



Agenda

Planning Decisions Committee Meeting

6:30 pm, Tuesday 29 April 2025

Richmond Town Hall

www.yarracity.vic.gov.au

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.

Addressing the Committee

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 who have registered to address the committee, to come forward to the lectern, 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 and avoid repeating 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.

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. Access to the building is available either by the stairs, or via a ramp and lift. Seating is provided to watch the meeting, and the room is wheelchair accessible. Accessible toilet facilities are available. Speakers at the meeting are invited to stand at a lectern to address the Council, and all participants are amplified via an audio system. Meetings are conducted in English.

If you are unable to participate in this environment, we can make arrangements to accommodate you if sufficient notice is given. Some examples of adjustments are:

- a translator in your language;
- the presence of an Auslan interpreter;
- loan of a portable hearing loop; and
- modification of meeting rules to allow you to participate more easily.

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1. Acknowledgement of Country

“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.”

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors:

- Cr Stephen Jolly Mayor
- Cr Sarah McKenzie Deputy Mayor
- Cr Evangeline Aston
- Cr Andrew Davies
- Cr Kenneth Gomez
- Cr Sharron Harrison
- Cr Meca Ho
- Cr Sophie Wade

Absent

- Cr Edward Crossland Parental Leave

Council staff:

- Mary Osman General Manager City Sustainability and Strategy
- Kathryn Pound Manager Statutory Planning
- Danielle Connell Senior Coordinator Statutory Planning
- Paul Iacuone Coordinator Statutory Planning
- Erryn Megennis Principal Statutory Planner

Governance

- Phil De Losa Manager Governance and Integrity
- Patrick O’Gorman Senior Governance Coordinator
- Mel Nikou Governance Officer

3. 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.

4. Confirmation of Minutes

RECOMMENDATION

That the minutes of the Planning Decisions Committee held on Tuesday 25 March 2025 be confirmed.

5. Planning Committee Reports

5.1. – PLN18/0730.01 100-110 Rokeby Street, Collingwood

Author Audrey Mueller-Schmuki – Senior Statutory Planner
Authoriser General Manager City Sustainability and Strategy

Executive Summary

Property	100-110 Rokeby Street, Collingwood
Ward	Hoddle
Application number	PLN18/0730.01
Proposal	S72 amendment to Planning Permit PLN18/0730 which allows 'Use of the building as a function centre (place of assembly) with a liquor licence (sale and consumption of liquor) for 120 patrons (maximum) and a reduction in the associated car parking requirement' to: <ul style="list-style-type: none"> - Increase the operating hours and hours to serve liquor on Friday and Saturday night to 1am (from 12am).
Zoning & Overlay/s	<ul style="list-style-type: none"> - Commercial 2 Zone - Design and Development Overlay – Schedule 11 - Development Contributions Plan Overlay – Schedule 1
Strategic setting	'Major Employment Precinct' in the Strategic Framework Plan.
Submissions	34
Key reasons for support	<ul style="list-style-type: none"> - Extended hours of use and service of liquor is compatible with commercial surrounds - There would be no unreasonable amenity impacts to nearby dwellings, subject to conditions
Recommendation	<p>That Council Issues a Notice of Decision to Grant an amended Planning Permit, with amended conditions.</p> <p>Key conditions include:</p> <ul style="list-style-type: none"> - Acoustic attenuation measures (including a noise limiter and commissioning report prior to the commencement of the extended hours) - Updated operating hours for the function centre use and hours to serve and consume liquor
Contact Officer	Audrey Mueller-Schmuki, Senior Planner

Officer Recommendation

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Amended Planning Permit PLN18/0730.01 at 100-110 Rokeby Street, Collingwood for:

Control	Clause	Matter for which the permit has been granted
Commercial 2 Zone	34.02-1	Place of assembly (function centre).
Liquor License	52.27	Sale and consumption of liquor.

to allow for:

- Increase the operating hours of the function centre and hours to serve liquor on Friday and Saturday night to 1am (from 12am).

subject to the following conditions (amended conditions in **bold**):

Endorsed Plans

1. The function centre use (including the sale and consumption of liquor) and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Acoustic Report

2. 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 Acoustic report will be endorsed and will form part of this permit. The amended Acoustic report must be generally in accordance with the submitted **Acoustic report prepared by Acoustic Logic, dated 6 December 2024, but modified to include:**
 - (a) **Any details required by Condition 4 of this permit.**
3. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with at all times to the satisfaction of the Responsible Authority.
4. **Prior to the operating hours being extended (as approved under amendment PLN18/0730.01), a music monitoring and limiting system must be installed and configured as follows:**
 - (a) **All music for the function centre must be controlled by the music limiter device;**
 - (b) **The music limiter shall incorporate a microphone and calibratable frequency discriminating sound analyser to monitor sound levels within the venue in selectable octave bands;**
 - (c) **The system must have the capability to record the internal noise levels in octave bands. A record of the 15-minute noise levels measured by the limiting system shall be retained for at least 60 days and provided to the Responsible Authority on request;**

- (d) The calibration of the limiter shall be set to achieve compliance with Part II of the Victorian EPA Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826 (the Noise Protocol);
- (e) The calibration shall be based on simultaneous measurements inside the venue and at the nearby sensitive receivers;
- (f) The music limiter shall be installed in a securely housed rack, box or equivalent in a location that is only accessible by a qualified acoustic consultant, a nominated technician or management by the licensee or occupier of the land and notified to the Responsible Authority;
- (g) Commissioning of the music limiter system must be conducted by a suitably qualified acoustic consultant. A commissioning report shall be provided to the Responsible Authority for approval prior to the venue's operating hours being extended. This report shall include:
 - (i) The make and model of the music limiter device;
 - (ii) A description of how the music limiter has been incorporated into the audio system, to ensure that all music is played through the limiter;
 - (iii) Photographs and descriptions of the limiter's settings, microphone location and the existing sound system installation, including location and types of loudspeakers;
 - (iv) Details of whether the venue's doors and windows are required to be closed, in order to comply with the EPA music limits;
 - (v) Updated EPA music noise limits for the period up until midnight;
 - (vi) The maximum allowable music level(s) for the music limiter's microphone to achieve compliance with the Noise Protocol, along with the resulting noise levels at the most-affected sensitive receiver; and
 - (vii) Details of how the system has been configured to account for the different noise limits at different times, in order to ensure that compliance is achieved at all times.

Noise and Venue Management Plan

5. Before the sale and consumption of liquor commences, an amended Noise and Venue Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Noise and Venue Management Venue Plan will be endorsed and will form part of this permit. The amended Noise and Venue Management Plan must be generally in accordance with the Noise and Venue Management Plan submitted with the application but modified to include
- (a) any changes necessary as a result of the updated Acoustic Report at condition 2; and
 - (b) any changes necessary as a result of the Waste Management Plan (authored by Leight Design and dated 10 January 2019) at condition 7; ~~and~~
 - ~~(c) Deleted.~~

6. The provisions, recommendations and requirements of the endorsed Noise and Venue Management Plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

Waste Management Plan

7. The provisions, recommendations and requirements of the endorsed Waste Management Plan (authored by Leigh Design and dated 10 January 2019), must be implemented and complied with to the satisfaction of the Responsible Authority.

Patrons and Staff

8. No more than 120 patrons are permitted on the land at any time.
9. No more than 5 staff are permitted on the land at any one time (associated with the place of assembly (function centre)).

Hours of operation and onsite car parking availability

10. Except with the prior written consent of the Responsible Authority, the use (including the sale and consumption of liquor) may only occur between the following hours:
 - (a) Monday to Thursday – 7:30pm to 11:00pm;
 - (b) Friday – 7:30pm to **1:00am (the next day)**;
 - (c) Saturday – 7:00pm to **1:00am (the next day)**; and
 - (d) Sunday – noon to 11:00pm.
11. When the function centre is not in use, the area identified on plan as the licenced function centre area must be made available for car parking for the commercial kitchen in accordance with the endorsed plans of Planning Permit No. PLN18/0109.

Frequency of functions

12. No more than three (3) functions may occur weekly within the hours specified in the above Condition 10 within the designated area of the place of assembly (function centre).
13. Functions with amplified music may only occur a maximum of six (6) times per month.

Control of Noise and Amenity

14. All doors and windows must remain closed at all times when functions are underway (unless for access or egress of patrons).
15. ****Deleted**
16. The use must at all times comply with the **noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.**
17. Speakers external to the building must not be erected or used.
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.

Deliveries, loading and unloading.

19. 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.
20. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.
21. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
22. 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.

Permit Expiry

23. This permit will expire if:
 - (a) The use (including the sale and consumption of liquor) is not commenced within two years from the date of this permit; or
 - (b) The use (including the sale and consumption of liquor) is discontinued for a period of two years.

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

NOTES:

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5428 to confirm.

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

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

History and Background

1. Planning permit No. 1315 was issued on 20 October 1981 for "egg grading and packing".
2. Planning permit No. PLN18/0109 was issued to No. 100-110 on 21 March 2018 for "Use of the land for industry (commercial kitchen) and reduction in car parking requirements". The permit currently operates on the site within the following operating hours:
 - (a) Monday to Saturday - 7am to 7pm; and
 - (b) Sunday - 7am to 12noon.

3. Planning permit PLN18/0730 was issued on 3 June 2019 to No. 100-110 for 'Use of the building as a function centre with the sale and consumption of liquor and a reduction in the associated car parking requirement'. The permit currently operates on the site as follows:
 - (a) Hours:
 - (i) Monday to Thursday – 7:30pm to 11:00pm;
 - (ii) Friday – 7:30pm to 12:00am;
 - (iii) Saturday – 7:00pm to 12:00am; and
 - (iv) Sunday – noon to 11:00pm;
 - (b) 120 patrons; and
 - (c) Provides amplified music, live performances and amplified live performances (6 amplified functions per month allowed).
4. Planning Permit PLN21/0238 was issued on 27 April 2021 to No. 100-110 for buildings and works associated with the installation of a roller door to the undercroft carparking and wall.

Site Context

5. The subject site is located on the eastern side of Rokeby Street, approximately 85m north of the intersection with Langridge Street in Collingwood. The subject site includes three side by side lots which collectively are known as 100-110 Rokeby Street. The lots associated with this application are formally known as Lots 1, 2 and 3 on Title Plan 000824P, volume 10522 and Folio 989.
6. All three lots are rectangular in shape and create a combined frontage to Rokeby Street of approx. 28m, a depth of approximately 35m and total site area of approximately 980sqm. The site is occupied by two double storey, commercial buildings featuring roller doors and undercroft carparking along its front boundary. The existing function centre is located internally within the building and is accessed via a door entered from the central undercroft car parking space, sited to the east of the external roller door approved under PLN21/0238 and shown in yellow below.



Figure 1 and 2– Subject site viewed from Rokeby Street. Source: Planning Officer, 23 March 2025

Surrounds

7. The site is in a commercial area, with Rokeby Street (and eastern portion of Robert Street) comprising of single and double storey warehouses, factories, offices and other commercial buildings. There are also examples of new multi-storey commercial developments along Rokeby Street. Further to the west along Robert Street (approx. 60m), is a pocket of Mixed Use zoned area (see figure 3 below), which contains residences (the former Yorkshire Brewery). Wellington Street is located further west (approx. 170m from the subject site), and beyond that is land zoned Mixed Use extending to the Smith Street Major Activity Centre.
8. The site is well connected to public transport, including walking distance to trams along Victoria Parade (approx. 370m), Smith Street (approx. 450m), Collingwood Train Station (approx. 450m) and buses along Hoddle Street (approx. 300m).

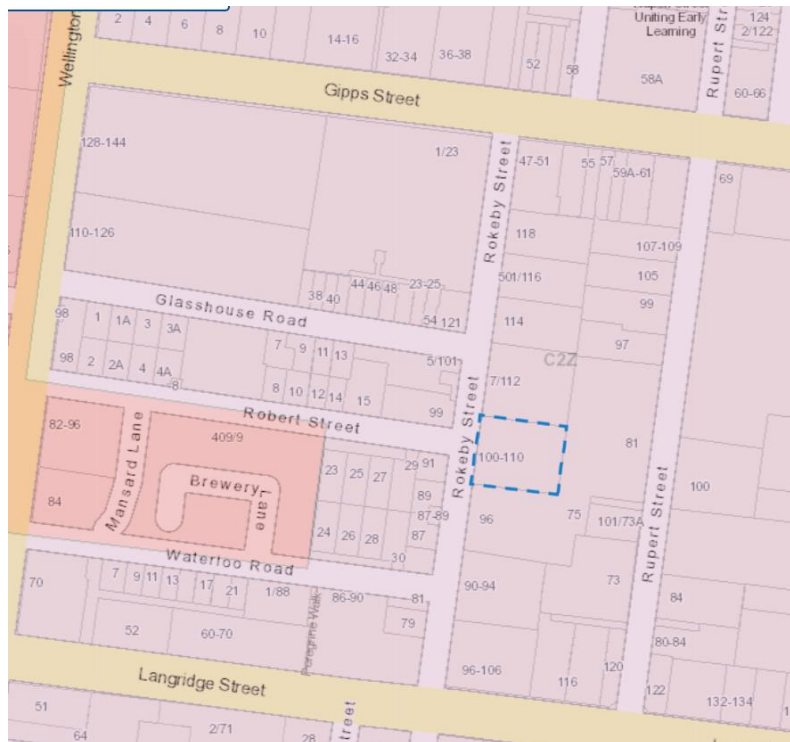


Figure 3 – Zoning map of site and surrounds. Source: Vicplan (accessed 31/1/25).

9. Immediately adjoining properties comprise:
- (a) To the north is a single-storey brick building at 112 Rokeby Street, constructed to the shared boundary and is used for commercial and office tenancies (currently servicing an architecture firm, perfume store, interior design studio, among others);
 - (b) To the south is No. 96 Rokeby Street, a single-storey commercial/warehouse building built to all title boundaries;
 - (c) To the east is vacant land at 81-91 Rupert Street. It is noted that planning permit PLN19/0570 was approved under the incorporated document Specific Controls Overlay SCO13 'Walk Up Village, 81-89 Rupert Street, Collingwood, August 2020') on 10 September 2020 for the construction of a thirteen storey building (for use as a residential hotel, retail, food and drink premise, arts centre, artist studios, restricted recreation facility (Wellness Centre and Gym) and office as well as a reduction in the vehicle car parking). The permit has since lapsed; and
 - (d) To the west (across Rokeby Street) and along Robert Street are a number of warehouses and offices. Further to the west is the 17-storey high building associated with the Yorkshire Brewery site, containing residences (mixed-use land).

Proposal

10. The proposal is for a S72 amendment to Planning Permit PLN18/0730 to increase the operating hours of the current use and associated hours to serve liquor on Friday and Saturday night by one hour, from 12am to 1am. No other changes are proposed. The proposed operating hours are:
- (a) Monday to Thursday – 7:30pm to 11:00pm.
 - (b) Friday – 7:30pm to **1:00am**.

(c) Saturday – 7:00pm to **1:00am**.

(d) Sunday – noon to 11:00pm.

Acoustic report

11. A revised acoustic report (dated 6/12/2024) was submitted to Council after the advertising period concluded (superseding the advertised acoustic report dated 24/4/2024). This updated report includes further details on the current operations and response to the initial peer review referral comments. This updated report was subsequently peer-reviewed by the acoustic contractor a second time. The following assessment is therefore predominantly based on this updated acoustic report and the corresponding second set of peer review referral comments.

Statutory controls

12. The table contained in the Officer Recommendation sets out why a planning permit is required for this matter.
13. The following Clauses of the Yarra Planning Scheme are also relevant to the proposal:
- (a) **Clause 34.02 – Commercial 2 Zone (C2Z)** - a place of assembly (other than carnival, cinema and circus) is a section 2 (permit required) use;
 - (b) **Clause 45.06 - Development Contributions Plan Overlay (Schedule 1) [DCPO1]** – the DCPO1 sets out mandatory development contributions for particular types of development. Because there is no increase in floor space and the use would continue to be commercial, the requirements of the DCPO1 do not apply to this application;
 - (c) **Clause 43.02 - Design and Development Overlay – Schedule 11** – a permit is required for building and works under DDO11 (Gipps Street Precinct). As there are no buildings and works proposed, consideration of the provisions of the DDO11 is not relevant in this instance;
 - (d) **Clause 52.06 – Car Parking** - requires that before patron number is increased for a place of assembly use, the car parking spaces must be provided on the land as set out at Clause 52.06-5. There is no change to the patron numbers and therefore Clause 52.06 is not relevant in this instance;
 - (e) **Clause 52.27 – Licensed Premises-** Clause 52.27 applies to premises licensed, or to be licensed, under the Liquor Control Reform Act 1998. Pursuant to Clause 52.27 a permit is required if the hours of trading allowed under a licence are to be extended. The relevant decision guidelines are provided under Clause 52.27 of the Scheme; and
 - (f) **Clause 73.03 Land use terms** – ‘Place of assembly’ is defined as: Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings.is defined. Within this, ‘Function centre’ is defined as: ‘Land used, by arrangement, to cater for conferences, private functions, and in which food and drink may be served. It may include entertainment and dancing.’

Internal and External Consultation

Advertising

14. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 901 letters sent to surrounding owners and occupiers and by one (1) sign displayed on the Rokeby frontage.
15. Council received thirty-four (34) objections, on the following key grounds:
 - (a) Impacts on residential amenity from noise disruption (music, vibration and PA system);
 - (b) Provision of existing and proposed noise attenuation measures on site;
 - (c) Data validity in acoustic report;
 - (d) Additional noise testing required at residential properties;
 - (e) Anti-social behaviour and noise associated with people leaving the venue (along Robert Street);
 - (f) Lack of compliance with the existing permit for:
 - (i) Hours of trading;
 - (ii) Noise limiter;
 - (iii) Noise levels;
 - (iv) Roller door open;
 - (v) Adherence to the noise and venue management plan;
 - (g) Complaints previously lodged with Council and to the venue (on existing operations);
 - (h) Car parking congestion from the existing operations;
 - (i) Change of use from coffee shop to bar and suitability within a residential building; and
 - (j) Fire heaters within coffee shop.
16. A planning consultation meeting was not held.

Internal and external referrals

17. The proposal was not required to be referred to any external authorities.
18. The proposal was referred to the following internal business units/consultants, whose full advice is attached to this report:

Internal Business Unit/ External consultant	Comments
Acoustic consultant	Supports, subject to conditions which have been included in the recommendation. Seven new conditions, reflecting the installation of a detailed noise limiter and pre-commencement (of the extended hours) commissioning report.

Social Planning	Supports (given compliance with policy hours for the Commercial 2 Zone), subject to a condition of the recommendations for music noise outlined in the revised acoustic report.
Compliance and parking (compliance)	<p>Supports, given the zoning and the request for only one additional hour on Friday and Saturday, however recommend an updated acoustic report reflecting proposed operating hours (this referral was based on the first revision of acoustic report dated 24/4/2024).</p> <p>The referral stated that 10 complaints have been received to Council since permit PLN18/0730 was granted (complaints for music noise and operating hours) with the most recent dated 18 April 2024. None were substantiated, and the noise limiter was confirmed to be installed by Council officers after the first complaint was received.</p>

Policy Implications

Planning Policy Framework (PPF)

19. The following policies are of most relevance to this application:

- Clause 2 - Municipal Planning Strategic, including:
 - Clause 02.01 – Context:
 - Clause 02.01-1 – Location
 - Clause 02.01-8 - Economic Development
 - Clause 02.01-9 – Transport
 - Clause 02.02 – Vision
 - Clause 02.03-1 – Settlement:
 - Clause 02.03-3 – Environmental Risks and Amenity
 - Clause 02.03-6 – Economic Development
 - Clause 02.03-7 – Transport
 - Clause 02.04 – Strategic Framework Plan
- Clause 13 – Environmental risks and amenity:
 - Clause 13.05-1S – Noise Management
 - Clause 13.07-1S – Land Use Compatibility
 - Clause 13.07-1L-01– Interfaces and Amenity
 - Clause 13.07-1L-02 – Licensed premises
- Clause 17 - Economic Development:
 - Clause 17.01-1S – Diversified Economy
 - Clause 17.01-1L – Employment
 - Cause 17.04-1L – Tourism, arts and culture
- Clause 19 – Infrastructure
 - Clause 19.02-3S – Cultural facilities
 - Clause 19.02-RS – Cultural facilities – Metropolitan Melbourne
 - Clause 19.03-5L (Waste)

Officer Assessment

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

- (a) Strategic support;
- (b) Land use and sale and consumption of liquor; and
- (c) Other objector concerns.

Strategic Support

- 21. The site is located within a designated 'Major Employment Precinct' (Gipps Street) in the Strategic Framework Plan. This recognises that commercial and industrial land can support employment uses during the day while also supporting activities that contribute to the night-time economy (Clause 17.01-1L).
- 22. While entertainment uses are not specifically encouraged in the Commercial 2 Zone, the zone encourages associated business development, such as the existing function centre use to the site and several similar uses in the surrounds (discussed in the sections below). In addition, the site is in proximity to the Smith Street Activity Centre (450m to the west) which provides convenient access to several public transport options.
- 23. Overall, the proposed extended trading hours of the use will continue to enjoy strategic support, as the site will continue to provide a service complimenting the pattern of commercial uses in the area. However, the proposal must still respond to the other requirements of the planning scheme, discussed below.

Land use and sale and consumption of liquor

- 24. The assessment of potential off-site amenity impacts from both the function centre use and liquor licence have considerable policy overlap, and therefore the following assessment will provide an integrated assessment of both of these components, referencing specific policy where relevant.
 - 25. In terms of land use, the site already has approval for the existing function centre use (and therefore will not be considered in itself). Consideration will therefore be limited to the potential amenity impacts on the surrounding area from the increase of one additional hour of operation. The key policy that informs the assessment of the increased hours to the existing function centre use are the decision guidelines of Clause 13.07-1L-01 (Interfaces and amenities) and Clause 34.02 (Commercial 2 Zone) and Clause 65.
 - 26. Clause 13.07-1L.01 of the Scheme identifies that there is a need to support commercial uses and to ensure they are well managed with regard to amenity impacts and their proximity to residential uses. This includes noise, fumes and emissions, storage and waste, light spill and overlooking and unsightly views, that may cause detriment to the amenity of nearby residential sites. No building and works are proposed and therefore there is no change to fumes, emissions, storage of waste and light spill required to be assessed.
 - 27. Regarding off-site impacts, while the subject site is within commercially-zoned land (for a radius of at least 60m to each direction), there is a pocket of Mixed-use land 60m to the west of the subject site, along Robert Street. Furthermore, there appears to be caretaker dwellings within 55m south of the subject site.
 - 28. Policy at Clause 13.07-1L specifies that licensed premises should be limited to 1am in a commercial or industrial zone, which the proposed extended hours on Friday and Saturday would be compliant with.
-

29. The proposal is only for the increase of trading hours, and therefore there is no proposed changes sought to venue location, access, waste management or patron numbers. The only consideration therefore will be hours of operation, cumulative impact and 'noise impacts' (whilst no changes to the type of music or patron numbers is proposed, 'noise' will be extend further into the sensitive 'night' period which requires assessment).
30. In regard to noise, the relevant noise impacts to be assessed include:
- (a) Patron noise within the site;
 - (b) Patron noise outside the site (from patrons entering / leaving);
 - (c) Music noise;
 - (d) Waste emptying and collection; and
 - (e) Mechanical equipment.
31. Given the site already operates as a function centre with an associated liquor licence, potential noise impacts are most accurately assessed from using data of the existing operations to the site. This data can then be used to model and accurately predict any proposed impacts as a result of increasing trading hours on Friday and Saturday.
32. The nearest noise sensitive receivers are:
- (a) 21 Roberts Street, 65m to the west of site overlooking the subject site, and
 - (b) 96-106 Langridge Street, 55m to the south of site with an obstructed view of the roof of the subject site.
33. These are shown in Figure 4 below.



Figure 4. Location of noise sensitive receivers and noise measurement locations.

Source: Applicant's submitted acoustic report dated 24/4/2024

34. In regard to patron noise within the venue, the peer review of the first acoustic report confirms that the predicted patron noise levels on site (as shown on page 10 of the report at 41 dBA Leq) are compliant with the criteria minimum margin by 3dB at the most-affected sensitive receiver at 21 Roberts Street.
35. Noise as patrons enter and leave the site for an extended additional hour (until 1am) is not addressed in the acoustic report. This is a typical approach as the noise is beyond the site perimeter. The current endorsed Noise and Venue Management Plan already stipulates the following controls which will remain in place (among others):
- (a) Patrons will be attending functions by invitation only and will be inside the building unless entering and exiting. This will be controlled by representatives of the ownership / management team;
 - (b) One security staff will be present for up to 100 patrons where liquor is served on the site, and two will be present for 100 patrons or more. These security staff will remain at the venue until the last patron leaves;
 - (c) Patrons will be advised the end time of the function will be 30 minute prior to the true end time of 1am, to allow 30 minutes for all guests to exist the building;
 - (d) Where liquor is being served, last drinks will be called 20 minutes prior to the end of the relevant liquor license restriction;
 - (e) Venue managers and bar staff will assist with guest to ensure they leave the building quietly and assist with arranging a rideshare service and directing them to the closest public transport route;
 - (f) Food to be provided by the onsite kitchen premise at all time liquor is service; and
 - (g) Patrons leaving via Taxi / Uber / Private Bus will wait inside the premises until their transport arrives.
36. Regarding noise associated with music within the venue, the updated acoustic report (dated 6/12/2024) provides attended measurements of the current operations at the closest sensitive receiver (near the residential buildings on Robert Street) between 10pm and 11pm on Friday 22 November 2024, as well as unattended monitors installed from Wednesday 20th November to Tuesday 26th November 2024 to the mezzanine level of the subject site and to 116 Rokeby Street. It is noted that SLR's acoustic report states 'apartment building at 116 Rokeby Street', however the site is an office building.
37. The report concludes that music noise levels within the venue are currently higher than recommended and that music noise levels at the façade of nearby noise sensitive receivers currently exceeds nominated criteria.
38. The peer review from SLR confirms the finding and states that the venue is exceeding the EPA music noise limits for current operating hours by up to 13 dB (at 125 Hz) and exceeding the limits for the proposed operating hours by up to 21 dB (at 125 Hz). This is considered a significant exceedance and compliance with the limits will have major implications on the type of entertainment that can be can provided, i.e. music will be at around background levels.
39. Section 6.2 of the applicant's acoustic report states that in order to comply with the EPA 1826.4 Part II criteria, music levels within the venue should be limited to approx. 87 dBA L10 for the operating hours up until midnight, and limited to approx. 84 dBA L10 from midnight until 1 am. SLR states that this is a reduction of approx. 12 dBA compared with the level measured within the venue on Saturday 23rd November 2024.

40. The applicant's acoustic report recommended the following for the additional operating hour:
- (a) Music noise shall be limited by electronic limiter installed on site in accordance with condition 4 of the previous planning permit. The noise limiter will be installed prior to the commencement of the use and will:
 - (i) Be set at a level specified by a suitably qualified acoustic engineer;
 - (ii) Ensure the emission of noise from amplified music does not exceed the levels specified in the EPA Publication 1826.4 Part II; and
 - (iii) Be maintained and operated at all times;
 - (b) The new roller door remains closed during functions; and
 - (c) Doors and windows to the function space remain closed during functions except when patrons are entering/exiting the venue.
41. However, SLR considers the site as 'high risk' given the current noise exceedance. They have instead recommended a more robust approach with seven new conditions, notably (among others) recommending stricter noise limiter device settings, calibration frequency, simultaneous measurements taken inside the venue, as well as, at nearby sensitive receivers and a commissioning report by a qualified acoustic consultant detailing the music limits, EPA noise limits, details of settings and configurations of all PA and music systems proposed to be used and details of the windows and doors are to be closed (among others). The conditions are captured in condition 4 of the recommendation as follows, subject to some minor tweaks:
- Prior to the operating hours being extended, a music monitoring and limiting system shall be installed and configured as follows:
- (a) All music for the function centre shall be controlled by the music limiter device;
 - (b) The music limiter shall incorporate a microphone and calibratable frequency discriminating sound analyser to monitor sound levels within the venue in selectable octave bands;
 - (c) The system must have the capability to record the internal noise levels in octave bands. A record of the 15-minute noise levels measured by the limiting system shall be retained for at least 60 days and provided to the Responsible Authority on request;
 - (d) The calibration of the limiter shall be set to achieve compliance with Part II of the Victorian EPA Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826 (the Noise Protocol);
 - (e) The calibration shall be based on simultaneous measurements inside the venue and at the nearby sensitive receivers.
 - (f) The music limiter shall be installed in a securely housed rack, box or equivalent in a location that is only accessible by a qualified acoustic consultant, a nominated technician or management by the licensee or occupier of the land and notified to the Responsible Authority; and

- (g) Commissioning of the music limiter system shall be conducted by a suitably qualified acoustic consultant. A commissioning report shall be provided to the Responsible Authority for approval prior to the venue's operating hours being extended. This report shall include:
- (i) The make and model of the music limiter device;
 - (ii) A description of how the music limiter has been incorporated into the audio system, to ensure that all music is played through the limiter;
 - (iii) Photographs and descriptions of the limiter's settings, microphone location and the existing sound system installation, including location and types of loudspeakers;
 - (iv) Details of whether the venue's doors and windows are required to be closed, in order to comply with the EPA music limits;
 - (v) Updated EPA music noise limits for the period up until midnight;
 - (vi) The maximum allowable music level(s) for the music limiter's microphone to achieve compliance with the Noise Protocol, along with the resulting noise levels at the most-affected sensitive receiver; and
 - (vii) Details of how the system has been configured to account for the different noise limits at different times, in order to ensure that compliance is achieved at all times.
42. The Noise and Venue Management Plan (NVMP) will also be required to be updated to reflect the above changes to the acoustic report, via Condition 5. Existing condition 5(c) is to be deleted given the hours of operation are already correctly specified as per Condition 10 in the NVMP (condition is therefore redundant).
43. Council's Social Planning Unit and Compliance Unit also have no objection to the proposed 1 additional hour for the venue subject to implementation of further acoustic measures as recommended above.
44. The applicant has stated that they have provided internal acoustic paneling to the walls of the function centre during February 2024 (shown on the plans in green). However, the details of these panels have not been provided. Regardless, the noise monitoring and assessment undertaken in November 2024 for the existing use would have assessed the noise attenuation benefit (if any) of this acoustic paneling.
45. In terms of waste emptying and collecting, there are no proposed changes sought to the type or amount of waste to be produced on site, and the existing endorsed waste management plan (Condition 7) will be retained to this effect. Furthermore, the existing Condition 21 will continue to restrict the emptying of bottles and cans between 7am-10pm, as well as Condition 19 which restricts the hours of delivery loading and unloading between 7am-10pm.
46. No additional mechanical equipment to the site is proposed, and therefore other than replacing the 'SEPP N-1' reference with current policy 'EPA Publication 1826 Part I', it is considered that mechanical services noise is unlikely to be an issue with the extended hours of operation (consistent with the acoustic peer review referral comments). As a result of this, Condition 15 and 16 will be combined to reflect 'EPA Publication 1826 Part I' which will continue to control general noise emissions (such as from mechanical equipment) from the use on the site.
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47. Lastly, it is also noted that statement referenced in the acoustic report “no more than 3 operations per week” has been removed, which SLR have confirmed is consistent with the change in EPA policy from SEPP N-2 to Publication 1826 Part II. The condition however still forms part of the permit (and was never applied for to be deleted).

Cumulative Impacts

48. Clause 52.27 provides assessment criteria to assess ‘the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area’. It is acknowledged that the mix of licensed premises in an area can influence potential cumulative impacts, with the extent of large-scale bars or nightclubs within close proximity potentially resulting in negative cumulative impacts to the immediate neighbourhood.
49. However, not all applications give rise to cumulative impact concerns or necessitate a detailed cumulative impact assessment against the Department of Environment, Land, Water and Planning (DELWP) Practice Note No. 61. The “Corner Hotel” decision (Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors) provides an assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
50. Based on this decision, Council has developed an assessment tool to determine the likelihood of cumulative impacts occurring as a result of a proposal based on risk factors associated with the type, size and closing hours of the premises to help determine what level of assessment is appropriate. Applying the matrix 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

51. In this instance the proposal achieves a score of 6, thus would be a venue of potential risk and as such, a cumulative impact assessment is warranted.
52. It is noted that the total score of 6, is just 1 point higher than the existing approved use to the site (5 points). This is a result of the increased operating hour to from 12 midnight 1am on Friday and Saturday night.
53. Practice Note 61 – Licensed premises: Assessing cumulative impact was released by the Department of Planning and Community Development (DPCD) in March 2011, and provides a framework for assessing cumulative impact. The Practice Note outlines the following matters to be considered when assessing the cumulative impact of licensed premises:
 - (a) *Planning policy context;*
 - (b) *Surrounding land use mix and amenity;*
 - (c) *The mix of licensed premises;*
 - (d) *Transport and dispersal; and*
 - (e) *Impact mitigation.*
54. A number of these factors such as the policy context and land mix of the surrounding area have been discussed previously within this report, with anticipated amenity impacts also considered in detail. An assessment including the mix of licensed premises, the dispersal of patrons and potential impact mitigation will need to be undertaken in relation to 'cumulative impacts'. As a general guide, a cluster would occur where there are: three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.
55. An assessment of a 500m radius of existing licenses within proximity to the subject site was provided within the previous officer report for PLN18/0730 (including an assessment of venues trading past 11pm that does not include restaurants).
56. The distribution of these premises within the designated survey area contribute to whether potential negative impacts can occur, with the practice note highlighting that clustering of venues within close proximity to each other may result in a detrimental impact to the surrounding neighbourhood.

57. The site operates under existing approval for the function centre and liquor licence up to 12am and there is no change to licence type, patron numbers, land use mix, venue access sought under the proposal. Further, given the operating hours for the proposal are an increase of 1 hour only on Friday and Saturday night, it is considered that the 100m cluster is appropriate for consideration in terms of the cumulative impact. Further, anything more than a 100m would include venues out past Langridge Street, Wellington Street and Gipps Street (which are unlikely to use a smaller street such as Rokeby Street or Robert Street for dispersal).
58. The venues within this 100m radius are assessed in the table below (on-premises consumption liquor licences only). It is noted that since the previous permit was granted, 118 Rokeby Street (issued on 20th January 2022) and 73a Rupert Street (to the third floor and roof terrace, issued on 6 December 2019) are the only changes to the site context of in terms of licensed venue within the 100m radius:

Address	Closing time (max)	Patron Capacity (max)
118 Rokeby Street Function centre and sale and consumption of liquor	1AM	170
51 Gipps Street (Glasshouse Hotel)	7AM	240
73 Rupert Street Rupert on Rupert (Tavern)	1AM	200
73a Rupert Street (5 storey office building) with: Function centre with sale and consumption of liquor (third floor and roof terrace) Restaurant (ground floor)	1AM 10pm	120 40
23-25 Gipps Street Glassworks Cafe	7PM	66
44 Glasshouse Street CONTEMPORARY ART SPACES (limited licence)	8pm	400

59. In regard to surrounding uses, there are only 3 other venues of a similar licence occurring within 100m of the subject site, which creates a small 'cluster'. The practice note requests consideration of the dispersal routes of patrons from the premises in order to assess potential impacts on the amenity of the surrounding area, noting that how patrons leave the licensed premises at closing time can have a significant impact on the amenity of an area. It is noted that 51 Gipps Street is located on main road and as mentioned above, dispersal from this venue would continue along Gipps Street, dispersing away from the subject site into other commercial land and unlikely to traverse down the quieter, less lit and office/warehouse dominated streets of Rokeby Street and Robert Street. Furthermore, given Rupert Street does not have direct access to Rokeby Street, patrons leaving 73 Rupert Street would also likely travel the main roads of Langridge St or Gipps Street when leaving that venue, and not via Rokeby Street.
60. In regard to the subject site, the number of patrons will not change with the only change being dispersal at closing time occurring 1 hour later on Friday and Saturday nights. Dispersal is anticipated to be to the north and south of the venue (along Rokeby Street) in order to access the main roads of Gipps Street to the north and Langridge Street to the south, and to further access Hoddle Street and Collingwood Station to the west and Victoria Parade trams to the south. For patrons accessing Smith Street, it is likely they would use these main roads to access the MAC, for safety measures late at night.
61. Furthermore, given Rokeby Street offers on street parking options, patrons have opportunity to access ride-share services directly to the front of the venue along Rokeby Street, with demand for these services expected to only increase given the operating hours are extending later during the night hours. As per the endorsed Venue Management Plan (updated to reflect the later operating hours), patrons are encouraged to remain inside the venue until the rideshare option has arrived on Rokeby Street, while security staff will be in attendance until the last patron has left the venue and dispersed.

