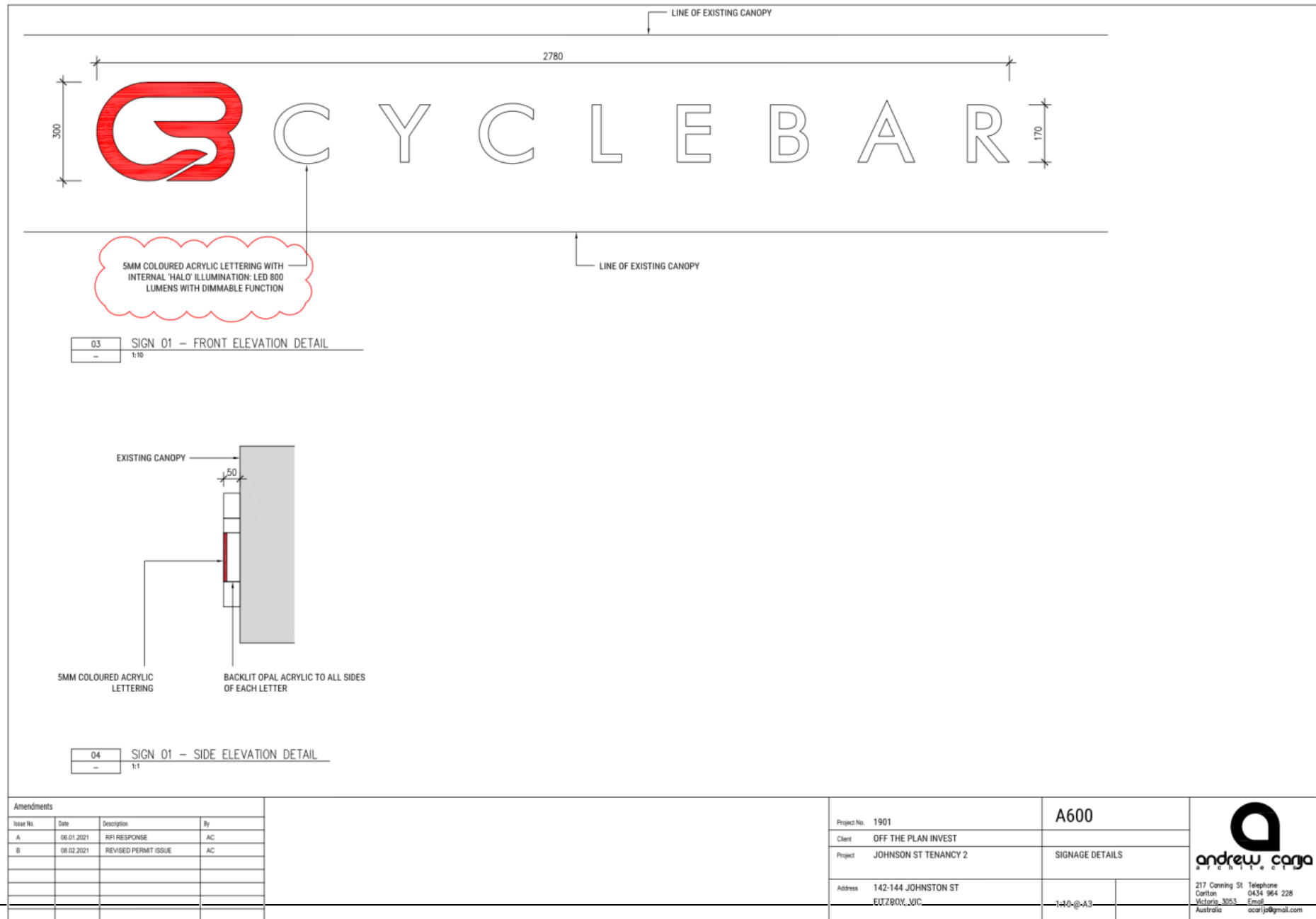
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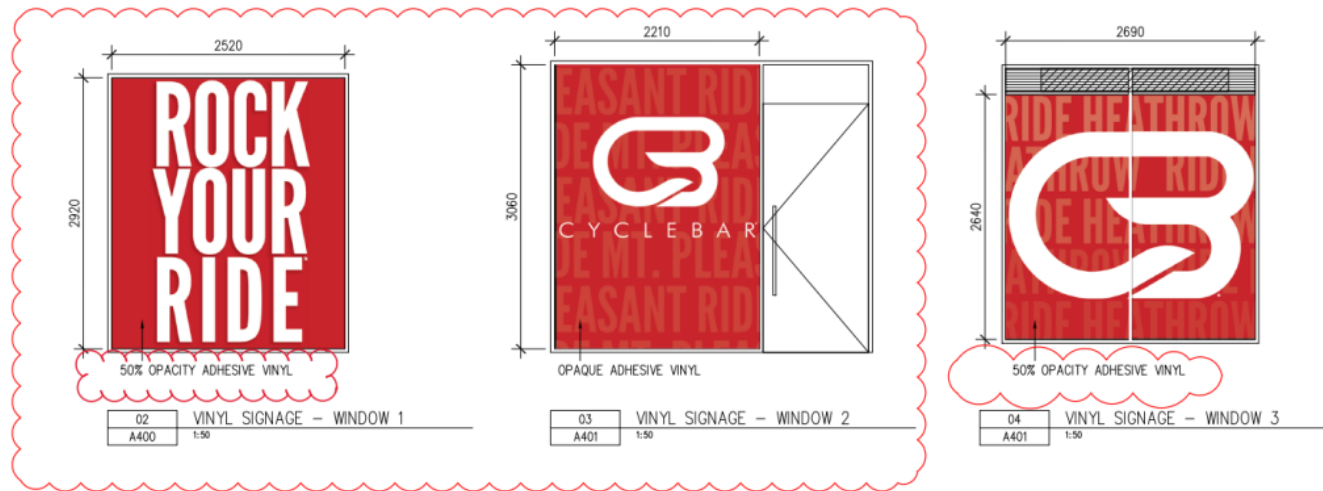
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| B | 06.01.2021 | RFI RESPONSE | AC |
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
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| Address | 142-144 JOHNSTON ST ELTZBOY, VIC | 1:200 @ A3 | |
| | |  217 Canning St Telephone Carlton 0434 964 228 Victoria 3053 Email Australia acarija@gmail.com | |

Attachment 5 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans



Attachment 5 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 Amendment decision plans



| Amendments | | | | Project No. 1901 | | A601 | |  217 Canning St Telephone Carlton 0434 964 228 Victoria 3053 Email Australia acarga@gmail.com |
|------------|------------|----------------------|----|------------------|------------------------------------|-------------------------|---|--|
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| B | 08.02.2021 | REVISED PERMIT ISSUE | AC | Address | 142-144 JOHNSTON ST EUTROX, VIC | 1-A0-A3 |  | |
| | | | | | | | | |
| | | | | | | | | |

**Attachment 6 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility
Management Plan**

ATTACHEMENT D

PLAN OF MANAGEMENT – CYCLEBAR FITZROY

Plan of Management CycleBar Fitness Facility

Use as a Restricted Recreation
Facility/Boutique Gymnasium, including
fit-out and associated business
identification signage

270 Young Street,
Fitzroy VIC 3067

Attachment 6 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility Management Plan

Contents

| | |
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| <u>Introduction</u> | <u>3</u> |
| <u>Purpose of this Plan of Management</u> | <u>3</u> |
| <u>Overview</u> | <u>3</u> |
| <u>Hours of Operation</u> | <u>3</u> |
| <u>Staffing</u> | <u>4</u> |
| <u>The Site</u> | <u>4</u> |
| <u>Health and Safety</u> | <u>5</u> |
| <u>Noise</u> | <u>6</u> |
| <u>Operational</u> | <u>6</u> |
| <u>Complaint Resolution</u> | <u>9</u> |
| <u>Maintenance, cleaning & waste management</u> | <u>11</u> |
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| <u>Conclusion</u> | <u>12</u> |

Attachment 6 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility Management Plan

Introduction:

This Plan of Management has been prepared to accompany the Planning Permit Application submitted to change the use of Lot 2 on the Ground-Floor level of 270 Young Street, Fitzroy, VIC, 3065 for use as Fitness Facility (Restricted Recreational Facility) including associated fit-out and business identification signage

Purpose of this Plan of Management:

The purpose of this Plan of Management is to describe the operational details of the business and outline measures that will be taken to mitigate impacts on adjoining properties. Details in the plan include the number and hours of staff that will be employed on the premises at any one time, Health and Safety as well as noise and patron management.

Fitness Studio Operation Overview:

CycleBar is an indoor cycle facility that specialises in cardiovascular training through group classes on stationary exercise bikes. The CycleBar contains a studio that will deliver the preeminent Indoor Cycling experience, offering concierge-level service and premium amenities. CycleBar is an inclusive, inspiring brand that offers a low-impact/high-intensity cycling experience for all ages, body types and fitness levels.

CycleBar benefits will include:

- A full offering of Indoor Cycling classes led by Certified CycleStar instructors in custom CycleTheatres®.
- Best-in-class equipment in every studio including custom bikes, built-in CycleStats® Performance Data monitoring.
- Community focus that aims at giving back via charity rides and community engagement.

Each class will have an average class size of 20 patrons, with a maximum of 39 patrons. Classes will run for 45 min with a 15-minute gap between each class, no classes will overlap. Weekdays will have 4-5 classes per day and weekends will have 2 classes per day.

The class instructor will use a voice system through the installed sound system within the facility to communicate with patrons inside the studio during the classes. The fitout has been specifically designed around the acoustic report to ensure all nearby residents & business are not impacted in any manner.

Equipment

The studio will include 40 stationary cardio bikes. The bikes are silent, belt driven models with magnetic resistance. The bikes are the only fitness equipment used in the studio. There will be no free weights or other fitness equipment.

Hours of Operation / Class sizes / Class numbers:

The trading hours of the Fitness Facility will be as follows:

Monday to Friday: 5:30am – 8:00pm

Saturday: 6:30am – 7:00pm

Sunday: 8:00am – 7:00pm

Attachment 6 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility Management Plan

Staffing:

The premises will generally operate with 4 staff members present (2 CycleBar Staff, 1 Manager and 1 Instructor). The maximum number of staff at any one time will be 4.