Objector Concerns

62. Key objector concerns have been addressed in the assessment above. Other matters raised are addressed as follows:
- (a) **Car parking congestion:** The proposal does not propose any further reduction in car parking or increase in patron numbers. Clause 52.06 is therefore not applicable to the application or required to be considered;
 - (b) **Anti-social behaviour and noise leaving the venue:** Planning consideration does not assess anti-social behaviour or noise outside a venue. An amended noise and venue management plan (reflecting the proposed extended hours) was submitted by the applicant. This continues to contain management details such as patrons departing the venue in a quiet and timely manner;
 - (c) **Change of use to a bar within a residential building:** The proposed site is not located within a residential building (it appears this objection has misinterpreted the location of the subject site); and
 - (d) **Fire heaters within coffee shop:** This application does not propose any building or works.

Conclusion

63. The proposed increase in operating hours is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement.
64. The proposal, subject to the amended conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies.

Legal and Legislative Obligations

Conflict of interest disclosure

65. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
66. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

Report Attachments

1. 5.1.1 PL N 18 0730.01 - 100-110 Rokeby Street, Collingwood - PDC attachment - Site Context Map
2. 5.1.2 PLN18/0730.01 - 100 - 110 Rokeby Street Collingwood - Decision plans
3. 5.1.3 PLN18/0730.01 - 100 - 110 Rokeby Street Collingwood - Noise & Venue Management plan
4. 5.1.4 PLN18/0730.01 - 100-110 Rokeby Street, Collingwood - Acoustic report (latest - dated 6/12/2024)
5. 5.1.5 PLN18/0730.01 - 100 - 110 Rokeby Street Collingwood - Current permit for PLN18/0730
6. 5.1.6 PL N 18 0730.01 - 100-110 Rokeby Street, Collingwood - PDC attachment - Referrals

5.2. – PLN14/1208.04 - 214 - 216 Swan Street Cremorne

Author Madeleine Moloney – Senior Statutory Planner
Authoriser General Manager City Sustainability and Strategy

Executive Summary

Property	214 – 216 Swan Street Cremorne VIC 3121
Ward	Lennox
Application number	PLN14/1208.04
Proposal	<p>Amendment to permit planning PLN14/1208 to allow for:</p> <ul style="list-style-type: none"> (a) An increase in hours permitting the sale and consumption of liquor to the existing on- premises liquor license from 1.00am to 3.00am on Thursday, Friday, Saturday and on the eve of a Public Holiday; (b) Update the permit preamble to allow for a late night on-premises liquor licence; and (c) Restrict the number of patrons on the land between 1.00am to 3.00am.
Zoning & Overlay/s	<ul style="list-style-type: none"> - Commercial 1 Zone - Design and Development Overlay (Schedule 5) - Design and Development Overlay (Schedule 26) - Heritage Overlay (H0288) - Development Contributions Overlay (Schedule 1)
Strategic setting	Swan Street Major Activity Centre and Core Entertainment Precinct
Submissions	16 objections and 0 submissions in support
Key reasons for support	<ul style="list-style-type: none"> - The site is located in a Major Activity Centre and Core Entertainment Precinct and is an appropriate location for a larger and late-night licensed premises - Off-site amenity impacts can be appropriately mitigated through the proposed additional measures in the Venue Management Plan, in conjunction with the closure of the first floor terrace and reduced patron numbers from 1am - Music noise would be appropriately limited by a noise limiter

Recommendation	<p>That Council issues a Notice of Decision to Grant an amended Planning Permit, with conditions.</p> <p>Key conditions include:</p> <ul style="list-style-type: none"> - Additional acoustic measures to address noise from the venue. - Additional venue management measures to reduce risk of off-site amenity impact.
Contact Officer	Madeleine Moloney, Senior Statutory Planning Officer

Officer Recommendation

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant an Amended Planning Permit PLN14/1208.04 at 214 – 216 Swan Street Cremorne to allow for an increase in hours for the sale and consumption of liquor; change of liquor licence type to a late night on-premises liquor licence; and further restrict the number of patrons on the land during extended hours.

The permit preamble is to be amended to read as follows (**changes in bold**):

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

- Sale and consumption of liquor (**late night (on-premises) licence**) for up to 422 patrons.
- Buildings and works
- Advertising signage
- Reduction of the car parking requirements
- Waiver of the loading requirements

and subject to the following conditions (**changes in bold**):

1. Before the sale and consumption of liquor and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans received by Council on 13 March 2015, but modified to show:
 - (a) Provision of a minimum of one secure bicycle space for staff based on the requirements of Clause 52.34 (bicycle facilities) of the Yarra Planning Scheme; and
 - (b) External lighting to the entrances of the building and that the lighting will be designed to be baffled and located to limit light spill to surrounding sites.
2. The sale and consumption of liquor and development as shown on the endorsed plans, including the sale and consumption of liquor 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. Before the commencement of the sale and consumption of liquor for the extended hours approved under amendment PLN14/1208.04, 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 Renzo Tonin Associates and dated 13 September 2024 (with amendments dated 29 November 2024) but modified to include (or show, or address):
 - (a) Windows to the building must be kept shut at all times when music is played internally;
 - (b) Confirmation that the specified music noise levels for internal parts of the building apply to all licensed hours;
 - (c) The front (Swan St) door is to be kept shut (other than to allow for the ingress/egress), from 1am onward;
 - (d) The door to the first floor terrace/balcony that is to be kept closed after 12 midnight (other than to allow for the ingress/egress) to be clearly identified as the door at the top of the eastern stairway from ground floor;
 - (e) All doors to the first floor balcony/terrace to be kept closed from 1am following closure of the outdoor area;
 - (f) Page 15 reference to door to first floor terrace to be corrected to refer to “closed” instead of “open”;
 - (g) Identification of residences at No. 466 and 468 Church Street on the aerial image (Figure 2-1 Site Overview);
 - (h) Demonstrate that music noise during the extended hours will also comply with the identified limits in relation to the dwelling at No. 466 and 468 Church Street; and
 - (i) Include an (unstamped) copy of the Acoustic Report that was endorsed by Council on 30/04/2018 in the appendices and include a statement in the current report that references the 2018 report that details of music noise management including (music noise limits and assessment) applicable to the outdoor (first floor balcony/terrace) area is contained in that report.
4. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
5. Prior to the increase to the hours of sale and consumption of liquor authorised by amendment PLN14/1208.04, the following must occur:
 - (a) The noise limiter installed on the land in association with internal speakers must:
 - (i) be set at a level specified by a qualified acoustic engineer;
 - (ii) be modified as necessary to limit internal noise levels so as to ensure compliance with the music noise limits according to Environment Protection Act 2017- Noise Limit and Assessment Protocol (based on the identified music noise limits in the endorsed acoustic report); and
 - (iii) be maintained and operated at all times,

to the satisfaction of the Responsible Authority.

6. The noise limiter installed on the land in association with external speakers (to the outdoor balcony/terrace) must be maintained and operated at all times to limit noise levels so as to ensure compliance (based on the identified music noise limits in the endorsed acoustic report), to the satisfaction of the Responsible Authority.
7. Before the sale and consumption of liquor authorised by amendment PLN14/1208.04 commences, an amended Venue Management Plan (including the Noise and Amenity Action Plan) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Venue Management Plan (including the Noise and Amenity Action Plan) will be endorsed and will form part of this permit. The amended Venue Management Plan must be generally in accordance with the Venue Management Plan prepared by Australian Venue Co. and dated September 2024, but modified to include (or show, or address):
 - (a) Consistency with the endorsed Acoustic Report under condition 3;
 - (b) Confirm that the late night menu will include substantial food (not just snacks) on an ongoing basis;
 - (c) Security staff to be provided at a minimum as set out in the VMP that was endorsed by Council on 26/7/2017, extended to include additional licensed hours (and 30 minutes after closure), or to Council's satisfaction;
 - (d) Delete reference to ground floor courtyard in Section 3.9 – "Smoking";
 - (e) Replace Chapel Street with Church Street in Section 4.2 – "Queuing";
 - (f) Modify Section 4.5 – to reflect existing building layout (i.e. remove reference to former outdoor areas at ground floor);
 - (g) Include reference to the current EPA regulations (Noise Protocol Part I instead of SEPP N-1) in relation to mechanical plant noise; and
 - (h) Provision of live music to be consistent with condition 10 of the permit.
8. The licensed premises must be managed in accordance with the endorsed Noise and Amenity Action Plan (NAAP) and Venue Management Plan to the satisfaction of the Responsible Authority.
9. The sale and consumption of liquor may only occur between the hours of:
First floor outdoor terrace/balcony -
 - (a) All days:
 - (i) Between 7:30am and 1am (the following day).
All other areas -
 - (a) Thursday, Friday, Saturday & on the eve of a Public holiday;
 - (i) Between 7:30am and 3am (the following day); and
 - (b) On any other day:
 - (i) Between 7.30am and 1am (the following day).
10. Live music may only be played within the first floor terrace between 6pm-9pm, Thursday – Saturday.

11. **No more than 422 patrons are permitted on the land at any time liquor is being sold or consumed, further restricted as follows:**
 - (a) **First floor outdoor terrace and balcony - maximum of 109 patrons;**
 - (b) **From 11 pm on Thursday, Friday and Saturday nights, and on the eve of a Public holiday, patron numbers reduced from 422 to 400;**
 - (c) **From 12 midnight on Thursday, Friday and Saturday nights, and on the eve of a Public holiday, patron numbers reduced from 400 to 350; and**
 - (d) **From 1 am the morning following Thursday, Friday and Saturday nights and the eve of a Public holiday, patron numbers reduced from 350 to 250.**
 12. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - (d) the presence of vermin,to the satisfaction of the Responsible Authority.
 13. **The use/development must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.**
 14. **Emptying bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or between 9am and 10pm on a Sunday or public holiday.**
 15. **Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am until 10pm on a Sunday or public holiday except for those allowed under any relevant local law.**
 16. 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.
 17. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 18. Before the building/s is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the building entrances must be provided. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,to the satisfaction of the Responsible Authority.
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19. 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.
20. The aspect of the permit relating to the approved use and development will expire if:
 - (a) the development is not commenced within two years of the date of this permit;
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) **the extended hours for sale and consumption of liquor approved under amendment PLN14/1208.04 is not commenced within twelve months of the amended date of the 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.

Advertising signs

21. The location and details of the signs, including the supporting structure, 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.
22. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
23. The signs must not include any flashing or intermittent light.
24. The approval granted for the advertising sign shall lapse fifteen (15) years from the date of this permit.
25. The permit for the signs will expire if the signs are not erected within 2 years of the date of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or twelve months afterwards for completion.

Notes:

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

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5095 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 5095 for further information.

History and Background

1. No planning permits have been issued to the site since planning permit PLN14/1208 was issued.
 2. Prior permits and the detailed history of the original permit PLN14/1208 and prior amendments are included as an attachment.
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Site Context

3. The subject site is located on the south-east corner of Swan Street and Shakespeare Place in Cremorne, with a rear abuttal to Milton Place (right-of-way). The site is generally rectangular with a total area of approximately 348sqm.
4. The site is developed with a double-storey building, a former “State Bank” which fronts Swan Street and is built to the Swan Street and Shakespeare Place frontages. The building was originally constructed circa 1907 and is listed on the Victorian Heritage Register. It has since undergone alterations and additions, including most recently under Planning Permit PLN14/1208 which authorised expansion of the building at ground and first floor including provision of a partly roofed outdoor balcony/terrace at first floor (see figures 1 and 2 below).

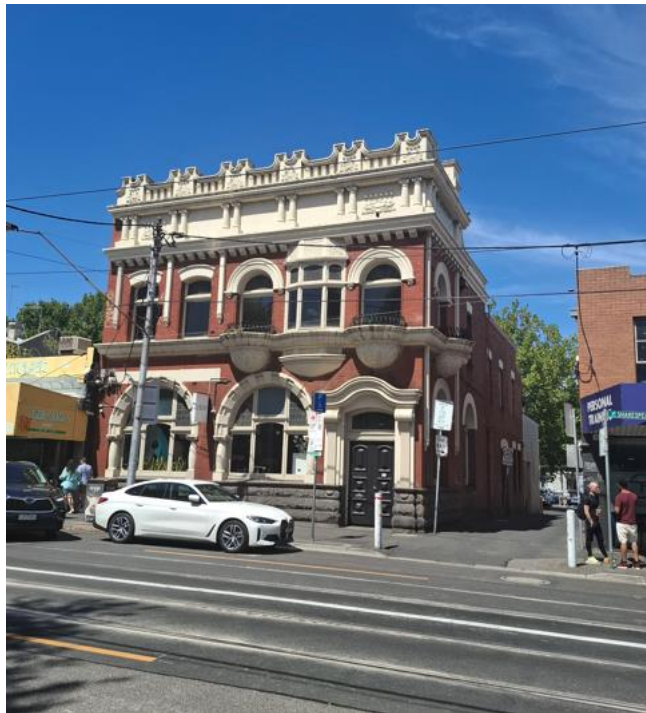


Figure 1 – Subject site viewed from Swan Street, looking south-east. Source: Planning Officer, February 2025.



Figure 2 – Subject site viewed from Milton Place, looking north-east. Source: Planning Officer, February 2025.

5. The land/building is used for a licensed tavern (bar) known as “Fargo” with an associated on-premises liquor licence 32335833 which accords with planning permit PLN14/1208. This allows for trading up until 1am on the premises for up to 450 patrons (a note stipulates that the premises must comply with any relevant planning permit and therefore the maximum 422 patrons on the planning permit is still applicable) and up until 11pm on the footpath. The on-premises licence and planning permit allow licensed trading from 7:30am to 1am, seven days a week. However, the applicant has advised that the premises does not currently open on Mondays and Tuesdays.
6. The premises also has a limited licence 36154637 (no planning permit required) associated with delivery of a limited quantity of packaged liquor to residential premises in conjunction with delivery of meals.
7. The public entry to the building is via Swan Street. Other entries to the building appear to be associated with back of house areas or designated as emergency (fire) exits only.
8. An extract of the current endorsed red line (licensed) area from planning permit PLN14/1208 is shown in Figure 3 below. Endorsed plans are not proposed to be altered as part of this application.

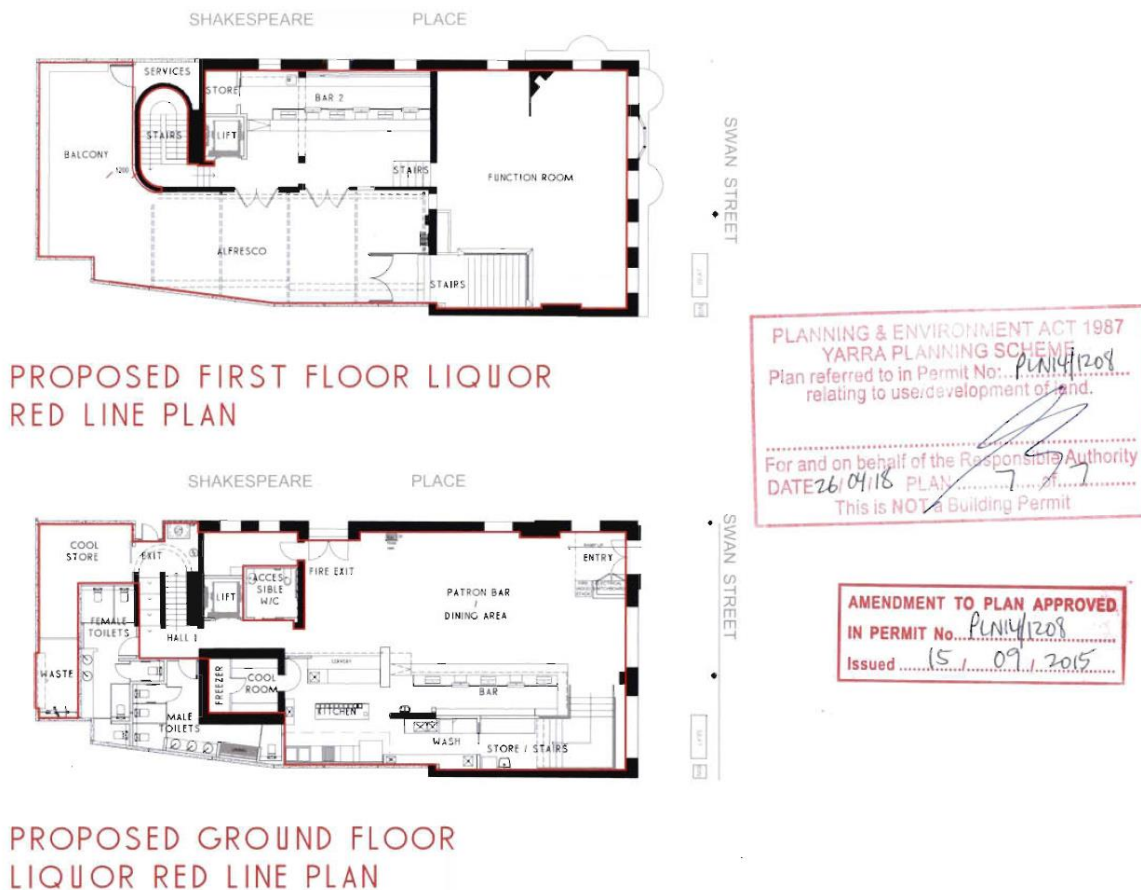


Figure 3 - Layout of subject site as shown on endorsed red line (licensed area) plan of planning permit PLN14/1208.

Surrounds

9. The site is located within Commercial 1 Zoned land designated as part of the Swan Street Major Activity Centre [MAC] and one of the Core Entertainment Precincts of the municipality (identified as "Swan Street, west of Church Street").
10. Commercial uses dominate this part of Swan Street and include a range of shops, various food and drink premises (many licensed), offices and a supermarket. Licensed premises are varied and range from small, dining-focused establishments operating limited hours; to larger late-night venues which include live music entertainment, with the associated types of liquor licences reflecting the range of licensed premises. A number of premises are licensed beyond 1am (i.e. have late-night liquor licences) and/or have a patron capacity under their licence exceeding 200.
11. Residential uses in the near vicinity are typically located above ground floor – including shop-top dwellings and apartments within multi-storey buildings along and adjacent Swan Street; or dwellings located in established, low-rise residentially zoned areas north of Swan Street or south of the railway line.
12. The area is characterised by a largely fine-grained pattern of subdivision and buildings which are predominantly low-rise (mainly one to two storeys in scale) both along Swan Street and along surrounding streets, but with instances of higher (mid-rise) built form such as multi-storey apartment or mixed-use developments. See the site context map in the attachments to the report for an aerial view of the site and surrounds.
13. In terms of the immediate proximity to the subject site:

- (a) To the north is Swan Street and on the opposite side are shops (east side of Docker St) and the Richmond Social (a licensed hotel which has a late night general liquor licence that enables it to operate 24 hours in the gaming room and lounge/bistro (and otherwise varying between 11pm and 1am) and has an overall capacity of 360 patrons, limited to 100 in the gaming room and lounge/bistro between 3am and 7am) on the west side of Docker St. Further north, along Docker Street itself are dwellings in the Neighbourhood Residential Zone (Schedule 1);
 - (b) To the west is Shakespeare Place (a local street that appears and functions more as a laneway and is approximately 4.5m wide) and on the opposite side is a double-storey commercial building containing a personal training studio at ground floor and office above at No. 212 Swan St and a pharmacy at No. 210 Swan St;
 - (c) To the south is Milton Place (a narrow right-of-way) and beyond is a public car park that occupies land adjacent to the railway line; and
 - (d) To the east is a shop “Berties” butcher which has an associated licenced café at the rear (with restaurant and café licence) as approved under planning permit PLN13/1006 allowing for the sale/consumption of liquor up to 11pm for up to 61 patrons.
14. The subject site is located approximately 60m south of the nearest dwellings in the Neighbourhood Residential Zone (Schedule 1) to the north and approximately 45m west of the nearest dwellings located in the Commercial 1 Zone (shop top dwelling above 232-236 Swan Street on the southern side of Swan Street).
15. The subject site is located within easy walking distance of a number of public transport options, in particular:
- (a) Tram services (route 70) along Swan Street, with the nearest stops in both directions, less than 70m to the west;
 - (b) Tram services (route 78) along Church Street with the nearest stops in both directions, less than 150m to the east of the subject site, on the corner of Church and Swan Street;
 - (c) East Richmond Station (servicing 4 railway lines) located directly south of the subject site, approximately 130m-150m distance and accessible via Church Street (both platforms) or Milton Place (east-bound platform only); and
 - (d) Richmond Station (8 railway lines) – located approximately 550m / 8 minute walk to the west of the subject site (located on the northern side of Swan Street).

Proposal

16. The proposal is for an amendment to planning permit PLN14/1208 to:
- (a) modify the type of liquor licence (late night on-premises licence instead of on-premises licence);
 - (b) increase the hours for sale and consumption of liquor until 3am on a Thursday, Friday, Saturday night, and on the eve of a Public Holiday (excludes the outdoor balcony/terrace area); and
 - (c) reduced patron capacity during the extended hours for sale and consumption of liquor, from 350 to 250.

17. Additional details and specifics are below.

Permit preamble

18. The permit preamble is proposed to be modified as follows (changes in bold):

From:

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

- *Sale and consumption of liquor (on-premises licence) for up to 422 patrons.*
- *Buildings and works*
- *Advertising signage*
- *Reduction of the car parking requirements.*
- *Waiver of the loading requirements.*

To:

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

- Sale and consumption of liquor (**late night (on-premises) licence**) for up to 422 patrons.
- Buildings and works
- Advertising signage
- Reduction of the car parking requirements.
- Waiver of the loading requirements.

19. Condition 8 is proposed to be amended as follows:

From:

The sale and consumption of liquor may only occur between the hours of 7.30am — 1am the following day), Monday - Sunday.

To:

The sale and consumption of liquor may only occur between the hours of:

First floor outdoor terrace/balcony

All days

**Between 7:30am and
1am (the following
day)**

All other areas

Thursday, Friday, Saturday & on the eve of a Public holiday

**Between 7:30am and
3am (the following
day)**

On any other day

**Between 7.30am and
1am (the following
day)**

20. Condition 10 is proposed to be amended as follows:

From:

No more than 422 patrons are permitted on the land at any time liquor is being sold or consumed, further restricted as follows:

- (a) *First floor outdoor terrace and balcony - maximum of 109 patrons;*
- (b) *From 11 pm on Friday and Saturday nights, patron numbers reduced from 22 to 400; and*
- (c) *From 12 midnight on Friday and Saturday nights, patron numbers reduced from 422 to 350.*

To:

No more than 422 patrons are permitted on the land at any time liquor is being sold or consumed, further restricted as follows:

- (a) First floor outdoor terrace and balcony - maximum of 109 patrons;
- (b) From 11 pm on **Thursday**, Friday and Saturday nights, **and on the eve of a Public holiday**, patron numbers reduced from 422 to 400;
- (c) From 12 midnight on **Thursday**, Friday and Saturday nights, **and on the eve of a Public holiday**, patron numbers reduced from **400** to 350; and
- (d) **From 1 am on Thursday, Friday and Saturday nights and on the eve of a Public holiday, patron numbers reduced from 350 to 250.**

21. To support the proposal, the following documents have been submitted:

- (a) An amended Venue Management Plan (inclusive of a Noise and Amenity Action Plan) prepared by Australian Venue Co. and dated September 2024;
- (b) An amended acoustic report prepared by Renzo Tonin & Associates, Revision 9 dated 13 September 2024 with notations dated 29 November 2024; and
- (c) A Gender Based Sexual Harassment Prevention & Response Strategy prepared by Australian Venue Co. and dated February 2024.

22. There are no changes proposed to the endorsed plans (i.e. the venue layout and licensed areas are unchanged) and no changes to the overall maximum patron capacity or operational details of the first floor outdoor (balcony/terrace) licensed area.

23. To support the proposed amendments the following key documents are provided:

- (a) An Acoustic Report prepared by Renzo Tonin & Associates (dated 13 September 2024, Revision 9 with notations date 29 November 2024) which includes updated background noise level measurement; an updated patron noise assessment; and an updated music noise assessment (for music noise from internal to the venue only);
- (b) A Venue Management Plan (incorporating Noise and Amenity Action Plan) prepared by Australian Venue Co (September 2024) which sets out more specific operational and management details of the premises; and
- (c) A Cumulative Impact Assessment (prepared by Urbis and dated December 2023). It is noted that the Cumulative Impact Assessment reflects the earlier proposal which proposed a maximum of 300 patrons (rather than 250) from 1am to 3am for proposed extended licensed hours).

Lodgment of s57A Amendment

24. In response to the concerns raised by Council officers and referral departments, the Applicant amended the application under Section 57A of the Act on 25 September 2024 (with payment received 7/11/2024) to modify the following aspects of the proposal from the original advertised proposal:

- Reduction of patrons to maximum 250 (originally 300) from 1am (during days where sale/consumption of liquor is proposed to be extended until 3am).
 - First floor terrace to close at 1am (as per current permit conditions) rather than 3am as originally proposed.
25. An amended Acoustic Report prepared by Renzo Tonin & Associates (dated 13 September 2024, Revision 9 with notations date 29 November 2024) which was modified to:
- Be consistent with the changes to operational provisions (reduced patron numbers after 1am and closure of first floor outdoor terrace from 1am).
 - Alter on-site music provision as follows:
 - Music noise internal to the venue updated as “above background music levels per limiter settings” (the original advertised acoustic report specified that on Thursday, Friday, Saturday and public holiday eve nights music would be above background music levels (Live music/DJ) per limiter settings, with music at background levels at other times).
 - No change to music provided at first floor terrace.
 - Update music noise assessment to include assessment of music noise from within the venue to dwellings to the south.
 - Update patron noise assessment from first floor terrace in response to Council's Acoustic Consultant's feedback (noting that due to no change in hours/patron numbers for this area, the updated assessment is not relevant).
 - Commit to keeping doors to level 1 outdoor area closed (except for access and egress) after 12 midnight.
 - Be consistent with the changes to operational provisions (reduced patron numbers after 1am and closure of first floor outdoor terrace from 1am).
26. The Venue Management Plan (inclusive of Noise and Amenity Action Plan) has been altered to:
- Be consistent with the changes to operational provisions (reduced patron numbers after 1am and closure of first floor outdoor terrace from 1am).
 - Include the following new commitments/information:
 - Calling for last drinks 30 minutes before the end of service to allow for 30 minute grace period for patrons to finish drinks and exit the premise.
 - Training all staff in the submitted Gender Based Strategy prior to commencing employment.
 - Closing the door separating the ground floor and first floor balcony/terrace after 12 midnight (staff to monitor the door to ensure it remains closed after patrons enter/exit);
 - Address management of large group bookings;
 - Provision of security for late night periods (between 1am and 3am).
 - Address management of patron dispersal after closing in more detail.

Application history

27. There is no application history of relevance.

Statutory controls

28. The table below sets out why a planning permit is required for the proposed amendments.

Control	Clause	Matter for which a permit is required
Licensed Premises	Clause 52.27	To allow a different category of licence (late night (on-premises) licence) in association with a tavern
Licensed Premises	Clause 52.27	To extend the hours of trading for the sale and consumption of liquor in association with a tavern

29. The following Clauses of the Yarra Planning Scheme are also relevant to the proposal:

- (a) **Clause 34.01 – Commercial 1 Zone** – Use of the land for retail premises (which includes a tavern) is an as-of-right use. The land use is already existing;
- (b) **Clause 43.01 – Heritage Overlay (HO288)** – There is no permit trigger relating to use under the Heritage Overlay. The site is listed on the Victorian Heritage Register (VHR Ref: H0732) and therefore any development proposed would also be exempt from requiring a planning permit under the overlay (a permit would be required from Heritage Victoria);
- (c) **Clause 43.02 - Design & Development Overlay (Schedule 5)** There is no permit trigger relating to land use under the DDO5. Under Clause 7 of Schedule 5 to the DDO, where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (Vic Roads);
- (d) **Clause 43.02 – Design & Development Overlay (Schedule 26)** – There is no permit trigger relating to land use under the DDO26;
- (e) **Clause 45.06 - Development Contributions Plan Overlay (Schedule 1) [DCPO1]** – The DCPO1 sets out mandatory development contributions for particular types of development. Because there is no increase in floor space and the use would continue to be retail, the requirements of the DCPO1 do not apply to this application;
- (f) **Clause 52.06 – Car Parking** – This clause requires that before a new use; or an increase in the floor area or site area of an existing use; or an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for a use commences the number of car spaces under Column C of Clause 52.06-5 of the Scheme must be provided on-site. A reduction of car parking has already been approved in relation to the existing food and drink premises (tavern) use under the permit. There is no increase to leasable floor area of the tavern from existing conditions and therefore the clause is not applicable;

- (g) **Clause 52.27- Licensed Premises** - An application under this particular provision in association with a bar (i.e. tavern) that is to operate after 1am must be referred to the Victorian Liquor Commission and notice must be given to the Chief Commissioner of Victoria Police;
- (h) **Clause 52.34 – Bicycle Parking** – The requirements of this clause apply if a new use or increase to the floor area of an existing use is proposed. As the tavern use is existing and there is no increase to the floor area, the bicycle requirements do not apply; and
- (i) **Clause 53.06 – Live Music Entertainment Venues** – The clause applies to an application required under any zone of the scheme to use land for, or to construct a building or construct or carry out works associated with a live music entertainment venue. The premises already provides live music under existing conditions, limited by permit conditions and endorsed documents, however, this is not sought to be changed. As there are no additional buildings and works proposed and the permit trigger for use (sale and consumption of liquor) is under the particular provision of Clause 52.27 (rather than the Commercial 1 Zone) Clause 53.06 does not technically apply. Regardless, music noise is considered in detail in the assessment.

Internal and External Consultation

Advertising

- 30. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 232 letters sent to surrounding owners and occupiers and by three (3) signs displayed on the Swan St, Shakespeare Place and Milton Place frontages.
 - 31. The amended application was re-advertised under the provisions of Section 57B of the *Planning and Environment Act (1987)* by 103 letters (to surrounding owners and occupiers and existing objectors to the application).
 - 32. Council received sixteen (16) objections in total (including three supplementary submissions from existing objectors following re-advertising) on the following key grounds:
 - (a) Noise, including from music (internal and terrace), patrons (inside and outside the premises) and from emptying glass into bins after closing (existing issues will be exacerbated);
 - (b) Various anti-social behaviors from patrons within and beyond the premises (existing issues will be exacerbated);
 - (c) Patrons congregating in residential streets to catch taxis/rideshare vehicles (current problem will be exacerbated);
 - (d) Limited public transport options at 3am;
 - (e) The venue already breaches the conditions of permit and endorsed documents (e.g. Venue Management Plan) in relation to music noise, requirement to provide signage at exits; crowd management; patron number limits; provision of an after hours number on their website and following the nominated complaints procedure;
 - (f) Cumulative impact of extension to trading hours (adverse impact on amenity);
 - (g) Acoustic report appears to be inaccurate in relation to music (music is above background noise level under existing conditions);
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- (h) Extending hours will strain law enforcement; and
- (i) Another late night venue is not needed – there are already others close by.

33. A planning consultation meeting was not held.

Internal and external referrals

34. The proposal was referred to the following external agencies and internal business units:

External Agency	Outcome
Chief Commissioner of Victoria Police (notice only)	Original advertised application - No objection/response received to date. Council is authorised to make a decision if an objection is not lodged in the prescribed timeframe (in this instance, during the advertising period). Amended (re-advertised) application – Not re-referred as it was considered that the amendment to the application would not adversely affect the interests of the referral authority.
Victorian Liquor Commission (former Victorian Commission for Gambling and Liquor Regulation) (Determining referral)	Original advertised application – No objection/response received to date. Council is authorised to make a decision if an objection is not lodged in the prescribed timeframe (in this instance, during the advertising period). Amended (re-advertised) application – Not re-referred as it was considered that the amendment to the application would not adversely affect the interests of the referral authority.
Environmental Protection Authority (notice only under DDO5)	Original advertised application - No objection/response received to date. Council is authorised to make a decision if an objection is not lodged in the prescribed timeframe (in this instance, during the advertising period). Amended (current) application – Not re-notified as it was considered that the amendment to the application would not adversely affect the interests of the agency.
Roads Corporation (Vic Roads care of Department of Transport and Planning) (notice only under DDO5)	Original advertised application – Response received 19/04/2024 confirming no objection to proposal. Amended (re-advertised) application – Not re-notified as it was considered that the amendment to the application would not adversely affect the interests of the agency
City Link Limited (notice only under DDO5)	Original advertised application - No response received to date. Council is authorised to make a decision if an objection is not lodged in the prescribed timeframe (in this instance, during the advertising period). Amended (re-advertised) application – Not re-notified as it was considered that the amendment to the application would not adversely affect the interests of the agency.
Internal Business Unit/ External consultant	Comments

Acoustic Consultant (SLR Consulting)	<p>Original advertised application –</p> <ul style="list-style-type: none"> - Patron noise assessment from the first floor terrace should be assessed more conservatively due to the later operating times (i.e. based on measured noise or vertical consumption scenario). - Further information is required to demonstrate the noise limiters will achieve compliance with identified limits at dwellings south of Swan Street. <p>Amended (re-advertised) application</p> <ul style="list-style-type: none"> - The revised acoustic report addresses issues raised in the earlier review, where still relevant. - Concerns regarding the patron noise assessment from the first floor outdoor terrace were no longer relevant as the outdoor terrace hours were no longer proposed to be extended.
Civic Compliance Unit	<p>Original (advertised) application – Not supported. It was noted that a number of complaints about noise and unruly patrons had been made in the last 12 months.</p> <p>Amended (current) application – Supported, subject to conditions requiring installation of a noise limiter to the premises.</p>
Social Planning Unit	<p>Original (advertised) application –</p> <p>The proposal has potential to cause negative cumulative impact due to additional patron dispersal from the venue at 3am, however, it is noted that it is located in a Core Entertainment Precinct.</p> <p>If supported, the following is recommended to mitigate impact the following is suggested:</p> <ul style="list-style-type: none"> • Limit extended trading to Friday and Saturday; • Limit maximum number of patrons from 300 to 200; • Do not extend terrace hours to 3am; • Provide a noise mitigation strategy to address music noise; • Venue Management Plan/ Noise and Amenity Action Plan be updated to: <ul style="list-style-type: none"> ○ Outline a step-by-step process to reduce/stagger patrons between 1am and 3am; ○ Include details of management of large group bookings. ○ Restrict patrons from entering or re-entering the premises after 1am; ○ Call “last drinks” half an hour before the licence ends; ○ Roster security for the extended hours. • Ensure that the “late-night” snacks are substantial, as appears to be proposed based on the sample menu in the Venue Management Plan.

	<ul style="list-style-type: none"> • Provide a Gender-based Violence Prevention and Response Plan, in line with the requirements by Liquor Licence Victoria. <p>Amended (current) application –</p> <p>The proposal has potential to cause negative cumulative impact due to additional patron dispersal from the venue at 3am, however, it is located in a Core Entertainment Precinct and the amended Venue Management Plan now addresses patron dispersion.</p> <p>The following changes are supported:</p> <ul style="list-style-type: none"> • The amended Venue Management Plan; • Further staggering of patron numbers (reducing to 250 patrons instead of 300 after 1am); • Restriction of first floor terrace hours to 1am (as per existing conditions); <p>Further mitigation of negative cumulative impact could be achieved by:</p> <ul style="list-style-type: none"> • Limiting the extension of hours to Friday, Saturday and public holiday eve (i.e. not Thursdays) • Closing the internal door to first floor outdoor terrace earlier than 12 midnight, especially on weeknights. • Provision of a noise mitigation strategy by condition (in addition to the Noise and Amenity Action Plan), if found to be necessary by the statutory planning unit. • Ensure that the “late-night” snacks are substantial, as appears to be proposed based on the sample menu in the Venue Management Plan.
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Policy Implications

Planning Policy Framework (PPF)

35. The following policies are of most relevance to this application:

- Clause 2 - Municipal Planning Strategy, including:
 - o Clause 02.01 – Context:
 - Clause 02.01-3 – Activity Centres
 - Clause 02.01-8 – Economic Development
 - o Clause 02.03 – Strategic Directions:
 - Clause 02.03-1 – Settlement (Activity Centres)
 - Clause 02.03-6 – Economic Development
 - o Clause 02.04 – Strategic Framework Plan
- Clause 11 – Settlement, including:
 - o Clause 11.03 – Planning for Places:
 - Clause 11.03-1S – Activity Centres
 - Clause 11.03-1R – Activity Centres – Metropolitan Melbourne

- Clause 11.03-1L – Activity Centres
- Clause 13 – Environmental risks and amenity, including:
 - Clause 13.05 – Noise
 - Clause 13.05-1S – Noise Management
 - Clause 13.07 – Amenity, Human Health and Safety
 - Clause 13.07-1S – Land Use Compatibility
 - Clause 13.07-1L – Interfaces and Amenity
 - Clause 13.07-1L-02 – Licensed Premises
- Clause 17 - Economic Development, including:
 - Clause 17.01 – Employment:
 - Clause 17.01-1S – Diversified Economy
 - Clause 17.01-1L – Employment
 - Clause 17.02 - Commercial
 - Cause 17.02-1S – Business
 - Clause 17.02-1L – Retail

Officer Assessment

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

- (a) Strategic support;
- (b) Extension to hours for sale and consumption of liquor;
- (c) Amendment to permit preamble and other conditions; and
- (d) Other objector concerns.

Strategic Support

37. The site is located within a Commercial 1 Zone which includes the purpose: to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses, acknowledging the role the zone can play in entertainment venues.
38. The site is also located in a designated Major Activity Centre (“MAC”) – Swan Street MAC – as per the Strategic Framework Plan at Clause 2.04 of the Municipal Planning Strategy.
39. The site is also identified as within one the municipality’s Core Entertainment Precincts (Swan Street west of Church Street). At Clause 11.03-1L (Activity Centres – Swan Street Richmond) it includes the policy: *Support the uses along Swan Street, west of Church Street, as a core entertainment precinct which include a range of licensed premises that make a significant contribution to the night-time economy.* The map of the Swan Street Activity Centre at Clause 11.03-1L indicates the site is within the Swan Street Retail Centre portion of the MAC.
40. Clause 11.03-1L (Activity Centres), more generally, includes as a strategy: *Support use and development which contribute to the night-time economies of activity centres, while limiting adverse amenity impacts within the centres and surrounding residential neighbourhoods.*
41. The economic benefit of the proposal is consistent with various clauses of the Municipal Planning Strategy and Planning Policy Framework such as:
-

- (a) Clause 17.02-1S Business which supports new businesses;
 - (b) Clause 02.03-6 Economic Development identifies Yarra's night-time economy which includes various types of food and drink premises and venues which *provide important social, cultural and economic benefits and make Yarra an attractive place in which to live, work and visit; and*
 - (c) Clause 11.03-1L includes a strategy to: *Promote the metropolitan and local retail and commercial roles of each activity centre.*
42. Clause 19.02-3S and 19.02-3R also seek to strengthen the offering and diversity of Melbourne's arts, cultural and entertainment facilities, including dining options.
43. The Municipal Planning Strategy at Clause 02.03-6 identifies activity centres as the *preferred locations for retail, services and entertainment*. Policies at Clause 11.03-1S, 11.03-1R and 11.03-1L also support a diversity of land uses in activity centres which are well-served by public transport and infrastructure and support the night-time economy while protecting the amenity of surrounding residential areas.
44. Overall, the proposal has strategic support given the premises is located within a Core Entertainment Precinct within one of Yarra's Major Activity Centres where late night licensed premises can contribute to the night-time economy and add to the diversity of entertainment options.
45. However, these key features which are generally supportive of the proposal must be balanced against considerations of off-site amenity and cumulative impact specific to the premises and its context which will be addressed in detail in the remainder of the assessment.

Extension to hours for sale and consumption of liquor

46. Clause 52.27 (Licensed premises) decision guidelines, local policy at Clause 13.07-1L-02 (Licensed Premises) and relevant policies at Clause 13.07-1L-01 (Interfaces and amenity) are the basis of the assessment of the proposed extended hours
47. The assessment was structured around the sub-headings of Clause 13.07-1L-02 (Licensed premises) as this covers similar considerations as Clause 52.27 and provides the most detailed guidance:
- (a) Location and access;
 - (b) Venue design;
 - (c) Hours of operation;
 - (d) Venue Operation;
 - (e) Patron numbers; and
 - (f) Noise.
48. Cumulative impact will also be addressed separately.

Location and access

49. The following strategies are set out at Clause 13.07-1L-02:
- (a) Locate licensed premises where:
 - (i) *There is opportunity for a high level of public safety and surveillance of patrons; and*

- (ii) There is convenient access to car parking, public transport, taxi ranks or ride sharing;
 - (b) Transport can be accessed in non-residential areas at late hours;
 - (c) Locate licensed premises with a capacity of more than 200 patrons in the Core Entertainment Precincts as defined by the Commercial 1 Zone and limited to properties with pedestrian access fronting the following main streets:
 - (i) Swan Street west of Church Street;
 - (ii) Bridge Road west of Burnley Street;
 - (iii) Victoria Street west of Burnley Street;
 - (iv) Smith Street between Gertrude Street and Alexandra Parade; and
 - (v) Brunswick Street between Gertrude Street and Alexandra Parade.
50. Policy guidelines at Clause 13.07-1L-02, state:
- (a) Consider as relevant:
 - (i) Whether access from the licensed premises to car parking, public transport, taxi ranks or ride sharing from a premises operating after 10pm is required through a residential area; and
 - (ii) The nature and location of uses surrounding the proposed licensed premises including the type of licensed premises in the area, the hours of operation and patron numbers.
51. The subject site is already licensed and was previously found to be an appropriate location for a licensed premises of more than 200 patrons.
52. The general features of the site and surrounds that supported a licensed premises in this location have not altered in any way that would be detrimental were it to be considered under current policies. Furthermore, since the original permit was approved (and subsequent amendments) this section of Swan Street - west of Church Street – has been identified in the Scheme as a “Core Entertainment Precinct” which further emphasises the site’s suitability for a larger licensed premises.
53. Although a full assessment against the site’s attributes is not provided here, these matters will be discussed in relation to the Cumulative Impact Assessment as they are relevant for considering the cumulative impact of extended hours.

Venue Design

54. The following strategies are set out at Clause 13.07-1L-02:
- (a) Incorporate safe design principles in the layout and design of licensed premises;
 - (b) Locate entries, exits and the areas for patron queuing away from sensitive land uses;
 - (c) Provide waste management and storage on-site and provide noise enclosures where bottle crushers are to be used; and
 - (d) Ensure the design of licensed premises is responsive to its context and appropriately considers residential and other sensitive land uses near the premises, including the location of their existing doors, windows and open space areas.
55. Policy guidelines at Clause 13.07-1L-02, state:
-

- (a) Consider as relevant:
 - o *Design Guidelines for Licensed Venues (Victorian Commission for Gambling and Liquor Regulation, 2017).*
- 56. The endorsed plans are not proposed to be altered. Hence there is no change to the existing venue design, including location of entries/exits, doors and windows, waste storage and management of waste, and provision of external lighting, which has previously been found to be acceptable.
- 57. Given that venue design is unchanged a full assessment against the Venue Design strategies and policies of Clause 13.07-1L-02 is not warranted.
- 58. However, it should be noted that the following existing features of the venue will facilitate the continued safe operation of the venue and accordingly limit off-site impact of the venue during the extended licensed hours:
 - (a) Single entry/exit point for patrons to enable better monitoring (with fire exit also available to Shakespeare place in the event of an emergency);
 - (b) Generally open layout to the licensed areas of the venue enabling patrons to move freely;
 - (c) Large windows onto the Street frontage and Shakespeare Place to enable monitoring of adjacent public realm;
 - (d) Provision of surveillance/security cameras in the venue for monitoring purposes (noted in endorsed and proposed VMP);
 - (e) Enclosed waste facilities, concealed from the public realm, located within back-of-house areas at the rear of the site (this also accords with policy at Clause 13.07-1L-01);
 - (f) Provision of external lighting to improve security (endorsed plans show lighting to all entrances); and
 - (g) Provision of ample toilet facilities.
- 59. Hence, the existing venue design will support the venue to operate in a manner that limits off-site amenity impacts and preserves safety and security of patrons for the extended hours.

Venue Operation

- 60. The following strategies are set out at Clause 13.07-1L-02:
 - (a) *Manage the operation of a licensed premise to minimise adverse amenity impacts on surrounding residential and sensitive uses.*
- 61. Policy guidelines are as follows:
 - (a) Consider as relevant:
 - (i) *Operating measures to minimise adverse amenity impacts from licensed premises including adapting:*
 - *Where alcohol will be sold and consumed.*
 - *The management of music and entertainment, including frequency and hours.*
 - *Amplification or speaker systems.*

- The design and location of dance floor areas.
- The management of on and off-site smoking areas.
- Provision and hours of food service.
- Seating ratios.
- Security lighting and surveillance.
- Complaint procedures.
- The management of patrons (including security arrangements) outside the premises, including patron ingress and egress, queues and dispersal after the venue has closed.
- Any other measures to ensure unreasonable amenity impacts are minimised.

62. The venue operation requirements set out in policy are similar to and overlap with the content of the Noise and Amenity Action Plan required under Clause 13.07-1L-02 which requires the following:
- (a) Procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of Council or the Victorian Commission for Gambling and Liquor Regulation;
 - (b) The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed;
 - (c) The management of large group bookings;
 - (d) The management of smokers and on an off-site smoking areas (particularly where liquor may not be allowed to be sold and consumed with the smoking area after a particular time);
 - (e) The management of external queues;
 - (f) How the movement and exit of patrons is to be managed, particularly where there is a requirement to close a different section of the venue at different times;
 - (g) Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs; and
 - (h) Any other measures to be undertaken to ensure no unreasonable amenity impacts from the licensed premises.
63. The venue is to remain operating as a tavern (now referred to as a bar in the Scheme) with no change to the existing layout and the description of the premises in the submitted Venue Management Plan (VMP) remains as a "licensed food and drink premises" that is "food focused" and providing "a mix of seated and standing areas".
64. An updated Venue Management Plan (VMP) which contains a Noise and Amenity Action Plan (NAAP) has been submitted to reflect updated licensed hours and operating parameters.
65. It retains most of the existing operational measures included in the current endorsed VMP, sometimes with minor inconsequential updates. For example, the following provisions are essentially unchanged from the current endorsed VMP:
- (a) Commitment to all staff undertaking a responsible Service of Alcohol course;

- (b) Provision of security cameras throughout with footage retained and used to assist Council or Police as required;
 - (c) A detailed complaints procedure is outlined;
 - (d) Commitment to keeping the premises, entries and adjacent public areas (e.g. footpath) clean at all times;
 - (e) Security to undertake the following actions (amongst others):
 - (i) Manage queues and monitor noise and behaviour and, if necessary, use bollards to keep footpath clear and direct queue eastward along the site's street frontage;
 - (ii) Monitor occupancy numbers at maximum capacity using a mechanical counter;
 - (iii) Ensure bottles and glasses are not removed from the venue; and
 - (iv) Undertake regular monitoring of internal and external spaces of the premises as well as outside to discourage loitering, noise and anti-social behaviour;
 - (f) Refuse entry to intoxicated patrons;
 - (g) Weapons not permitted in the site;
 - (h) No tolerance for illicit substances (patrons will be removed);
 - (i) The main (Swan Street) entry to be used for entry/exit of patrons, with the Shakespeare place exit only to be used in the event of emergency;
 - (j) A pass-out system may be instituted if necessary by management; and
 - (k) Smoking within the premises is to occur only within outdoor areas.
66. A number of new commitments are proposed in conjunction with the extended licensed hours:
- (a) Staff to undergo training in the Gender Based Sexual Harassment Prevention & Response Strategy (prepared by Australian Venue Co.) before commencement of employment (a copy of this document has been provided for reference);
 - (b) The door between the ground floor and first floor balcony/terrace area to be closed after 12 midnight (staff to monitor the door to ensure it remains closed after patrons enter/exit);
 - (c) A new section addresses management of large group bookings. This specifies that online booking will be provided which will include information to patrons required to be read prior to making the booking;
 - (d) Commitment to providing security (crowd controllers) for extended hours between 1am and 3am and until 30 minutes afterwards to assist with dispersal of patrons;
 - (e) At closure of the first floor terrace at 1am, patrons will be directed to either relocate to open areas or make their way home; and
 - (f) Last drinks to be served 30 minutes prior to closure of the venue.
67. These new commitments largely respond to suggestions by Council's Social Planning Unit to reduce off-site amenity impact to the surrounding area and are therefore positive inclusions.

68. In addition, some changes have been made to operational parameters that slightly modify existing operations, in particular:
 - (a) Information presented regarding “typical operations”;
 - (b) Food service; and
 - (c) Security.
69. In terms of “typical operations”, a detailed description of the layout and use of different parts of the premise including furniture configuration for a variety of “typical operations” has been removed from the VMP. However, these layouts and descriptions were noted as indicative and, as per the current endorsed VMP, the proposed VMP still specifies a mix of dining tables, bar tables and chairs. It also specifies an approximate seating capacity of 165 which equates to a seating ratio of approximately 40% at capacity and is reflective of a mixture of seating and standing patronage in line with the nature of the venue.
70. As the current endorsed plans are unchanged in terms of general layout and accord with the tavern/bar use it is accepted that these changes are inconsequential and acceptable and the premises will still operate in a similar manner (i.e. it is not intended to operate as a higher risk venue which would typically result in more “vertical drinking” such as a nightclub or the like). Council’s Social Planning Unit initially recommended that seats be provided in areas where people congregate during the extended period. However, it is not considered warranted to require a minimum seating requirement for a premises of this nature just for the extended hours.
71. In terms of food service, the current endorsed VMP states that breakfast, lunch and dinner are served 7 days a week but does not provide further specifics of food. By contrast, the amended VMP commits to food service at all times of liquor service. The VMP states that a full menu (i.e. meals service) is to be replaced with a reduced “late night” menu after 9pm offering “snacks and bites... a condensed version to the full menu”. A sample “late night” menu has been provided as an Appendix with in the VMP and has menu items such as a charcuterie board, a katsu chicken sandwich and a cheeseburger.
72. The provision of substantial food offerings (as opposed to bar snacks such as chips or nuts) at all times during liquor service is generally recognised to reduce risk associated with licensed venues. The *Licensed Premises: Assessing Cumulative Impact Practice Note* (Department of Transport & Planning, 2023) states: *Venues that serve food or meals, are shown to be less at risk of excessive alcohol consumption. This does not include venues that only serve basic snacks.*
73. Council’s Social Planning Unit has supported the substantial late night menu as part of the proposal, however, have suggested that to further reduce potential impacts, this could be “required”.
74. To ensure the provision of substantive food options is ensured, the VMP will also be required to confirm that the late night menu will include substantial food (not just snacks) on an ongoing basis, as the sample menu is indicative only.
75. In terms of staffing and security, detail of staffing (total number of staff and exact numbers and role of staff working on different days and times) has been deleted. While this is generally acceptable as it is excessive to planning considerations, the VMP also now omits details of security staffing. The current endorsed VMP specifies security is provided during the following periods/days;

- (a) Thursday – 5pm-1am – 2 security guards;
 - (b) Friday – 5pm – 1am – 3 security guards;
 - (c) Saturday- 5pm – 1am – 3 security guards; and
 - (d) Sunday – 3pm – 1am – 2 security guards.
76. In comparison, the proposed VMP includes:
- (a) a commitment to provide security staff during the extended (late night) periods of the venue's operation, between 1am and 3am;
 - (b) that security will regulate those entering and exiting the venue from 11pm "when gradual capacity reduction is required" (i.e. Thursdays, Fridays, Saturdays and the eve of a public holiday);
 - (c) that security will remain until 30 minutes after closure to assist with patron dispersal; and
 - (d) security staff (crowd controllers) will also be provided "when deemed necessary by Management".
77. Based on the above, at a minimum, security will be present from at least 11pm on Thursday to Saturday and the eve of a public holiday, until at least 30 minutes after closure. However, at other times there is no firm commitment to providing security staff in the VMP.
78. The applicant has indicated in writing that they are amenable to a condition requiring that the VMP be updated to provide details of security staffing prior to commencement of the extended hours and has explained that security needs would vary depending on operational requirements, such as any functions or events, and that security requirements associated with the future amended liquor licence are also not yet known.
79. Taking this all into consideration and acknowledging that security is usually dealt with at the time of issue of a liquor licence (rather than the planning permit) it is not considered appropriate to reduce the security provisions set out in the current endorsed VMP. Therefore, a condition will require that the VMP is also updated to specify a minimum security provision as per the current endorsed version (endorsed 26/7/2017), and updated to include the extended hours of operation, or to Council's satisfaction.
80. It is also noted that a number of errors in the VMP have been identified (carried across from the current endorsed version) and will be rectified by condition:
- (a) Section 3.9 – "Smoking" has not been updated to reflect deletion of the ground floor courtyard that was approved in a separate earlier amendment to the permit approved in October 2016. This part of the VMP will be required to be updated to delete reference to the rear courtyard;
 - (b) Section 4.2 – "Queuing" incorrectly refers to requiring patrons to queue eastward towards "Chapel Street", rather than Church Street. This will be required to be corrected;
 - (c) Section 4.5 – "Entrances, exits and pass-outs" incorrectly refers to the rear stairs being "outdoor" (they are indoors) and a "rear outdoor garden gate" (no longer existent) being available for patron egress in the case of emergency. Again, this appears to refer to an earlier building format which had a ground floor courtyard which was removed by a prior (2016) amendment to the permit. This section will be required to be updated to reflect the current building layout; and
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(d) Noise Amenity Action Plan:

- (i) Page 7 and 8 - Reference is still made to management of noise varying on whether windows are open or shut – as all windows will be required to be kept shut when music is played internally, this must be updated accordingly to be consistent with the Acoustic Report (to be endorsed). The updated Noise Protocol should also be referenced with regards to plant noise (instead of SEPP N-1); and
- (ii) Proposed music incorrectly refers to provision of DJs and live music within the indoor areas (this is inconsistent with the acoustic report and permit condition 9). Condition 9 is not sought to be modified and restricts live music to the first floor terrace, at certain times as per the current endorsed Acoustic Report. This section will be required to be amended to be consistent with the (new) endorsed Acoustic Report.

- 81. The new commitments respond to Council's Social Planning Unit's initial comments and they have confirmed that they are supported (additional suggested operational changes by Council's Social Planning Unit are addressed later in the report)
- 82. Subject to the changes to be effected by condition, the proposed VMP (incorporating the NAAP) will provide a suitable range of operational and management actions and procedures to ensure that the venue does not unduly impact the amenity of surrounding areas and provides a safe environment for patrons. The Noise Impact Assessment suggested by Council's Social Planning Unit is not necessary as matters of patron management will be adequately addressed by the VMP/NAAP, in conjunction with the Acoustic Report (see noise assessment).

Hours of operation

- 83. The following strategies are set out at Clause 13.07-1L-02:

- (a) Provide operating hours that:
 - (i) Are consistent with the purpose of the zone;
 - (ii) Appropriately respond to the nature of surrounding land uses; and
 - (iii) Will not adversely affect the amenity of the surrounding area.

- 84. Policy guidelines at Clause 13.07-1L-02, include (of relevance):

- (a) Limit the sale and consumption of liquor from licensed premises to no later than:
 - (i) 1am in a commercial zone (unless within 30m of a residential zone where 11pm is preferred); and
 - (ii) 10pm for outdoor areas including smoking areas, rooftops and open courtyards;
- (b) Limit the sale and consumption of liquor from licensed premises to occur no earlier than 9am;
- (c) Limit deliveries and waste collection (except where permissible under a local law) to between:
 - (i) 7am to 10pm Monday to Saturday; and
 - (ii) 9am to 10pm Sunday and Public Holidays; and
- (d) Limit emptying bottles into bins in outdoor areas to between:

- (i) 7am to 10pm Monday to Saturday; and
 - (ii) 9am to 10pm Sunday and public holidays.
- 85. The planning permit already allows for sale and consumption of liquor to occur from 7:30am to 1am, seven days a week.
- 86. The proposed extension of hours for sale and consumption of liquor is to 3am (instead of 1am) on Thursdays, Fridays, Saturdays and the eve of Public Holiday, with no change to 7:30am commencement. The extension to 3am excludes the first floor outdoor terrace/balcony area which will continue to operate until 1am as per existing conditions and therefore is not considered in this assessment.
- 87. As the licensed premises is located in a Commercial zone and is not within 30m of a residential zone, the applicable preferred limit to hours of operation is 1am. Therefore the extended hours to 3am exceed the preferred 1am limit.
- 88. In determining whether the extension to the licensed hours is appropriate, the following factors are considered to be supportive:
 - (a) As detailed in the Strategic Support section, the site's location in a Commercial 1 Zone, Swan Street Major Activity Centre and Core Entertainment precinct generally indicates that the site is an appropriate location to consider a larger late-night entertainment venue;
 - (b) The immediate surrounding uses are generally commercial in nature, including other licensed premises, unlicensed food and drink premises and shops and therefore will not be as sensitive to off-site amenity impacts; and
 - (c) Where sensitive uses are located in close proximity to the site (for example dwellings located as close as 45m) off-site impacts can be appropriately addressed through various measures (with additional conditions as necessary) including, as detailed in the assessment:
 - (i) Reduced patron capacity during extended hours (maximum 250);
 - (ii) Various ongoing and new patron management measures as set out in the Venue Management Plan; and
 - (iii) Revised acoustic measures to address music noise associated with the extended hours, as set out in the Acoustic Report.
- 89. Council's Compliance Unit have supported the proposed extended licensed hours (now that the application no longer includes the outdoor terrace/balcony) subject to installation of a noise limiter for music (discussed in more detail in the "noise" section of the report).
- 90. Council's Social Planning Unit have noted that the site is in a Commercial 1 Zone and in a Core Entertainment Precinct and, as such, an extension until 3am can be entertained, subject to ensuring that appropriate measures are in place to mitigate cumulative impact of the later trading. The following initial recommendations of Council's Social Planning Unit were suggested to address cumulative impact:
 - (a) Limit extended hours to Friday and Saturday nights only (i.e. not on Thursdays or the eve of a Public Holiday);
 - (b) Reduce number of patrons from 300 to 200 from 1am;
 - (c) Exclude the first floor balcony/terrace from extended hours (i.e. to remain at 1am closing);

- (d) Provide a Noise mitigation Strategy;
 - (e) Update the Venue Management Plan to:
 - (i) Address how patrons will be reduced/staggered between 1am and 3am;
 - (ii) Include management of large group bookings;
 - (iii) Prevent patrons from entering/re-entering the premises after 1am;
 - (iv) Call last drinks half an hour before the licence ends;
 - (v) Security must be rostered for the extension of hours;
 - (f) Ensure seating is provided in areas where patrons are allowed and /or congregate in the venue between 1am and 3am;
 - (g) Food provision is supported provided the snacks (as indicated by the late-night menu) continue to be “substantial”; and
 - (h) Provision of a Gender-based Violence Prevention and Response Plan (Liquor Licence Victoria requirement).
91. The Section 57A amendment adopted most of these recommendations, with the exception that: Extended licensed hours are still proposed on Thursdays and eve of Public Holidays; patrons are to be reduced to 250 from 1am (rather than 200 as recommended); a Noise Mitigation Strategy is not provided; the VMP does not prevent patrons from entering/re-entering after 1am; and no further change is made to seating details (i.e. there is no additional commitment to providing seating after 1am).
92. Council’s Social Planning Unit’s most recent referral generally supported the modified proposal and noted that the provision of a Noise Mitigation Strategy is not necessary if planning officers are satisfied with the Noise and Amenity Action Plan (contained in the VMP). They still recommended that consideration be given to removing Thursdays from the extended hours of operation to reduce potential cumulative impact and further recommended closing the internal door to first floor outdoor terrace earlier than 12 midnight, especially on weeknights.
93. The remainder of the assessment will detail the various operational and management measures proposed and detail further conditions to mitigate off-site amenity impacts (including cumulative impacts). The assessment finds that, subject to some additional conditions, the extended hours are appropriate in regard to the site’s planning policy, and specific physical and land use context.
94. In relation to the hours set out in policy at Clause 13.07-1L-02 for deliveries and waste collection and emptying of bottles into bins are already addressed by permit conditions, specifically:
- (a) Condition 14 requires: *Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day to the satisfaction of the Responsible Authority; and*
 - (b) Condition 15 requires: *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.*
95. The conditions differ from current policy at clause 13/07-1L-02, as on Sunday and Public Holidays deliveries (to and from the land) and emptying of bottles into outdoor bins are

prescribed to occur no earlier than 9am (rather than 7am), with no change to the latest time (10pm).

96. To address this (and with the applicant's agreement) the conditions will be updated to be consistent with current policy which will further reduce potential adverse impacts from noise.

Patron Numbers

97. The following strategies are set out at Clause 13.07-1L-02:

- (a) Encourage venue size and patron numbers that:
 - (i) Provide for a safe and amenable operating venue capacity; and
 - (ii) Reflect the strategic and physical context of the site.

98. Policy guidelines at Clause 13.07-1L-02, include (of relevance):

- (a) Whether the number of patrons to be accommodated are within the safe and amenable operating capacity of the premises, based on the Liquor Licensing Fact Sheet - Maximum Patron Capacity (Victorian Commission for Gambling and Liquor Regulation, 2018);
- (b) An assessment by a building surveyor detailing the patron capacity of the licensed premises where an application proposes an increase in patron numbers or a new licence; and
- (c) Whether the number of patrons has a cumulative impact on the local area.

99. The maximum capacity of the venue (422 patrons) is unchanged from the current permit.

100. To mitigate off-site amenity impacts, it is proposed to reduce patron numbers from 350 at 1am to no more than 250 during extended trading hours (i.e. from 1am to 3am on Thursday, Friday, Saturday and the eve of Public Holidays).

101. As the internal layout of the premises is unchanged and patron numbers are reduced during extended hours, there are no concerns regarding the capacity of the venue to safely accommodate patrons during extended hours.

102. Cumulative impact of patrons as a result of the proposed extended hours, having regard to the strategic and physical context of the site, is addressed later in the report and found to be acceptable.

Noise

103. The following strategies are set out at Clause 13.07-1L-02:

- (a) Design, manage or modify licence premises to minimise any unreasonable noise impacts on the local area.

104. Policy guidelines at Clause 13.07-1L-02, include (of relevance):

- (a) Whether noise emissions from licensed premises comply with the standards specified in EPA Publication 1826 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues or any other requirement, such as accepted sleep disturbance criteria or relevant Australian Standards (except for an application for a restaurant, including a café, where the preferred hours of operation specified in this policy are met; or any application for a packaged liquor outlet);

- (b) *The preparation of an acoustic report (except for cafes but includes restaurants with an open courtyard and restaurants with a residential interface);*
 - (c) *Employing on-site noise attenuation measures to licensed premises where unreasonable amenity impacts may result from proposed activities on the surrounding area; and*
 - (d) *The preparation of a Noise and Amenity Action Plan (except for a restaurant, café or packaged liquor outlet).*
105. The extended hours of operation would potentially impact a range of noise emissions from within and around the site which must be considered.
106. Key noise sources which will be assessed are:
- (a) Music noise;
 - (b) Patron noise within the site;
 - (c) Patron noise outside the site (from patrons entering / leaving);
 - (d) Waste emptying and collection; and
 - (e) Mechanical equipment (including bottle crushers).
107. An Acoustic Report was submitted to address the proposed changes to operation. The version which forms the basis for this assessment and decision is the version that forms part of the Section 57A amendment (amended on 13 September 2024, with amendments dated 29 November 2024) and will simply be referred to as the Acoustic Report (the current endorsed acoustic report or other versions will be specifically referenced where necessary).
108. The Acoustic Report identifies dwellings in Docker Street (to the north), Swan Street (to the east), Railway Place (to the west) and to the south (Church Street and on the other side of the railway line) as the nearest noise sensitive receivers. Specifically, 74 Docker Street is the closest dwelling in a residential zone and the dwelling at 232 Swan Street is the closest dwelling in a commercial zone.

Music noise

109. As currently approved, music noise from the venue is permitted as follows (based on the current endorsed acoustic report and permit conditions):
- (a) Internal - Pre-recorded “atmospheric” music (via internal speakers connected to noise limiter) with maximum level set by the noise limiter. The noise limiter had two different settings – one for “windows open” and one for “windows (and doors) closed”, with the “windows open” setting having higher noise levels; and
 - (b) Music from external speakers:
 - (i) Pre-recorded music at background level (via external speakers connected to noise limiter); or
 - (ii) Live music performed by duo (via speakers connected to noise limiter) – limited to 6pm – 9pm, Thursday to Saturday (as set out in condition 5 of the permit).
110. Condition 5 of the permit requires noise limiters to be installed to both the indoor and outdoor areas, calibrated to applicable noise limits and maintained on an ongoing basis.

111. The music provided to the outdoor (first floor terrace/balcony) area is not proposed to be altered as part of this amendment as this area will be closed from 1am, as per current approval.
112. The amended acoustic report has therefore provided an updated assessment of music noise from internal areas against the current EPA music noise regulations (EPA 1826 Noise Protocol Part II (Noise Protocol Part II) which supersedes but is roughly equivalent to the former music noise regulations (SEPPN-2) that applied at the time of the last amendment to the permit.
113. The updated assessment finds that music played internal to the venue during extended hours of operation would comply with the current music noise limits to the nearest NSR's during the extended period (i.e. 1am to 3am) on the relevant days, subject to the noise limiter being set to revised levels set out at Table 5-1 of the Acoustic Report (page 12)
114. Council's Acoustic Consultant has reviewed the music noise assessment in the Acoustic Report and agreed that the venue should comply with the *Noise Protocol Part II* subject to the revised noise limiter settings.
115. Of note, the Acoustic Report states that music noise testing was done with the venue doors open. The Applicant has since clarified that:
- (a) Specifically, the front doors (to Swan Street) and doors at first floor (at the top of the ground floor stairs) were kept open during testing – see diagram below with open doors bubbled in red; and

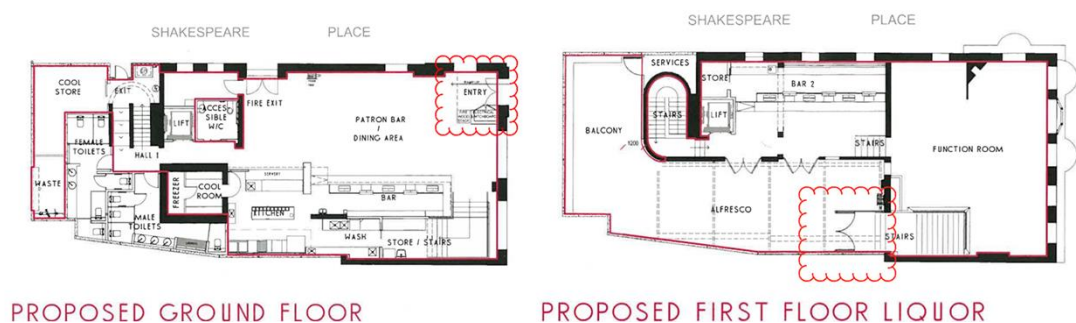


Figure 4 – Location of open doors during testing (Source: Email from Permit Applicant).

- (b) All windows were closed during testing.
116. The applicant has confirmed that the noise levels proposed would apply at all hours of trading – i.e. not just during the 1am to 3am period, and therefore the previous noise limiter settings for internal to the site would no longer apply. This should be clearly stipulated in the report to ensure it is clear that previous settings no longer apply.
117. To ensure that the noise levels re-create the same conditions during testing, a condition of any approval would require that the acoustic report be updated to clearly stipulate that all windows must be kept shut at all times when music is played internal to the building.
118. Furthermore, while the front door was kept open during testing, and therefore the venue is predicted to comply with the music noise limits even with the front door open, it is not considered appropriate to leave the front door open during extended hours of operation, i.e. from 1am.

119. Therefore, from 1am the front door will also be required to be kept closed, by condition, except to allow for the ingress/egress of patrons. The applicant has agreed to this condition.
120. The applicant has also committed in the Acoustic Report to keeping the doors between the ground floor and first floor terrace/balcony closed (except for ingress/egress of patrons and staff) after 12 midnight, in an effort to reduce noise transmission from the ground floor to the outdoor balcony/terrace area. The applicant has confirmed that the door to be kept closed is the door bubbled in figure 4. While this is not required to achieve compliance, according to the acoustic report, it will further reduce noise emissions from music from the site.
121. Council's Social Planning Unit also suggested in their most recent referral advice that doors be kept closed from even earlier in the evening. On this basis the applicant has advised they are agreeable to keeping these doors shut from an earlier time of 10pm on Sunday, Monday, Tuesday and Wednesday nights (i.e. quieter nights).
122. As there is no basis for requiring this to occur, it will not form a condition of approval. However, to ensure that after 1am that the outdoor areas are not accessed and there is no noise leakage from internal areas, all doors to the first floor outdoor balcony/terrace area must be kept closed – this will also be required by condition via amendment to the acoustic report.
123. Some further minor corrections must be made to the report before it is suitable for endorsement, as follows:
 - (a) There is an error on page 15 where it stated that “Doors to level 1 are kept open except for access and egress after 12am” (emphasis added). This should refer to closed instead of open doors;
 - (b) The specific doors to be kept closed after 12am (i.e. those at the top of the eastern stairs from ground floor) will be required to be clearly nominated by description or image so there is no confusion as to the doors in question;
 - (c) The aerial image identifying the nearest noise sensitive receivers omits a first floor residence at 468 Church Street. The music assessment has referred to this residence (in conjunction with 232-236 Swan St) but it should be included on the aerial photo to ensure it is clear that it has been considered; and
 - (d) Planning Officer review of Council records has also confirmed another adjoining residence on the first floor of 466 Church Street. This must also be included and the assessment updated to demonstrate that music from the extended operations will also comply with the identified limits in regard to this dwelling.
124. In addition, as the current acoustic report contains detailed information pertaining to music noise levels from speakers associated with the first floor terrace/balcony, which are still relevant, these details must be retained as part of the permit and endorsed documentation. Therefore, a condition will require that the current endorsed acoustic report is incorporated as an Appendix to the Acoustic Report and the body of the Acoustic Report is updated to confirm that details of music including (music noise limits and assessment) applicable to the outdoor (first floor balcony/terrace) area is contained in that report.