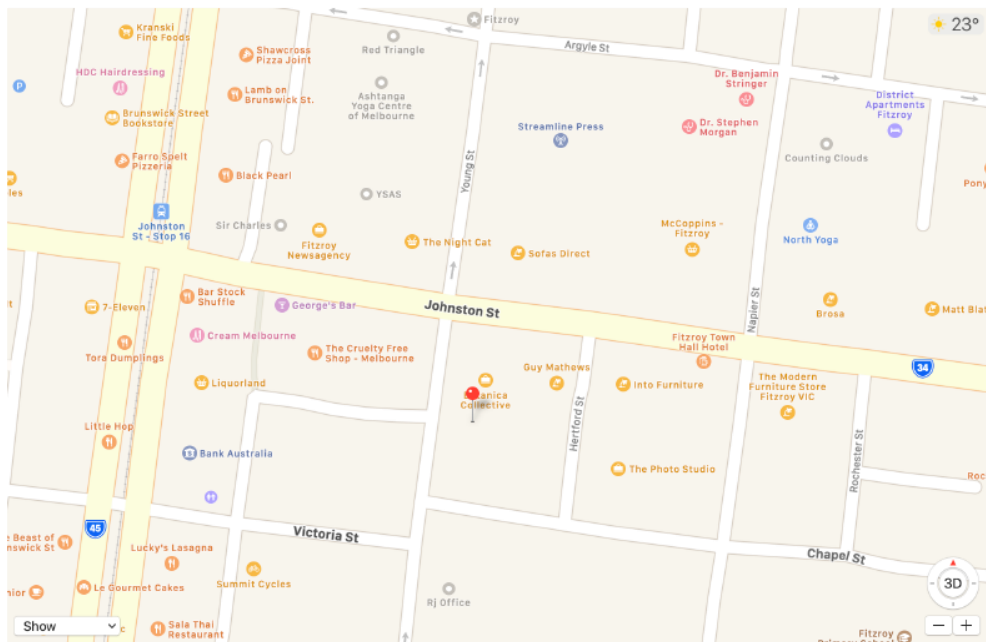
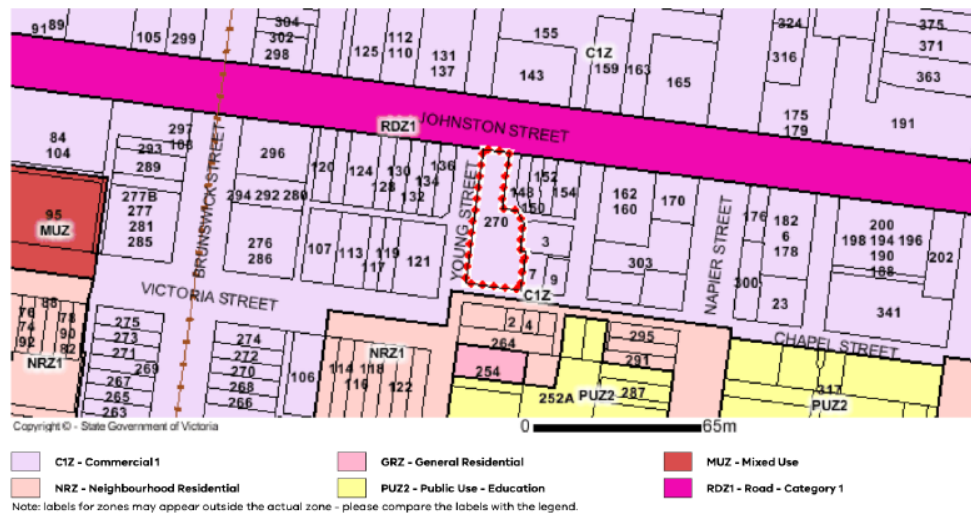
The Site:

The site address relates to Lot 2 on the ground-floor level of 270 Young Street, Fitzroy which is located in the Yarra City Council and is situated within the Commercial 1 Zone.

Planning Zones

[COMMERCIAL 1 ZONE \(C1Z\)](#)

[SCHEDULE TO THE COMMERCIAL 1 ZONE \(C1Z\)](#)



Attachment 6 - PLN19/0221.01 - 142 Johnston Street Fitzroy - S72 recreation facility Management Plan

Health and Safety:

We recognise the two issues of health and safety a fitness facility will face. We have put in place several measures to minimise the occurrence of such issues and to cater for the needs of a member if an incident were to arise.

In the case of a medical emergency, either through injury or health, there is equipment placed within the facility to deal with these emergencies. There is a first aid kit on site and all members of the Fitness Facility will be informed of the location of this when undertaking their members induction.

There will also be an Automatic External Defibrillator installed in the fitness facility in addition to a full first aid station. All fitness trainers and fitness facility managers are required to be certified on proper AED usage and CPR administration. This is a safety protocol to ensure that all staff are prepared to care for another employee or patron in case of an emergency. At least one person on site will always be trained on the proper usage of AED at any one time, and owners are required to provide and organise annual AED training for all fitness trainers and facility managers. There will also be simplified instructions on the wall adjacent to the defibrillator detailing how and when to use the machine on a patient with heart ailments.

All members are required to complete a Pre-Exercise Questionnaire and, in some cases, responses given will require professional medical guidance before attending a class. Patrons could further be refused from participating in a class altogether should they be suffering from any form of illness, disease, injury or any other condition that could be a risk to their physical health.

In the event of a medical emergency, employees would call 000 immediately and notify facility management/ownership of an emergency as soon as possible. Each facility is further responsible for maintaining their own emergency contact lists for employees. In the event of an emergency, employees must always follow proper reporting protocols and procedures. Once the incident has been handled, employee(s) must also complete a Facility Incident Report Form and submit the form to the owner.

All employees are required to fill out an incident report if a client is injured or an event occurs in the facility with a client. In the case of a medical emergency, and emergency personnel has been dispatched, the employee would attend to the emergency first and once the client is attended to, the employee will complete a Facility Incident Report Form and submit the form to the owner. All incident reports will be submitted to Facility Management and the Ownership immediately. The employee would then follow the client's progress with regular phone calls and record them on the incident reports for tracking purposes.

COVID

Prior to commencing operations, the facility will implement a COVIDSafe Plan to support the facility and the protection of its staff, customers and visitors.

The COVIDSafe plan will set out;

- The staff and facilities actions to help prevent the introduction of coronavirus (COVID-19) in the workplace
- The type of face mask or personal protective equipment (PPE) required for the workforce

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- How the staff will prepare for, and respond to, a suspected or confirmed case of coronavirus (COVID-19) in the workplace.

Prior to commencement, all staff will undertake the Victorian Government accredited infection control training to help staff identify and manage the ongoing risk of coronavirus (COVID-19) infections in the workplace.

Noise:

The facility is to implement measures to accord with Victorian Government's State Environment Protection Policy, Control of Noise from Commerce, Industry and Trade No. N-1 (SEPP N-1) and No. N-2 (SEPP N-2); the Australian Standard 2107 – 2000 recommendations and the Yarra City Planning Scheme Clause 22.05-5.

Operational and Acoustic treatment of the Studio:

The facility will implement all recommendations from the Bestec Acoustic report, including 7 Sound Flanking recommendations and 13 Operational Acoustic Treatments. The facility will not produce music at a level that is offensive to neighboring uses or that is deemed to be unacceptably loud.

The construction of the facility will first include an assessment on the building structure to identify sound flanking paths, they will then be treated with the below seven methods as recommended by Bestec.

Sound Flanking (Bestec - Noise Assessment Report Acoustic services 30441/6/1 9 February 2021 103868b)

1. Any services penetrations and gaps around the building elements be inspected, packed densely with 50mm, 48kg/m³ glasswool, backing rods applied and sealed with acoustic sealant. Using appropriate acoustic caulking products listed below.
 - Bostik Firemastic
 - Bostik Seal-n-flex 2637
 - Pyropanel Multiflex
 - Boral Fyreflex
 - Dow-Corning 790 Silicone
 - Dow-Corning 795 Silicone
 - Sika Sikaflex-11 FC
 - Fosroc Flamex 3
2. It is noted a section above the glazing incorporating the entry door of the proposed fitness facility where the 150mm precast concrete is discontinued and currently only a timber frame is installed (Figure 2) – It is recommend all interfaces are inspected, blocked off and sealed as described above. Then 100mm, 32kg/m³ glasswool be installed in the cavity and 2 layers of 13mm fire rated plasterboard be applied to the internal side of the timber frame. The junctions between the fire rated plasterboard, the building structure and the door frame should be sealed continuously with acoustic sealant;

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3. The entry door (perimeter and bottom) be fitted with compressible acoustic seals (Raven or Schlegel ranges), which are appropriately adjusted to ensure they are completely compressed when the door is closed;
4. The operable windows are fitted with compressible acoustic seals (Raven or Schlegel ranges) and be kept closed when the club operates;
5. The unused area of the ventilation louvres on the southern façade (Figure 4, Figure 3) be blocked off with 2 layers of 9mm compressed fibre cement with all junctions with the building structure and mechanical services ducts sealed with acoustic sealant

Operational Acoustic Treatments (Bestec - Noise Assessment Report Acoustic services 30441/6/1 9 February 2021 103868b)

The following acoustic treatment will be implemented in addition to the recommended acoustic treatment of the sound flanking paths in order to achieve the nominated acoustic design criteria:

1. 2 layers of 16mm fire rated plasterboard be installed above the tenancy on resilient mounts to solid joists fixed to the concrete slab. The minimum cavity should be 150mm and the plasterboard should be overlaid with 100mm, 14kg/m³ glasswool. A 10mm gap should be formed between the perimeter of the 2 layers of 16mm fire rated plasterboard and the building structure, in which backing rod be installed and non-hardening permanently elastic acoustic sealant applied.
2. A secondary ceiling (preferably 13mm perforated plasterboard with 10% open area) overlaid with 50mm, 32kg/m³ polyester can then be installed on 35mm furring channels fixed to the ceiling joists. All light fixtures and ceiling speakers should be installed on the perforated plasterboard ceiling. The sound absorption provided by the perforated plasterboard and overlay will assist with reduction of the reverberation time within the proposed CycleBar studio and providing of acceptable room acoustics supporting speech and music.
3. The walls of the studio be lined with acoustic wall covering with minimum Noise Reduction Coefficient of NRC 0.4.
4. The floor finish of the studio will be REGUPOL Everroll Core (4mm thick).
5. The façade of the proposed studio be internally lined with 1 layer of 13mm impact resistant plasterboard on 64mm steel studs offset from the precast concrete by 20mm gap and cavity infill of 75mm, 14kg/m³ glasswool. The lining should run in front of the windows with the cavity infill double in these areas (i.e., 2 x 75mm, 14kg/m³ glasswool) and be sealed against the 2 layers of 16mm fire rated plasterboard suspended from the concrete slab;
6. The partition separating the studio from the rest of the fitness facility should be constructed of 2 layers of 13mm fire rated plasterboard to each side of minimum 76mm steel studs with cavity infill of 75mm, 14kg/m³ glasswool.