125. Furthermore, as existing condition 5 of the permit relates to noise limiters in both the indoor and outdoor areas, this condition will be replaced with two separate conditions to address the noise limiter to the internal area (to accord with the Acoustic Report) and the noise limiter to the external (balcony/terrace) area which will need to continue to comply with the current endorsed report (forming an Appendix in the Acoustic Report, by condition).
126. Council's Compliance Unit ultimately supported the application subject to the inclusion of a condition pertaining to a noise limiter, however, the site already has noise limiters installed and the updates to the conditions as described above will address this matter within the scope of what is relevant to the current amendment.
127. While Council's Compliance Unit initial referral response (prior to amendment of the proposal under Section 57A) did not support extended hours due to a number of complaints received about the premises about patron and music noise, following the amendment of the application to remove the outdoor area from the extended operating times they determined to support the proposal on this basis.
128. Council's compliance unit detailed 5 complaints received in relation to the event (4 of these in the 12 months preceding early April 2024 and 1 in June 2024) across their two referral responses. Confirmation has been sought from the Compliance Unit in regard to the intervening period and they have confirmed that at the time of this report being prepared no further complaints have been received in relation to the venue since the June 2024 complaint.
129. It is considered that the Compliance Unit's support and the record of no complaint since June 2024 indicates that the venue has been generally appropriately managed in regards to noise.
130. Subject to these conditions, the venue will be expected to achieve compliance with the relevant music noise requirements during the proposed extended hours, consistent with policies pertaining to noise in Clause 13.07-1L-01 (Interfaces and Amenity) and Clause 13.07-1L-02 (Licensed Premises).

Patron Noise from within the site

131. In terms of patron noise generated from within the site, the proposal does not increase the existing approved (422) patron capacity for the overall site or the first floor balcony/terrace (109) and no longer seeks to extend licensed hours of the first floor balcony/terrace. During the extended hours, i.e. from 1am, patron numbers are to be further reduced by a further 100 patrons to 250 patrons and patrons would be confined to indoor areas only.
132. Council's Acoustic Consultant has noted that: *"the proposal to reduce the number of patrons inside the venue from the previously sought 422 to 250 does not have significant acoustic implications for noise generated inside the venue, however it should assist in managing off-site noise impacts from patrons departing the venue"*.
133. Unlike music noise, patron noise is not subject to a specific EPA regulation. Furthermore, patron noise is typically only assessed only when associated with outdoor areas (the policy document referenced at Clause 13.07-1L-01 (Interfaces and Amenity - Guidelines - managing noise impacts in urban development (Yarra City Council, March 2022) notably only references patron noise from outdoor areas).

134. In line with this approach, patron noise from inside the building (i.e. enclosed areas) has not been assessed in either the current endorsed or amended acoustic report.
135. It is noted that the Acoustic Report includes a revised patron noise assessment from the outdoor areas - first floor balcony/terrace area. This was initially undertaken as part of the original Advertised Acoustic report due to the proposed extended hours of this area (no longer pursued under the Section 57A amendment). The patron noise assessment finds that patron noise emissions will comply with the identified noise targets to the nearest Noise Sensitive Receivers.
136. Council's Acoustic Consultant raised some issues in regards to this assessment, however, for the purposes of this application they noted the patron noise assessment is no longer relevant and they did not provide a full critique of the updated patron noise assessment in the amended acoustic report.
137. This being the case, it is considered that the patron noise assessment should be omitted from the report as it is not relevant to the proposal and, if endorsed, could imply that Council has fully reviewed and is satisfied with the assessment.
138. If there are future changes to the operation of the first floor terrace/balcony that warrant further patron noise assessment, this could be done as part of a future assessment.
139. Therefore the patron noise assessment will be required to be deleted by condition.
140. While patron noise from inside the site is not assessed and there are no specific controls to address this, the following measures (either proposed or part of conditions) would also have the effect of reducing patron noise emissions from the site;
 - (a) Front door to be kept closed from 1am except for ingress/egress;
 - (b) Windows to be kept closed when music played internally; and
 - (c) Door to first floor balcony/terrace to be kept closed (except for ingress/egress) from 12 midnight and from 1am kept closed.
141. The condition requiring that the front door to the premises is kept closed from 1am onward (in addition to the requirement to keep windows closed) other than ingress/egress would further attenuate patron noise from the premises during the extended licenced hours.
142. Therefore, subject to the above conditions, the patron noise from within the site resulting from the proposed amendments will be appropriately limited.

Patron Noise outside the site

143. Patron noise generated outside the site from 1am would be associated with patrons dispersing from the premises (street trading which is controlled by local law and liquor licence conditions ceases by 11pm).
144. Noise from patrons dispersing is typically beyond the scope of acoustic testing given the noise cannot be controlled by acoustic measures, and therefore is not assessed in the current endorsed acoustic report or submitted acoustic report.
145. By further reducing patron numbers after 1am to 250 (from a peak of 422 and from 350 patrons up until 1am), this will reduce the overall potential for noise disturbance in the surrounding area by patrons leaving the venue in the extended licensed hours.

146. Furthermore, in addition to the site's good connection to various transport options which would facilitate quick dispersal, measures included in the Venue Management Plan, such as inclusion of a new section 4.7 (Patron Dispersion) would assist to mitigate additional noise associated with patrons leaving the venue over the proposed extended hours, in particular, the following commitments:
- (a) Venue staff and Security Personnel will actively ensure patrons will direct patrons to exit efficiently and ensure they move on in a timely, quiet and orderly manner; and
 - (b) Security staff will remain on-site for 30 minutes after the venue closes to undertake the above.
147. The provision of substantive food offerings at all times that liquor is sold/consumed (to be included as a condition as described earlier) will reduce the likelihood of anti-social behaviour, which can include excessive noise generation.
148. Current permit condition 16 will also be retained which requires the display of a sign at the exit of the premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
149. The applicant has confirmed that this sign has been installed and its ongoing presence would assist in reducing patron noise from those exiting the venue, particularly later at night.
150. Given the above management measures, existing and proposed permit conditions and the site's location on an arterial road, in a Major Activity Centre and Core Entertainment Precinct where higher background noise levels would be expected even later at night/early morning, patron noise associated with the proposed extension of hours would not be anticipated to be unreasonable.

Waste emptying and collection

151. The main waste storage area is located at ground floor at the rear of the site, accessible by external roller door and is unchanged from existing conditions. The applicant has confirmed that details of waste management set out in the endorsed Waste Management Plan (WMP), which includes collection of waste from Shakespeare Place, is not proposed to change and will be sufficient to accommodate the extended operations. As these arrangements have already been reviewed and approved by Council previously, no further assessment is required.
152. The current permit already has conditions to restrict hours for emptying of bottles/cans into bins (condition 14) and for deliveries/waste collection (condition 15) and as detailed earlier these will be updated to be consistent with the current policy (essentially restricting collection to after 9am on Sundays and Public Holidays, rather than 7am as on other days (no change to 10pm limit)) which the permit applicant has agreed to. This will protect the surrounding area, in particular nearby residences, from unreasonable noise from the emptying of glass into bins during these quieter periods.
153. The amended acoustic report (section 5.4) includes recommendations regarding times for waste collection, deliveries and emptying of glass. These are generally consistent with the local policy at Clause 13.07-1L-02 and where they differ, more restrictive hours under the permit conditions will apply.

154. These will also satisfy policy regarding waste at Clause 13.07-1L-01 (Interfaces and Amenity) which seeks to minimise noise disruption to nearby residential properties from waste management practices.

Mechanical equipment

155. No new plant or equipment is proposed as part of the application.
156. However, the Acoustic Report included a plant/mechanical noise assessment to address the extended hours of operation of the building (and therefore operation of plant may be louder relative to background levels at these later hours).
157. Measurements of plant and mechanical services noise was undertaken from the NSRs at No. 74 Docker St and No. 232-236 Swan St as part of the amended acoustic report, but were not found to be audible or measurable. It was found that on this basis the mechanical services would comply with the new EPA regulations (Noise protocol part I) limits at all times.
158. Council's Acoustic Consultant did not take raise any issue with this analysis or conclusion.
159. It is therefore accepted that mechanical/plant equipment should be compliant and will not be a disturbance to nearby residences during the extended hours.
160. It is further noted that the EPA noise protocol is a mandatory requirement.
161. As the former EPA regulation (SEPP N-1) is referenced in condition 11 of the permit, as agreed to by the permit applicant, the replacement of conditions 11 and 12 with a single (standard) condition referencing the current noise protocol (which includes both mechanical and music noise) will be done as part of any amendment to the permit. The permit applicant has agreed to this.

Cumulative Impact

162. The Planning Practice Note 61: Licensed Premises: Assessing Cumulative Impact (Department of Transport and Planning, October 2023) (PPN61) provides guidance for assessment of cumulative impact.
163. It identifies that there is potential for cumulative impact when a premises is open after 11pm and located in an area with a "cluster" of licensed premises (e.g., where including the licensed premises, there are three or more licensed within a radius of 100m; or 15 or more licensed premises within a radius of 500m).
164. The site is open after 11pm and is located in a cluster as per the above definitions.
165. Furthermore, the "Corner Hotel" decision (Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors) provides an assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the sale and consumption of liquor (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
166. Based on this decision, Council developed an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type, size and closing hours of the premises, to help determine what level of assessment is appropriate.
167. The below matrix table also sets out the change in circumstances on the site between patron numbers and hours for the sale and consumption of liquor.

Type of Premise	Risk Factor
Café / Restaurant	0
Restaurant / Bar	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

169. Applying the matrix of risk, a reasonable consideration would suggest a score of 1-3 would be no risk, higher than 3 would be a potential risk.
170. In this instance the proposed amendments would result in the venue achieving a score of 9 (current risk level would be 8) – i.e. the venue already has potential for negative cumulative impact and by extending hours to 3am, the risk of cumulative impact increases. An assessment will therefore be undertaken.
171. The cumulative impact assessment framework ascertains:
- If the proposal is likely to cause a positive, negative or no cumulative impact;
 - If a negative cumulative impact is determined to be likely, whether the impact is reasonable or unreasonable; and

- (c) If negative cumulative impact is determined to be likely and unreasonable, the unreasonable impact can be adequately managed through additional mitigation measures.
172. If the proposal is found to likely have negative cumulative impacts which are unreasonable and Council is not satisfied that these could be addressed through additional mitigation measures then the proposal would be unacceptable.
173. The PPN61 provides a framework for assessing cumulative impact. With the following matters to be considered when assessing the cumulative impact of licensed premises:
- (a) Planning policy context;
 - (b) Surrounding land use mix and amenity;
 - (c) The mix of licensed premises;
 - (d) Transport and dispersal; and
 - (e) Impact mitigation.
174. These will be addressed below, noting that where these items have already been addressed in detail earlier policy assessment, they may only be briefly addressed.

Planning policy context

175. The “Strategic Support” section of the report has provided a detailed overview of the site’s strategic planning context and finds that the proposal is generally consistent with outcomes encouraged by the relevant higher level policies, zoning and strategic context.

Surrounding land use mix and amenity

176. This section of the assessment is required to consider the existing amenity of the area and the potential cumulative impact to this amenity by the proposal, in particular in relation to sensitive uses, having regard to the planning policy context, to determine if any identified impact will be unreasonable, on balance.
177. As detailed earlier, land uses in the immediate vicinity include a wide variety of commercial uses (including a mixture of licensed premises reflecting the site’s location in a Major Activity Centre and Core Entertainment Precinct) which are concentrated along Swan Street as well as other more sensitive uses – such as dwellings located in both residential zoned areas north of Swan Street and within surrounding Commercial 1 Zoned land within 50m – 60m of the site.
178. The applicant has also provided the following list of other “sensitive” uses in the surrounding area within 500m:
- (a) Kangan Batman Institute of Tafe – 495m;
 - (b) St Kevins College – 495m;
 - (c) Richmond Primary School – 467m;
 - (d) St Ignatius Catholic Church – 448m;
 - (e) St Stephens Anglican Church – 387m;
 - (f) Goodstart Early Learning Richmond – 363m;
 - (g) Richmond Community OSH – 297.52m; and
 - (h) Brighton Street early Learning – 403m.

179. A medical centre has also been identified by the planning officer, at 2 Royal Place Cremorne (approximately 90m south-west of the subject site).
180. In the context of the existing area's function as a Major Activity Centre and Core Entertainment Precinct, with an associated high level of activity concentrated along Swan Street, these other non-residential "sensitive" land uses listed above are of a nature and at a distance from the subject site such that the impacts of the extended hours of the licensed premises would not be anticipated to appreciably impact their amenity.
181. In relation to dwelling uses, the reasonable amenity expectations of dwellings in and around this part of Swan Street, including adjacent residential zoned areas, must be tempered given their proximity to an area that is earmarked for high intensity commercial activity and entertainment purposes and fostering the night-time economy.
182. As per the earlier assessment, in particular, the "Venue Operation" and "Noise" sections, various operational and management parameters set out in the Acoustic Report and Venue Management Plan (with further changes to address some shortcomings) are sufficient to adequately mitigate any adverse cumulative impact on the surrounding area, in particular nearby dwellings.

The mix of licensed premises

183. This section of the assessment requires consideration of the mix of licensed premises in the area in relation to its influence on cumulative impact.
184. The PPN61 notes: *"an area with a mix of restaurants, cinemas and small bars may have fewer impacts than an area with primarily large bars and nightclubs"* and identifies the presence of the following licensed premises to be of greater risk of resulting in anti-social behaviour, including violence, and public disturbances:
- (a) late-night trading hours, particularly those open after 11pm;
 - (b) premises with capacity over 200; and
 - (c) access to a packaged liquor outlet in the surrounding area (i.e. before, in between or after entering the licensed premises).
185. The applicant has provided a list of licensed premises located within both 100m and 500m of the site in their Cumulative Impact Assessment (including the subject site) as follows:
- (a) 97 licensed premises associated (with 107 liquor licences) within 500m of the site, including:
 - (i) Restaurant and café– 44
 - (ii) On-premises– 15
 - (iii) General - 9
 - (iv) Late night (on-premises) – 5
 - (v) Late night (general)– 5
 - (vi) Packaged liquor licence – 3(Limited or remote seller's licenses make up the remainder); and
 - (b) 20 licensed premises associated (with 24 liquor licences) within 100m of the site, including:

- (i) Restaurant and café– 14
- (ii) On-premises– 2
- (iii) Late night (on-premises) – 1
- (iv) Late night (general) - 1
- (v) Packaged liquor licence – 1

186. As reflected in the above breakdown, the mix of licensed premises in the area is diverse, with restaurants/cafes being most prevalent, bars more limited and a much smaller number of late-night venues. There is also a number of packaged liquor outlets in the vicinity.
187. A review of liquor licence data for premises within 100m confirms a significant proportion of premises are open after 11pm and up to 1am across all liquor types (except packaged liquor) which reflects the areas function as a Core Entertainment Precinct and the “ordinary” trading hours of packaged liquor being no later than 11pm.
188. However, given the proposal seeks to amend the permit to allow for sale and consumption of liquor on the premises after 1am, it is most relevant to consider impacts after this time in determining cumulative impacts.
189. The following table breaks down the late-night licensed premises within 330m of the subject site, including type of licence, hours of operation and patron capacity.

Venue	Licence Type	Distance from 214-216 Swan St (Fargo & Co.)	Latest hour for trading hours for consumption of liquor on premises	Maximum Patron Capacity of area opened until latest hour of operation
Richmond Social (157 Swan St)	Late Night (general) licence	Approx. 25m	Lounge/Bistro & Gaming Areas 7 days a week, am*	100
The Ugly Ducking (238 Swan St)	Late Night (on-premises) licence	Approx. 60m	Fri and Sat, 3am	76
Swan Hotel (Cnr Swan & Church St)	Late Night (general) licence	Approx. 105m	Mon – Sat, 3am	300
The Public House (433-435 Church St)	Late Night (on-premises) licence	Approx. 110m	Thu – Sat, 2am	225
Maeve Fox (472 Church St)	Late Night (on-premises) licence	Approx. 100m	Thu – Sat, 3am	191
Harlow Hotel (447 Church St)	Late Night (general) licence	Approx. 170m	Wed – Sat, 3am	300
Nine T Four (94 Swan St)	Late Night (on-premises) licence	Approx. 320	Fri – Sat, 3am	110
The Blacksmith Bar (69 Swan St)	Late Night (general) licence	Approx. 330	Fri – Sat, 3am	200
Total (2am and 3am licence)	n/a	n/a	n/a	1,502
Total (3am licence)	n/a	n/a	n/a	1,277

*Richmond Social liquor licence has an overall maximum of 360 patrons and has 24 hour trading in the gaming room and lounge/bistro areas, with maximum patron capacity in these areas restricted to a maximum of 100 patrons between 3am and 7am. The remainder of the premises trades no later than 11pm on Sunday, 12 midnight Monday-Tuesday, and 1am Wednesday- Saturday. As of 11/3/2025 their website states that they are open until 4am.

190. In the immediate (100m) vicinity of the subject site there are two existing late-night premises - Richmond Social and The Ugly Duckling. These would have the greatest

immediate impact on the amenity of the area in relation to patrons dispersing from the area at 3am.

191. In relation to these venues:

- (a) The “Ugly Duckling” wine bar has a modest patron capacity (76). It is only permitted to operate until 3am on Friday and Saturday nights, therefore on Thursday nights there would be no contribution of patrons into the local area at later hours. Furthermore, it is located close to the corner of Swan and Church Street (southern side) which is sufficient distance that the immediate vicinity of the subject site would not likely be affected; and
- (b) Richmond Social is located diagonally opposite on the corner of Docker Street and Swan Street and is permitted to operate 24 hours in the bistro/gaming area. It has maximum patron capacity of 360 patrons, however, only 100 patrons are permitted to remain from 3am to 7am (in the bistro/gaming area) whereas other parts of the venue only trade until 1am at the latest from Wednesday to Saturday. The applicant has advised that it currently operates until 3am. Therefore, patron numbers would likely reduce more significantly at 1am with some further reduction of patrons at 3am when the 100 patron cap is instituted to remaining open areas.

192. In terms of concerns about anti-social behaviour and the like with the prevalence of late night premises:

- (a) The application (at original advertising stage) was referred to both Victoria Police and the Victorian Liquor Commission and no objection/response was received from either;
- (b) The venue has no demerit points and a five star rating (the highest rating) under the Victorian Liquor Commission star rating system, which indicates the premises has been operating without any non-compliance incidents within the past 36 months (applicable to their on-premises and limited licence); and
- (c) Both the Ugly Duckling Bar and the Richmond Social also have a 5 star rating so the closest other late night venues are also not problematic from a compliance perspective.

193. Other supportive mitigation factors specific to anti-social behaviour are:

- (a) The inclusion of dispersion management at closure which would provide oversight at the end of trading and reduce risk of patron behaviour impacting the surrounding area. This was supported by Council’s social planning unit;
- (b) The applicant has committed in the amended Venue management Plan to training all staff prior to commencement of employment in the company wide “Gender Based Sexual Harassment Prevention and Response Strategy”. The preparation of such a strategy was recommended by Council’s Social Planning Unit in their comments on the original application;
- (c) The reduction of patrons to 250 by 3am, while still exceeding 200 patrons, would further reduce the potential of harm;
- (d) The venue has a high level of surveillance; and
- (e) Transport and dispersal factors (see next section).

194. Therefore, it is considered that the extension of hours would not result in a significant increase to risk of anti-social behaviour in the area.

195. The subject site is also located within a Core Entertainment Precinct, as outlined within Clause 13.07-1L-02 of the Scheme. Larger licensed premises (with a capacity exceeding 200 patrons) are encouraged to be located within these precincts. Council's Social Planner confirmed that the submitted Cumulative Impact Statement and NAAP propose management strategies to mitigate the impact that the amendment will create. They specified that the impact mitigation strategies are supported.
196. Overall, the proposal is acceptable, as although there is likely to be some negative cumulative impact as a result of the proposal, these are limited and, balanced against other planning considerations which support night-time entertainment in this location, are considered to be reasonable.
197. Based on the existing context and nature of the proposal, it is considered that the proposal will:
- (a) Contribute to the diversity of activities and vibrancy of the area; and
 - (b) Will contribute to a limited but acceptable degree, to existing adverse impacts arising from the mix of uses in the area.

Transport and Dispersal

198. The Practice Note recognises that how patrons leave the licensed premises at closing time can have a significant impact on the amenity of an area, especially if patrons need to move through sensitive areas to reach their destination.
199. A concentration of high-risk licensed premises closing at similar times may lead to difficulties in safe and orderly patron dispersal. This can be addressed by staggering the operating hours because there will be fewer people on the street trying to leave the area at one time.
200. The site is well placed for access to all forms of transport (public and private), in particular:
- (a) The subject site's location in an area with other late-night venues, on an arterial road of Melbourne in the inner city, ensures a relatively high prevalence of taxi and rideshare options;
 - (b) The site also has ready access to car parking in the immediate area for patrons choosing to drive to the venue, including the Shakespeare Place public car park to the rear of the subject site; on-street parking; and the public car park on the eastern side of Docker Street (close to the Swan Street corner); and
 - (c) The premises is well-placed in relation to access to public transport in terms of proximity to a variety of public transport options with regular services including tram and train. Services are more restricted after 1am, but are still available, on Fridays and Saturdays only based on PTV website timetable information (February 2025):
 - (i) The nearest tram services (routes 70 and 78) on Swan/Church St operate beyond 1am (until around 1:30am to 1:45am); and
 - (ii) Late night train services (i.e. 1am and later) are available at Richmond Station (8 lines) and East Richmond Station (4 lines), with a train at least every 60 minutes only (more frequent services at Richmond Station) overnight. Richmond Station is also staffed all night.

201. Council's Social Planning Unit raised concerns initially with the contribution of the premises to patrons dispersing from the area at 3am, having regard to other licensed premises within a 330m radius, noting that there are already 891 (Thursday) and 1277 (Friday and Saturday) patrons released from other late night venues between 2am to 3am.
202. This concern was sought to be addressed through the Section 57A Amendment by the reduction in patrons to 250 after 1am; the commitment to roster security for the extended hours (and until half an hour after close) and involvement to ensure that patrons disperse in a quiet and orderly fashion; and the calling for last drinks half an hour before close.
203. Council's Social Planning Unit in their most recent comments also suggested that the extension of the licensed premises to 3am to exclude Thursdays should be considered to reduce cumulative impact. However, this is not considered necessary given that:
 - (a) there are less premises operating on Thursdays and therefore there will be a lower number of patrons in the surrounding area; and
 - (b) while public transport would not be available after 1am, given the site's location other transport options such as taxi or rideshare would be readily available.
204. There are various other measures already incorporated into the site's Venue Management Plan, such as those detailed in the section relating to the assessment of patron noise outside the site, which will also mitigate issues of disturbances from patron dispersal.
205. It is also noted that the venues are sufficiently spread out so as to not result in an overabundance of patrons in the immediate vicinity of the subject site (see map below in Figure 5)

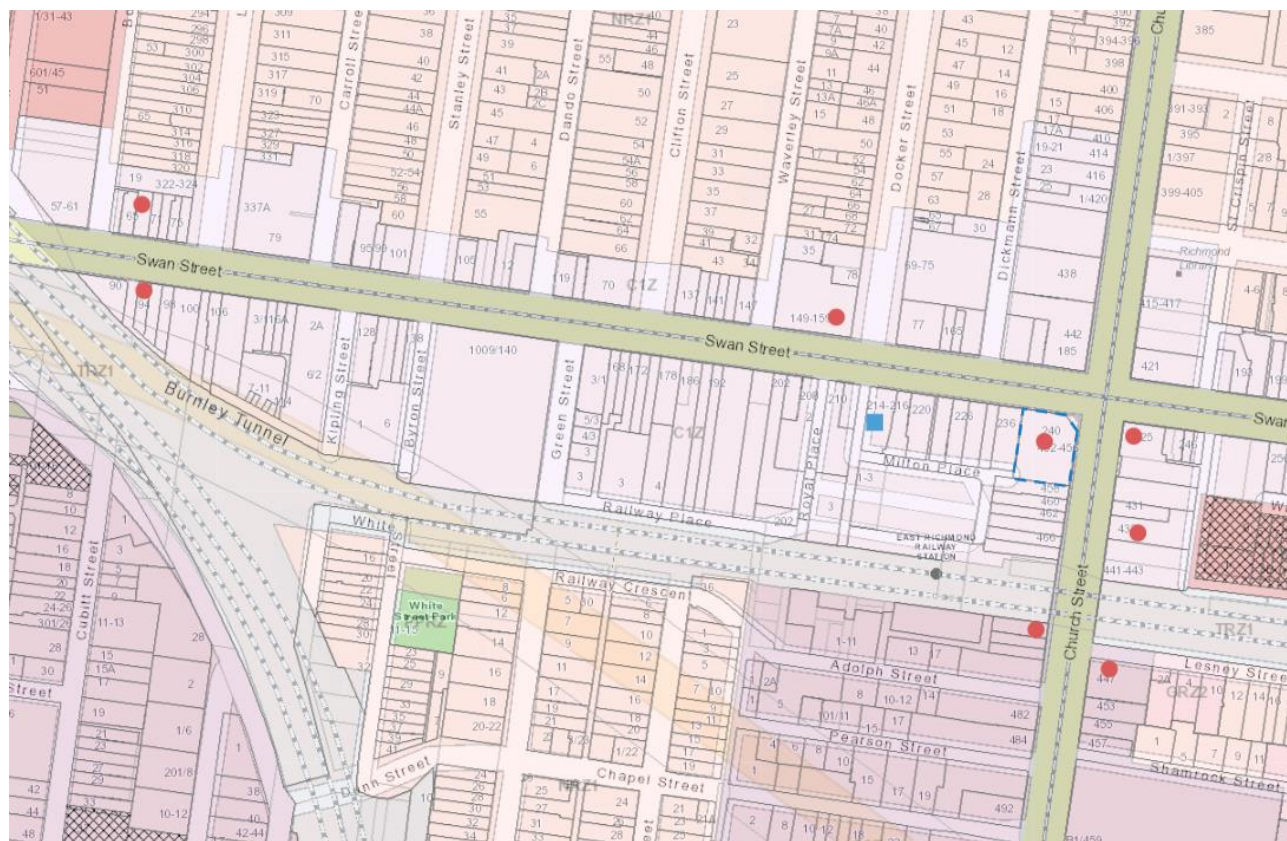


Figure 5 – Map of Subject site (blue square) in relation to other late-night venues within 330m (red dots).

206. In terms of patrons dispersing through surrounding sensitive (e.g. residential) area, it is considered that patrons leaving the venue after 1am to access taxi/rideshare would be more likely do so from the Swan Street frontage and also those accessing public transport after 1am would most likely disperse along Swan Street (east or west) given this is the most direct route to both tram and train services, thus avoiding residential zoned areas and more concentrated residential developments in the hinterland of Swan Street.
207. While some patron dispersal into surrounding areas to access parked cars after 1am is inevitable, the measures in place to reduce risk of poor behaviour are considered to be mitigating factors for such impacts and overall, it is not considered that there will be any unreasonable detriment to the area as a result.

Impact Mitigation

208. This section of the assessment focuses on any mitigation measures that are included in the proposal to mitigate potential negative cumulative impact and whether there are existing aspects of the public realm that already existing to mitigate cumulative impact (e.g. public toilets, bins etc.).
209. A range of measures are proposed as detailed throughout the report and are to be enhanced through the various conditions outlined, to address off-site amenity impacts associated with the extended licensed hours. Measures include provisions for managing noise and patrons as well as operational parameters such as reducing patron capacity by 100 patrons after 1am, in conjunction with existing permit conditions that will be retained (or in some cases, updated) to protect the surrounding area from amenity impacts associated with the premises.
210. Existing features of the venue layout that have also been outlined in the report, such as the single entry/exit to Swan Street and the provision of external lighting will also support the operation of the venue during the extended hours in a safe manner that reduces the risk of undermining the area's amenity.
211. Existing features of the surrounding area that mitigate potential cumulative impact include the presence of public lighting along the Swan Street interface which improves safety and rubbish bins along the length of Swan Street to reduce the risk of littering. The higher activity levels in the area late at night, due to the presence of other late night licensed premises, would also, conversely, ensure that there is a greater level of surveillance generally in the area.
212. Overall, the proposed and additional required mitigation measures are considered sufficient to adequately mitigate any negative cumulative impacts.

Amendment to permit preamble and other conditions

Permit preamble

213. Since the permit was issued, the Planning and Environment Amendment Regulations 2024 (Amendment Regulations) were approved on 8 October 2024 and brought into effect on 1 December 2024. These regulations stipulate, amongst other things, the format of permit preambles.
214. However, since the original permit was issued on 15 September 2015, a number of changes to the Yarra Planning Scheme have occurred, including: introduction of Design & Development Overlay (Schedule 26) over the subject site; removal of particular provision Clause 52.07 (Loading and unloading of vehicles), which was a permit trigger in the

original permit; changes to Clause 52.06 (Car Parking), including the changes to the exemptions and rates for car parking provision; and changes to the land use terms definitions (with “tavern” being replaced with “bar”).

215. In this instance it is considered prudent to maintain the permit preamble in its current format and simply update it to reflect the proposed change (i.e. the change to the type of liquor licence) as proposed by the applicant as due to the number of changes to the Scheme it is impractical to retrospectively list relevant permit triggers.
216. Therefore, the permit preamble will be modified from:

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

- *Sale and consumption of liquor (on-premises licence) for up to 422 patrons.*
- *Buildings and works*
- *Advertising signage*
- *Reduction of the car parking requirements.*
- *Waiver of the loading requirements.*

To (changes in bold text):

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

- Sale and consumption of liquor (**late night (on-premises) licence**) for up to 422 patrons.
- Buildings and works.
- Advertising signage.
- Reduction of the car parking requirements.
- Waiver of the loading requirements.

Other Condition Changes

217. In addition to the changes to conditions proposed to reflect the modified operational parameters; and the further conditions outlined in the body of the report to address off-site amenity and corrections to documentation, some additional changes to conditions are required to facilitate the amendment, as follows:

- (a) Existing permit expiry condition (20(c)) updated to provide twelve months for commencement of the extended hours for sale and consumption of liquor; and
- (b) Re-numbering of conditions will be required to reflect the insertion of additional conditions to give effect to the proposal (this report refers to existing permit condition numbering for clarity).

Other Objector Concerns

218. Key objector concerns have been addressed in the assessment above. Other matters raised are addressed as follows.

- (a) *Noise, including from music (both internal and from the first floor terrace), patrons (inside and outside the venue and in streets surrounding the premises) and from emptying glass into bins after closing (existing issues will be exacerbated):*

Music, patron noise and noise from emptying of bottles into bins is addressed in detail in the assessment. The emptying glass into bins after closing would be a breach of permit conditions which limit the time during which this can occur and would be an issue for planning enforcement;

- (b) *Anti-social behaviour from patrons within and beyond the premises (existing issues will be exacerbated), including various offensive behaviour in the surrounding area, and throwing of bottles/objects from the first floor terrace:*

Of the concerns listed above, many cannot be directly attributed to the subject site as they have effects on the wider area. In terms of the throwing of items from the first floor terrace, this has been reported in one objection and the requirement for the continued presence of security on the site would help to ensure that this type of incident does not occur;

- (c) *Patrons congregating in residential streets to catch taxis/rideshare vehicles (current problem will be exacerbated):*

It is inevitable that dwellings located near a Major Activity Centre and Core Entertainment Precinct would experience some impact from patrons moving through the area or waiting for taxis / rideshare vehicles. However, as the site fronts Swan Street (southern side) which is a main thoroughfare and area of activity and patrons would have to cross the road to get to the nearest residential side street (Dock Street) it is more likely patrons would await taxis and rideshare vehicles on Swan Street, particularly during later hours of the night when there would not be as much competition for parking spaces. As there are a number of licensed premises in the area, including the Richmond Social located at the corner of Dock Street and Swan Street, a direct connection between people waiting for taxis/rideshare vehicles and the subject site is difficult to make;

- (d) *The venue already breaches the conditions of permit and endorsed documents (e.g. Venue Management Plan) in relation to music noise, requirement to provide signage at exits; poor crowd management; patron number limits exceeded; no provision of an after hours number on their website and do not follow the nominated complaints procedure:*

In relation to the above complaints, the applicant has advised that signage is displayed next to exits as required. In relation to other concerns, the most recent complaints appear to have related mainly to music noise and some patron noise and this has been addressed in conditions. The requirement for an after hours number is still retained in the Venue Management Plan and can be enforced;

- (e) *Acoustic report appears to be inaccurate in relation to music (music is above background noise level under existing conditions):*

The current acoustic report only stipulates that music to the outdoor area (first floor balcony/terrace) is required to be kept to background noise level. This is not proposed to be altered as part of the amendment;

- (f) *Extending hours will strain law enforcement:*

There is no evidence that the proposed extended hours will require additional police resources; and

- (g) *Another late night venue is not needed – there are already others close by:*

The need or demand for a specific business is not a relevant planning consideration.

Conclusion

219. The proposed amendment is consistent with supporting Yarra's night time economy in an area that is a preferred location for larger capacity licensed premises and entertainment venues and will not result in unreasonable adverse off-site amenity impacts.
220. Subject to the conditions recommended, the proposal will achieve an acceptable outcome having regard to the relevant objectives, strategies and policies of the Yarra Planning Scheme.

Legal and Legislative Obligations

Conflict of interest disclosure

221. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
222. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.


Report Attachments

1. 5.2.1 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Site Context Map
2. 5.2.2 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Planning Permit History and Background
3. 5.2.3 PL N 141208 - 214 - 216 Swan Street Richmond - Planning Permit (Amended)
4. 5.2.4 PLN14/1208.04 - 214 - 216 Swan Street Cremorne - Endorsed Plans
5. 5.2.5 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Endorsed Acoustic Report
6. 5.2.6 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Decision Venue Management Plan
7. 5.2.7 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Decision Acoustic Report
8. 5.2.8 PLN14/1208.04 - 214 - 216 Swan Street Richmond - Referral advice

5.3. – PLN24/0748 - 231 Victoria Street, Abbotsford

Author Corey Wooldridge – Senior Statutory Planner
Authoriser General Manager City Sustainability and Strategy

Executive Summary

	
Property	231 Victoria Street Abbotsford
Ward	Langridge
Application number	PLN24/0748
Proposal	Use of the land as a Rooming house
Zoning & Overlay/s	<ul style="list-style-type: none"> - Commercial 1 Zone (C1Z) - Heritage Overlay – Schedule 53 (HO53) - Design and Development Overlay – Schedule 2 and Schedule 22 (DDO2 and DDO22) - Development Contributions Plan Overlay – Schedule 1 (DCPO1)
Strategic setting	Victoria Street Major Activity Centre
Submissions	8 objections and 1 submission in support
Key reasons for support	<ul style="list-style-type: none"> - Provision of diverse housing within an activity centre - Proximity to public and active transport options
Recommendation	<p>That Council issues a Notice of Decision to Grant a Planning Permit, with conditions.</p> <p>Key conditions include:</p> <ul style="list-style-type: none"> - Amended plans to show existing security gates; and - Amended waste management plan to provide further details for waste rates and collections.
Contact Officer	Corey Wooldridge, Senior Statutory Planner

Officer Recommendation

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN24/0731 at 231 Victoria Street Abbotsford for:

Control	Clause	Matter for which the permit has been granted
Commercial 1 Zone	34.01-1	Use of the land as a Rooming house

subject to the following conditions:

1. Before the use 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 must be generally in accordance with the decision plans prepared by T S Building Design, Sheet no. 1 – 10 Rev. A, and dated 3 December 2024 but modified to show:
 - (a) The existing gates (including any swing function) along the northern boundary to secure the car parking area of the building, including annotation as to how these will be secured;
 - (b) Any requirements of Condition 5 (Rooming House Management Plan); and
 - (c) Any requirements of Condition 7 (Waste Management Plan).
2. The use 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. No more than seventeen (17) people are permitted to be housed on the land at any one time (including any caretaker).
4. No more than one person may occupy one bedroom.

Rooming House Management Plan

5. Concurrent with the submission of amended plans pursuant to Condition 1, a Rooming house management plan must be submitted to and approved by the Responsible Authority. When approved, the Rooming house management plan will be endorsed and will form part of this planning permit. The management plan must include, but not be limited to, the following matters:
 - (a) Limitation on the maximum number of bedrooms and residents in the Rooming house to seventeen;
 - (b) Details of any caretaker arrangement;
 - (c) Allocation and management of on-site car parking exclusively and efficiently for the residents, in a way that ensures it will be efficiently used by residents residing in the subject premises and shall not be leased, sold or used for any other purposes;
 - (d) Supervision of residents within the development including measures to limit noisy and anti-social behaviour and address any issues arising;
 - (e) Maintenance of the building and surrounds;

- (f) Security of the building and surrounds;
 - (g) Management of communal spaces, including any areas to be set aside for smoking;
 - (h) Signage to be displayed on the building to provide 24-hour telephone contact numbers;
 - (i) The storage of garbage and recyclables and waste collection; and
 - (j) Provision of a copy of the Rooming house management plan clearly displayed in a prominent location within the rooming house for residents to clearly read.
6. The provisions, recommendations and requirements of the endorsed Rooming house management plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

7. Concurrent with the submission of amended plans pursuant to Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by John Chow and submitted 10 December 2024, but modified to include:
- (a) Date and revision of the management plan;
 - (b) Types of waste generated and generation rates;
 - (c) Further details on waste storage area, being indicative location of all bins and hard waste;
 - (d) Details on waste collection and disposal; and
 - (e) Details as to collection of other waste types, such as e-waste.
8. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

General

9. The use must at all times comply with the noise limits specified in the Environment Protection Regulations under the *Environment Protection Act 2017* and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.
10. 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.
11. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or between 9am and 10pm on a Sunday or public holiday.
-

12. This permit will expire if:

- (a) the use is not commenced within two years from the date of this permit; or
- (b) the use is discontinued for a period of two years.

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

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.

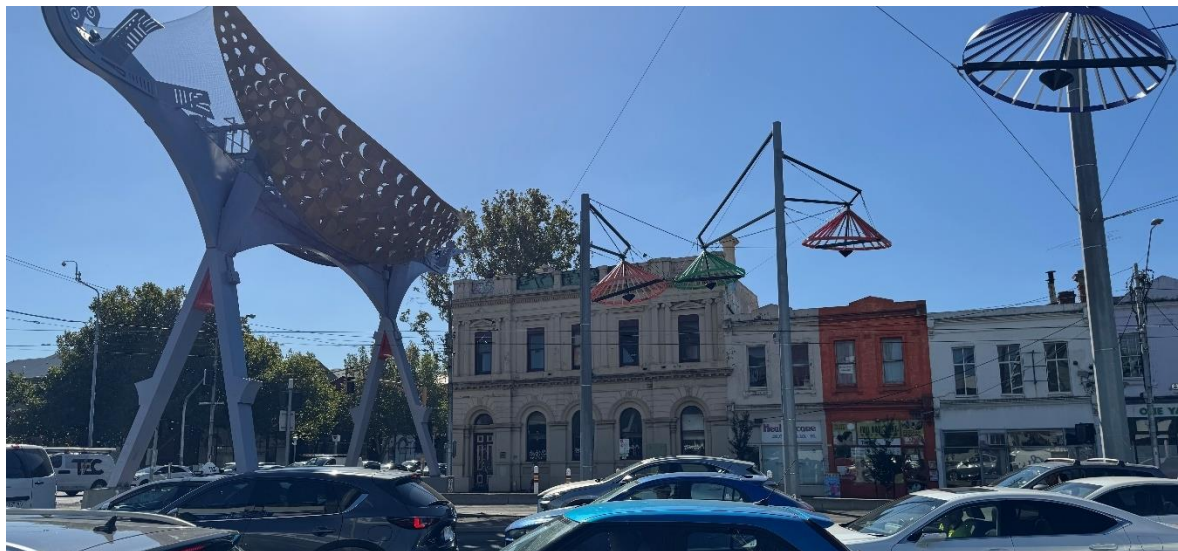
These premises will be required to comply with the *Public Health and Wellbeing Act 2008*. The use must not commence until registration has been granted by Council's Health Protection Unit.

History and Background

1. The site has no recent planning history.

Site Context

2. The subject site is located on the corner of Victoria Street and Hoddle Street within Abbotsford. It has a frontage to Victoria Street of approximately 18.5m and a frontage to Hoddle Street of approximately 33m. This results in a site area of 610.5sqm.
3. Located on the site is the former State Savings Bank building which is graded as Individually significant within its own heritage overlay (HO53). According to the Allom and Lovell Building Citation, 1998: *the building was constructed in 1884 and is a good example of the Italianate palazzo style, typical of bank premises in the late 19th century. The building is a notable element in the streetscape, occupying a prominent corner site at the intersection of Hoddle and Victoria Streets.*





**Figure 1: Subject site as viewed from Victoria Street (top) and Hoddle Street (bottom)
(Source: Planning officer, April 2025)**

4. There is an area of open space (concreted / hardstand) to the rear of the site. This area is bound by masonry fencing / walls with a chain link gate preventing entry by the public to this area.
5. The building has been previously used as office space, and according to the applicant submission, most recently as a rooming house (although no planning permit has previously been granted by the City of Yarra). More specifically, the applicant has advised that the current owners bought the property in 2019, and used it as a rooming house until around 2023. They ceased the use at the time due to the condition of the property and at that time determined to seek a planning permit for the use and to undertake the internal repair works. The current owners understand that before they purchased the property, it was already used as a rooming house.
6. A review of Council's building, planning compliance and health protection records indicate that there have not been any complaints received in relation to use of the land. The health protection team have further confirmed that the property has never been registered as a rooming house.

Surrounds

7. The western end of the Victoria Street activity centre is an established commercial area and is visually separated from the more fine-grain traditional retail strip located east of the Victoria Street railway overpass/bridge.
8. This stretch of the Victoria Street is characterized by a mix of double storey commercial buildings including the double storey North Richmond Station building along Victoria Street. In the immediate background to this stretch of the Victoria Street activity centre is office and industrial land to the north and west, as well as residential land to the south and east.

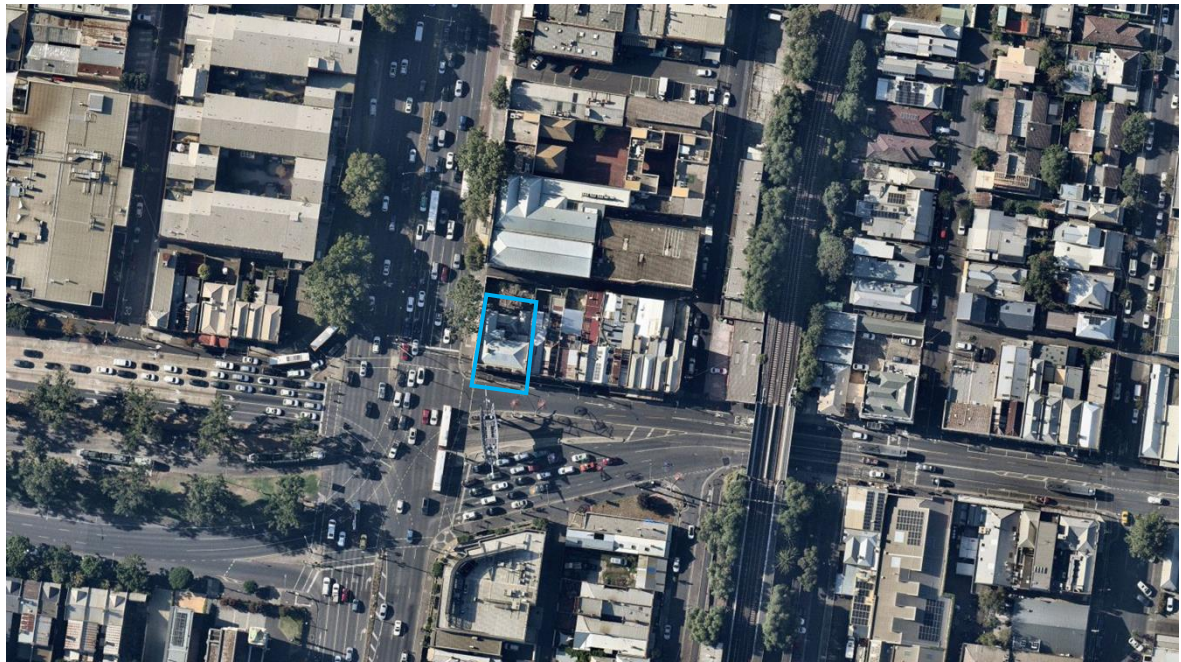


Figure 2: Aerial imagery of the subject site (blue) and surrounding land (Source: Nearmap, 7 March 2025)

9. Immediately to the north of the subject site is No. 2-8 Hoddle Street. This is an office building located within the Commercial 2 Zone (C2Z). It is located on the other side of the rear right-of-way which provides access to the adjoining lots between Hoddle Street and Ferguson Street.
10. Immediately to the south of the subject site is Victoria Street. This is a major east-west roadway and is zoned as Transport Zone 2. Beyond Victoria Street to the south are dwellings located adjacent to the rail viaduct.
11. To the immediate east of the subject site are a row of double storey, Victorian-era shops fronting Victoria Street, located in the Commercial 1 Zone.
12. To the immediate west of the subject site is Hoddle Street. This is a major north-south roadway and is zoned as Transport Zone 2. Beyond Hoddle Street to the west are commercial and light industrial uses located within the suburb of Collingwood.
13. The site has excellent access to services and facilities, including:
 - (a) Immediate access to the Victoria Street activity centre;
 - (b) The North Richmond Station, located 75m from the subject site;
 - (c) The Victoria Street tram services, located 90m from the site;
 - (d) The Hoddle Street bus services, located adjacent to the site; and
 - (e) The Melbourne CBD, located approximately 2km from the site.

Proposal

14. The proposal is for use of the land as a Rooming house, with details as follows:
 - (a) A total of 17 rooms / beds, 2 at ground floor, 7 at first floor and 8 at second floor;

- (b) Each floor is serviced by bathrooms: 2 at ground floor, 3 at first floor and 2 at second floor;
 - (c) Kitchens and common spaces are located at ground and first floors; and
 - (d) A total of 5 car parking spaces are located in the rear section of the subject site with access from the adjacent laneway.
15. The applicant has indicated that there would be a maximum of 17 residents (one per bedroom).
16. There is no demolition or external works proposed as part of this planning permit application. All works are internal, which do not require a planning permit.



Figure 3: Ground floor layout



Figure 4: First floor layout



Figure 5: Second floor layout

Statutory controls

17. The table contained in the Officer Recommendation sets out why a planning permit is required for this matter.
18. The following Clauses of the Yarra Planning Scheme are relevant to the proposal:
- (a) **Clause 34.01 – Commercial 1 Zone:**
 - Pursuant to Clause 34.01-1, the use of the land for a Rooming house is a Section 2 – Permit required use as the frontage at ground floor level exceeds 2 metres and it does not meet the requirements of Clause 52.23-2.
 - Pursuant to Clause 73.03, the definition of Rooming house is '[I]and used for a rooming house as defined in the Residential Tenancies Act 1997'.
 - Pursuant to Clause 73.04-1, Rooming house is nested within Residential building, which is nested within the broader Accommodation category.
 - (b) **Clause 43.01 – Heritage Overlay – Schedule 53:**
 - There are no assessable works being undertaken within the Overlay and therefore it is no planning permit required under the Overlay, and it is not relevant to this assessment.
 - (c) **Clause 43.02 – Design and Development Overlay – Schedules 2 and 22:**
 - There are no assessable works being undertaken within the Overlay and therefore it is no planning permit required under the Overlay, and it is not relevant to this assessment.
 - (d) **Clause 45.06 – Development Contributions Plan Overlay – Schedule 1:**

- As there is no increase in demand units, the requirements of the DCPO1 do not apply to this planning permit application.

(e) **Clause 52.06 – Car parking:**

- Pursuant to Clause 52.06-2, before a new use commences the required car parking spaces must be provided on the land as set out at Clause 52.06-5. The following table outlines the car parking requirements associated with the application:

Use	Size	Statutory Parking Rate*	No. Spaces Required	No. Spaces Allocated	Reduction sought
Rooming house	17 bedrooms	1 to each four bedrooms	4	5	0
Total			4	5	0

*Site is within the Principal Public Transport Network – Column B parking rates apply

- Given the above, a reduction in the statutory car parking rate is not required.

(f) **Clause 52.23 – Rooming House:**

- Clause 52.23 does not specifically trigger a planning permit for a Rooming House or contain any policy or decision guidelines. Rather, it exempts certain Rooming houses from requiring a planning permit in certain zones if certain requirements are met. It does not contain any relevant provisions for the assessment of Rooming house applications.
- The proposed use of the land does not meet the exemption requirements for a Rooming house as set out at Clause 52.23-2 as:
 - It does not meet the conditions opposite the use 'rooming house' in the table of uses at Clause 34.01-1.
 - The total floor area of the buildings on the land exceeds 300 square metres.
 - The building will have the capacity to accommodate more than 12 persons (17 bedrooms).
 - The building will contain more than 9 bedrooms (17 bedrooms).

(g) **Clause 52.34 – Bicycle facilities**

- Pursuant to Clause 52.34-1, a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.
- Pursuant to Table 1 to Clause 52.34-5, a Residential building other than specified in this table must provide 1 bicycle space for residents and 1 bicycle space for visitors in developments of four or more storeys, to each 10 lodging rooms.
 - As the development does not exceed four storeys, the requirements of Table 1 at Clause 52.34-5 do not apply.

(h) **Clause 62.02 – Buildings and works**

- Pursuant to Clause 62.02-2, the *internal rearrangement of a building or works provided the gross floor area of the building, or the size of the works, is not increased and the number of dwellings is not increased* does not require a planning permit unless specifically required by the planning scheme. No relevant clause of the planning scheme requires a permit for internal rearrangement. This exemption therefore applies to this application; and
- (i) *Clause 65 – Decision guidelines:*
 - These guidelines set out the relevant matters to be considered, as appropriate, before deciding on an application or approval of a plan.

Internal and External Consultation

Advertising

19. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by two (2) signs displayed on the Victoria Street and Hoddle Street frontages.
20. Council received eight (8) objections, on the following key grounds:
 - (a) Increase to crime within the area, including anti-social behaviour and organised crime;
 - (b) Inappropriate location for use, due to significant location at the gateway to Victoria Street and location within proximity to the Medically Supervised Injecting Room (MSIR);
 - (c) Lack of detail and consideration by the applicant as to the operations and operational impacts of the use;
 - (d) Exposure of tenants to drug access;
 - (e) Negative impact of the use on local businesses;
 - (f) The use will be near childcare centres;
 - (g) Negative impact on local community due to tenant behaviour;
 - (h) Increase in vulnerable persons within proximity to well-known drug activity areas and the MSIR; and
 - (i) Proposed design resulting in habitable rooms along the site boundaries.
21. One (1) letter of support were received, on the following key grounds:
 - (a) History of the building providing low-cost accommodation;
 - (b) No external works being undertaken; and
 - (c) Proposal would allow the building to be brought up to modern standards.
22. A planning consultation meeting was not held.

Internal and external referrals

23. The proposal was not required to be referred to any external agencies and was referred to the following internal business unit:

Internal Business Unit/ External consultant	Comments
Engineering	<p>Supports, subject to conditions which have been included in the recommendation.</p> <p>Key condition seeks to provide clarity on the existing gates which are located at the entrance to the car park. This must be shown on amended plans.</p>

Policy Implications

Planning Policy Framework (PPF)

24. The following policies are of most relevance to this application:

- Clause 2 - Municipal Planning Strategic, including:
 - Clause 02.01 – Context
 - Clause 02.01-9 – Transport
 - Clause 02.02 – Vision
 - Clause 02.03 – Strategic Directions
 - Clause 02.03-1 – Settlement
 - Clause 02.03-5 – Housing
 - Clause 02.04 – Strategic Framework Plan
- Clause 11 – Settlement
 - Clause 11.03 – Planning for places
 - Clause 11.03-1S – Activity centres
 - Clause 11.03-1L – Activity centres
- Clause 13 – Environmental risks and amenity:
 - Clause 13.05 – Noise
 - Clause 13.05-1S – Noise management
 - Clause 13.07 – Amenity, human health and safety
 - Clause 13.07-1S – Land Use Compatibility
 - Clause 13.07-1L-01 – Interfaces and Amenity
- Clause 16 – Housing:
 - Clause 16.01 – Residential development
 - Clause 16.01-1S – Housing supply
 - Clause 16.01-1R – Housing supply
 - Clause 16.01-1L – Location of residential development
 - Clause 16.01-1L-01 – Housing diversity
- Clause 18 – Transport:
 - Clause 18.01 – Land use and transport
 - Clause 18.02 – Movement networks

Officer Assessment

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

- (a) Strategic support;
- (b) Commercial 1 Zone;
- (c) On-site amenity impacts;
- (d) Car parking and traffic;
- (e) Other matters; and
- (f) Other objector concerns.

Strategic Support

26. The appropriateness of the proposed use is guided by the purpose of the C1Z and the relevant land use provisions of the PPF.
27. Amongst other things, the purpose of the C1Z is '*[t]o create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses*'.
28. As identified earlier in the report, under the Clause 02.04 Strategic Framework Plan and the Clause 11.03-1L Victoria Street Activity Centre Plan the site is located within the Victoria Street Activity Centre. More specifically, the site is located within the DDO22 Victoria Street Activity Centre – Precinct 1 Victoria Street West.
29. The objective of Clause 11.03-1S Activity centres is to encourage the concentration of *major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*
30. At Clause 11.03-1L Activity centres, the objective is *[t]o manage a sustainable network of activity centres that facilitate appropriate economic and housing growth and provide attractive places for social and community interaction.*
31. The relevant strategy at Clause 11.03-1L is to:
- (a) *Support development within activity centres that is consistent with the capacity for each centre as identified in clause 16.01-1L (Strategic Housing Framework Plan).*
32. The site is located within a Moderate change area as identified in the Strategic Housing Framework Plan – Richmond, Cremorne and Burnley at Clause 16.01-1L. The use of land as a Rooming house is consistent with the land as a moderate change area and provides for diversity in housing supply within the area.
33. At Clause 16.01-1S Housing supply, the objective is *[t]o facilitate well-located, integrated and diverse housing that meets community needs.*
34. The relevant strategy at Clause 16.01-1S is to:
- (a) *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
35. Overall, the use of the land as a Rooming house has strategic support in this location, where accommodation provides for housing diversity with nearby links to public and active transport options.

Commercial 1 Zone

36. The use of the land as a Rooming house is a permit required use as it does not meet the exemptions at Clause 52.23-2 and the frontage at ground floor level is greater than 2m.
37. Despite this, the use of the land for Accommodation (Rooming house is nested within Accommodation) is consistent with the purpose and objectives of the zone and local and state planning policy. As discussed above.
38. The decision guidelines for new uses within the zone at Clause 34.01-8 are as follows:
 - (a) *The effect that existing uses may have on the proposed use;*
 - (b) *The drainage of the land;*
 - (c) *The availability of and connection to services;*
 - (d) *The effect of traffic to be generated on roads; and*
 - (e) *The interim use of those parts of the land not required for the proposed use.*
39. The proposed use of the land as a Rooming house will appropriately achieve the objectives of the zone, as guided by the above decision guidelines for use.
40. The proposed use achieves an acceptable outcome with regard to effect of existing uses on the proposed use. This is discussed in the 'On-site amenity impacts' section below.
41. The proposal does not include any new built form and as such, the drainage of the land would be unchanged from the existing situation.
42. The land is appropriately connected to existing services or will otherwise be able to be readily connected to any services that are not present (i.e. internet).
43. The effect of traffic to be generated is acceptable (compared with existing traffic in the immediate area) as the site will provide for five car parking spaces and is within walking distance to numerous active and public transport options.
44. There is no part of the land that would not be used by the proposed use.
45. The use of the land as a Rooming house, while requiring a planning permit due to the size of the frontage, does not have specific performance standards or operational specifics in the planning scheme.
46. The operational specifics of Rooming houses are largely controlled by other legislation such as the Building Regulations 2018, Residential Tenancies Act 1997 and associated Residential Tenancies (Rooming House Standards) Regulations 2023, as well as the Public Health and Wellbeing Act 2008 and associated Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020.
47. The above legislation deals with maintenance of facilities, maximum number of persons per room, as well as minimum standards for rooming houses (bathroom, kitchen and bedroom requirements).
48. The relevant legislation is enforceable without regard to any planning permit which has been issued over the land. Notwithstanding the above, a condition will be placed on any permit if issued for the preparation of a Rooming house management plan outlining specific operational arrangements. Conditions are also recommended to restrict the number of residents to 17 and to limit one resident per bedroom.

On-site amenity impacts

49. Further to the above considerations, Council must consider the potential amenity impacts on the surrounding area and interfacing land uses. The key assessment tool to guide these considerations is Clause 13.07-1L-01 Interfaces and amenity.
50. Clause 13.07-1L-01 Interfaces and amenity applies to accommodation within a non-residential zone. Amongst other things Clause 13.07-1L identifies the need to support the growth and operation of surrounding non-residential development and uses. It seeks to ensure that new residential development mitigates against potential amenity impacts from non-residential uses. Its purpose is not to mitigate existing uses from new residential uses.
51. Clause 13.07-1L-01 provides various relevant strategies and policy guidelines for residential use and development relating to noise, fumes, air emissions, light spill, and vibration and overlooking. The following is an assessment against these strategies and policy guidelines, as relevant.

Noise

52. The strategies relating to noise include:
- (a) *Locating noise-sensitive rooms (in particular, bedrooms) and private open space away from existing and potential noise sources, and where appropriate, incorporate other measures such as acoustic fencing, landscaping, acoustic glazing to balconies and windows and building setbacks; and*
 - (b) *Providing for air ventilation that avoids compromising acoustic amenity when windows are closed.*
53. The noise sensitive rooms within the building are located across all levels. Those with windows, face Hoddle Street and Victoria Street which are major road thoroughfares within Metropolitan Melbourne.
54. Given the reuse of the existing building, the context of the site and the heritage importance / protections, it would be impractical to require the retrofitting of windows with acoustic treatments.
55. Overall, it is considered that there will be no adverse acoustic amenity impacts to the tenants of the building.

Fumes, air emissions, light spill and vibration

56. The relevant strategies relating to fumes and air emissions include:
- (a) *Locate fume and air emission generating uses (including plant and equipment) away from residential uses or, where appropriate, provide a reasonable buffer; and*
 - (b) *Ensure that use and development with potential air quality impacts, including odours and emissions, do not adversely affect the amenity of the surrounding area.*
57. As stated, the proposal is for the use of the land as a Rooming House. This is not expected to result in adverse air emissions or air quality impacts for the nearby premises, nor will it result in adverse air emissions or air quality to the proposed use. The surrounding land is within the C1Z and C2Z and are largely retail or light industrial / warehouse in nature.

Overlooking

58. The relevant strategy relating to overlooking is:

- (a) *Minimise the potential for overlooking from existing business or industrial premises into habitable room windows and private open space areas, through appropriate siting, setbacks, articulation, screening and landscaping.*

- 59. The land surrounding the subject site is located within the C1Z or C2Z. All habitable rooms within the building face the Hoddle Street or Victoria Street frontages, with one window to the ground floor kitchen facing the rear right-of-way. There would be no new views from adjoining commercial uses within 9 metres.
- 60. Overall, there is no potential for unreasonable overlooking from existing commercial or industrial premises into the habitable room windows.

Storage and waste

- 61. The proposed use of the site as a Rooming house is not expected to result in an unreasonable level of waste or storage requirements that are not anticipated within the zone (i.e. food and drink premises are permit exempt uses within the C1Z).
- 62. The extent of waste generated by the use would be similar to that of a commercial use. The submitted waste management plan does not provide all of the detailed information typically required by Council. Therefore a condition is recommended requiring provision of an amended waste management plan to be provided to the satisfaction of the Responsible Authority.
- 63. Due to the nature of the proposed use and the location of the bin store at the rear of the site, relatively central to the overall site, there will be no foreseeable adverse off-site odours from commercial waste.
- 64. The reuse of the existing building for a Rooming house will not result in adverse impacts from the adjoining uses as discussed above. The new use will also not result in adverse impacts to existing uses. The impacts of the use are minimal given the surrounding land uses are commercial, largely relating to noise or waste. These have been adequately addressed by conditions, as much as the planning scheme is able to manage or address these issues.
- 65. Overall, there are no foreseeable adverse on- or off-site amenity impacts associated with the proposal.

Car parking and traffic

- 66. The proposed parking and access arrangements include 5 car spaces which exceeds the statutory requirement of 4 car spaces. Therefore, the number of car parking spaces provided is not a relevant part of this assessment.
- 67. Vehicle access to the car park will be from the rear right-of-way to the north of the subject site. Council's Engineering unit reviewed the proposed layout and recommended the inclusion of conditions to show all infrastructure within the car parking area (i.e. gates).
- 68. An assessment of the proposed design of the car park against the relevant requirements of Clause 52.06-9 is as follows:

Design standard 1 – Accessway

- 69. The standard is satisfied. The accessway to the car parking area will have a minimum width as follows:
 - (a) Right-of-way entrance – 5.5m

- 70. The entrance is satisfactory.
- 71. The swept path analysis undertaken shows that the users of the car spaces are able to enter the on-site spaces safely, and manoeuvre on-site to then exit from the site in a forward manner in accordance with the requirements of the Scheme.
- 72. The swept path diagrams for the B85 design vehicle demonstrating entry and exit movements into and out of the site are considered satisfactory.

Design standard 2 – Car parking spaces

- 73. The dimensions of the 90-degree car spaces (3 metres by 4.9 metres) with access widths of 5.5m satisfies Design standard 2 – Car parking spaces.

Design standard 3 – Gradient

- 74. The standard requires that accessway grades must not be steeper than 1:10 (10 per cent) within 5 metres of the frontage to ensure safety for pedestrians and vehicles. The design must have regard to the wheelbase of the vehicle being designed for; pedestrian and vehicular traffic volumes; the nature of the car park; and the slope and configuration of the vehicle crossover at the site frontage.
- 75. The existing rear yard area is at the same level as the right-of-way to the rear of the site.

Design standard 4 – Mechanical parking

- 76. Not applicable to the proposal.

Design standard 5 – Urban design

- 77. The standard requires that the design of car parks must not visually dominate public spaces and consider their use as entry points to the site. The design of new internal streets in developments must maximise on-street parking opportunities.
- 78. The proposed car parking is located to the rear of the subject site away from Victoria Street frontage. The car park is also removed from views to Hoddle Street through the existing masonry fence.

Design standard 6 – Safety

- 79. The standard is satisfied. The car park will be appropriately lit, and secure access will be provided as per current site conditions (i.e. lockable chain link gate).

Design standard 7 – Landscaping

- 80. There is no landscaping associated with the proposal. This is consistent with commercial, private purpose-built car parking facilities.
- 81. Overall, the car parking arrangements and accessway layout are appropriate subject to conditions.

Other matters

- 82. The following matters are also of relevance to this application:
 - (a) In order for completeness of plans and security of the site, the existing chain link fence is required to be shown on the plans. This will be via a condition of permit (for amended plans).

Objector Concerns

- 83. Key objector concerns have been addressed in the assessment above. Other matters raised are addressed as follows:

- (a) *Increase to crime within the area, including anti-social behaviour and organised crime.*

Neighbourly relations, general safety, the tidiness of a development and whether a development is tenanted or owner occupied is not a relevant consideration in assessing an application under the provisions of the *Planning and Environment Act 1987* or the *Yarra Planning Scheme*.

The *Planning and Environment Act* and *Yarra Planning Scheme* do not give consideration to people's tenure status.

- (b) *Inappropriate location for use, due to significant location at the gateway to Victoria Street and location within proximity to the Medically Supervised Injecting Room (MSIR).*

The subject site is located within an activity centre which encourages a mix of land use types (including accommodation). The scheme also calls for a diverse range of housing including rooming houses to ensure that members of the community have access to appropriate housing stock for their needs.

The use of the land does not include new buildings and works and as such, would not preclude further redevelopment of the site in the future in accordance with the *Design and Development Overlay – Schedule 22*.

The MSIR is a public health service which is used by various community members both within and outside of the Municipality. It's proximity to the subject site is not a relevant planning consideration.

- (c) *Lack of detail and consideration by the applicant as to the operations and operational impacts of the use.*

The operation and requirements for rooming houses is governed by the *Rooming House Operators Act 2016* and the *Public Health and Wellbeing Act 2008*.

- (d) *Exposure of tenants to drug access.*

The behavior and actions of tenants who choose to reside in the proposed development or in any development is not a relevant planning consideration and cannot be controlled by the planning system.

- (e) *Negative impact of the use on local businesses.*

The behaviour and actions of tenants who choose to reside in the proposed development or in any development is not a relevant planning consideration and cannot be controlled by the planning system.

- (f) *The use will be near childcare centres.*

The nearest childcare centre to the subject site is the Guardian Early Learning Centre on Hoddle Street, approximately 300m to the south. The proximity of the subject site to a childcare centre is not a relevant planning consideration.

- (g) *Negative impact on local community due to tenant behaviour.*

The behaviour and actions of tenants who choose to reside in the proposed development or in any development is not a relevant planning consideration and cannot be controlled by the planning system.

- (h) *Increase in vulnerable persons within proximity to well-known drug activity areas and the MSIR.*

The behaviour and actions of tenants who choose to reside in the proposed development or in any development is not a relevant planning consideration and cannot be controlled by the planning system.

As noted earlier, the MSIR is a public health facility which provides a health service to various community members.

- (i) *Proposed design resulting in habitable rooms along the site boundaries.*

Habitable room windows along the frontages of the building will provide passive surveillance to the streets, similar to that of shop-top dwellings found in many Victorian-era commercial buildings, including adjacent to the subject site and does not preclude a permit being granted for the use.

Conclusion

84. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, the proposal provides for additional housing stock within an activity centre and housing diversity for the varying needs of the community.
85. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies.

Legal and Legislative Obligations

Conflict of interest disclosure

86. Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
87. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.


Report Attachments

1. 5.3.1 PLN 240748 - 231 Victoria Street Abbotsford - Site context maps
2. 5.3.2 PLN24/0748 - 231 Victoria Street Abbotsford - Plans
3. 5.3.3 PLN24/0748 - 231 Victoria Street Abbotsford - Waste Management Plan
4. 5.3.4 PLN24/0748 - 231 Victoria Street Abbotsford - Planning Report

5.4. – PLN24/0525 - 8 - 10 River Street Richmond

Author Madeleine Moloney – Senior Statutory Planner
Authoriser General Manager City Sustainability and Strategy

Executive Summary

	
Property	8 – 10 River Street, Richmond VIC 3121
Ward	Boulevard
Application number	PLN24/0525
Proposal	Use of the land for an indoor recreation facility (dance studio) with a maximum of 6 staff and 50 students on-site at any one time; operating from 8am to 10pm (Monday to Friday) and 8am to 9pm (Saturday to Sunday).
Zoning & Overlay/s	<ul style="list-style-type: none"> - Industrial 1 Zone - Design & Development Overlay (Schedule 1) - Development Contributions Overlay (Schedule 1)
Strategic setting	Designated 'local industrial land' and located in located in Victoria Street East Precinct
Submissions	8 objections and 0 submissions in support
Key reasons for support	<ul style="list-style-type: none"> - The proposed dance studio would result in employment opportunities and enhance arts and culture offerings in the municipality - The proposal would not adversely impact amenity of adjacent sensitive residential uses, subject to conditions; and - The use would not adversely impact traffic conditions or overburden available on-street parking and would encourage more sustainable forms of transport by providing bicycle parking infrastructure for staff and students.

Recommendation	<p>That Council issues a Notice of Decision to Grant a Planning Permit, with conditions.</p> <p>Key conditions recommended to:</p> <ul style="list-style-type: none"> - Control of hours of overall operation, staff numbers, student numbers and class times. - Require a post-commencement acoustic report to demonstrate dance class and plant/mechanical equipment noise compliance and include ongoing monitoring procedures.
Contact Officer	Madeleine Moloney, Senior Statutory Planner

Officer Recommendation

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN24/0525 at 8 – 10 River Street, Richmond VIC 3121 for:

Control	Planning Scheme Clause	Matter for which the permit has been granted
Industrial 1 Zone	Clause 33.01-1	To use land for dance studio

subject to the following conditions:

- Before the use 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 must be generally in accordance with the decision plans (drawings entitled: Ground layout, Level 1 Layout and Level 2 Layout and submitted 1 November 2024) but modified to show:
 - The location of the existing air conditioning unit proposed to be 'boxed in' to Studio 2 clearly shown and consistent with the acoustic report submitted by Enfield Acoustics and dated 31 October 2024;
 - The location/extent of the acoustic glazing panels behind the mesh openings associated with Studio 3, consistent with the acoustic report submitted by Enfield Acoustics and dated 31 October 2024; and
 - All notations specifying the acoustic works to Studios 1, 2 and 3 to be clearly identified as "internal acoustic works".
- The use 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.
- All internal acoustic works shown on the endorsed plans must be undertaken prior to the commencement of the use.
- The maximum number of students permitted on the land at any one time is as follows:
 - 20 students:
 - Monday to Friday 8.30am – 3.00pm;

- (b) 50 students:
 - (i) Monday and Wednesday 4.00pm – 9:30pm;
 - (ii) Tuesday 4.00pm – 6.00pm; and
 - (iii) Saturday 8.30am – 5.30pm; and
 - (c) 2 students All other times of permitted operation.
5. No more than 6 staff are permitted on the land at any one time.
6. 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 8.00am – 10.00pm; and
 - (b) Saturday to Sunday 8.00am – 9.00pm.
- Dance classes must not commence before 9am on any day and must not occur after 9:30pm on any day during the permitted operating hours.
7. 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.
8. Within 2 months of the commencement of the use, a post-commencement Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the post-commencement Acoustic Report will be endorsed and will form part of this permit. The post-commencement Acoustic Report be generally in accordance with the Acoustic Report prepared by Enfield Acoustics Pty Ltd and dated 31 October 2024, but modified to include (or show, or address):
- (a) Consistency with permit conditions regarding class time commencement;
 - (b) Confirmation that microphones will not be used to amplify voices;
 - (c) Updates to Section 4.3 and associated recommendations in relation to procedures for assessing/monitoring music noise pre and post commencement of use as per the Revised Acoustic Report prepared by Enfield Acoustics Pty Ltd and dated 13 March 2025;
 - (d) Details of additional background noise monitoring, conducted on a Sunday, and any associated changes to identified noise limits and music noise management procedures;
 - (e) Post-commencement acoustic testing of noise levels from dance classes at the nearest sensitive receivers conducted to demonstrate compliance with the identified noise limits; and
 - (f) An acoustic assessment of mechanical plant noise demonstrating compliance with Part I of the Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) to the nearest noise sensitive uses.
-

9. The provisions, recommendations and requirements of the endorsed post-commencement Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
10. Before the use commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by LID Consulting and dated 29 October 2024, but modified to include:
 - (a) Section 2.12 Waste Vehicle Requirements modified to confirm only a "SRV" vehicle is to be used for waste collection from the site (i.e. deletion of reference to the "MRV" vehicle).
11. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
12. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
13. The use/development must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.
14. 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.
15. 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.
16. This permit will expire if:
 - (a) the use is not commenced within two years from the date of this permit; or
 - (b) The use is discontinued for a period of two years.

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

Notes:

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

History and Background

1. The following historical (pre-2001) planning permit is associated with the site:
 - Planning Permit 4475 was issued by the former City of Richmond on 12 September 1988 For the purpose of constructing buildings and works for change in floor area to existing office/warehouse uses in accordance with the attached endorsed plan(s).
2. No planning permits have been issued for the site from 2001 onwards.