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7. The door interconnecting the studio to the community area should be minimum 10.76mm laminated glass in aluminium frame fitted with compressible acoustic seals (Raven or Schlegel ranges) to the perimeter, bottom and the meeting stile. The seals should be properly adjusted to fully compress when the door is closed. The door should be kept closed when sessions are in progress. (Staff will Ensure the studio door is not opened while classes are in progress)
8. A sound limiter will be installed and set up to continuously measure the sound pressure level in the studio and cut the power to the system amplifier if it exceeds the values detailed in Table 8. Once the fit-out is completed, the system should be tested by an acoustic engineer using pink noise signal. Measurements should be taken in the apartment 104 above and sound pressure levels of the sound system adjusted as required to ensure compliance with the music noise criteria detailed in Table 4. Once the system is adjusted, the sound limiter should be locked so the settings cannot be changed.

| Location | Assessment Period | Overall dBA | Measured L_{OCT10} External Noise Level (dB) at Octave Band Centre Frequency, Hz | | | | | | |
|---|-------------------|-------------|--|-----|-----|-----|------|------|------|
| | | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Residential Receivers (internal noise levels) | Day / Evening | 32 | - | - | - | - | - | - | - |
| | Night | - | 40 | 30 | 20 | 20 | 15 | 10 | 10 |

Table 4: Proposed internal music noise criteria

| Reverberant Sound Pressure Level L_{OCT10} (dB) at Octave Band Centre Frequency, Hz | | | | | | | Overall, dBA |
|---|-----|-----|-----|------|------|------|--------------|
| 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | |
| 79 | 82 | 82 | 85 | 87 | 87 | 87 | 94 |

Table 8: Reverberant Sound Pressure Level in the Studio

9. All external glass windows/doors of the proposed studio are kept closed at all times (Other than when patrons enter and exit the premises);
10. Staff monitoring the behavior of patrons within the subject facility and as patron's egress to ensure noise emission of patrons is kept to a minimum when entering and leaving the premises;
11. Staff and patrons will not to park along Chapel Street during night-time hours (10:00pm to 7:00am) to reduce the likelihood of sleep disturbance due to car doors closing;
12. Clear signage will be installed in all facility entries and exits advising patrons that they must not generate excessive noise when entering and leaving the premises;
13. Staff and patrons will be correctly trained in noise management

Member Orientation:

In accordance with the Membership Contract, new members are obligated to undergo a member orientation session as specified under the Membership Contract. The following points are covered during this orientation session:

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- Members are made aware of the need to remain respectful when entering and leaving the facility, especially during the early and late hours.
- Education on the appropriate use of CycleBar bikes. This includes the way equipment is used in a controlled manner to maintain a quiet and respectful environment.
- Full overview of Facility Rules and Regulations including penalties, should any rules not be adhered to.
- Members to be made aware of noise management protocols

Facility Rules:

In accordance with the membership contract, patrons must abide by the Terms and Conditions of the Membership Contract at all times. The fitness facility will also set out the facility rules and regulations. Should any member breach these rules, a Membership Suspension or immediate Membership Termination may apply. These rules and regulations to some extent include:

1. Members must always ensure as to not behave in any way that is considered to be hazardous, inappropriate or illegal.
2. Members must respect the amenity of nearby uses when entering and leaving the facility, especially during the early and late hours.
3. Members must at all-times ensure that all equipment is used in a correct and controlled manner so that no unnecessary noise is created.

Internal and external signage:

The fitness facility will invest in adequate signage, both internally and externally for the attention of all members. The signage would reinforce the need for entering and exiting in a quiet and courteous way, including the appropriate use of the facility and its equipment.

This includes:

- Appropriate manner in which to use equipment
- Way finding signage
- Emergency stations

Complaint Resolution:

Management will also maintain a complaint register to record any complaint made by Police, Council, surrounding business owners, other members or residents and will endeavor to fully address any reasonable concerns expressed by such persons.

Management endeavors to fully address all reasonable concerns people have in the surrounding area or any other third parties without the involvement of Council or the Victorian Police Service and will meet with any complaints and endeavor to completely address all reasonable concerns. Details of the owner will also be made available to the community for complaints to be directed to.

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Noise disturbance limiting policies:

All windows and doors to the facility would remain shut at all times (apart from when patrons enter or exit the premises).

Clearly visible signage is to be installed at all entries and exits of the facility as to advise patrons that they must not generate excessive noise when entering or exiting the premises.

Staff will continually monitor patron behavior and ensure that noise emissions are kept at an absolute minimum, especially when entering or leaving the facility.

Internal noise operation levels are to be no higher than those set out in table 8 with a noise limiter to ensure this is maintained at all times.

Impact sound absorbing floor, wall and ceiling materials are to be installed to reduce regenerated noise and vibration throughout the building as detailed in Operational Acoustic Treatments 1 -13.

Planning Policy Review:

Relevant requirements of Clause 22.05 (Interface Uses Policy) of the Yarra Planning Scheme. "New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties"

These policies combined with the design process will ensure the fitness facility will have minimal noise and visual impact on the residents of the building and those surrounding it.

The Fitness Facility will follow the set-out design guidelines relating to *section 10 noise from shops* in *Noise Control Guidelines, EPA Publication, 1992* and intergraded these into the plans.

Speakers inside the studio will be;

- Located entirely inside the shop
- Situated not less than three meters from any public entrance to the shop
- Directed in such a manner that the device does not point towards any wall which contains an external window or entrance to the shop unless the wall is more than 15 meters from the device itself
- Operating at a level that does not exceed 65 dB(LAeq) two meters from the facade.

A number of acoustic attenuation design features and measures will be incorporated into design and construction of the fitness facility as detailed in the Bestec acoustic report. As part of the construction we will be adapting all recommendations for Sound Flanking and Operational Acoustic Treatment as outlined in the acoustic report recommendations.

In addition to these air conditioning condensers will be located within the car park basement driveway.

Noise emanating from the fitness facility will not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy No. N-1 (Control of Noise from Commerce, Industry and Trade) and No. N-2 (Control of Music Noise from Public Premises).

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Maintenance, cleaning and waste management:

The waste management of the Fitness Facility will be consistent with the practices as outlined within the endorsed waste management plan of planning permit PLN 15/0632, condition 8. The estimated amount of waste and required frequency of bin collection will be consistent with those proposed with the Waste Management Plan prepared by Leigh Designs.

It is anticipated that the volume of waste generated by the fitness facility will be minimal. Bins will be provided for patrons within the premises. All waste will be stored in appropriate containers placed inside the premises before being removed for disposal by either Council or certified contractors. Facility equipment will be maintained and kept in good working order by means of regular servicing. Any equipment identified as faulty or requiring repair will be removed from use or clearly identified as 'Out of order'.

The facility is responsible for maintaining fitness equipment in good working condition. The facility is required to maintain an equipment preventative maintenance (PM) contract with a local fitness equipment maintenance company, to regularly maintain, service, and rotate fitness equipment as necessary. If a Studio Bike is going to be down for longer than 48 hours, it will be moved to a low usage area of the studio and coned off until it's fixed. It is the responsibility of Facility Manager/Owner to track equipment rotation throughout the year and to assure fitness equipment is in full working order at all times

Cleaning of the premises and equipment will be carried out daily including the cleaning of all equipment, machines, showers, toilets and the general workout area. A register will be maintained on the premises keeping a schedule of cleaning times. Signage will also be placed on premises indicating to patrons that they must use personal towels; cleaning fluid and disposable wipes will be provided throughout the facility for use in cleaning equipment. All cleaning will be undertaken in line with the COVID safe plan.

Car Parking and transport:

There are two car parks on site allocated to full time staff. As we are targeting the local community, patrons are encouraged to walk or ride into the fitness facility. There are also a vast number of Public transport options available

BUS 120 Johnston street (Routes 200, 207 & 966) **60 meters**

BUS 160 Johnston street (Routes 200 & 207) **55 meters**

BUS 121 Johnston street (Route 966) **62 meters**

TRAM 300 Brunswick Street (Route 11) **100 meters**

The facility plans incorporate 6 bicycle parking spaces within the facility for staff and patrons. Staff and patrons will be encouraged to use the ample bicycle parking facilities. This is in excess of the requirements under *bicycle parking requirements of Clause 52.34 of the Yarra Planning Scheme for "minor sports and recreation facility"*

We are reliant on the car parking decision made in relation to the original permit PLN15/0632. After reviewing a similar fitness facility operating in the area we have concluded that no off-site car spaces will be required. The size of the classes, the high attendance of patrons

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located within a 1km radius and the vast number of public transport options all reflect this analysis. 2 cars spaces are available within the basement of the building and will be made available purely for staff.

This review has been conducted in response the request for *an estimate of anticipated demand for car parking for staff and patrons associated with the use (having regard to the factors such as those outlined at Clause 52.06-7 of the Yarra Planning Scheme) and provide an indication as to how any additional car parking demand that is not met on site is expected to be accommodated off-site (i.e on-street car parking availability or public car parks in the vicinity).*

Furthermore the we have opted to provide more than the full quota of on-site bicycle facilities to encourage all staff and patrons to cycle to the Fitness Facility.

Conclusion:

In order to satisfy Council that the facility can operate without causing any undue negative impacts on the surrounding land uses, the following mitigation measures are to be undertaken on a daily basis to ensure that the development will not adversely affect the surrounding premises at 270 Young Street, Fitzroy:

- In the case of a health and safety emergency, either through injury or a health issue, there is equipment placed within the facility and mitigation measures in place to deal with these emergencies
- The facility is to implement measures to accord with Victorian Government's State Environment Protection Policy, Control of Noise from Commerce, Industry and Trade No. N-1 (SEPP N-1) and No. N-2 (SEPP N-2); the Australian Standard 2107 – 2000 recommendations and the Yarra City Planning Scheme Clause 22.05-5.
- Appropriate operational management systems are in place.

Through the adoption and implementation of the aforementioned mitigation measures, the facility will not create unreasonable noise impacts for any neighborhood or surrounding dwellings.

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ATTACHEMENT E

**ACOUSTIC REPORT - BESTEC - NOISE ASSESSMENT
REPORT ACOUSTIC SERVICES 30441/6/1
FEBUARY 2021 103868b**

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CYCLEBAR
142 JOHNSTON STREET, FITZROY,
VICTORIA

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BESTEC®

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IVD:IVD
30441/6/1
8 February 2021

OTP – South Yarra
Park Street
MELBOURNE VIC 3004

Attention: Mr P Castagna

Dear Sir

**CYCLEBAR, 142 JOHNSTON STREET, FITZROY, VICTORIA
NOISE ASSESSMENT REPORT
ACOUSTIC SERVICES**

As requested, we enclose a copy of the report on the Acoustic Services for the above project.