Site Context

3. The site is located on the western side of River Street in Richmond, approximately 35m north of the intersection with North Street. The site has a frontage of approximately 35.4m to River Street and an overall site area of approximately 1217sqm.
4. The site is developed with a (currently vacant) three-storey building at the southern side of the site with an attached single storey building situated at the northern portion of the site, both of brick construction with metal roof. An open car parking area is situated within the frontage and a high vertical metal fence with vehicular gate extends across the River Street frontage (see figures 1 and 2 below).
5. The main pedestrian entry to the building is located on the River Street frontage, at the southern end of the site. Pedestrian entries are also available from within the site and from the south-abutting right-of-way (which also continues north along the western boundary of the site).
6. An open at-grade paved car parking area containing 12 car parking spaces is located at the north-east portion of the site and is accessible via a vehicle crossover from River Street.



Figure 1 - Subject Site viewed from River Street (looking north-west). Source: Planning Officer, January 2025.



Figure 2 - Subject site viewed from River Street (looking south-west), Source: Planning Officer, January 2025.

Surrounds

7. The site is located at the north-east extent of a pocket of industrial zoned land. It has an interface to (general) residential zoned land to the north, east (across River Street) and west (see figure 3 below). The Yarra River is located approximately 75m east of the subject site. The Bridge Road Major Activity Centre, which extends north from Bridge Road, along the River frontage to Commercial 1 Zoned land on the southern side of Crown Street, is located approximately 130m south-east of the subject site.



Figure 3 – Zoning Map showing subject site (blue dashed line) in context of residential (GR22/GR23), Industrial (IN1Z) and Commercial zoned land (C1Z) (Source: Vic Plan)

8. Use and development in the area is reflective of the applicable zoning, with the immediate context as follows (see also the site context map attached to this report):
 - (a) To the north (direct abuttal) and west (across the 3.5m right-of-way) is a residential housing complex (State Government managed social housing) that extends along River Street and Clark Street (with addresses to both streets). It includes a four-storey apartment building and several rows of attached double-storey townhouses and associated open ground level car parking and garden areas. These dwellings are located in the General Residential Zone (Schedule 3);
 - (b) Also to the west (southern portion of the site) is a single-storey industrial building which was formerly occupied by a dance school but is currently vacant. The building is of brick construction and extends to all boundaries and is located in the Industrial 1 Zone; and
 - (c) To the east is River Street a two way local street (15m wide), with parallel parking on both sides (2 hour restricted 7am to 11pm); and on the opposite side are three to four storey residential (apartment) buildings which are located in the General Residential Zone (Schedule 2).
9. To the south (across the 3.5m right-of-way) is the Royston Hotel which is a long-established licensed hotel that includes first floor accommodation (the premises appear to operate under existing use rights). It is located in the Industrial 1 Zone. The Royston Hotel has a General Liquor Licence which allows for a maximum of 200 patrons and trading until 1am. However, it appears that it may currently be trading at more restricted hours of 11pm Tuesday to Thursday, 12 midnight Friday and Saturday and until 10pm on Sundays under existing conditions.
10. The industrial land surrounding the subject site more generally hosts a range of light industrial and commercial uses, including in close proximity to the subject site;
 - (a) a large industrial/commercial complex addressed as 14-16 River Street, occupying land between North Street, Crown Street and River Street which includes a brewery (Mountain Goat Brewery) which is permitted to operate 24/7 under planning permit PL04/0232);
 - (b) a licensed bar/function centre associated with the Mountain Goat Brewery which is permitted (under a separate planning permit PL04/0506) to host up to 150 patron and to operate between 10pm and 12 midnight during the week; and
 - (c) a coffee roaster and licensed café (Veneziano Coffee roasters) approved under planning permit PLN13/0843. The licensed café is permitted to operate up until 9pm seven days a week under the permit for up to 80 patrons, however currently appears to only operate to more limited afternoon hours (3pm). The coffee roasting is permitted to operate to 9pm Monday to Friday, 7pm Saturday and 5pm Sunday.
11. The residential land surrounding the subject site is largely residentially developed, with the exception of a childcare centre (Yarraberg Children's Centre) located north of the subject site at No. 4 River Street.

Proposal

12. The proposal is for use of the land for an indoor recreation facility (dance studio), with the following key details:
 - (a) Operate 8am to 10pm (Monday to Friday) and 8am to 9pm (Saturday to Sunday);

- (b) Classes will not commence until 9am;
- (c) A maximum of 6 staff and 50 students on-site at any one time. However, the number of students will vary considerably over the week and throughout any given day, with further breakdown provided by the applicant as follows:
 - (i) Up to 20 students between 8:30am-3pm, Monday to Friday;
 - (ii) Up to 50 students between 4pm-9:30pm, Mondays and Wednesdays;
 - (iii) Up to 50 students between 4pm-6pm, Tuesdays;
 - (iv) Up to 50 students between 8:30am-5:30pm, Saturdays; and
 - (v) Up to 2 students at other operating times;
- (d) Classes will include jazz, ballet, hip hop, tap, contemporary and lyrical. A sample timetable provided indicates that classes are provided to a range of age groups from children to adults;
- (e) Dance classes will occur in 3 studios, which may operate concurrently;
- (f) There will be breaks between classes to allow for students to leave and arrive;
- (g) A portable speaker to play music will be provided to each studio;
- (h) No microphones will be used to amplify voices;
- (i) No special events (e.g. recitals) will occur on-site; and
- (j) An Acoustic Report prepared by Enfield Acoustics Pty Ltd provides further details of noise emissions and mitigation associated with the use.

Layout of Use

- (k) The layout of the use as shown on the decision plans (see attached plans and figures 4-6 below) is as follows:
 - (i) Three dance studios (ranging between 267sqm and 311sqm floor area each) located at ground floor (Studio 1) in the single storey building; Level 1 (Studio 2) and Level 2 (Studio 3) in the triple-storey building; and
 - (ii) Various other ancillary rooms, such as: a reception area (ground floor); locker rooms (ground floor) and various offices, kitchenettes, toilets, change rooms, storage areas and a “drama room”.
13. The student entry/exit is designated as the main pedestrian entry from River Street. The pedestrian door to “Studio 1” is designated as the bike entry.
- (a) The existing 12 car spaces are to be maintained and used for the dance studio;
 - (b) Bicycle parking will be provided for staff and students in Studio 1, as follows:
 - (i) 8 visitor bicycle spaces (4 hoops); and
 - (ii) 2 secure employee spaces (bicycle locker); and
 - (c) Waste is stored in an enclosure in Studio 1 and is to be collected by private contractor – a Waste Management Plan prepared by LID Consulting provides further details of waste storage, management and collection.

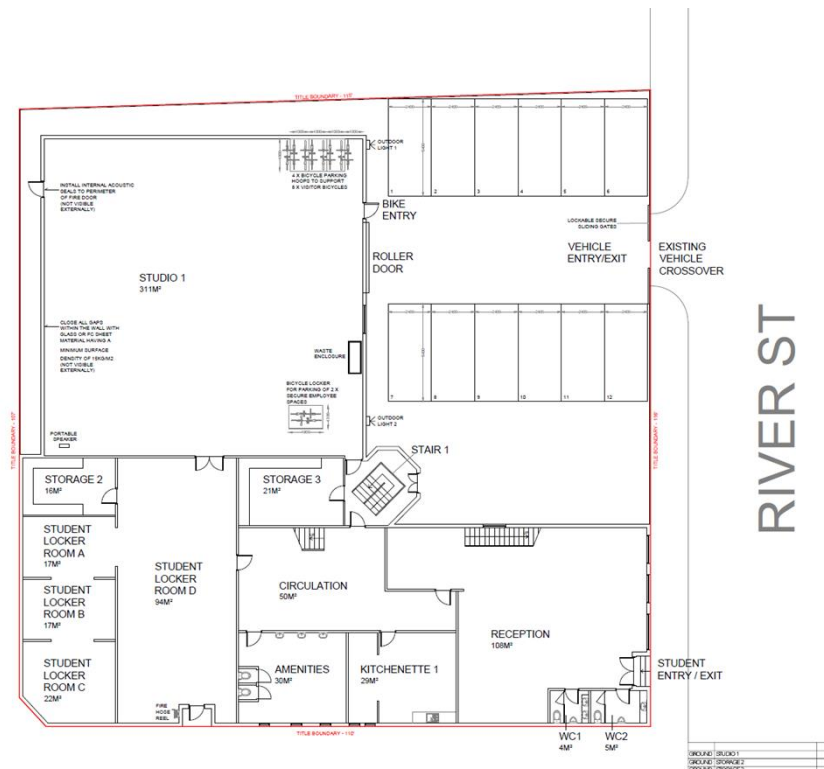


Figure 4 – Proposed ground floor layout (Source: Decision Plans)

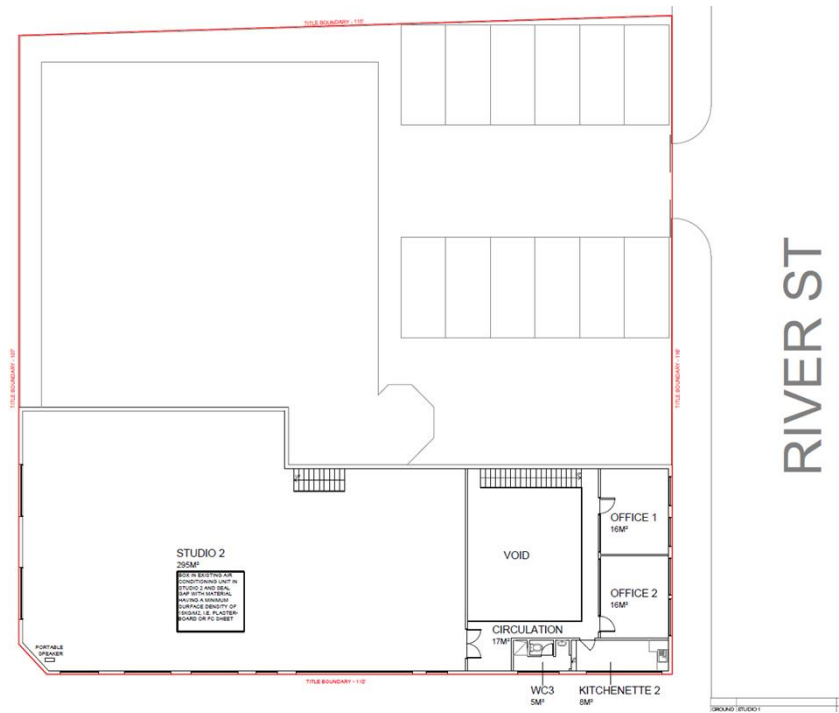


Figure 5 – Proposed level 1 layout (Source: Decision Plans)

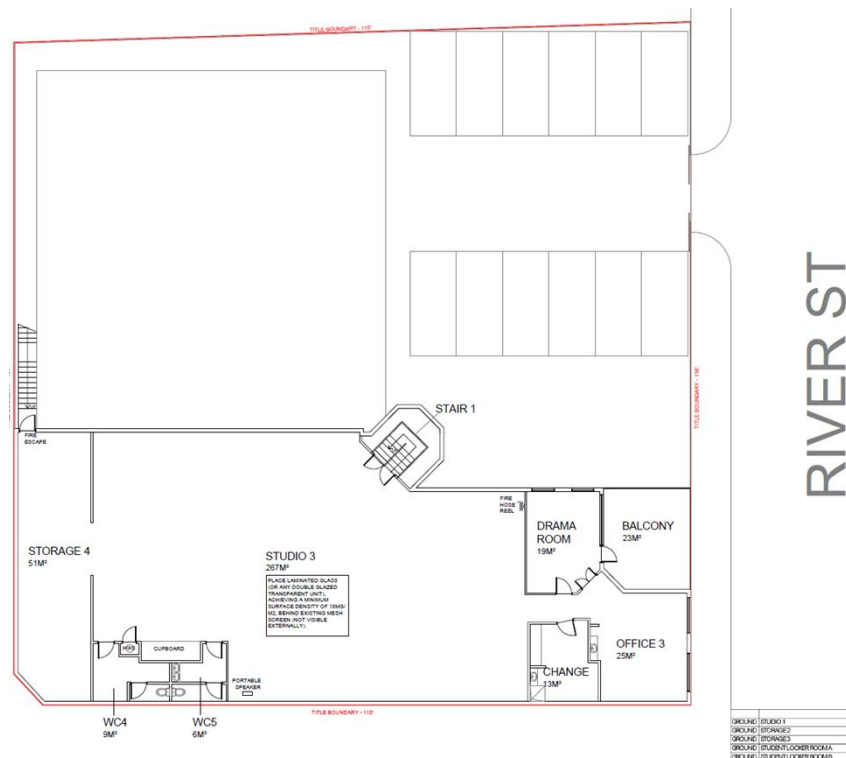


Figure 6 – Proposed level 2 layout (Source: Decision Plans)

Lodgement of additional acoustic information and Revised Acoustic Report

14. In response to matters raised by Council's Acoustic Consultant's review of the Acoustic Report, the following additional information was submitted to Council following advertising:
 - (a) Additional technical acoustic information regarding background noise measurements and details of existing mechanical equipment/plant was provided on 17 January 2025 and 30 January 2025; and
 - (b) A revised Acoustic Report prepared by Enfield Acoustics Pty Ltd submitted to Council on 13 March 2025 (included in attachments) to address outstanding concerns of Council's Acoustic Consultant.
15. The additional information provided on 17 January and 30 January 2025 formed the basis for a second review by Council's Acoustic Consultant; and the Revised Acoustic Report formed the basis for a third review by Council's Acoustic Consultant.
16. The revised Acoustic Report has not been lodged under Section 57A of the *Planning and Environment Act 1987* (the Act), and as such, the advertised Acoustic Report continues to form the basis of the decision. However, the additional measures to assess and determine music noise limits and procedures for monitoring music noise levels, as set out in the revised Acoustic Report, will be considered.

Statutory controls

17. The table contained in the Officer Recommendation sets out why a planning permit is required for this matter.
18. The following Clauses of the Yarra Planning Scheme are also relevant to the proposal:

- (a) **Clause 52.06 – Car Parking** – This clause requires that before a new use commences the number of car spaces specified in the table to Clause 52.06-5 of the Scheme must be provided on-site or, if no rate is specified in the table for a use, provision of car parking on-site is to the satisfaction of the Responsible Authority. As there is no rate specified for a dance studio, car parking provision is to Council's satisfaction. This clause will be considered in the assessment;
- (b) **Clause 52.34 – Bicycle Parking** – The requirements of this clause apply to a new use and set out the bicycle parking spaces and facilities that must be provided for a range of land uses. A permit for a reduction or variation from requirements can be applied for. The table below demonstrates that the required bicycle parking is provided for the proposed use; and

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Minor sports and recreation facility	Maximum of 6 staff 1,494sqm	1 per 4 employees	2 employee spaces	2 employee spaces
		1 to each 200 sqm of net floor area	8 student spaces	8 student spaces
Bicycle Parking Spaces Total			2 employee spaces	2 employee spaces
			8 student spaces	8 student spaces
Showers / Change rooms		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	0 showers / change rooms	0 showers / change rooms

- (c) **Clause 43.02 – Design & Development Overlay (Schedule 1)** – There is no permit trigger relating to land use under the DDO1. No buildings and works are proposed (internal works that do not increase the gross floor area of the building do not require a planning permit). Therefore the requirements of this Clause are not applicable.

Aboriginal Heritage

19. The site is located within an area of Aboriginal Cultural Sensitivity as it is located within 200m of the Yarra River.
20. The proposal is exempt from requiring a Cultural Heritage Management Plan (CHMP) as it does not result in significant ground disturbance (the application does not propose any buildings and works that require a planning permit).

Internal and External Consultation

Advertising

21. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 261 letters sent to surrounding owners and occupiers and by one (1) sign displayed on the River Street frontage.

22. Council received eight (8) objections, on the following key grounds:

- (a) Traffic congestion;
- (b) Insufficient car parking provided on-site and insufficient on-street parking spaces to accommodate overflow;
- (c) Disagree with findings of the car parking survey, in particular:
 - (i) Fewer on-street car spaces are available than stated; and
 - (ii) Car parking survey is insufficient (did not include Thursday or Friday night which are the busiest);
- (d) Public transport will not be utilised to access the site as it is too far away;
- (e) Insufficient space for bicycle and scooter parking on the street and the associated hazard created for pedestrians (including those with disabilities);
- (f) Potential to cause/exacerbate Illegal parking (double-parking, parking across driveways and parking in other private properties);
- (g) Parking restriction changes in River Street are required to better manage car parking associated with existing uses and the proposed use;
- (h) No. 17 Clark St is incorrectly identified as a dance studio – it is currently vacant;
- (i) Noise from operation of dance classes, including specifically from music; and
- (j) Noise from people/groups leaving the venue and car doors slamming, in particular late at night.

23. A planning consultation meeting was not held.

Internal and external referrals

24. The proposal was referred to the following internal business units (see **attachment** for full copies of comments):

Internal Business Unit/ External consultant	Comments
Engineering Services Unit	<ul style="list-style-type: none"> Supported, subject to condition addressing site accessibility by the larger (MRV) waste collection vehicle
Strategic Transport Unit	<ul style="list-style-type: none"> Supported
City Works (waste) Unit	<ul style="list-style-type: none"> Supported
Acoustic Consultant	<ul style="list-style-type: none"> Supported, subject to procedures to monitor noise being implemented, additional acoustic assessment, and post-commencement testing of compliance (based on Revised Acoustic Report and additional information provided by applicant) <p>Note: Three sets of referral comments have been provided by Council's Acoustic Consultant, the above summary represents most recent comments.</p>

25. No referral to any external authorities was required under the Scheme.

Policy Implications

Planning Policy Framework (PPF)

26. The following policies are of most relevance to this application:

- Clause 2 - Municipal Planning Strategic, including:
 - Clause 02.01 – Context:
 - Clause 02.01-8 – Economic Development
 - Clause 02.01-9 – Transport
 - Clause 2.03 – Strategic Directions
 - Clause 02.03-6 – Economic Development
 - Clause 02.03-7 – Transport
 - Clause 02.04 – Strategic Framework Plan
- Clause 11 – Settlement , including:
 - Clause 11.03 – Planning for Places
 - Clause 11.03-6S – Regional and local places
 - Clause 11.03-6L – Victoria Street East Precinct
- Clause 13 – Environmental risks and amenity, including
 - Clause 13.05 - Noise
 - Clause 13.05-1S – Noise Management
 - Clause 13.07 – Amenity, Human Health and Safety
 - Clause 13.07-1S – Land Use Compatibility
 - Clause 13.07-1L – Interfaces and Amenity
- Clause 17 - Economic Development, including:
 - Clause 17.01- Employment
 - Clause 17.01-1S – Diversified Economy
 - Clause 17.01-1R – Diversified economy – Metropolitan Melbourne
 - Clause 17.01-1R – Diversified economy – Metropolitan Melbourne – Inner Metro Region
 - Clause 17.01-1L – Employment
 - Clause 17.02 – Commercial
 - Cause 17.02-1S – Business
 - Clause 17.03 – Industry
 - Clause 17.03-3R – Regionally significant industrial land – Metropolitan Melbourne - Inner Metro Region
- Clause 18 – Transport, including:
 - Clause 18.01 – Lane Use and Transport
 - Clause 18.01-3S – Sustainable and Safe Transport
 - Clause 18.01-3L – Sustainable Transport
 - Clause 18.02 – Movement Networks
 - Clause 18.02-4L-01 – Car Parking
- Clause 19 – Infrastructure:
 - Clause 19.02 – Community Infrastructure

- Clause 19.02-3S – Cultural Facilities
- o Clause 19.03 – Development Infrastructure
- Clause 19.03-5L - Waste

Other relevant documents

27. Melbourne Industrial and Commercial Land Use Plan (Department of Environment, Land, Water and Planning, 2020).
28. Yarra Business and Industrial Land Strategy (June 2012).

Officer Assessment

29. The primary considerations for this application are as follows:
 - (a) Strategic support;
 - (b) Land use;
 - (c) Car parking and traffic;
 - (d) Bicycle provision and facilities;
 - (e) Other matters; and
 - (f) Other objector concerns.

Strategic Support

30. The site is located in an Industrial 1 Zone, which includes the purpose: *“To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities”*.
31. The site is also located within an area designated as ‘Industrial Land’ in the Strategic Framework Plan on the Municipal Planning Strategy and is located in the “Victoria Street East Precinct” under Clause 11.03-6L which extends north and west and includes the Victoria Gardens Precinct which is undergoing intensive re-development – see figure 7 below for the extent of this precinct.

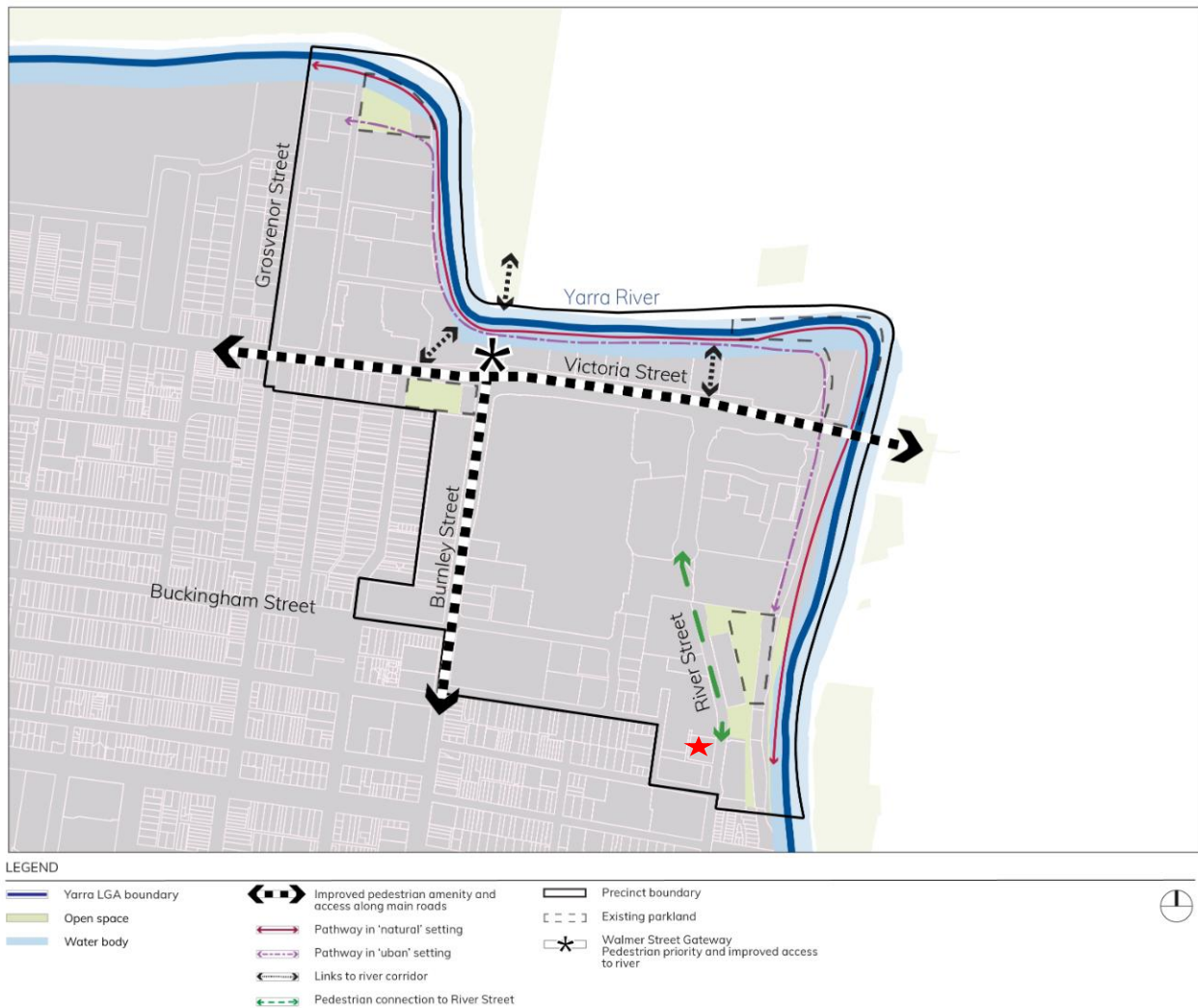


Figure 7 - Victoria Street East Precinct Framework Plan with location of subject site added (red star).

32. The Victoria Street East Precinct policies at Clause 11.03-6L, includes the following objectives under “land use, activity and development opportunities”:
 - (a) To facilitate the development of the Victoria Street East Precinct with a high density mix of land uses;
 - (b) To maximise opportunities for new development on former industrial sites and other disused sites, while protecting the amenity of the surrounding area and enhancing the landscape character of the Yarra River corridor; and
 - (c) To create new local employment opportunities and protect existing ones, especially in the nearby CUB precinct.
33. It also includes the following strategies of relevance:
 - (a) Protect the amenity of the surrounding residential area;
 - (b) Protect existing industrial activities in the Industrial 1 Zone adjacent to the precinct, while supporting opportunities to shift from the industrial zone to commercial and residential zones within the precinct; and
 - (c) Encourage a mix of land uses in accordance with the Victoria Street East Precinct Framework Plan, having regard to site constraints.

34. The site is within land designated as “local industrial land” in the *Melbourne Industrial and Commercial Land Use Plan 2020* (rather than regionally significant industrial land such as the CUB complex). Council’s *Business and Industrial Land Strategy (2012)* likewise identified the area as part of one of Yarra’s core Industrial and Business nodes. However, the Strategy also notes of relevance: “Many of Yarra’s core industrial areas interface with the Yarra River which is remnant of traditional industrial development. The open space, recreation and landscape significance of the yarra River corridor means that activities which complement these values such as offices, cafes and tourism oriented facilities should be preferred.”
35. Industrial land strategy at Clause 17.03-3R of the Scheme also includes as a strategy to: “Support the transition of industrial land along the Yarra River in Abbotsford from traditional manufacturing, to a range of other employment generating uses”.
36. While the above objectives and strategies appear to be focused on larger sites immediately adjacent the Yarra River such as the CUB site, it is also relevant to the subject site.
37. In addition to the site being located close to the Yarra River, the site being one of the few industrial zoned sites that are part of the Victoria Street East Precinct indicates that it is likely to play a different role to the remainder of the local industrial zoned areas to the west and south.
38. Furthermore, the site is:
 - (a) Located adjacent residentially zoned land which would be sensitive to off-site amenity impacts associated with industrial uses; and
 - (b) Already developed in a way that does not lend itself to an intensive industrial land use as it is set up as an office.
39. Therefore, in this particular location it is considered that the site lends itself to a non-industrial use despite the Industrial 1 zoning and primary purpose of the zone.
40. There is also extensive support for new businesses through the planning policy framework that meet the community’s need, including at Clause 17.02-1S Business. As well as a focus on generating new and diverse employment opportunities, including in state, regional and local policies at Clause 17.01 – Employment.
41. There is also support for fostering the arts, recreation and cultural facilities in Melbourne in the Planning Policy Framework, such as 19.02-3S – the proposed use could be considered a use that promotes all three.
42. The site is well-situated in terms of utilising more sustainable forms of transportation such as pedestrian, bicycle and public transport, which is supported by the Municipal Planning Strategy and Planning Policy Framework including at Clause 18/01 and 18.02, while also providing on-site car parking to cater for its needs.
43. Overall, the proposal enjoys strategic support, as an adaptive re-use of an existing stie that will provide an employment-generating use that also fosters the arts, recreation and cultural offerings of the municipality in an inner city area with good accessibility via various modes of transport.
44. However, the use must still appropriately address any off-site amenity impacts to nearby sensitive (residential) uses in particular those relating to noise, as well as ensure that the proposed car parking provision and associated traffic impacts are acceptable.

45. The relevant planning scheme policies and provisions are discussed below.

Land Use and Off-site Amenity Impacts

46. The key guidelines that inform the assessment of the proposed dance studio use are the decision guidelines at Clause 65, the decision guidelines of Clause 13.07-1L-01 (Interfaces and amenities), the decision guidelines of Clause 33.01 (Industrial 1 Zone) and Clause 11.03-6L (Victoria Street East Precinct).

47. The nearest sensitive properties are:

- (a) Dwellings in the General Residential Zone, located on the opposite (eastern) side of River Street, the north-adjointing site (fronting River Street) and the west-adjointing site (fronting Clark St); and
- (b) Accommodation at first floor of the Royston Hotel in the southern side of the south-abutting right-of-way in the Industrial 1 Zone.

48. As detailed in the proposal description:

- (a) The proposed operating hours are:
 - (i) Monday to Friday, 8:00am to 10.00pm; and
 - (ii) Saturday to Sunday, 8.00am to 9.00pm;
- (b) However, classes are not proposed to commence until 9am;
- (c) A maximum of 6 staff will be on-site at any one time; and
- (d) Maximum student numbers will vary as follows:
 - (i) Up to 20 students between 8:30am-3pm, Monday to Friday;
 - (ii) Up to 50 students between 4pm-9:30pm, Mondays and Wednesdays;
 - (iii) Up to 50 students between 4pm-6pm, Tuesdays;
 - (iv) Up to 50 students between 8:30am-5:30pm, Saturdays; and
 - (v) Up to 2 students at other operating times.

49. In relation to off-site amenity impacts, other than noise:

- (a) In terms of overlooking, all windows are existing and no opportunities for overlooking to sensitive areas such as habitable rooms or secluded private open space are introduced;
- (b) In terms of light spill, external lighting on site is existing with two lights located on the front façade of the single-storey building, well set back from the public areas and surrounding dwellings and therefore would not result in nuisance to the surrounding dwellings or public realm;
- (c) In terms of potential fumes, air emissions or odours, given the nature of the use, it would not be anticipated that there would be any perceptible odours from the building associated with the activities. Waste will be located in a separate enclosure within the building and therefore all odours appropriately contained. Council's City Works (waste) Unit has found that the Waste management Plan, including storage arrangements are acceptable and this would be endorsed to form part of the permit; and

- (d) The concealment of waste internal to the building will ensure that there are no unsightly views from the public realm.

50. In terms of noise impacts, potential noise sources associated with the use are music noise, dance and voice noise associated with classes; mechanical/plant equipment; and noise from staff and students/visitors arriving and leaving via various forms of transport, waste collection and deliveries. These are addressed in turn.

Music/Dance Class Noise

51. The applicant has submitted an Acoustic Report to support the proposal which provides an assessment of music/dance class noise to the nearest sensitive (residential) uses (Noise Sensitive Receivers or “NSR’s”). These are shown below in Figure 8.

Tag	Location of Sensitive Use	Direction	Type
R1	15 Clark Street	Northwest	Double-storey
R2	6 River Street	North	Four-storey
R3	17-25 River Street	East	Mix of three and four-storey
R4	12-14 River Street (above the Royston Hotel)	South	Double-storey



Figure 8 – Noise sensitive receivers (source: Acoustic Report Page 6)

52. The Acoustic Report predicts (via noise modelling) that music noise - inclusive of associated dance and voice noise - from dance classes would comply with the identified music noise limits of the relevant EPA regulation relating to music noise (Part II of Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021)), for the day/evening period, subject to:
- (a) The following music controls being implemented:
- (i) Prior to commencement of the use, calibration of portable loudspeakers by a suitably qualified acoustic consultant, to demonstrate compliance with Noise Protocol (Part II) limits at nearby noise sensitive uses;

- (ii) Settings for loudspeakers documented and provided to instructors (to ensure maximum volumes are not exceeded); and
 - (iii) The make/model of loudspeakers to be documented and no other loudspeakers permitted unless the same calibration and documentation process is undertaken;
 - (b) Internal noise mitigation works to Studio 1, 2 and 3 (in some cases more than one option was provided for appropriate works), as detailed in the report. In summary, sealing doors and cracks in the wall to Studio 1; sealing off an air conditioning unit to Studio 2; and sealing mesh covered clerestory window openings to Studio 3 with material/glass; and
 - (c) Dance classes should not commence before 9:00am on Sundays, or 8:30am on any other day, and should cease by no later than 9:30pm.
53. Council's Acoustic Consultant reviewed the music noise assessment and identified several issues which the applicant subsequently responded to. Specifically, via additional information about background noise measurements provided on 17 January 2025 and a revised Acoustic Report on 13 March 2025.
54. The table below provides a summary of Council's Acoustic Consultant's concerns/recommendations regarding music/dance class noises and the response from the Revised Acoustic Report.

Acoustic Consultant Concern (music/dance noise)	Revised Acoustic Report (13/3/2025) Response
<p>As background noise levels may be lower on Sundays, it was recommended that:</p> <ul style="list-style-type: none"> • Additional testing of background noise levels on Sunday and formal assessment of music noise on Sunday is undertaken; OR • Methods to reduce noise emissions on Sunday are incorporated, to account for likelihood of lower background noise levels. 	<p>Section 4.3 updated to confirm additional testing of background noise levels on Sunday will be undertaken (prior to or during calibration of loudspeakers) to determine if more onerous music noise limits should apply.</p>
<p>To ensure compliance with the identified music noise limits, an alternative method to controlling music noise levels from speakers only via volume control should be implemented, such as provision of a music noise limiter or use of a sound level meter; and a monitoring procedure to ensure compliance with the noise limits.</p>	<p>Section 4.3 updated to confirm:</p> <ul style="list-style-type: none"> • A sound level meter is also to be used to monitor music levels (instead of just volume controls) with loudspeaker settings, maximum noise levels and sound level meter instructions documented and displayed for all staff and instructors.

	<ul style="list-style-type: none"> On a weekly basis, after the use has commenced, audits of the noise levels are to be conducted by management using the sound level meter to ensure that documented noise levels are not exceeded and management procedures are being adhered to.
Post-commencement acoustic testing undertaken on noise from dance classes at the nearest Noise Sensitive Receivers is required to demonstrate compliance with identified noise limits.	To be addressed at the post commencement stage via recommended condition.

55. Council's Acoustic Consultant, in their referral advice dated 24 March 2025, confirmed that their concerns had been largely addressed by the Revised Acoustic Report dated 13 March 2025. The requirement for post-commencement acoustic testing that was not addressed in the report could be addressed by a permit condition requiring: *"Post-opening acoustic testing of noise levels from dance classes at the nearest sensitive receivers should be conducted to demonstrate compliance with the identified noise limits. The results of the testing should be submitted to Council for approval."*
56. Based on this most recent advice, it would be acceptable to require a post-commencement acoustic report, to be submitted to Council for endorsement within 2 months of commencement of operation of the premises to address any outstanding issues.
57. The post-commencement Acoustic Report would need to be generally in accordance with the decision Acoustic Report and but also incorporate:
 - (a) Updates to Section 4.3 in relation to procedures for assessing/monitoring music noise pre and post commencement of use (Revised Acoustic Report dated 13 March 2025);
 - (b) Details of the additional background testing on a Sunday (and any associated changes to music noise limits and management procedures); and
 - (c) Testing of noise levels from dance classes at the nearest sensitive receivers conducted to demonstrate compliance with the identified noise limits.
58. A number of minor inconsistencies with the Acoustic Report must also be addressed:
 - (a) The town planning report submitted with the application confirms that classes will not commence before 9am (whereas the Acoustic Report stipulates classes should not start before 8:30am on all days except Sundays where a 9am start time is stated). To be consistent with other conditions of approval and the description of the proposal, the Acoustic Report must confirm classes will not commence on any day before 9am; and
 - (b) To be consistent with information in the submitted town planning report, the Acoustic Report must confirm that there will be no microphones used to amplify voices.

59. As the Acoustic Report recommends that classes cease no later than 9:30pm on any day, this restriction will be included as part of conditions of approval. This would ensure that the final half hour of operating hours on Monday to Friday (when the facility operates until 10pm) would allow for students and staff to pack up and vacate the building following dance classes and staff to undertake other ancillary activities, as required after classes.
60. The proposed floor plans include notes to each Dance Studio detailing the acoustic mitigation works in accordance with the recommendations of the Acoustic Report. The mitigation works selected are to be undertaken internal to the building only and do not require a planning permit as they do not increase gross floor area.
61. However, the plans do not clearly show the following:
 - (a) The extent of cracks to be filled in the western wall to Studio 1; and
 - (b) The location of new glazing to be placed behind the openings/mesh clerestory windows to Studio 3.
62. To ensure the extent and location of works is clear, this additional information will be required to be included on the floor plans prior to endorsement.
63. As is standard practice for new land uses, a standalone condition will also require that the use/development must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time. This covers the EPA regulations pertaining to both music noise and mechanical/plant noise.