We trust that the report provides sufficient information for your immediate purpose and we would be most pleased to further discuss any aspect upon your request.

Yours faithfully
BESTEC PTY LTD



**IVAILO DIMITROV
ASSOCIATE / PRINCIPAL ACOUSTIC CONSULTANT**

Encl

30441/6/1
February 2021
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ACOUSTIC SERVICES

BESTEC®**REPORT ISSUE REGISTER**

| REVISION | DATE | REVISION DESCRIPTION |
|----------|----------|----------------------|
| 00 | 16.11.20 | Initial Issue |
| 01 | 30.11.20 | Revised Issue |

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Introduction

BESTEC Pty Ltd was engaged to assess the noise emissions resulting from operation of the proposed Cyclebar studio on 142 Johnston Street, Fitzroy, Victoria. This document presents a review of the proposed acoustic design criteria, the results of calculation of the noise emissions from the proposed development and recommendations for acoustic treatment to achieve the selected design criteria.

Executive Summary

In summary:

- Appropriate acoustic design criteria were nominated.
- The noise levels associated with the operation of the proposed facility impacting at the noise sensitive receivers (externally and internally) were calculated and assessed against the selected criteria.
- Recommendations for acoustic treatment of sound flanking paths were provided.
- Before the fit-out work commences, we recommend the building structure be inspected and the identified sound flanking paths be acoustically treated as follows:
 - 1) Any services penetrations and gaps around the building elements be inspected, packed densely with 50mm, 48kg/m³ glasswool, backing rods applied and sealed with acoustic sealant. Appropriate acoustic caulking products include:
 - Bostik Firemastic.
 - Bostik Seal-n-flex 2637.
 - Pyropanel Multiflex.
 - Boral Fyreflex.
 - Dow-Corning 790 Silicone.
 - Dow-Corning 795 Silicone.
 - Sika Sikaflex-11 FC.
 - Fosroc Flamex 3.
 - 2) We noted a section above the glazing incorporating the entry door of the proposed fitness club where the 150mm precast concrete is discontinued and currently only a timber frame is installed (Figure 2) – we recommend all interfaces are inspected, blocked off and sealed as described above. Then 100mm, 32kg/m³ glasswool be installed in the cavity and 2 layers of 13mm fire rated plasterboard be applied to the internal side of the timber frame. The junctions between the fire rated plasterboard, the building structure and the door frame should be sealed continuously with acoustic sealant;
 - 3) The entry door (perimeter and bottom) be fitted with compressible acoustic seals (Raven or Schlegel ranges), which are appropriately adjusted to ensure they are completely compressed when the door is closed;
 - 4) The operable windows are fitted with compressible acoustic seals (Raven or Schlegel ranges) and be kept closed when the club operates;
 - 5) The unused area of the ventilation louvres on the southern façade (Figure 4, Figure 3) be blocked off with 2 layers of 9mm compressed fibre cement with all junctions with the building structure and mechanical services ducts sealed with acoustic sealant.
- The following acoustic treatment is required in addition to the recommended acoustic treatment of the sound flanking paths in order to achieve the nominated acoustic design criteria:
 - 1) 2 layers of 16mm fire rated plasterboard be installed above the tenancy on resilient mounts to solid joists fixed to the concrete slab. The minimum cavity should be 150mm and the plasterboard should be overlaid with 100mm, 14kg/m³ glasswool. A 10mm gap should be formed between the perimeter of the 2 layers of 16mm fire rated plasterboard and the building structure, in which backing rod be installed and non-hardening permanently elastic acoustic sealant applied.
 - 2) A secondary ceiling (preferably 13mm perforated plasterboard with 10% open are overlaid with 50mm, 32kg/m³ polyester) can then be installed on 35mm furring channels fixed to the ceiling joists. All light fixtures and ceiling speakers should be installed on the perforated plasterboard ceiling. The sound absorption provided by the perforated plasterboard and overlay will assist with reduction of the reverberation time within the proposed cyclebar studio and providing of acceptable room acoustics supporting speech and music.

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- 3) The walls of the studio be lined with acoustic wall covering with minimum Noise Reduction Coefficient of NRC 0.4.
- 4) The floor finish in the studio area should be REGUPOL Everroll Core (4mm thick).
- 5) The partition separating the studio from the rest of the fitness club should be constructed of 2 layers of 13mm fire rated plasterboard to each side of minimum 76mm steel studs with cavity infill of 75mm, 14kg/m³ glasswool.
- 6) The door interconnecting the studio to the community area should be minimum 10.76mm laminated glass in aluminium frame fitted with compressible acoustic seals (Raven or Schlegel ranges) to the perimeter, bottom and the meeting stile. The seals should be properly adjusted to fully compress when the door is closed. The door should be kept closed when sessions are in progress.
- 7) A sound limiter should be installed and set up to continuously measure the sound pressure level in the studio and cut the power to the system amplifier if it exceeds the values detailed in Table 8. Once the fit-out is completed, the system should be tested by an acoustic engineer using pink noise signal. Measurements should be taken in the apartment 104 above and sound pressure levels of the sound system adjusted as required to ensure compliance with the music noise criteria detailed in Table 4. Once the system is adjusted, the sound limiter should be locked so the settings cannot be changed.

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**Acoustic Analysis****References**

The following documents have been referenced within the preparation of this report:

- [1] Yarra Planning Scheme, consolidated 5 November 2020.
- [2] Environment Protection Act 1970, amended 2 July 2018.
- [3] Environment Protection (Residential Noise) Regulations 2008.
- [4] State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade), No. N-1, 31/10/2001.
- [5] State Environment Protection Policy (Control of Music Noise from Public Premises, Commerce and Trade), No. N-2, 25/03/1999.
- [6] Noise Emission Assessment, Orangetheory Fitness Fitzroy, 142 Johnston Street Fitzroy Victoria, Acoustic Dynamics report 4634R001.LB.191213 dated 18 December 2019.
- [7] Noise and Vibration Assessment, Orangetheory Fitness Fitzroy, 142 Johnston Street Fitzroy Victoria, Acoustic Dynamics report 4634R001.LB.191212 dated 18 December 2019.
- [8] AS/NZS 2107:2016 "Acoustics – Recommended design sound levels and reverberation times for building interiors".
- [9] WHO Guidelines for Community Noise, 1999.
- [10] Noise Guide for Local Government, EPA NSW, May 2013.
- [11] Association of Australian Acoustical Society, Guideline for Apartment and Townhouse Acoustic Rating, 2010.
- [12] AS ISO 140.4–2006 "Acoustics – Measurement of sound insulation in buildings and of building elements. Part 4: Field measurements of airborne sound insulation between rooms".
- [13] Motivo Design Studio architectural concept fit-out drawings dated 6 November 2020 provided by OTP Invest.
- [14] Stoll Long Architecture base building architectural drawings dated April 2017.
- [15] Mordue Engineering structural drawings dated June 2017.

Site Description

The site is located on the ground floor (tenancy R02) of a mixed use building at 142 Johnston Street, Fitzroy. The building is constructed on land zoned Commercial 1 (C1Z) in the Yarra Planning Scheme [1] with the following boundaries:

- North – Johnston Street separating the building from existing commercial and residential developments.
- East – adjacent residential and commercial developments.
- South – Chapel Street separating the building from existing residential developments.
- West – Young Street separating the building from existing residential and commercial developments.

Tenancy R02 is bounded by:

- 150mm precast concrete walls separating the tenancy from the apartment entrance and foyer, fire escape stairwell, bike store 1 and storage area.
- Combination of 150mm precast concrete panel faced with brick wall and glass¹ to the south and west – Chapel Street and Young Street. There are two high level operable windows facing west (in the proposed retail area) and ventilation louvre facing south (Chapel Street)
- 160mm thick post tensioned concrete slab separates the tenancy from the apartments above.

¹ Indicated as 10mm thick glass in the Acoustic Dynamics report [6].
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ACOUSTIC SERVICES

**Proposed Development and Conditions**

A cardio club (Cyclebar) is proposed to be fitted out in tenancy R02, comprising:

- Entrance from Young Street, lobby with front desk and retail.
- Training studio with maximum capacity of 39 patrons.
- Community area, utility/cleaner room and amenities.

The training equipment will comprise 40 stationary cardio bikes only (Figure 1). The facility will be fitted with monitors and sound system comprising distributed ceiling mounted speakers.

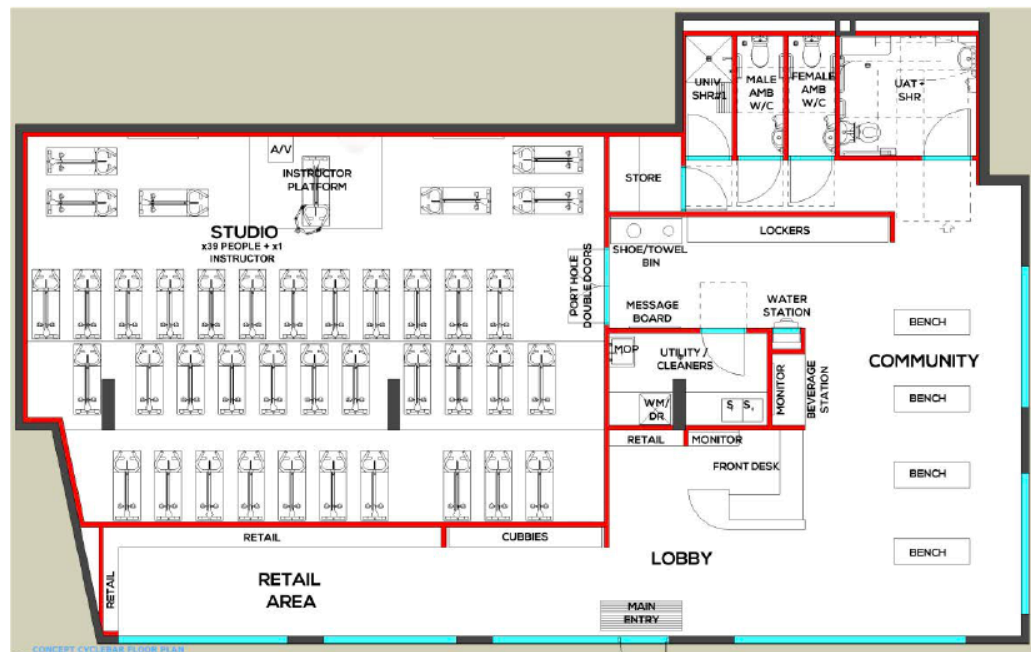


Figure 1: Proposed fit-out floor plan

The proposed hours of operation are as follows:

- Monday to Friday: 5:30 – 22:00;
- Saturday: 6:30 – 19:00;
- Sunday: 8:00 – 19:00.

Noise Sensitive Receivers

Acoustic Dynamics Pty Ltd were previously engaged to assess the impact from another fitness club, which was proposed in tenancy R01 and they identified the following noise sensitive receivers [6] relevant to the proposed Cyclebar studio in tenancy R02:

- Residential receivers on Level 1, 142 Johnston St – we note that apartments 103 and 104 are located directly above the proposed fitness club;
- Residential receivers located at 121-125 Victoria St (across Young St to the west);
- Residential receivers located at 266 Chapel St (across Chapel St to the south).

Design Criteria**Environmental Noise**

In our assessment of the environmental noise associated with operation of the proposed fitness studio we used the criteria derived by Acoustic Dynamics Pty Ltd as detailed in their assessment report [6]. The assessment criteria are based on the results of their continuous environmental noise survey on site and in accordance with Yarra Planning Scheme [1] and SEPP N-1 [4]. As the proposed Cyclebar studio is located

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in the same building, we used the assessment criteria derived by Acoustic Dynamics summarised for clarity below:

- All residential receivers
 - Daytime: 55dBA
 - Evening: 49dBA²
 - Night (22:00 – 7:00): 43dBA

Music from Public Premises

The requirements for music emissions from the proposed fitness club as derived by Acoustic Dynamics Pty Ltd based on the results of their survey and the SEPP N-2 [5]. The SEPP N-2 requirements for music noise limits are presented Table 1 below.

| Assessment Period | Day | SEPP N-2 Noise Limit (dB) |
|-------------------|---------------------------|--|
| Day / Evening | Saturday 10:00 – 22:00 | Music noise (L_{Aeq}) $\leq L_{A90} + 5$ dB at the nearest noise sensitive receiver |
| | Sunday 12:00 – 21:00 | |
| | Other 9:00 – 22:00 | |
| Night | Saturday 22:00 - Midnight | Music noise (L_{10}) $\leq L_{Oct90} + 8$ dB at the nearest noise sensitive receiver |
| | Sunday 21:00 – 9:00 | |
| | Other 22:00 – 9:00 | |

Table 1: SEPP N-2 limits for music emitted from public premises

The derived music noise criteria based on the background noise level measured by Acoustic Dynamics over 15-minute interval (L_{A90}) during day/evening times are summarised in Table 2 and Table 3 below.

| Location | Assessment Period | Measured L_{A90} External Noise Level, dBA | $L_{Aeq,15min}$ Music Noise Limit |
|----------------------------------|-------------------|--|-----------------------------------|
| Nearest Noise Sensitive Receiver | Day / Evening | 46 | 51 |

Table 2: Proposed music noise criteria – day and evening time

| Location | Assessment Period | Measured L_{Oct90} External Noise Level (dB) at Octave Band Centre Frequency, Hz | | | | | | |
|----------------------------------|-------------------------|--|-----|-----|-----|------|------|------|
| | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Nearest Noise Sensitive Receiver | Night time ³ | 49 | 45 | 41 | 39 | 37 | 30 | 23 |
| | | +8 | +8 | +8 | +8 | +8 | +8 | +8 |
| | | 57 | 53 | 49 | 47 | 45 | 38 | 31 |

Table 3: Proposed external music noise criteria – night time

In addition, the SEPP N-2 nominates internal maximum music noise levels, which are applicable to the apartments directly above the proposed fitness club (Table 4).

² The limits for the evening period are also applicable to Saturdays (13:00 – 22:00) and Sundays and Public Holidays (7:00 – 22:00).

³ The night time limits apply until 22:00.

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| Location | Assessment Period | Overall dBA | Measured L_{OCT90} External Noise Level (dB) at Octave Band Centre Frequency, Hz | | | | | | |
|---|-------------------|-------------|--|-----|-----|-----|------|------|------|
| | | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 |
| Residential Receivers (internal noise levels) | Day / Evening | 32 | - | - | - | - | - | - | - |
| | Night | - | 40 | 30 | 20 | 20 | 15 | 10 | 10 |

Table 4: Proposed internal music noise criteria

Building Acoustics

Continuous Noise

AS/NZS 2107:2016 [8] sets the criteria for design sound levels in terms of A-weighted equivalent continuous sound pressure level (L_{Aeq}) in accordance with the use of the spaces and the location of the buildings. For apartments and houses located in inner city areas or entertainment districts or near major roads, the Standard recommends criteria for continuous noise levels for bedrooms, living areas and work areas with no reference to the time of the day. The recommended continuous noise levels criteria for the apartments are detailed in Table 1. Table 6 details the subjective response of individuals to the proposed sound levels for interpretation of the recommendations.

| Type of occupancy/activity | Design Sound Level L_{Aeq} , dBA |
|---|------------------------------------|
| Apartments and houses in inner city areas or entertainment districts or major roads | |
| <i>Bedrooms</i> | 35 – 40 (night time) |
| <i>Living Areas</i> | 35 – 45 (day time) |
| <i>Work areas</i> | 35 - 45 |
| <i>Apartment common areas (lobbies, foyers etc.)</i> | 45 - 50 |
| Retail tenancy | 45 - 50 |

Table 5: Proposed design sound levels (AS/NZS 2107:2016)

| Average Sound Pressure Levels (dBA) | Subjective Rating |
|-------------------------------------|--|
| 35 – 40 | Audible but unobtrusive |
| 40 – 45 | Moderate but unobtrusive |
| 45 – 50 | Unobtrusive with low levels of surrounding activities |
| 50 – 55 | Unobtrusive with high levels of surrounding activities |

Table 6: Subjective ratings for various average sound pressure levels

Sleep Disturbance

The WHO Guidelines for Community Noise [9] recommends a maximum A-weighted noise level L_{Amax} , of 45dBA in a bedroom, in order to prevent sleep disturbance.

In addition, NSW EPA [10] notes that:

“...there is no definitive guideline to indicate a noise level that causes sleep disturbance and more research is needed to better define this relationship. Where likely disturbance to sleep is being assessed, a screening test can be applied that indicates the potential for this to occur. For example, this could be where the subject noise exceeds the background noise level by more than 15dB(A). The most appropriate descriptors for a source relating to sleep disturbance would be L_{A1} (1 minute) (the level exceeded for 1% of the specified time period of 1 minute) or L_{Amax} (the maximum level during the specified time period) with measurement outside the bedroom window”

The AAAC Guideline for Apartments and Townhouses [11] developed an Acoustical Star Rating Tool for external noise intrusion ().

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| External Noise Intrusion | 2 Star | 3 Star | 4 Star | 5 Star | 6 Star |
|--|----------|----------|----------|----------|----------|
| (a) Bedrooms | | | | | |
| Continuous Noise $L_{Aeq\ adj} \leq$ | 36 dB(A) | 35 dB(A) | 32 dB(A) | 30 dB(A) | 27 dB(A) |
| Intermittent Noise $L_{AVE} L_{Amax} \leq$ | 50 dB(A) | 50 dB(A) | 45 dB(A) | 40 dB(A) | 35 dB(A) |
| (b) Other habitable rooms Including open kitchens | | | | | |
| Continuous Noise $L_{Aeq\ adj} \leq$ | 41 dB(A) | 40 dB(A) | 37 dB(A) | 35 dB(A) | 32 dB(A) |
| Intermittent Noise $L_{AVE} L_{Amax} \leq$ | 55 dB(A) | 55 dB(A) | 50 dB(A) | 45 dB(A) | 40 dB(A) |

Table 7: Noise criteria based on Guideline for Apartment and Townhouse Acoustic Rating, AAC 2010

Based on the above review, we consider the following criteria for sleep disturbance applicable to the noise sensitive receivers in the vicinity of the fitness club:

- External criterion – based on the lowest measured background noise level (L_{A90}) during the survey conducted by Acoustic Dynamics: $L_{Amax} \leq L_{A90} + 15\text{dBA} = 55\text{dBA}$ measured externally at the closest window;
- Internal criterion – 45dBA measured in the nearest bedroom.

Structure Borne Noise and Vibration

Acoustic Dynamics Pty Ltd conducted an investigation to determine the magnitude of building vibration and structure borne noise in the adjacent apartments associated with dropping free weights, the use of pin and plate weight machines and treadmills in tenancy R01 on the ground floor [7] and derived appropriate criteria for human exposure to whole body vibration and regenerated structure borne noise. The proposed Cyclebar studio in tenancy R02, however, will have only stationary cardio bikes (i.e., no free weights, pin and plate weight machines or treadmills), the use of which does not result in building vibration and structure borne noise. Therefore, no assessment against these criteria is required, however, we recommend REGUPOL Everroll Core (4mm thick) be used as floor finish in the studio.

Sound Flanking Paths

In order to ensure all sound flanking paths are controlled, we recommend the following be completed:

- 1) Any services penetrations and gaps around the building elements be inspected, packed densely with 50mm, 48kg/m³ glasswool, backing rods applied and sealed with acoustic sealant. Appropriate acoustic caulking products include:
 - Bostik Firemastic.
 - Bostik Seal-n-flex 2637.
 - Pyropanel Multiflex.
 - Boral Fyreflex.
 - Dow-Corning 790 Silicone.
 - Dow-Corning 795 Silicone.
 - Sika Sikaflex-11 FC.
 - Fosroc Flamex 3.
- 2) We noted a section above the glazing incorporating the entry door of the proposed cyclebar studio where the 150mm precast concrete is discontinued and currently only a timber frame is installed (Figure 2) – we recommend all interfaces are inspected, blocked off and sealed as described above. Then 100mm, 32kg/m³ glasswool be installed in the cavity and 2 layers of 13mm fire rated plasterboard be applied to the internal side of the timber frame. The junctions between the fire rated plasterboard, the building structure and the door frame should be sealed continuously with acoustic sealant;
- 3) The entry door (perimeter and bottom) be fitted with compressible acoustic seals (Raven or Schlegel ranges), which are appropriately adjusted to ensure they are completely compressed when the door is closed;
- 4) The operable windows are fitted with compressible acoustic seals (Raven or Schlegel ranges) and be kept closed when the club operates;

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Figure 2: Opening above the glazing

- 5) The unused area of the ventilation louvres on the southern façade (Figure 4, Figure 3) be blocked off with 2 layers of 9mm compressed fibre cement with all junctions with the building structure and mechanical services ducts sealed with acoustic sealant.