Plant/Mechanical Equipment Noise

64. The applicant has advised that no new mechanical/plant equipment is proposed and that the only existing mechanical plant on the building which will be operated are air conditioning units.
65. On this basis, existing mechanical/plant equipment noise assessment was not included in the Acoustic Report.
66. However, Council's Acoustic Consultant has raised concern in their referrals that due to the likely more extensive operating hours of the dance studio compared to the previous use the existing plant/equipment should be tested to ensure compliance with the Part I of Publication 1826: Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Noise Protocol) prior to any extension of operating hours.
67. They recommended the following condition: *Prior to the operating hours of any mechanical plant being extended, an acoustic assessment of mechanical plant noise shall be conducted by a suitably qualified acoustic consultant and submitted to Council for approval.*
68. While it is agreed that there is some cause to require an assessment of the mechanical/plant noise, given the plant is existing it is considered acceptable to include this assessment as part of the post commencement acoustic report. As services normal to a building, such as air conditioning units, do not require a permit, in the event that existing air conditioning units needs to be replaced to reduce noise, this could be undertaken without a permit. Therefore, an assessment of the mechanical

plant/equipment noise will be required by condition as part of the post-commencement acoustic report to demonstrate compliance with the Noise Protocol.

69. Furthermore, the Noise Protocol is a mandatory requirement and the standalone condition that requires the site to meet the Noise Protocol will also be included.

Other noise sources (people and vehicles entering/leaving)

70. Noise from people (voice noise) and vehicles arriving and leaving the site, including from deliveries and waste collection would also be associated with the use.

71. However, this is not anticipated to be unreasonable given that:

- (a) The site is located in an Industrial 1 Zone and it is a commonly accepted planning principle that dwellings adjoining or adjacent commercial or industrial zones must temper amenity expectations in recognition of this context. That is, the same level of amenity cannot be anticipated in comparison to a purely residential area;
- (b) For most of the operating hours, the peak student capacity is between 2-20 students. This is considered a relatively modest number of people and would not be anticipated to create unreasonable noise levels from people coming and going. By comparison, the nearby Veneziano coffee roastery accommodates up to 80 patrons and the Royston Hotel, up to 200 patrons. In particular, only 2 students would be on-site any time during Sunday operations and after 5:30pm on a Saturday;
- (c) The times of peak capacity (50 students) are limited to:
 - (i) 4pm-9:30pm, Mondays and Wednesdays;
 - (ii) 4pm-6pm, Tuesdays; and
 - (iii) 8:30am-5:30pm, Saturdays;
- (d) However, even considering evening operations on a Monday or Wednesday, students, visitors and staff accessing or dispersing from the site by foot to or from parked cars or public transport would not typically be leaving in large groups and would not be expected to create excessive noise through talking or associated vehicle noises. The venue is not a licensed venue which may be associated with more rowdy behaviour and the sorts of noises associated with people coming and going by foot or in cars are typical noises for an inner city urban environment;
- (e) Other nearby businesses also commonly operate in the evening/ night time so this type of activity in the area is already commonplace;
- (f) Classes will not be permitted to commence before 9am or occur after 9:30pm and this will further reduce movement of people to and front the site during more sensitive times of the day;
- (g) In terms of noise associated with waste collection and deliveries, a standard condition will require all deliveries to/from the site are in accordance with the hours set out in Council's General Local Law, i.e. between 7am and 10pm and no earlier than 9am on a Sunday or public holiday. This would be sufficient to protect amenity of surrounding uses, including residences; and
- (h) A standard condition which is typically included on all permits authorising land use will also be included that would enable Council to undertake enforcement in the event of a range of adverse off-site amenity impacts relating to transport of materials, unsightly building appearance, unpleasant odours and emissions, pests etc.

72. Overall, subject to the conditions proposed, the noise associated with the proposed use for the dance studio would be compatible with surrounding land uses, including sensitive residential uses, and is not considered to cause any other unreasonable off-site amenity impacts.

Car parking, traffic and loading

73. The dance studio retains the existing twelve (12) car spaces on-site with no change to layout. As there is no rate specified in Clause 52.06 for the dance studio use, car parking provision is to Council's satisfaction.
74. The Transport Impact Assessment ("TIA") submitted with the application includes a car parking demand assessment. This estimates that at times of peak operation – when a maximum of 6 staff and 20 or 50 students are on-site – there would be a maximum shortfall of 4 or 22 car parking spaces, respectively. At other times there would be an excess of on-site car parking so all vehicles could be accommodated on-site.
75. The TIA found that the shortfall of car parking during peak times was able to be accommodated in the surrounding on-street parking bays. This is based on car parking availability surveys undertaken in the surrounding street network within a 250m walking distance from the site. Surveys were undertaken during times aligning with the operation of the dance studio (surveys were undertaken on a Saturday and a Tuesday). A total of between 120 and 126 on-street parking spaces were located in the surveyed area, depending on the day and time. When the demand generated from the dance studio across the day was compared to available on-street parking, a minimum of 10 spaces (Saturday) and 12 spaces (Monday/Wednesday) would still be available at peak operating times.
76. Council's Engineering Services Unit reviewed the TIA and agreed that the shortfall of car parking generated by the use should be able to be accommodated on the street. Further, that the dance studio operation should not adversely impact the existing on-street parking conditions in the area. They noted in their assessment that the following aspects could also reduce demand for car parking:
- (a) The site's good access to public transport within walking distance, i.e.:
 - (i) Trams along Bridge Road – approx. 500m walk; and
 - (ii) Trams along Victoria St – approx. 510m walk;
 - (b) The site's excellent pedestrian access;
 - (c) The site's accessibility to the on and off-road bicycle network; and
 - (d) That patrons could combine their visit with visits to other businesses or activities in the area.
77. Further, as per the traffic surveys conducted and included in the TIA, most of the parking spaces in the surrounding street network are time restricted (1P, 2P or 4P) at least during business hours when there is also higher demand for car parking on weekdays as per the surveys. This would encourage staff to find alternative forms of transport if they are working for longer durations and would also ensure a turnover of spaces. Along River Street, in particular, on both sides from North Street to the end of River Street parking has 2P restrictions from 7am to 11pm on all days. The gap between dance classes would facilitate turnover of spaces.

78. Council's Engineers also advised that the provision of a reduced number of car parking spaces on-site (compared to predicted demand) aligns with Council's objectives in the document *Moving Forward – Yarra's Transport Strategy 2022-32* as it encourages use of sustainable transport alternatives.
79. The TIA also provides an estimate of traffic generation at peak hour (Monday, Tuesday and Wednesday evenings) and finds the increase compared to the prior use and in the context of low traffic volumes of River Street to be *relatively low and unlikely to result in any significant adverse impact on the safety and operation of River Street or the surrounding road network*. It was estimated that up to 68 vehicle trips in the site's operation peak hour would occur, or an additional 36 vehicle trips compared to the prior office use.
80. Council's Engineers did their own traffic analysis (based on a gym use traffic rate) which estimated a maximum of 47 vehicle trips at peak hour. They noted that this is likely an overestimate and that, regardless, the traffic generated by the use would not adversely impact traffic operation of the surrounding road network.
81. Given the above assessment, the on-site car parking provision and traffic impacts would not adversely impact the surrounding area.
82. Clause 65 requires consideration of loading facilities. No designated loading bay is provided on-site. Given the nature of the proposed use large quantities of goods or frequent deliveries are not anticipated and could be accommodated either on-site using car spaces for smaller vehicles or utilising the on-street loading bays. The closest loading bay is located on the north side of North Street near the corner of Clark Street, approximately 90m walking distance from the subject site. Deliveries to the site would therefore not cause unreasonable detriment to the surrounding area.
83. In terms of waste collection, while Council's City Works Unit found the waste management, including collection arrangements by private truck on-site from the car park, to be generally acceptable. The Waste Management Plan stipulated that either a MRV (Medium Rigid Vehicle) or SRV (Small Rigid Vehicle) could be utilised for waste collection. Council's Engineers commented that if a MRV is to be used for waste collection that the applicant would need to provide swept path diagrams to demonstrate adequate accessibility (no concern was raised with the SRV).
84. The applicant has since confirmed that all waste can be collected by a SRV. This would preclude the need for additional swept path diagrams to be provided. Therefore a condition will require that the WMP is updated to confirm that waste collection will be via the nominated SRV only (with deletion of reference to the MRV).

Bicycle provision and facilities

85. The dance studio provides the full complement of on-site bicycle parking (2 employee spaces and 8 visitor spaces) required under Clause 52.34 (Bicycle Parking). All spaces provided are provided within Studio 1, at ground floor.
86. Council's Strategic Transport Unit has reviewed the bicycle parking and supported the provision and design of the bicycle parking for both employees and visitors.
87. Consistent with local sustainable transport policy at Clause 18.01-3L, the provision of well-designed bicycle parking on-site will encourage staff and patrons to cycle to the premises.
88. The bicycle parking arrangements are therefore supported.

Other matters

89. The following matters are also of relevance to this application:

- (a) **Potential contamination:** The subject site is on Industrial zoned land. Based on information from the Vic Unearthed website, a tannery was located on the site in the late 1800s (a use with high potential for contamination). Other contaminating uses may have occurred on-site which are not recorded on that website.

However, based on guidance provided by *Planning Practice Note 30 – Potentially Contamination Land (DELWP, July 2021)* (the Practice Note) it is not required to undertake further assessment of contamination given that:

- The proposed land use is not a “sensitive” use (identified in the Practice Note as a residential use, childcare centre, kindergarten, preschool centre, primary school, even if ancillary to another use; children’s playground or secondary school) which would necessitate an Environmental Audit or Preliminary Risk Screen Assessment (PRSA);
- The proposed use (indoor recreation facility) is not a use that is designated to require a Preliminary Site Investigation or other form of documentation of potential for contamination (these are identified as Open Space, Agriculture, Retail or Office and Industry or Warehouse) for a new or existing use (or associated buildings and works); and
- Only minor internal alterations are proposed for acoustic attenuation purposes and these do not trigger the requirement for a planning permit. Given the lack of buildings and works and that the land is covered almost entirely with buildings and sealed concrete, there is further reduced risk of exposure to any contamination in soils.

Objector Concerns

90. Key objector concerns have been addressed in the assessment above. Other matters raised are addressed as follows:

- (a) **Disagree with findings of the car parking survey, in particular:**
- (i) **Fewer car spaces are available than stated; and**
 - (ii) **Car parking survey is insufficient (did not include Thursday or Friday night which are the busiest).**

Council’s Engineering Services Unit have not raised any concerns with the methodology of findings of the traffic survey, including the selected times/days of surveys or their accuracy. In relation to Thursday and Friday evenings specifically, the dance studio will have a maximum of 20 students up until 3pm on these days and thereafter (until 10pm closing time) a maximum of 2 students only. Therefore parking would be accommodated on site during Thursday and Friday evening operation;

- (b) **Public transport will not be utilised to access the site as it is too far away:**

As previously outlined, various forms of public transport are within walking distance of the site. The traffic impact assessment states: *The site is reasonably well serviced by a number of tram routes which stop within 500m (7 minute) walk of the site. It is foreseeable that a proportion of staff and patrons would utilise these services to access the proposed use;*

- (c) **Insufficient space for bicycle and scooter parking on the street and associated hazard created for pedestrians (including those with disabilities):**

The provision of on-site bicycle parking for staff and students meets Clause 52.34 and has been found to be sufficient as part of the assessment. If there is an existing insufficiency of on-street bicycle parking to service existing demands this burden should not be imposed on the permit applicant;

- (d) **Potential to cause/exacerbate Illegal parking (double-parking, parking across driveways and parking in other private properties):**

As outlined in the assessment there would be sufficient car parking available in the surrounding area to meet the needs of the proposed use that cannot be accommodated on the site. Therefore there is no potential to cause/ exacerbate illegal parking activity;

- (e) **Parking restriction changes in River Street are required to better manage car parking associated with existing uses and proposed use:**

Additional parking restrictions or changes cannot be implemented via the statutory planning process. The proposal has been assessed with regard to current on-street parking restrictions and found to be acceptable. Changes to parking restrictions can be pursued by local residents or business owners through relevant procedures via Council's Parking Services if desired; and

- (f) **No. 17 Clark St is incorrectly identified as a dance studio – it is currently vacant:**

The merits of the proposed land use is not reliant on the ongoing use of the site at No. 17 Clark Street as a dance studio. This assessment acknowledges it is no longer operating in this location.

Conclusion

91. The proposed dance studio is an appropriate use of the site having consideration of the zoning, features and context of the site as well as the proposed operational parameters.
92. Subject to the conditions recommended, an acceptable planning outcome will be achieved that balances the various objectives, strategies and policies of the Yarra Planning Scheme.

Legal and Legislative Obligations

Conflict of interest disclosure

93. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
94. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.


Report Attachments

1. 5.4.1 PLN24/0525 - 8 - 10 River Street Richmond - Site Context Map
2. 5.4.2 PLN24/0525 - 8 - 10 River Street Richmond - Plans
3. 5.4.3 PLN24/0525 - 8 - 10 River Street Richmond - Waste Management Plan
4. 5.4.4 PLN24/0525 - 8 - 10 River Street Richmond - Traffic Impact Assessment
5. 5.4.5 PLN24/0525 - 8 - 10 River Street Richmond - Acoustic Report
6. 5.4.6 PLN24/0525 - 8 - 10 River Street Richmond - Revised Acoustic Report
7. 5.4.7 PLN24/0525 - 8 - 10 River Street Richmond - Internal and Consultant Referral Responses

5.5. – PLN24/0350 - 1-5 Sanders Place, Richmond

Author Erryn Megennis – Senior Statutory Planner
Authoriser General Manager City Sustainability and Strategy

Executive Summary

	
Property	1-5 Sanders Place, Richmond
Ward	Lennox
Application number	PLN24/0350
Proposal	Construction of a multi-storey, mixed-use building (with two basement levels and roof terrace) containing as-of-right Office, permit required Shop and Food and Drinks Premises, sale and consumption of liquor and a reduction in the car parking requirements
Zoning & Overlay/s	<ul style="list-style-type: none"> - Commercial 2 Zone - Design and Development Overlay – Schedule 5 - CityLink Project Overlay - Development Contributions Plan Overlay – Schedule 1
Strategic setting	Major Employment Precinct (Cremorne)
Submissions	7 objections and 0 letters of support
Key reasons for support	<ul style="list-style-type: none"> - There is strong strategic support for this type of development in this area in Cremorne; - As a result of plans being amended, the proposal generally complies with the built form requirements of the Zone, Overlays, Particular Provisions and local policies and would make a positive contribution to the area; - The car parking reduction is acceptable; and - The proposal will not result in unreasonable adverse amenity impacts to surrounding properties.

Recommendation	<p>That Council issues a Notice of Decision to Grant a Planning Permit, with conditions.</p> <p>Key conditions include:</p> <ul style="list-style-type: none"> - The roof terrace to be accessible to office tenants only; - Provision of additional overlooking diagrams; - Provision of electric bicycle charging infrastructure; - Provision of a Noise and Amenity Action Plan, Loading Management Plan and Landscape Plan; and - Provision of amended Acoustic Report and Wind Impact Assessment.
Contact Officer	Erryn Megennis – Principal Planner

Officer Recommendation

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN24/0350 at No. 1-5 Sanders Place, Richmond VIC 3121 for:

Control	Clause	Matter for which the permit has been granted
Commercial 2 Zone	Clause 34.02-1	Use of the land for a Shop and Food and Drinks Premises
Commercial 2 Zone	Clause 34.02-4	To construct a building and carry out works
Car Parking	Clause 52.06-3	A reduction in the car parking requirements for the Office, Shop and Food and Drinks Premises uses
Licensed Premises	Clause 52.27	Sale and consumption of liquor (Café/Restaurant Licence)

subject to the following conditions:

Development Plans

- Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the decision plans prepared by Kennon Architects, Drawings TP0097, Rev B, dated 02/05/24; TP0099, Rev C, dated 02/05/24; TP0100 – TP0105 & TP0107-TP0108, Rev D, dated 02/05/24; TP0900 – TP0903 & TP0910, Rev D dated 02/05/2024; TP0950 – TP0951, Rev C, dated 02/05/24; TP0952, Rev B dated 18/06/24; TP4100 – TP4101, Rev B dated 07/05/24 & TP4200, Rev B dated 02/05/24 but modified to show:
 - A notation on the roof terrace plan confirming it will be accessible only to office tenants;
 - The loading bay / driveway depth increased to a minimum of 5.2m, with subsequent changes to the location of the car lift and layout of ground floor/basement levels;

- (c) The minimum width of the driveway dimensioned;
 - (d) The location of the roller door on the ground floor plan;
 - (e) Provision of a minimum of one charging point for electric bicycles
 - (f) The east elevation to show obscure glazing up to a minimum 1.7m above floor level on Level 2;
 - (g) Diagrams to demonstrate there will be no unreasonable overlooking from east-facing windows above Level 2 to south-facing habitable room windows at No. 7 Sanders Place, in accordance with the objective of Clause 55.04-6 or otherwise apply screening in accordance with Standard B22;
 - (h) A materials and finishes schedule, including sample images provided as a single page within the drawing set;
 - (i) Any changes as a result of the Façade Strategy (Condition 4);
 - (j) Any changes as a result of the Landscape Plan (Condition 6);
 - (k) Any changes as a result of the amended Acoustic Report (Condition 8); and
 - (l) Any changes as a result of the amended Wind Impact Assessment (Condition 14).
2. The uses and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Prior to the commencement of the development the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

Façade Strategy

4. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) Elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;
 - (b) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) Details to demonstrate that the materials will not result in unreasonable glare;
 - (d) Information about how the façade will be maintained, including any vegetation; and
 - (e) Detailed drawings outlining colours, materials and finishes.
5. As part of the ongoing consultant team, Kennon Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) Oversee design and construction of the development; and
 - (b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Landscape Plan

6. Concurrent with the submission of Condition 1 Plans, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) Show the type, location, quantity, height at maturity and botanical names of all Proposed plants;
 - (b) Indicate the location of all areas to be covered by lawn or other surface materials;
 - (c) Clarification on how above ground planting areas (such as rooftop and window planters) are to be safely accessed for maintenance purposes. If rope access is required to access planting areas outside windows or balustrades, anchor points must be integrated into the building design;
 - (d) Details on the ongoing maintenance of landscaping, including task details and frequency;
 - (e) Details on how plant growth will be maintained to ensure view lines are maximised;
 - (f) Use of a wind proof mulch to above-ground planted areas (roof terrace and window planters); and
 - (g) Provide a specification of works to be undertaken prior to planting,To the satisfaction of the Responsible Authority.
7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
 - (a) Implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) Not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) Replacing any dead, diseased, dying or damaged plants,To the satisfaction of the Responsible Authority.

Acoustic Reports

8. Concurrent with the submission of Condition 1 Plans, 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 Marshall Day Acoustics and dated 26 July 2024 but modified to include (or show, or address):
 - (a) Graphs or tables of the hourly background noise monitoring results;
 - (b) Confirmation that the future acoustic review of the mechanical services design should be conducted by a suitably qualified acoustic consultant; and
 - (c) The day and time of the measurement used as the background level for the calculated of the night period music noise limit presented.

9. Before the building is occupied, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must demonstrate compliance of the mechanical plant, car park roller door, driveway/loading bay/vehicle holding area and car lift with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
10. The provisions, recommendations and requirements of the endorsed Acoustic Reports must be implemented and complied with to the satisfaction of the Responsible Authority.
11. The use and development must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.

Noise and Amenity Action Plan

12. Before the sale and consumption of liquor commences, a Noise and Amenity Action Plan must be submitted to and approved by the Responsible Authority. When approved, the Noise and Amenity Action Plan will be endorsed and will form part of this permit. The Noise and Amenity Action Plan must include, but not be limited to, the venue operation guidelines outlined at 13.07-1L-02 (Licenced Premises) of the Yarra Planning Scheme.
13. 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.

Wind Impact Assessment

14. Concurrent with the submission of Condition 1 Plans an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Vipac Engineers and Scientists Ltd and dated 23 July 2024 but modified to include (or show):
 - (a) The assessment updated for consistency with the plans required under Condition 1; and
 - (b) Further elaboration and clarification on the wind impacts to the private outdoor areas at Nos. 38, 40 and 42 Brighton Street.
15. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainability Management Plan

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

Green Travel Plan

17. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

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

Loading Management Plan

19. Concurrent with the Submission of Condition 1 Plans, a Loading Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Loading Management Plan will be endorsed and will form part of this permit. The Loading Management Plan must address, but not be limited to, the following:
 - (a) Confirmation that vehicles no larger than a B99-design vehicle will be permitted to undertaken loading / unloading within the designated loading bay;
 - (b) Details regarding the management of loading and unloading of goods and materials, including the management of conflicts between loading vehicles and tenants' vehicles as well as other vehicles who rely on the carriageway easement for access; and
 - (c) The collection of waste, including the separate collection of organic waste and recycling waste, in accordance with the approved Waste Management Plan (Condition 18).

Use Conditions

20. Except with the prior written consent of the Responsible Authority, the Shop as authorised by this permit may only operate between the hours of 7am – 10pm, Monday to Sunday.
21. Except with the prior written consent of the Responsible Authority, the Restaurant and sale and consumption of liquor as authorised by this permit may only operate between the following hours:
 - (a) Sunday to Thursday: 11am – 11pm; and
 - (b) Fridays & Saturdays: 11am – 12 midnight.
22. No more than 100 patrons are permitted in the Restaurant at any one time.
23. The provision of music and entertainment on the land must be at a background noise level.
24. Speakers external to the building must not be erected or used.
25. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or between 9am and 10pm on a Sunday or public holiday.
26. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
27. 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.

28. 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.
29. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin,To the satisfaction of the Responsible Authority.

Engineering

30. Concurrent with the submission of Condition 1 plans or by such later date as approved in writing by the Responsible Authority, a 1:20 scale cross-sectional diagram with a B99 vehicle ground clearance template must be submitted to Council's Civil Engineering Department for approval. The submitted design must demonstrate satisfactory ground clearance and include the following spot levels:
 - (a) The reduced level 2m inside the property boundary;
 - (b) The 40mm bullnose along the western edge of the internal slab;
 - (c) The level of the eastern and western edge of the laneway (easement); and
 - (d) The level at the invert/centre of the laneway.Refer to Notes (below) for lodgement details.
31. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
32. Within 2 months of the completion of the development 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.
33. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
34. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
 - (a) Constructed and available for use in accordance with the endorsed plans;
 - (b) Formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) Treated with an all-weather seal or some other durable surface; and

- (d) Line-marked or provided with some adequate means of showing the car parking spaces,

To the satisfaction of the Responsible Authority.

- 35. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

DTP conditions

- 36. Prior to the endorsement of any development plans, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implemented prior, during and following excavation to prevent any impact of the City Link assets and infrastructure is to be submitted to the Head, Transport for Victoria and City Link for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, and provide both Structural and Geotechnical Proof Engineer review comments and certification of all above engineering design reports and associated drawings including temporary works including but not limited to, demonstrating:
 - (a) That the building footings (and overall development including excavation and construction of basements and foundations etc.) will not compromise the structural integrity of the CityLink / Burnley Tunnel;
 - (b) The effect of foundation design (most probably piling) must be considered for the impact assessment of the CityLink / Burnley Tunnel;
 - (c) The load and ground stress effected by the development;
 - (d) That the development will not result in temporary or permanent drawdown of the regional groundwater table; and
 - (e) The tunnel rock bolt anchor lengths must be considered in analysis for the Construction Impact Assessment Studies. Any holding points requiring the Head, Transport for Victoria inspection and approval prior to releasing hold permits.
- 37. In addition to Condition 36 above, Head, Transport for Victoria and CityLink must be informed of the following:
 - (a) Initial ground water level;
 - (b) The reduced level temporary dewatering during basement excavation is intended to lower the table to, the extraction rate and duration of dewatering, and the expected recharge duration after cessation of dewatering;
 - (c) If the completed basement is tanked or drained; and
 - (d) If drained, confirm flow rate into the basement and the height and extent of the permanent lowering of the water table.
- 38. The permit holder is to bear all costs associated with CityLink undertaking dilapidation surveys before and after the development, including crack mapping and installing crack pins to allow crack opening to be accurately measured. The intention of these surveys is to allow any adverse impacts on CityLink during construction to be identified.

39. Prior to the commencement of the development, the applicant must provide the Head, Transport for Victoria and CityLink with a plume dispersal study to satisfy the Head, Transport for Victoria, CityLink and the Responsible Authority that, consistent with the design objectives set out in Clause 43.02 of the Design and Development Overlay, Schedule 5 of the Yarra Planning Scheme:
- (a) The development around the Burnley Tunnel exhaust stack will not be adversely affected by the operation of the stack; and
 - (b) The development around the Burnley Tunnel exhaust stack will not adversely affect the operation of the stack.

The development must reimburse CityLink for costs it incurs for having the plume dispersion study reviewed by its external consultants.

Construction Management Plan

40. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) Works necessary to protect road and other infrastructure;
 - (c) Remediation of any damage to road and other infrastructure;
 - (d) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
 - (e) Facilities for vehicle washing, which must be located on the land;
 - (f) The location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) Site security;
 - (h) Management of any environmental hazards including, but not limited to,:
 - (i) Contaminated soil;
 - (ii) Materials and waste;
 - (iii) Dust;
 - (iv) Stormwater contamination from run-off and wash-waters;
 - (v) Sediment from the land on roads;
 - (vi) Washing of concrete trucks and other vehicles and machinery; and
 - (vii) Spillage from refuelling cranes and other vehicles and machinery;
 - (i) The construction program;
 - (j) Preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) Parking facilities for construction workers;

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

During the construction:

- (r) Any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (s) Stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (t) Vehicle borne material must not accumulate on the roads abutting the land;
- (u) The cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (v) All litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

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

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

General conditions

42. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
43. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
44. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
45. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
46. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
47. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the car park, pedestrian walkway and ground level frontage must be provided within the property boundary. Lighting must be:
 - (a) Located;
 - (b) Directed;
 - (c) Shielded; and
 - (d) Of limited intensity,To the satisfaction of the Responsible Authority.
48. 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.
49. 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 Shop and Restaurant uses (including the sale and consumption of liquor) are not commenced within five years of the date of this permit.

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

Notes

For the submission of plans pursuant to Condition 30, please submit these to info@yarracity.vic.gov.au marked attention to Engineering Services.

All future business (whether as owners, lessees/tenants, occupiers) within the development approved under this permit, will not be permitted to obtain business parking permits.

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.

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

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.

Any service poles, structures or pits located within the public realm areas that interfere with the proposal, must be adjusted accordingly:

- (a) At the permit holder's cost; and
- (b) To the satisfaction of the Responsible Authority.

All redundant property drain outlets are to be demolished and reinstated to Council's satisfaction and at the Permit Holder's cost.

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

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, boundary traps, valves or meters on Council property will be accepted.

Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

History and Background

Planning History

1. The site has no planning history.

Section 50 Amendment

2. The application was amended under Section 50 of the *Planning and Environment Act 1987* (the Act) on 2 September 2024 to formally reflect the correct legal land descriptions of all lots, as well as the addresses, concerning land at No. 1 and No. 3-5 Sanders Place, Richmond.

Section 57A Amendment

3. The application was amended under Section 57A of the Act on 20 December 2024 showing a modified proposal in response to the recommendations from Council's referral departments as well as concerns raised by the planning officer regarding the interface with residential land.
4. The following key changes were made:
 - (a) Deletion of 1 basement level (no changes to the number of car parking spaces);
 - (b) Deletion of Level 7;
 - (c) Changes to the external finishes;
 - (d) Increases to setbacks from the eastern boundary at Level 1 and Level 4; and
 - (e) Amended plans in response to ESD referral comments.
5. The amended plans (prepared by Kennon Architects, Dated 24 November 2024, Revision D) lodged under Section 57A of the Act are the decision plans for this application and will form the basis of the following assessment.

Lodgement of Sketch Plans

6. On 9 April 2025 the applicant submitted sketch swept path diagrams to demonstrate that the condition to increase the loading bay depth to 5.2m will still allow vehicles to enter and exit car parking spaces within the basement. These plans will be referenced where necessary within this report.

Site Context

Subject Site

7. The subject site is located on the northern side of Sanders Place, between Brighton Street to the east and Church Street to the west, in Richmond. The site has a frontage to Sanders Place of 22.77m, depth of 16.41m and an overall area of approximately 375sqm. The site has laneway abuttal to the west.
8. The site is legally described as Lots 1-3 on Plan of Subdivision 406678X (relating to No. 1 Sanders Place) and Lot 1 on Title Plan 010616Q (relating to No. 3-5 Sanders Place). The site consists of a two-storey office building constructed across the full extent of the site. On-site car parking is located at ground level, accessed via the laneway to the west.



Figure 1 - Subject site from Sanders Place (Planning Officer, October 2024)

Title Information

9. The title submitted with the application does not show any covenants or restrictions. Plan of subdivision PS406678X shows a 1.83m wide carriageway, light and air and drainage easement abutting the full length of the site's western boundary. Further to the west is a 3.66m wide carriageway, light and air easement. Lot 1 on Title Plan TP10616 forms a 2.44m wide drainage easement in favour of City West Water, with this easement extending along the entire eastern boundary of the site.
10. The development does not impact on these easements.

Surrounds

11. The site is in an area which contains a variety of built form and uses. Land to the north is zoned both General Residential and Commercial 2, to the south and west the land is zoned Commercial 2. Land to the east is zoned Neighbourhood Residential and consists of low rise, 1 and 2 storey dwellings.
12. The closest dwellings to the subject site are located to the north at No. 7 Sanders Place and to the east at Nos. 28-42 Brighton Street. The dwellings on Brighton Street are also affected by the Heritage Overlay (Schedule 308 – Barkly Gardens Precinct).

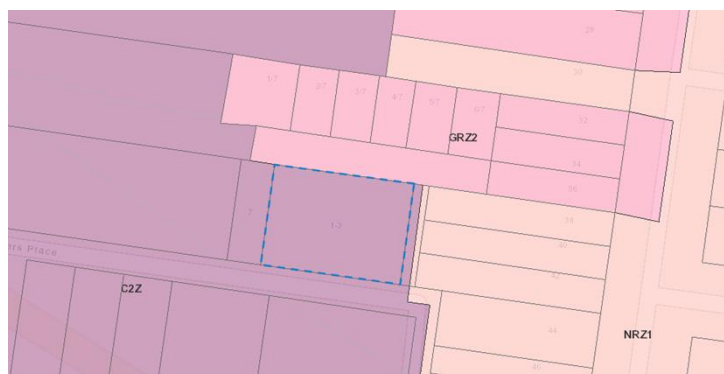


Figure 2 – Zoning map of subject site and surrounds (DTP, March 2025)

13. This heritage precinct is significant for its Victorian and Edwardian-era dwellings which typically feature pitched, gabled or hipped roofs, one storey wall heights, weatherboard, face pressed brick, bluestone or stucco wall cladding, post supported front verandahs, front gardens bordered by low front fences and less than 40% of the street wall comprised with openings such as windows and doors (amongst other features).

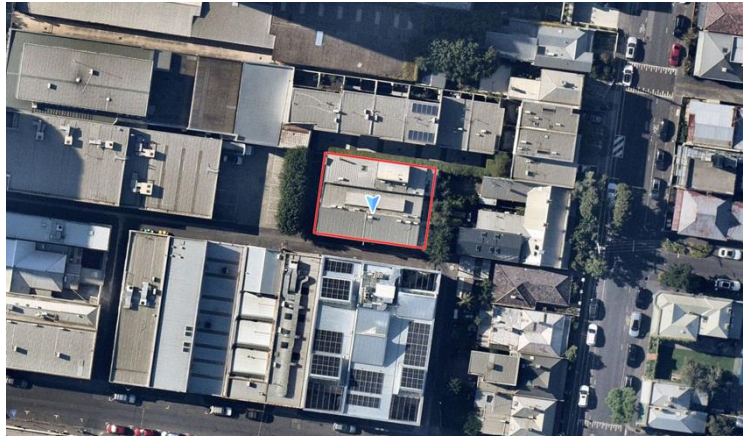


Figure 3 - Nearmap aerial imagery of subject site and surrounds (March 2025)

14. The subject site is located within a Major Employment Precinct, approximately 162m south of the Swan Street Major Activity Centre (MAC) and 162m south-east of East Richmond train station. Further to the south of the site is the Citylink tollway and adjacent Main Yarra Trail and bike path. In conjunction with the bike trail, the site is well serviced by public and active transport opportunities, including tram lines along Swan Street and Church Street and the trainlines through East Richmond Station.
15. There is no on-street parking on Sanders Place, as it is a 4.1m wide laneway. The nearest on-street car parking is located approximately 40m south on Albert Street and 66m to the west on Church Street.
16. The immediate interfaces are as follows:

North

17. To the north of the site is No. 7 Sanders Place, a 3 storey townhouse development comprised of 6 attached dwellings. The endorsed plans for this development (PL01/0765) show a driveway along the common boundary, with the dwellings set back 5.2m from this boundary. At ground level the dwellings comprise garages and a bedroom with courtyards located towards the northern boundary. The first floor is set back between 4.7m up to 5.3m from the common boundary and comprises bedrooms with south-facing windows interfacing the subject site. Balconies are located towards the northern boundary. An open plan kitchen, living and dining room is located at second floor level, also set back between 4.7m up to 5.3m from the common boundary. The southern elevation of these townhouses is shown in the image below.



Figure 4 – 7 Sanders Place (extracted from Applicant's planning report)

East

18. To the east of the site, on the opposite side of the 2.44m drainage easement, is the rear of dwellings addressed to Nos. 38 to 42 Brighton Street. These are contributory-graded, Victorian-era terrace houses with secluded private open space (SPOS) located to the rear, adjacent to the easement. These dwellings are set back between 5.84m up to 9.3m from the subject site's eastern boundary, with a 2.8m high fence extending along the rear boundaries of all properties.

South

19. To the south of the site, on the opposite side of Sanders Place, is a two storey warehouse / office building at No. 11-15 Albert Street. Vehicle access to this building is via Sanders Place. The office has north-facing windows that interface with the subject site.

West

20. To the west of the site on the opposite side of the carriageway easement is an open-air, at-grade car park.
21. To the north-west of the site is No. 475-481 Church Street. On 28 February 2024 Council issued a Notice of Decision to Grant a Permit (NOD) for the construction of a multi-storey, mixed use building including two basement levels, use of the land for a Shop and Food and Drinks premises, and a reduction in the car parking requirements. The development proposed a height of 11 storeys / 50.94m however the NOD required the deletion of two levels.
22. A Section 82 objector appeal was lodged with the Victorian Civil and Administrative Tribunal (VCAT) on 4 April 2024. However, the application was later called in by the Minister for Planning on 7 October 2024 under Section 58(2)(a) of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* to be determined under their Priority Development program. The application was heard at a public hearing on 3 and 4 December 2024 and a report was submitted to the Minister for Planning on 9 January 2025. The application is yet to be determined. An image of this development is provided below, with the subject site in the background.