Figure 4: Ventilation louvres – internal view



Figure 3: Ventilation louvres – external view

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Assessment and Recommendations

We calculated the noise impact to the noise sensitive receivers and assessed the calculated noise levels against the selected criteria based on the following conditions (worst case scenario):

- Assessment time – night time;
- Amplified music and instruction in the cyclebar studio – we understand that a reverberant sound level of 94dBA (L_{A10}) is the maximum the studio will operate at and we based our assessment on the reverberant sound pressure levels with spectrum content as detailed in Table 8⁴.

| Reverberant Sound Pressure Level L_{OCT10} (dB) at Octave Band Centre Frequency, Hz | | | | | | | Overall, dBA |
|---|-----|-----|-----|------|------|------|--------------|
| 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | |
| 79 | 82 | 82 | 85 | 87 | 87 | 87 | 94 |

Table 8: Reverberant Sound Pressure Level in the Studio

- Patrons arriving and departing from the venue – 30 patrons over a 30-minute interval;
- Patrons in session – 39 (full class);
- Building façade and glazing construction – as detailed in Section Site Description;
- The door between the studio and reception constructed of 10.38mm laminated glass in aluminium frame fitted with compressible acoustic seals (Raven or Schlegel ranges) – closed when a session is in progress; the fitness studio entry door being opened and closed as patrons arrive/leave;
- Sound transmission loss of the concrete slab separating the proposed studio from the apartments above – as measured by Acoustic Dynamics during their survey [6] and summarised below.

| Measurement Location | Measured $L_{Aeq,1min}$ (dB) at Octave Band Centre Frequency, Hz | | | | | | | Overall, dBA |
|--|--|-----------|-----------|-----------|-----------|-----------|-----------|--------------|
| | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | |
| Ground Floor Tenancy | 75 | 82 | 82 | 92 | 90 | 88 | 88 | 96 |
| Apartment above | 33 | 31 | 33 | 38 | 35 | 25 | 20 | 41 |
| Concrete Slab Sound Transmission Loss, dB | 42 | 51 | 49 | 54 | 55 | 63 | 68 | 55 |

Table 9: Measured SPL on GF and Apartment above and calculated Sound Transmission Loss of the concrete slab

- Distances from the proposed fitness studio to the external noise sensitive receivers as measured from Google Earth;
- Glazing to the windows at the adjacent noise sensitive receivers – 5mm annealed glass (windows closed).

⁴ The reverberant sound level was previously measured during an aerobic fitness class and we consider it conservative for the assessment of the proposed cyclebar studio.

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**Environmental Noise**

The results of our assessment are summarised in Table 10 below.

| Receiver | Noise source | Assessment Period | Calculated Noise Levels (L _{Aeq,30min}), dBA | Total Noise Levels (L _{Aeq,30min}), dBA | Criterion, dBA | Conclusion |
|---------------------|----------------------------|-------------------|--|---|----------------|------------|
| L1, 142 Johnston St | Fitness Studio Operation | Night Time | 45 | 45 | 46 | Complies |
| | Patrons Arriving/Departing | | 22 | | | |
| 121 Victoria St | Fitness Studio Operation | Night Time | - | 42 | 43 | Complies |
| | Patrons Arriving/Departing | | 20 | | | |
| 7 Chapel St | Fitness Studio Operation | Night Time | - | 39 | 43 | Complies |
| | Patrons Arriving/Departing | | 31 | | | |

Table 10: External environmental noise assessment results

| Receiver | Noise source | Assessment Period | Calculated Noise Levels (L _{Aeq,30min}), dBA | Total Noise Levels (L _{Aeq,30min}), dBA | Criterion, dBA (external noise criterion less 20dBA) | Conclusion |
|---------------------|----------------------------|-------------------|--|---|--|-----------------|
| L1, 142 Johnston St | Fitness Studio Operation | Night Time | 40 | 40 | 26 | Does not comply |
| | Patrons Arriving/Departing | | - | | | |

Table 11: Internal environmental noise assessment results

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Music Noise

The results of our assessment are summarised in below.

| Location | Assessment Period | Method of Calculation | Calculated L _{OCT10} External Noise Level (dB) at Octave Band Centre Frequency, Hz | | | | | | | Conclusion |
|---------------------------------|-------------------|---|---|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| | | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | |
| | | L_{A90OCT} + 8dB Criterion | 57 | 53 | 49 | 47 | 45 | 38 | 31 | |
| 142 Johnston St (Ap. 104 above) | Night | Calculated L _{A10} (through glass) | 15 | 14 | 6 | 1 | 1 | - | - | Complies |
| 121 Victoria St | Night | Calculated L _{A10} (through glass) | 4 | 3 | - | - | - | - | - | Complies |
| 7 Chapel St | Night | Calculated L _{A10} (through glass) | 8 | 7 | - | - | - | - | - | Complies |

Table 12: External music noise assessment results

| Location | Assessment Period | Method of Calculation | Calculated L _{OCT10} Internal Noise Level (dB) at Octave Band Centre Frequency, Hz | | | | | | | Conclusion |
|---------------------------------|-------------------|---|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------------|
| | | | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | |
| | | L_{A90OCT} + 8dB Criterion | 40 | 30 | 20 | 20 | 15 | 10 | 10 | |
| 142 Johnston St (Ap. 104 above) | Night | Calculated L _{A10} (through concrete slab) | 38 | 32 | 34 | 33 | 25 | 20 | - | Does not comply |
| | | Calculated L _{A10} (through glass) | 5 | 2 | - | - | - | - | - | Complies |

Table 13: Internal music noise assessment results

Based on the desirable reverberant sound level and the results of our assessment, we make the following recommendations (in addition to the recommendations made in Section Sound Flanking Paths):

- 2 layers of 16mm fire rated plasterboard be installed above the tenancy on resilient mounts to solid joists fixed to the concrete slab. The minimum cavity should be 150mm and the plasterboard should be overlaid with 100mm, 14kg/m³ glasswool. A 10mm gap should be formed between the perimeter of the 2 layers of 16mm fire rated plasterboard and the building structure, in which backing rod be installed and non-hardening permanently elastic acoustic sealant applied.
- A secondary ceiling (preferably 13mm perforated plasterboard with 10% open area) overlaid with 50mm, 32kg/m³ polyester can then be installed on 35mm furring channels fixed to the ceiling joists. All light fixtures and ceiling speakers should be installed on the perforated plasterboard ceiling. The sound absorption provided by the perforated plasterboard and overlay will assist with reduction of the reverberation time within the proposed cyclebar studio and providing of acceptable room acoustics supporting speech and music.
- The walls of the studio be lined with acoustic wall covering with minimum Noise Reduction Coefficient of NRC 0.4.
- The floor finish in the studio area should be REGUPOL Everroll Core (4mm thick).
- The partition separating the studio from the rest of the fitness club should be constructed of 2 layers of 13mm fire rated plasterboard to each side of minimum 76mm steel studs with cavity infill of 75mm, 14kg/m³ glasswool.
- The door interconnecting the studio to the community area should be minimum 10.76mm laminated glass in aluminium frame fitted with compressible acoustic seals (Raven or Schlegel ranges) to the perimeter, bottom and the meeting stile. The seals should be properly adjusted to fully compress when the door is closed. The door should be kept closed when sessions are in progress.
- A sound limiter should be installed and set up to continuously measure the sound pressure level in the studio and cut the power to the system amplifier if it exceeds the values detailed in Table 8. Once the fit-out is completed, the system should be tested by an acoustic engineer using pink noise signal.

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Measurements should be taken in the apartment 104 above and sound pressure levels of the sound system adjusted as required to ensure compliance with the music noise criteria detailed in Table 4. Once the system is adjusted, the sound limiter should be locked so the settings cannot be changed.

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APPENDIX A
GLOSSARY OF ACOUSTIC TERMINOLOGY

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dB(A) Also referred to as dBA. A unit of measurement, decibels (A), of sound pressure level which has its frequency characteristics modified by a filter ("A-weighted") so as to more closely approximate human ear response at a loudness level of 40 phons. The table below outlines the subjective rating of different sound pressure levels.

| Noise Level (dBA) | Subjective Rating |
|-------------------|---|
| 25-30 | Barely audible and very unobtrusive. |
| 30-35 | Audible but very unobtrusive. |
| 35-40 | Audible but unobtrusive. |
| 40-45 | Moderate but unobtrusive. |
| 45-50 | Unobtrusive with low levels of surrounding activity. |
| 50-55 | Unobtrusive with high levels of surrounding activity. |

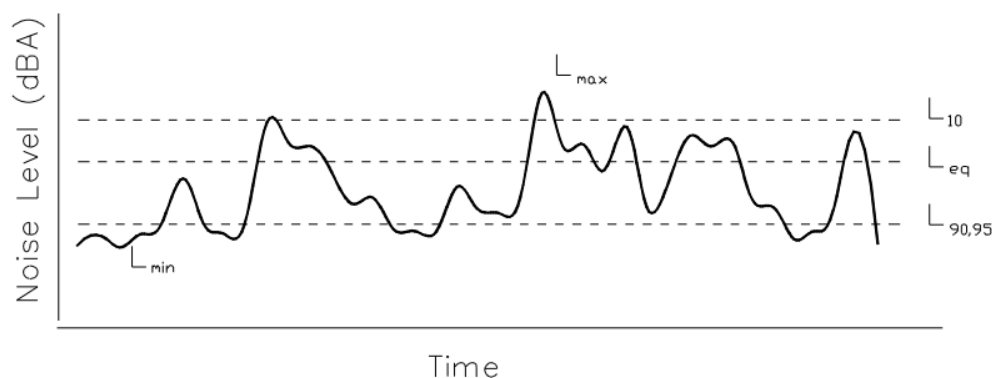
L₁ The noise level which is equalled or exceeded for 1% of the measurement period. L₁ is an indicator of the impulse noise level, and is used in Australia as the descriptor for intrusive noise (usually in dBA).

L₁₀ The noise level which is equalled or exceeded for 10% of the measurement period. L₁₀ is an indicator of the mean maximum noise level, and is used in Australia as the descriptor for intrusive noise (usually in dBA).

L₉₀, L₉₅ The noise level which is equalled or exceeded for 90% of the measurement period. L₉₀ or L₉₅ is an indicator of the mean minimum noise level, and is used in Australia as the descriptor for background or ambient noise (usually in dBA).

L_{eq} The equivalent continuous noise level for the measurement period. L_{eq} is an indicator of the average noise level (usually in dBA).

L_{max} The maximum noise level for the measurement period (usually in dBA).



Note: The subjective reaction or response to changes in noise levels can be summarised as follows: A 3dBA increase in sound pressure level is required for the average human ear to notice a change; a 5dBA increase is quite noticeable and a 10dBA increase is typically perceived as a doubling in loudness.

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STC/R_w

Sound Transmission Class or Weighted Sound Reduction Index. Provides a single number rating (from the sound transmission loss or sound reduction index for each frequency band) of the sound insulation performance of a partition. The higher the value, the better the performance of the partition. The subjective impression of different ratings is shown in the table below.

| Type of noise source | STC/R _w Rating | | | | |
|---|---------------------------|-----------------|-----------------|--------------|--------------|
| | 40 | 45 | 50 | 55 | 60 |
| Normal Speech | Audible | Just Audible | Not Audible | | |
| Raised speech | Clearly Audible | Audible | Just Audible | Not Audible | |
| Shouting | Clearly Audible | Clearly Audible | Audible | Just Audible | Not Audible |
| Small television/small entertainment system | Clearly Audible | Clearly Audible | Audible | Just Audible | Not Audible |
| Large television/large hi-fi music system | Clearly Audible | Clearly Audible | Clearly Audible | Audible | Just Audible |
| DVD with surround sound | Clearly Audible | Clearly Audible | Clearly Audible | Audible | Audible |
| Digital television with surround sound | Clearly Audible | Clearly Audible | Clearly Audible | Audible | Audible |

FSTC/R_w'

The equivalent of STC/R_w, unit for sound insulation performance of a building element measured in the field.

C_i, C_{tr}

The ratings (R_w, D_{nTw}, L_{nTw}) are weighted in accordance to a spectrum suited to speech. This term modifies the overall rating to account for noise with different spectra, such as traffic (C_{tr}) or footfalls (C_i). The ratings may be written as R_w+C_{tr}, or D_{nTw}/L_{nTw}+C_i.

NNIC/D_{nTw}

Normalised Noise Isolation Class, or Weighted Standardised Sound Level Difference. Provides a single number rating of the sound level difference between two spaces, and incorporates the effects of flanking noise between two spaces. This rating is generally accepted to be about 5 points less than the STC/R_w rating.

IIC/L_{nw}

Impact Insulation Class, or Weighted Normalised Impact Sound Level. L_{nw} = 110 - IIC. The higher the IIC rating, or the lower the L_{nw} rating the better the performance of the building element at insulating impact noise. The table below gives the subjective impression of different ratings:

| IIC | L _{nw} | Subjective Rating |
|-----|-----------------|-------------------|
| 40 | 70 | Clearly Audible |
| 45 | 65 | Clearly Audible |
| 50 | 60 | Audible |
| 55 | 55 | Audible |
| 60 | 50 | Just Audible |
| 65 | 45 | Inaudible |

FIIC/L_{nTw}'

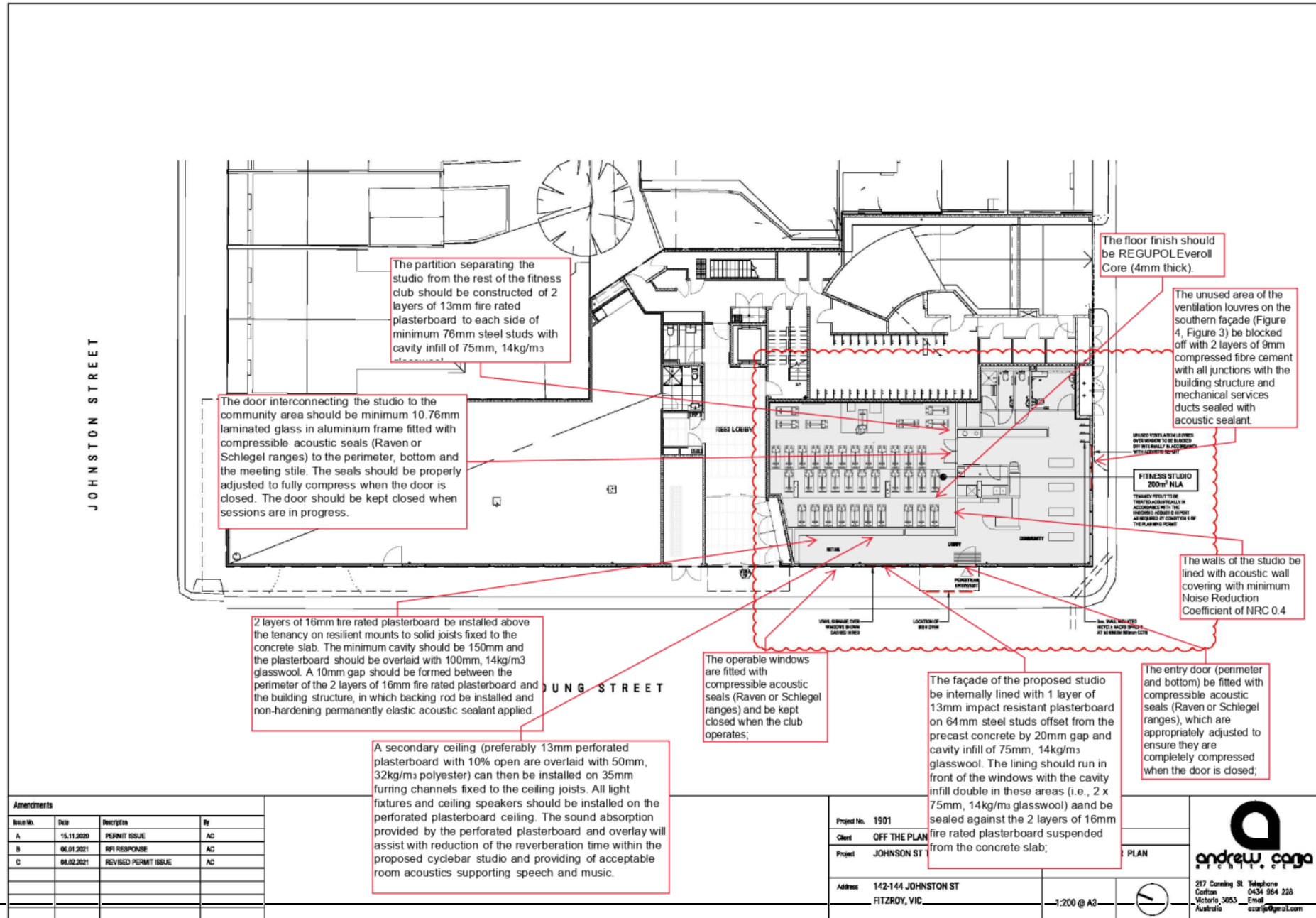
The equivalent of IIC/L_{nw}, but the performance is for the building element measured in the field.

Attachment 8 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Acoustic Floorplan

ATTACHEMENT F

ACOUSTIC PLAN

Attachment 8 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Acoustic Floorplan



Attachment 9 - PLN19'0221.01 - 142 Johnston Street Fitzroy - Internal acoustic referral comments



24 March 2021

640.10090.06780-L01-v0.1-20210324.docx

Yarra City Council
PO Box 168
RICHMOND 3121

Attention: Alexandra Paraskevakis

Dear Alexandra

142 Johnston Street, Collingwood Development Application Acoustic Review PLN 190221.01

SLR Consulting Australia Pty Ltd (SLR) has been retained by the City of Yarra to provide a review of the revised acoustic assessment report prepared to support the application for a bicycle gymnasium at 142 Johnston Street, Collingwood.

Details of the report are as follows.

- Title: Cyclebar, 142 Johnston Street, Fitzroy, Victoria, Noise Assessment Report
- Reference: 30441/6/1
- Prepared for: Invest Assist Pty Ltd
- Date: 30 November 2020 (Report has been revised subsequent to this date, with this copy sent by Bestec on 8 February 2021)
- Prepared by: Bestec

The report has been prepared to address noise impacts from the proposed use.

An acoustic report was previously prepared for a ground level gym in Tenancy 1 of the same building. That application proceed. The report, which was prepared by a different Acoustical Consultancy (Acoustic Dynamics) was for the same end client, is referenced in the current report. (Report title 'Noise Emission Assessment, Orangetheory Fitness Fitzroy, 142 Johnston Street Fitzroy, Victoria, dated 18 December 2019)

SLR reviewed versions of the Acoustic Dynamics report in October 2019 and January 2020.

1 Background

(Pages 1 and 5 of the acoustic report)

The acoustically significant aspects of the proposal are detailed below.

- A cycle gym is proposed for Tenancy 2 of the ground floor of the mixed use building at 142 Johnston Street.

Attachment 9 - PLN19'0221.01 - 142 Johnston Street Fitzroy - Internal acoustic referral comments

Yarra City Council
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Development Application Acoustic Review
PLN 190221.01

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Date: 24 March 2021

- There are apartments directly above the gym and carparking below (i.e. suspended slab construction)
- The training equipment comprises 40 stationary bikes. Up to 39 patrons will use the bikes at any one time.
- The proposed operating hours are:
 - Monday to Friday: 5:30 am to 10 pm
 - Saturday: 6:30 am to 7 pm
 - Sunday: 8 am to 7 pm
- Access to the gym will be via the Young Street entrance.
- The nearest residential receivers are identified as:
 - Level 1, 142 Johnston Street apartments, directly above the gym
 - 266 Young Street (address given as Chapel Street), single level dwelling to the south, separated from the gym by a local road.
 - 121-125 Victoria Street, two storey dwelling to the south west, separated from the gym by Young Street, a local road.
- Music is proposed to be played through a distributed sound system with ceiling mounted speakers.
- Details of the building construction are provided on page 4, and it is noted that the tenancy is separated from the apartments above by a 160 mm thick concrete slab.
- The studio is separated from the lobby by a 150 mm concrete wall.
- A plan of the gym layout is included in Figure 1, and shows that the gym area set back from the building façade.

Bestec observe on page 8 that impact generated noise, as was anticipated in the original application for a gym in Tenancy 1, will not be produced by the cycle gym. The bikes themselves do not cause impacts to the building structure and no other impact generating sources, such as weights or running machines, are proposed to be used.

SLR Comments: *Details of the proposal and the nearest noise sensitive receivers are provided.*

The fact that impacts to the building will not occur during typical operation of the proposed gym moves this application from high to moderately low risk from the perspective of acoustics.

The gym layout is also conducive to control of noise, with no direct access to the gym studio area from the street.

2 Assessment Criteria

(Section 2 of the acoustic report)

The criteria nominated by Acoustic Dynamics in their 2019 report for Tenancy 1 are reported to have been adopted for the project.

In summary, noise from the gym to residential receivers is proposed to be assessed to SEPP N-2 (music noise), SEPP N-1 (other on-site sources), and sleep disturbance targets (on-site and off-site sources).

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Yarra City Council
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Date: 24 March 2021

In addition to the above, noise from within the gym is proposed to be assessed to all receivers (residential and commercial) to the following targets adopted from the AS/NZS2107 design sound ranges:

- 'Average' or Leq noise levels are proposed to be assessed to the AS/NZS2107 design ranges for the relevant use.
- Instantaneous maximum or L_{max} levels are proposed to be assessed to the lower end of the AS/NZS2107 design range for the relevant use + 10 dB (i.e. 45 dBA in bedrooms).

SLR Comments:

SEPP N-1 and SEPP N-2

We agree that SEPP N-1 and SEPP N-2 are applicable to the project. It is unclear what the noise is proposed to be assessed to the AS/NZS2107 design ranges. These typically only apply to commercial uses (with noise to dwellings being assessable to SEPP N-1 and SEPP N-2).

It is also of consideration that the SEPPs will be replaced with Publication 1826.2 EPA Victoria 'Noise limit and assessment protocol from the control of noise from commercial, industrial and trade premises and entertainment venues' in July 2021, and the project should be designed to meet the limits identified in that document.

The replacement of the SEPPs with the Protocol will not affect noise limits in most instances, however it will have implications for the effective indoor limit for commercial noise transmitting through the floor/ceiling. Whereas SEPP N-1 requires an adjustment of 15 dB for indoor measurement locations, the Protocol default will be 20 dB. This change effectively reduces the internal noise limit indoors by 5 dB. The change would apply to noise transmitted from the gym to the apartments above, via the common floor / ceiling.

Sleep disturbance targets

As discussed in our previous review, SLR has reservations about the effective L_{max} target of 45 dBA Leq for bedrooms of residential dwellings and recommend that L_{max} levels do not exceed 40 dBA L_{max} in bedrooms, or 45 dBA L_{max} in living rooms for typical apartments. This is in line with the AAAC Internal Noise Intrusion Design Targets for '3 Star' apartments. However, unlike standard gyms, this application is unlikely to produce regular intrusive maximum noise levels and for this reason it is not considered necessary to require the more onerous targets to be documented in the report.

3 Background Noise Levels and Noise Limits

(Page 5 of the report)

Bestec have not undertaken background noise monitoring for this project and have generally adopted the noise limits (and by implication the background noise monitoring) conducted by Acoustical Dynamics in 2019.

SEPP N-1 noise limits for the site are provided on Page 6 and are 55 dBA (day), 49 dBA (evening) and 43 dBA (night).

SEPP N-2 limits for the day/evening and night periods are provided on page 6.

SLR Comments: *The monitoring undertaken by Acoustical Dynamics was accepted by SLR for the previous application. Given that the sensitive receiver locations are similar and that the monitoring was undertaken relatively recently, it is reasonable to use the previously obtained data for the current application.*

Attachment 9 - PLN19'0221.01 - 142 Johnston Street Fitzroy - Internal acoustic referral comments

Yarra City Council
142 Johnston Street, Collingwood
Development Application Acoustic Review
PLN 190221.01

SLR Ref: 640.10090.06780-L01-v0.1-20210324.docx
Date: 24 March 2021

The identified noise limits are generally consistent with those provided in the Acoustic Dynamics report, however a higher SEPP N-1 night limit of 46 dBA has been used for apartments at 142 Johnston Street during the night period (Table 10 of the report). The higher limit is not explained in the Bestec report, however it is consistent with SLR's calculation of zoning levels and the Acoustic Dynamics report, and is acceptable for the project.

4 Assessments

4.1 Music Noise

(Pages 10 and 12 of the report)

Music noise has been predicted to all receiver locations and compared with the identified SEPP N-2 limits. All predicted levels comply with the noise limits.

The assessment assumes music levels of 94 dBA L₁₀ (octave band levels provided in Table 8). The calculated external noise levels are provided in Table 12, and are predicted to exceed the nominated targets at Apartment 04 (above the gym).

The calculated internal noise levels are provided in Table 13, and are predicted to exceed the identified limits inside Apartment 104.

Based on the identified exceedances, recommendations have been provided for controlling noise emissions. These include:

- Installation of a high performance acoustic ceiling with absorptive treatments below (Items 1 and 2 on page 12).
- Sound absorptive treatments to the gym walls (Item 3 on page 12).
- Acoustically rated internal walls and doors to control noise from the gym space to the lobby area of the gym.
- A sound limiter within the studio set up by an acoustic engineer to ensure that the music noise limits identified in Table 4 (the SEPP N-2 base noise limits) are not exceeded.

The above works are additional to the treatments described on page 9 for addressing noise from the existing louvres in the building façade.

SLR Comments: *The assumed noise levels, provided assessment and recommendations for managing music noise are generally appropriate.*

We note that some internal walls of the gym may be 150 mm concrete, with absorptive linings only, and the extent of these walls is greater than it was in the previous layout. There is potential for airborne noise to be transmitted to the apartments above via the concrete walls if they are not acoustically lined. However, the requirement for post construction testing in apartment 104 will ensure that any further reduction in music levels, if required for achieving compliance with the noise limits, will be identified.

4.2 Operational Noise

(Pages 10 and 11 of the report)

An assessment of noise from the gym operation and patron arrivals and departures is provided in Tables 10 (external assessment) and 11 (internal assessment).

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The assessment takes into consideration 39 patrons participating in a class and 30 patrons arriving and departing from the premises.

The resultant levels are predicted to comply with the SEPP N-1 night noise limits, with marginal compliance only predicted for the apartments directly above the gym without the proposed building upgrades in place.

The internal assessment assumes a 20 dB indoor to outdoor correction, as will apply with the new environmental legislation comes into force in July 2021.

SLR Comments:

Operational noise from the facility has been appropriately assessed.

5 Summary

SLR have undertaken a review of the acoustic report prepared to support the cycle gym proposed for 142 Johnston Street, Fitzroy. The report addresses noise impacts from the proposal.

Regards,



Dianne Williams
Principal – Acoustics

Checked/Authorised by: JA

Attachment 10 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Strategic Transport referral comments

Paraskevakis, Alexandra

From: Wright, Chloe
Sent: Friday, 30 April 2021 12:39 PM
To: Paraskevakis, Alexandra
Subject: RE: Urgent referral - PLN19/0221.01 - 142 Johnston St Fitzroy - Amendment to permit for fitness studio

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Alexandra,

I've reviewed the amended plans and confirm the revised bicycle parking is acceptable; provision of 3 spaces meets the Statutory requirement, this is based on the assumption that the number of employees is still 4. The layout of bike racks is acceptable and a notation that the racks will be spaced 500mm apart has been included on the plans, as per the permit Condition 1(c).

Please let me know if you have any questions or would like to discuss.

Kind regards,
 Chloe

Chloe Wright
 Sustainable Transport Officer
 Sustainability and Strategic Transport
 I work Monday – Thursday

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From: Paraskevakis, Alexandra <Alexandra.Paraskevakis@yarracity.vic.gov.au>
Sent: Thursday, 22 April 2021 12:19 PM
To: Strategic Transport Referrals <StrategicTransportReferrals@yarracity.vic.gov.au>
Cc: Connell, Danielle <Danielle.CConnell@yarracity.vic.gov.au>
Subject: Urgent referral - PLN19/0221.01 - 142 Johnston St Fitzroy - Amendment to permit for fitness studio
Importance: High

Hi,

We have a current amendment application in for PLN19/0221, which is a permit for use of the land as a restricted recreation facility (gym).

The amendment includes;

1. Increase the maximum number of patrons from 12 (previously approved) to 39.
2. Alteration of opening hours as follows;

From:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am – 10:00pm;
- (b) Saturday: 6:30am – 7:00pm; and
- (c) Sunday: 8:00am – 7:00pm.

To:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

- (a) Monday to Friday: 5:30am – 8:00pm;
- (b) Saturday: 6:30am – 7:00pm; and
- (c) Sunday: 8:00am – 7:00pm.

Can the proposed amended bike parking arrangements for this fitness studio / gym please be reviewed?

Original referral comments for the planning permit are in the email trail below.

Existing planning permit, and proposed management plan and amended plans are attached.

Kind regards,

Alexandra Paraskevakis
 Statutory Planner
 Statutory Planning

Attachment 10 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Strategic Transport referral comments

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From: Wright, Chloe <Chloe.Wright@yarracity.vic.gov.au>
Sent: Tuesday, 24 March 2020 11:29 AM
To: Moloney, Madeleine <Madeleine.Moloney@yarracity.vic.gov.au>
Subject: RE: Informal referral - PLN19/0221 - 142 Johnston St Fitzroy - proposed fitness studio

Hi Madeleine,

I've looked at the plans and the proposed bike parking looks fine. Great to see they're providing well over the statutory requirement.

Comments:

- While the racks are not provided in a secure / lockable area, given the use and excess provision of bike spaces this is acceptable. The proposed arrangement allows both patrons and employees to use the bike parking (and allow flexibility depending on demand).
- There are no horizontal racks for an e-bike or cargo bike to use, however the waiting room is quite large, so there would be adequate space to park a heavier bike / e-bike adjacent to the wall racks.
- They haven't noted dimensions on the plans. The racks look like they're adequately spaced apart, however a condition could be included to ensure this (or you could confirm with the applicant):
 - *The wall mounted bicycle racks must be spaced at 500mm as per AS 2890.3 or otherwise to the satisfaction of the responsible authority.*

Let me know if you have any questions.

Thanks,
Chloe

From: Moloney, Madeleine
Sent: Monday, 23 March 2020 2:37 PM
To: Strategic Transport Referrals <StrategicTransportReferrals@yarracity.vic.gov.au>
Subject: Informal referral - PLN19/0221 - 142 Johnston St Fitzroy - proposed fitness studio

Hi there!

Was hoping if someone could take a quick look at the bike parking arrangements for this fitness studio / gym and let me know if the bike parking arrangements are acceptable.

This is for a maximum 12 patron fitness studio, and max 4 staff. From my calculations below they only require 3 spaces under CI52.34 and so have an excess of 11.

| Use | Statutory Requirement | No. Required | On-site Provision | Reduction requested |
|--|--|--------------------------|-------------------|---------------------|
| Minor sports and recreation facilities | 1 space to each 4 employees. | 1 | 14 | N/A |
| | 1 visitor space to each 200m ² of net floor area. | 2 (rounded up from 1.51) | | |
| Total | | 3 | 14 | N/A |

Are you please able to advise if the bike racks, as shown on the plans, are acceptable?

Happy to discuss on the phone if easier. I wasn't sure if we were still doing the informal referral sessions given the current predicament.

Kind regards,

Madeleine Moloney
Senior Statutory Planning Officer
Statutory Planning

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Attachment 10 - PLN19/0221.01 - 142 Johnston Street Fitzroy - Strategic Transport referral comments



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