Figure 5 – Artist's impression of proposed development at No. 475-481 Church Street (extracted from Applicant's planning report)

Broader context

23. This area of Richmond and Cremorne is currently undergoing a period of transition from lower scale buildings to higher density development. There have been several approvals for new, larger scale developments on the eastern and western sides of Church Street. A snapshot of these approvals and their scale is provided below:

- (a) PLN17/0456 – 594 – 612 Church Street, Cremorne (8 storeys) - Constructed;
- (b) PLN17/0177 – 57 Balmain Street, Cremorne (7 storeys) - Constructed;
- (c) PLN17/0278 – 506 & 508-510 Church Street, Cremorne (10 storeys plus roof terrace) - Constructed;
- (d) PLN19/0886 – 11 - 13 Pearson Street and 10 - 12 Adolph Street, Cremorne (8 storeys) - Constructed;
- (e) PLN19/0404 – 10 Chapel Street, Cremorne (7 storeys) – Constructed;
- (f) PLN12/0894 – 69 - 77 Stephenson Street, Cremorne (7 storeys) – Constructed;
- (g) PLN16/0171 – 9 - 11 Cremorne Street, Cremorne (8 storeys plus roof terrace) - Constructed;
- (h) PLN18/0619 – 7 Dover Street, Cremorne (8 storeys) - Constructed;
- (i) PLN14/0267 – 13 Cremorne Street, Cremorne (8 storeys) - Constructed;
- (j) PLN17/0389 – 16A - 17A/64 Balmain Street, Cremorne (9 storeys) – Not yet constructed, extension of time application under assessment;
- (k) PLN17/0284 – 12-18 Albert Street, Richmond (7 storeys plus roof terrace) – Constructed;
- (l) PLN17/0626 – 60 - 88 Cremorne Street, Cremorne (7 storeys) - Constructed;
- (m) PLN17/0650 – 2 - 6 Gwynne Street, Cremorne (6 storeys) - Constructed;
- (n) PLN18/0328 – 459-471 Church Street & 20-26 Brighton Street, Richmond (4 up to 10 storeys) – Constructed;
- (o) PLN18/0498 – 1 - 11 Gordon Street, Cremorne (7 Storeys plus roof terrace) - Constructed;
- (p) PLN18/0756 – 84 Cubitt Street, Cremorne (7 storeys) - Constructed;

- (q) PLN18/0989 – 118, 120 & 122 - 124 Balmain Street, Cremorne (9 storeys) – Construction commenced (early stages);
- (r) PLN19/0025 – 9 Kingston Street, Richmond (6 storeys) – Not yet constructed, extension of time approved;
- (s) PLN19/0664 – 19 Cubitt Street, Cremorne (7 storeys) - Constructed;
- (t) PLN19/0527 – 22 - 26 Gordon Street, Cremorne (8 storeys plus roof terrace) – Constructed;
- (u) PLN20/0230 – 587-593 Church Street, Richmond (8 storeys plus roof terrace) – Not yet constructed, extension of time approved; and
- (v) PLN22/1011 – 93-95 Green Street, Cremorne (9 storeys plus roof terrace).

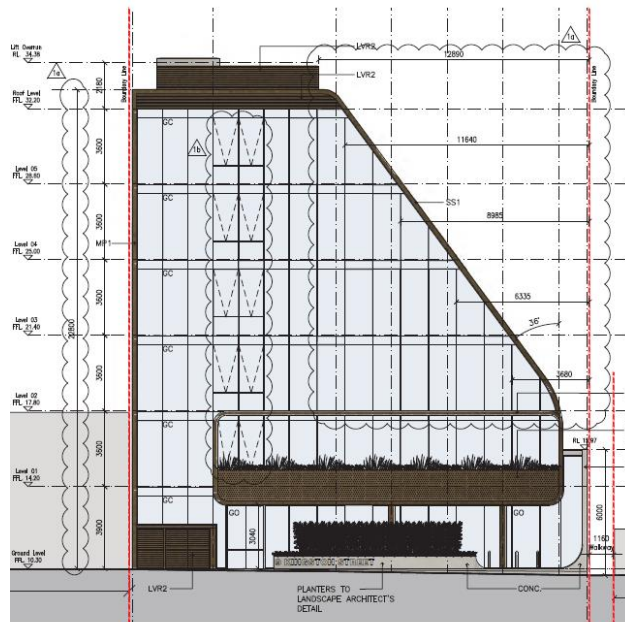


Figure 6 - Endorsed south elevation of No. 9 Kingston St, Richmond (PLN19/0025). Not yet under construction.



Figure 7 - Completed development at No. 12-18 Albert Street (Planning Officer, August 2024)



Figure 8 - Completed development at 459-471 Church Street & No. 20-26 Brighton Street (Planning Officer, August 2024)

24. Of relevance to this application are the approved and constructed developments at No.9 Kingston Street Richmond, No. 12-18 Albert Street, Richmond, No. 459-471 Church Street and No. 20-26 Brighton Street, Richmond (shown in Figures 9, 10 and 11 respectively). These sites share similar contexts to the subject site, being within the C2Z with direct abuttal to dwellings in residentially-zoned land and land within a Heritage Overlay. These developments adopt significant setbacks and lower scale built form adjacent to their residential interfaces to provide a sensitive transition to the low-rise residential area to their eastern interfaces. These developments will be discussed in detail later within this report.

Proposal

25. The application is for the construction of a multi-storey, mixed-use building (with two basement levels and roof terrace) containing as-of-right Office, permit required Shop and Food and Drinks Premises, sale and consumption of liquor, including a reduction in the car parking requirements.

Use

26. The building will be used for Offices (no permit required), a Shop and a Food and Drink Premises. Further details of the uses are as follows:
- (a) The Office tenancies will be located at Levels 1 – 5 and will have a combined leasable floor area of 1222sqm;
 - (b) The Food and Drink Premises will be located at Basement Level 1 and will have a leasable floor area of 269sqm. A maximum of 100 patrons is proposed, with the sale and consumption of liquor forming part of the application;
 - (c) The proposed hours of operation for the Food and Drink premises are (including the sale and consumption of liquor):
 - (i) 11am to 11pm (Sunday to Thursday); and
 - (ii) 11am – 12 midnight (Friday and Saturday);
 - (d) The Shop will be located at ground floor level and will have a leasable floor area of 163sqm;
 - (e) The proposed hours of operation for the Shop are 7am to 10pm (Monday to Sunday);
-

- (f) The main entries to all 3 uses are proposed from Sanders Place. Vehicle access will be via the western-abutting laneway; and
- (g) Provision of end-of-trip facilities at ground level, including 20 employee spaces and 8 visitor spaces within a bicycle storage room as well as 4 visitor spaces within the Sanders Place ground level setback.

Car Parking

27. A total of 8 car parking spaces are proposed within the Level 2 Basement, accessed via a car lift.

Development

28. Further details of the proposed development are as follows:

General

- (a) Demolition of all existing buildings on the site (planning permit not required);
- (b) The building will contain 6 storeys (with roof terrace above) with a maximum height of 22.6m (to the parapet) and 24m to the top of the lift core;
- (c) The primary frontage will be to Sanders Place and vehicle access will be via the western-abutting laneway;
- (d) Two levels of basement are proposed;
- (e) The building will have a gross floor area of 2778sqm;
- (f) The proposal will encompass a 'tiered' design, with an angled profile incorporating increased setbacks from the eastern boundary;

Basement

- (g) Two levels of basement are proposed and will be constructed to all title boundaries;
- (h) The basements will contain car parking, service rooms, the Food and Drinks Premises (at Level 1 basement), water tanks and storage rooms;

Ground floor

- (i) The ground floor will be set back 1.5m from Sanders Place. A fire booster cabinet, planter box and two visitor bicycle rails are proposed within this setback;
- (j) The remainder of the ground floor will be constructed along the north, east and west title boundaries;

Podium levels

- (k) Level 1 will be constructed with a hard edge to Sanders Place and the northern and western boundaries and has the following setback from the eastern boundary:
 - (i) Between 1.01m at the southern end up to 3m at the northern end;
 - (ii) A planter box is constructed within this setback, with a hard edge to the eastern boundary at the southern end and a setback of 1.5m from the eastern boundary at the northern end;
- (l) Level 2 will be constructed with a hard edge to Sanders Place and the northern and western boundaries and has the following setback from the eastern boundary:
 - (i) Between 2.11m from the southern end up to 6m from the northern end;

- (ii) A planter box is constructed within this set back with a setback of 0.99m at the southern end and a setback of 3m at the northern end;
- (m) Level 3 will be constructed with a hard edge to the northern and western boundaries and will be set back from Sanders Place 0.5m with a planter box constructed within this setback. The following setbacks are proposed from the eastern boundary:
 - (i) Between 3.42m at the southern end up to 8.5m at the northern end;
 - (ii) A planter box is constructed within this set back with a setback of 2.01m at the southern end up to 6m at the northern end;

Upper levels

- (n) Level 4 will be constructed with a hard edge to the northern and western boundaries and will be set back 1m from Sanders Place (excepting the fire stair, which has a hard edge to Sanders Place). The following setbacks are proposed from the eastern boundary:
 - (i) Between 4.94m at the southern end up to 10.5m at the northern end;
 - (ii) A planter box is constructed within this setback and will be set back between 3.26m at the southern end up to 8.5m at the northern end;
- (o) Level 5 will be constructed with a hard edge to the northern and western boundaries and will be set back 1.5m from Sanders Place (except the fire stair). A planter box is constructed within this setback. The following setbacks are proposed from the eastern boundary:
 - (i) Between 6.69m at the southern end up to 12m at the northern end;
 - (ii) A planter box is constructed within this setback and will be set back between 4.76m at the southern end up to 10.5m at the northern end;

Roof

- (p) The roof terrace will be constructed with a hard edge to the northern and western boundaries and will be set back 1.5m from Sanders Place (except for the fire stair) and from the eastern boundary between 6.61m at the southern end up to 12m at the northern end;
- (q) A 67sqm communal terrace is proposed;
- (r) Rooftop services will be located towards the north and west of the site and includes a 3.5kW solar array as well as an accessible bathroom;

Materials and finishes

- (s) The primary material palette for the proposed built form will consist of bronze-coloured perforated metal, mesh metal and powdercoated metal cladding, glossy and matte-finished, bronze coloured tiles in a varying gradient and fluted, tinted and clear glazing; and
- (t) The external fire stair will be constructed of bronze-coloured, polished metal. The ground level of the staircase will have perforated mesh metal to enclose it and ensure it can only be accessed by building tenants.



Figure 9 – Artist's impression of proposed development viewed from 7 Sanders Place



Figure 10 – Artistic impression of proposed podium levels viewed from south-west corner of site, showing perforated mesh treatment to bottom of fire stairs



Figure 11 - Artist's impression of west elevation showing fire stair

Statutory controls

29. The table contained in the Officer Recommendation sets out why a planning permit is required for this matter.
30. The following Clauses of the Yarra Planning Scheme are also relevant to the proposal:

(a) Clause 34.02 – Commercial 2 Zone (C2Z):

- (i) An Office is an as-of-right use and does not require a planning permit;
- (ii) A planning permit is required to use the land for a Shop and Food and Drink Premises; and
- (iii) A planning permit is required to construct a building and carry out works.

(b) Clause 43.02 – Design and Development Overlay – Schedule 5 – City Link Exhaust Stack Environs (DDO5):

- (i) Pursuant to Clause 43.02-2, a planning permit is required to construct a building and carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required;
- (ii) Section 2.0 of Schedule 5 to the DDO states that a permit is not required to construct a building or carry out works;
- (iii) Section 7.0 states where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given under section 52(1)(c) of the Planning and Environment Act 1987 to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause; and
- (iv) Pursuant to Clause 66.06, notice must be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation. Notice was given accordingly;

(c) Clause 45.06 – Development Contributions Plan Overlay – Schedule 1 – Yarra Development Contributions Plan (DCPO1):

- (i) Schedule 1 of the Development Contributions Plan Overlay (DCPO1) applies to the proposal due to the proposed additional commercial floor area and requires the developer to pay a cash contribution towards essential city infrastructure like roads and footpaths. Pursuant to Clause 45.06-1 a permit granted must:
 - Be consistent with the provisions of the relevant development contributions plan.
 - Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay; and
- (ii) The subject site is located within Charge Area 11 (Cremorne) and the development infrastructure levy is applicable to the office and retail floor spaces. Council's standard condition will be included to ensure that the applicable Development Infrastructure Levy is paid, as required.

(d) Clause 45.07 – City Link Project Overlay:

- (i) Pursuant to Clause 45.07-3, a planning permit is not required as the proposed development does not include business identification signs in locations shown as “prohibited area for advertising signs” on the plan titled “Melbourne City Link Project – Advertising Sign Locations November 2023;
- (ii) Pursuant to Clause 45.07-6, an application must be referred under Section 55 of the Act to the person or body specified as the referral authority in Clause 66.03; and
- (iii) Pursuant to Clause 66.03, the application must be referred to the Head, Transport for Victoria, who is a determining referral authority. The application was referred accordingly;

(e) Clause 52.06 – Car Parking:

- (i) Before a new use commences the required car parking spaces must be provided on the land as set out at Clause 52.06-5. The following table outlines the car parking requirements associated with the application:

Use	Size	Statutory Parking Rate*	No. Spaces Required	No. Spaces Allocated	Reduction sought
Office	1222sqm	3 to each 100sqm net floor area	36	8	28
Restaurant	269sqm	3.5 to each 100sqm leasable floor area	9	0	9
Shop	163sqm	3.5 to each 100sqm leasable floor area	5	0	5
Total			50	8	42

*Site is within the Principal Public Transport Network – Column B parking rates apply

- (ii) Given the above, a planning permit is required to reduce the number of car parking spaces.

(f) Clause 52.27 (Licenced Premises):

- (i) Pursuant to Clause 52.27, a planning permit is required for the sale and consumption of liquor.

(g) Clause 52.34 (Bicycle Parking):

- (i) Pursuant to Clause 52.34-1 of the Scheme, a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage are provided on the land;
- (ii) The following table identifies the bicycle parking requirements under Clause 52.34-3 of the Scheme and the provision of bicycle parking on site:

Proposed use	Size	Statutory Parking Rate	No. Spaces Required	No. Spaces Allocated
Office	1222sqm	1 employee space to each 300sqm of net floor area if the net floor area exceeds 1000sqm 1 visitor space to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	4 employee spaces And 1 visitor space	15 employee spaces And 6 visitor spaces
Restaurant	269sqm	1 employee space to each 100sqm floor area available to the public 2 plus 1 visitor space to each 200sqm of floor area available to the public if the floor area available to the public exceeds 400sqm	3 employee spaces And 2 visitor spaces	5 employee spaces And 6 visitor spaces
Shop	166sqm	1 employee space to each 600sqm of leasable floor area if the leasable floor area exceeds 1000sqm 1 visitor space to each 500sqm of leasable floor area if the leasable floor area exceeds 1000sqm	0 employee spaces And 0 visitor spaces	0 employee spaces And 0 visitor spaces
Bicycle Parking Spaces Total			7 employee spaces 3 visitor spaces	20 employee spaces and 12 visitor spaces

Showers / Change Rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	1 shower / change room	6 shower / change rooms
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- (iii) Given the above, the on-site bicycle parking provision complies with the requirements of Clause 52.34.
- (h) **Clause 53.18 – Stormwater Management in Urban Development** - This Clause applies to an application under a provision of a zone to construct a building or construct or carry out works. An application to construct a building or to construct or carry out works:
 - (i) Must meet all of the objectives of Clauses 53.18-5 and 53.18-6; and
 - (ii) Should meet all of the standards of Clauses 53.18-5 and 53.18-6; and
- (i) **Clause 65 – Decision Guidelines:**
 - (i) These guidelines set out the relevant matters to be considered, as appropriate, before deciding on an application or approval of a plan.

Internal and External Consultation

Advertising

31. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by 2 signs displayed (displayed on Sanders Place and the western laneway frontage).
32. Council received 7 objections, on the following key grounds:
 - (a) Inappropriate building height and lack of setbacks;
 - (b) Visual bulk impacts;
 - (c) Loss of daylight to habitable rooms;
 - (d) Overshadowing of private open space;
 - (e) Overlooking to habitable rooms and private open spaces;
 - (f) Noise impacts from the Restaurant use/Liquor Licence;
 - (g) Noise impacts from plant equipment;
 - (h) Traffic congestion to western laneway, including from employee as well as waste collection vehicles and consequential impacts to pedestrian safety;
 - (i) Lack of car parking;
 - (j) Obstruction of laneway during construction;
 - (k) Noise impacts during construction;
 - (l) Loss of view; and
 - (m) Devaluation of property.
33. A planning consultation meeting was not held.

34. Following the submission of the amended application under Section 57A of the Act, the application was not readvertised under the provisions of Section 57B of the Act. The amended application would not result in increased material detriment to surrounding properties.

Internal and external referrals

35. In accordance with the requirements of Clause 66.06, this application was advertised to Transurban City Link Limited, Transport for Victoria and the EPA as the site is within the Design and Development Overlay – Schedule 5. The Head, Transport for Victoria, in consultation with Transurban responded as outlined in the referrals table below. At the time of writing this report, a response was not received from the EPA.
36. The proposal was referred to the following external agencies and internal business units:

External Agency	Outcome
Head, Transport for Victoria	No objection, subject to conditions which have been included in the recommendation
Internal Business Unit/ External consultant	Comments
External Urban Design (Hansen)	Not supportive of the original, advertised plans with the following recommendations made: <ul style="list-style-type: none"> • Revise the built form massing to reduce the visual bulk impact, particularly when viewed from the east, either by reducing height and / or setbacks • Provide additional articulation to the western interface • Incorporate highlight windows to eastern wall to improve internal amenity and natural light • Clarify 24/7 access to the external stair due to safety concerns
External Acoustic Consultant (SLR)	Supportive, subject to conditions which will be included in the recommendation. Key recommendations include a future review of mechanical services to confirm compliance with the applicable noise limits, limiting music in the restaurant to background noise level and provision of a Patron Noise Management Plan.
External Wind Consultant (MEL)	Supportive, subject to conditions which will be included in the recommendation. Key recommendations include further elaboration on the wind impacts to the private outdoor areas at 38, 40 and 42 Brighton Street.
Urban Design (Public Realm only)	Supportive, subject to the provision of an additional ground floor setback and a road safety audit to provide evidence the site can be accessed safely by pedestrians at a range of daytime and night time hours.

	The amended plans lodged as part of the Section 57A amendment have increased the ground floor setback to Sanders Place. The road safety audit is not recommended to be pursued as discussed later in the report.
Development Engineering	<p>Supportive of car parking reduction and supportive of car parking access and location, subject to conditions.</p> <p>Key recommendations include increasing the depth of the loading bay to a minimum of 5.4m, providing a dimension of the width of the internal driveway, a 1:20 scale cross sectional diagram to show vehicle access to the site from the laneway and to confirm the utility cabinet doors along Sanders Place open a maximum 180degrees and latched to the building when open.</p> <p>Standard engineering conditions and notes have also been recommended and will be included in the recommendation.</p>
ESD	<p>Supportive of the sustainability management plan (SMP) originally submitted with the application, subject to conditions.</p> <p>Key recommendations included responding to outstanding information items and addressing various deficiencies including (and not limited to) BESS inconsistencies, lack of solar panels, and solar reflectance value of the roof materials.</p> <p>An amended SMP was lodged in conjunction with the Section 57A amendment and sought to address all outstanding deficiencies and information items. Council's ESD advisor reviewed the revised SMP and confirmed all outstanding matters have been addressed.</p>
Strategic Transport	<p>Supportive of bicycle parking arrangements subject to conditions some of which will be included in the recommendation.</p> <p>Key recommendations include providing all visitor bicycle parking in publicly accessible spaces at ground level and to provide a secure compound for employee bicycle parking.</p>
Compliance	Supportive of the sale and consumption of liquor in association with the Restaurant use as well as the proposed hours of operation.
City Works – Waste Management	Fully supportive of the Waste Management Plan.
Strategic Planning	Not supportive of the original proposal or revised proposal, due to the building height and setbacks not complying with Draft Schedule 53 to the Design and Development Overlay (Draft Cremorne Urban Design Framework).

Policy Implications

Planning Policy Framework (PPF)

37. The following policies are of most relevance to this application:

- Clause 2 - Municipal Planning Strategic, including:

- Clause 02.01 – Context:
 - Clause 02.01-1 – Location
 - Clause 02.01-6 – Built Environment and Heritage
 - Clause 02.01-9 – Transport
- Clause 02.02 – Vision
- Clause 02.03-1 – Settlement:
 - Clause 02.03-3 – Environmental Risks and Amenity
 - Clause 02.03-4 – Built Environment and Heritage
 - Clause 02.03-6 – Economic Development
 - Clause 02.03-7 – Transport
- Clause 02.04 – Strategic Framework Plan
- Clause 11 – Settlement
 - Clause 11.01-S – Settlement
 - Clause 11.02-1S – Supply of Urban Land
- Clause 13 – Environmental risks and amenity:
 - Clause 13.05-1S – Noise Management
 - Clause 13.06-1S – Air Quality Management
 - Clause 13.07-1S – Land Use Compatibility
 - Clause 13.07-1L – Interfaces and Amenity
- Clause 15 – Built environment and heritage:
 - Clause 15.01-1S – Urban Design
 - Clause 15.01-1L – Urban Design
 - Clause 15.01-2S – Building Design
 - Clause 15.01-2L – Building Design
 - Clause 15.01-2L-01 – Environmentally Sustainable Development
 - Clause 15.01-5S – Neighbourhood Character
- Clause 17 - Economic Development:
 - Clause 17.01-1S – Diversified Economy
 - Clause 17.01-1L – Employment
 - Clause 17.02-1S – Business
 - Clause 17.02-1L – Retail
- Clause 18 – Transport:
 - Clause 18.01-1S – Land Use and Transport Integration
 - Clause 18.02-1S - Walking
 - Clause 18.02-2S – Cycling
 - Clause 18.02-2L – Cycling
 - Clause 18.02-3S – Public Transport
 - Clause 18.02-3R – Principal Public Transport Network
 - Clause 18.02-4L-01 – Car Parking
- Clause 19 – Development infrastructure:
 - Clause 19.03-3L – Water Sensitive Urban Design
 - Clause 19.03-5L – Waste

Other relevant documents

- 38. Urban Design Guidelines for Victoria (DELWP).
- 39. Yarra Economic Development Strategy 2020-2025.

Planning Scheme Amendment

Draft Amendment C318

40. On 25 October 2022, Council resolved to (in summary) endorse the Draft Cremorne Urban Design Framework (Draft UDF) for consultation and adopt the proposed community engagement program to seek community feedback on the Draft UDF.
41. Council sought community feedback on the draft UDF in late 2022. Council considered the feedback at a Council meeting on 12 September 2023. At the meeting, it also:
 - (a) Endorsed a revised Cremorne Urban Design Framework (UDF) for further consultation; and
 - (b) Resolved to request the Minister for Planning approve interim built form provisions via a Ministerial amendment (Amendment C317yara) and request consent to formally exhibit permanent planning provisions (Amendment C318yara).
42. Draft Amendment C318yara proposes to:
 - (a) Introduce three new built form controls in the form of Design and Development Overlays (DDO) to manage the scale and design of new commercial development. The new DDOs would apply to the Cremorne West (DDO51), Railway (DDO52) and Church Street (DDO53) Precincts;
 - (b) Introduce the Parking Overlay to the commercial areas of Cremorne to promote more sustainable modes of transport by limiting the amount of car parking needed in new development;
 - (c) Insert a new policy under Clause 11.03 Planning for places: 11.03-6L Cremorne Precinct that supports Cremorne as a vibrant, diverse, accessible and high amenity enterprise precinct. This will include specific policy on land use, built form, access and movement, open space and the public realm;
 - (d) Introduce the background documents that informed the proposed planning controls at Schedule to Clause 72.08; and
 - (e) Rezone two identified zoning anomalies in Cremorne, where two zones apply to a single site: 20-26 Brighton Street and 459-471 Church Street.
43. Given this document has been adopted by Council it is now seriously entertained and will form part of the assessment of this application.
44. The subject site is located in the 'Church Street Precinct' in Richmond. The Church Street Precinct is described as a traditional linear high street with commercial and retail uses and a mixed built form character. New midrise developments are visible from abutting low-scale residential areas to the east.
45. Whilst specific built form controls have not been developed for the subject site, the Draft UDF includes the following built form guidance on overall height, street wall height and upper level setbacks in the Church Street Precinct, as follows:
 - (a) Maximum overall height: 20m;
 - (b) Maximum street wall height: 12m;
 - (c) Minimum upper level setback: 3m; and
 - (d) Maximum boundary wall height: 20m.

46. A number of design objectives have also been included in the Draft UDF. These will be discussed within the assessment section of the report, where relevant.



Figure 12 - Extract of Draft Cremorne UDF showing preferred building heights, street wall heights and minimum upper level setbacks for the Church Street Precinct (subject site outlined in red)

Officer Assessment

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

- (a) Policy and Strategic Support;
- (b) Use, Sale and Consumption of Liquor;
- (c) Built Form and Urban Design;
- (d) Environmentally Sustainable Design, Internal Amenity;
- (e) Off-site amenity impacts;
- (f) Car Parking, Loading, Bicycle Facilities;
- (g) Waste Management; and
- (h) Objector Concerns.

Policy Strategic Support

48. The proposed development has strong strategic support at the State and local level for the construction of a mid-rise office building. The site and adjoining land to the south and west, as well as further north of No. 7 Sanders Place, are located in the C2Z. The C2Z specifically encourages office, retail uses and associated commercial services. Specifically, the proposed office use does not require a planning permit in the C2Z, which indicates strong strategic support for the proposed use and aligns with the purpose of the zone.

49. With regard to the proposed development, State and local policies within the Yarra Planning Scheme (the Scheme) encourage the concentration of development in and around activity centres with more intense development on sites well-connected to public transport, thereby ensuring efficient use of existing infrastructure.
50. The site is well connected to public transport opportunities, with trams along Swan Street (250m north) and Church Street (66m west) and East Richmond Railway Station (162m north-west), encouraging the use of alternative transport to and from the site and reducing reliance on motor vehicles as encouraged by Clauses 15.01-2L-01 (Environmentally Sustainable Development), 17.01-1L (Employment) and 18.01-3S (Sustainable and Safe Transport) within the Scheme.
51. Furthermore, Clause 02.02-8 (Economic Development) and Clause 02.04 (Strategic Framework Plan) identifies that Cremorne, as well as Richmond on the eastern side of Church Street, is one of two major employment precincts within the City of Yarra. The other being the Gipps Street Precinct in Collingwood. There are several strategies provided at Clause 17.01-1L (Employment) seeking to maintain and encourage employment in these major employment precincts, relevantly including the following:
- (a) *Manage the redevelopment of sites within Yarra's major employment precincts to provide uses that support their intended economic function;*
 - (b) *Encourage the intensification of employment land in Yarra's major employment precincts;*
 - (c) *Support development that provides high-quality built form within Yarra's major employment precincts; and*
 - (d) *Support development that improves the public realm of major employment precincts, including the provision of or access to public open space.*
52. The C2Z preferences uses such as offices and other retail uses to occur within this location and accordingly, the site is located within an area where higher intensity industrial and commercial uses have been directed to be located by both local and state policy. This outcome is acknowledged in the Tribunal decision *WAF Construction Pty Ltd v Yarra CC* [2003] VCAT 1122 (29 August 2003), where the following comments were made in relation to built form expectations within a Business 3 Zone (now Commercial 2 Zone) in Cremorne. Whilst the subject site is in Richmond, it is within the C2Z and subject to the Draft Cremorne UDF. As such, this decision is relevant to the proposal:
- [33] The site's location in an identified commercial/industrial area, together with its proximity to an extensive public transport network and an Activity Centre, are factors supporting a higher density commercial development.*
- [34] [Commercial 2 Zones] seek to facilitate development of the service sector, allow for more efficient utilisation of business premises and encourage the development of employment areas that are serviced by public transport and bicycle and pedestrian networks.*
53. Council's Economic development policy at Clause 02.01-8 recognises Cremorne as an enterprise precinct, emerging as Melbourne's premier destination for creative design, particularly in the tech and digital space. It is home to global companies which sit side by side with small to medium sized firms, start-ups and co-working spaces. As shown in the Strategic Framework Plan at Clause 02.04, the subject site is located within the Cremorne Major Employment Precinct. As discussed above it is clear that local policy seeks to preserve and grow this employment area.
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54. Having regard to the above, the proposed re-development of the site for a greater provision of floor area for offices and retail is considered to have strategic planning support. However, regard must be had to the appropriate scale of the proposal, based on the individual context and constraints of the land, and its proximity to residential zones. This aspect of the development will be discussed in detail later in the report.

Land Use & Sale and Consumption of Liquor

55. As noted, the proposed Office use does not require a planning permit under the C2Z, indicating strong strategic support. The use of the land for a Restaurant (Food and Drinks Premises) is also as-of-right under the C2Z, provided the leasable floor area of the premises does not exceed 100sqm. The Shop use is also as-of-right, provided it:
- (a) *Adjoins, or is on the same land as, a supermarket when the use commences;*
 - (b) *The combined leasable floor area for all shops adjoining or on the same land as the supermarket must not exceed 500 square metres; and*
 - (c) *The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.*
56. As the Restaurant has a leasable floor area of 269sqm and the Shop does not meet the criteria outlined above, a planning permit is required for both of these uses. However, there is otherwise strong strategic support for the Restaurant and Shop uses in this area given the site's location within a Major Employment Precinct and proximity to public transport as well as a Major Activity Centre, as discussed in the previous section of the report.
57. In respect of amenity impacts, Clause 13.07-1L-01 (Interfaces and Amenity) seeks to ensure that new non-residential use and development be designed to minimise noise and visual amenity impacts upon nearby, existing residential properties, with Clause 13.05-1S (Noise management) ensuring that community amenity is not adversely impacted by noise emissions. Amenity impacts relating to built form will be discussed later in the report, with the following assessment limited to the potential amenity impacts arising from the Shop and Restaurant uses only (as the Office use is as-of-right).
58. The proposed hours for the Shop are 7am to 10pm, 7 days a week and for the Restaurant, between 11am and 11pm (Sunday to Thursday) and between 11am and 12 midnight (Fridays and Saturdays). The liquor licence hours are consistent with the proposed operating hours for the restaurant. Clause 13.07-1L-01 does not include a provision for preferred trading hours for commercial uses and as the site is within commercially-zoned land, operating hours should not be unreasonably restricted as this would undermine the purpose of the C2Z, where commercial uses are specifically encouraged to locate. Further to this, Clause 13.05-1S (Noise management) also seeks to ensure that development is not prejudiced by existing sensitive land uses.
59. Noting the site's interface with residentially-zoned land to the north and east, Clause 13.07-1L-01 recommends the operating hours of non-residential uses in residentially-zoned land to be limited to between 8am and 8pm. These hours would be considered reasonable had the development been located in a more homogenous, residential neighbourhood. However, restricting the operating hours of the Shop and Restaurant uses in line with the above policy is considered to unreasonably undermine the purposes of the C2Z.

60. The hours of operation are not considered to result in unreasonable amenity impacts. It is anticipated that patrons leaving either premises would exit the site onto Sanders Place and head westwards, away from the residential areas, given the lack of direct access to the east and north. Further, the Restaurant will be located at basement level and a solid wall is proposed on the eastern boundary of the Shop tenancy, which will mitigate noise from internal activities associated with these uses.
61. Council's acoustic consultant (SLR) agree that patron noise impacts from within the building are unlikely to be an issue and are supportive of the hours of operation of the Shop, noting it is a 'low-risk' use having regard to the nature of its operation (i.e. a Retail Premises). SLR acknowledge the greatest risk lies with patrons leaving the Restaurant during night-time hours (i.e. between 10pm to 7am the following day). However, SLR agree with the recommendations in the applicant's acoustic report that patron behaviour could be managed through a Patron Noise Management Plan (also known as a Noise and Amenity Action Plan).
62. This is considered an acceptable outcome, given patrons would typically leave the venue towards Church Street where public transport and other food and drink and entertainment venues are located, rather than towards the residential areas east of the site. In addition, music within the Restaurant will be limited to background levels only via a condition. Should a permit issue, a condition will also require the submission of a Noise and Amenity Action Plan. This will be discussed in further detail in the assessment of the Sale and Consumption of Liquor.
63. In relation to deliveries, these will occur within the loading bay located on the western side of the site, away from the nearest dwellings. Waste collection will also occur from the western abutting laneway. Conditions will restrict the times of day that deliveries and waste collection will occur, in accordance with Council's Local Law guidelines, to ensure they do not unreasonably impact the amenity of nearby dwellings. A general amenity condition will also be included, should a permit issue. Loading and delivery activities will be discussed in more detail later within this report.
64. For the above reasons, the proposed Shop and Restaurant uses are supported and will not result in unreasonable amenity impacts, subject to the conditions outlined throughout this report.
65. The application also proposes the Sale and Consumption of Liquor in association with the Restaurant use, which requires a planning permit under Clause 52.27 of the Scheme. The following assessment is informed by policy at Clause 13.07-1L-02 (Licenced Premises) of the Scheme, which is considered a more localised reflection of the decision guidelines at Clause 52.27.

Location and access

66. Clause 13.07-1L-02 encourages licenced premises to locate where:
 - (a) *There is opportunity for a high level of public safety and surveillance of patrons;*
 - (b) *There is convenient access to car parking, public transport, taxi ranks or ride sharing; and*
 - (c) *Transport can be accessed in non-residential areas at late hours.*

67. The subject site is located in the C2Z and as such there is strategic support for licenced venues within this area. However, the site is within 30m of residentially-zoned land. The risk of adverse impacts to nearby residential uses is reduced due to the food-focused nature of the Restaurant and a high proportion of seating (more than 75% of total patrons permitted within the venue). Further, the site is located approximately 66m east of Church Street, where access to public transport, ride share pick-ups as well as other food and drink and entertainment uses are located. Patrons leaving the premises are therefore likely to travel westwards, away from the nearest residential areas, with no direct road/laneway providing access to the residentially zoned land.
68. Although Sanders Place appears more as a laneway than a road, the Restaurant use would increase pedestrian activity in Sanders Place during nighttime hours, improving the sense of safety and passive surveillance of the street. This outcome is supported, given the commercial nature of this street.

Venue design and operation

69. Policy encourages licenced premises to be designed to:
- (a) *Incorporate safe design principles in the layout and design of licensed premises.*
 - (b) *Locate entries, exits and the areas for patron queuing away from sensitive land uses.*
 - (c) *Provide waste management and storage on-site and provide noise enclosures where bottle crushers are to be used.*
 - (d) *Ensure the design of licensed premises is responsive to its context and appropriately considers residential and other sensitive land uses near the premises, including the location of their existing doors, windows and open space areas.*
70. Policy (under Venue operation) also seeks to manage the operation of a licenced premises to minimise adverse amenity impacts on surrounding residential and sensitive uses.
71. The Restaurant will be located at basement level and as such, patron noise from within the venue will be contained and is unlikely to have an unreasonable impact on nearby sensitive uses. Patrons will enter and exit the venue via Sanders Place. As previously discussed, SLR and the applicant's acoustic consultant raised concerns with the potential noise impacts from patrons leaving the venue and are satisfied that these impacts could be addressed via a management plan. This will form a condition for a Noise and Amenity Action Plan, which will be required to address (at minimum), the management of patron noise when leaving the venue, the management of queues, smoking areas, music noise, and the management of complaints.
72. Further, patrons are considered unlikely to cause unreasonable disturbances when leaving the venue given the food-focused nature of a Restaurant, in comparison to a bar or other late night entertainment venue which are more-associated with "vertical drinking environments".
73. The red line plan on Drawing TP-4200 shows that liquor service will be entirely contained within the Level 1 basement and is restricted to the dining areas, bar area, kitchen, bathrooms and back of house facilities. The venue layout shows more than 75 seats provided, which satisfies the requirement to provide a minimum seated capacity of 75% for café / restaurant liquor licences.

74. The Restaurant also contains bathroom facilities, so patrons do not need to travel up to ground floor level to use the bathrooms (and potentially gather out on Sanders Place). Smoking facilities have not been explicitly provided. However, there is outdoor space within the front setback that could be utilised by smokers. This is considered acceptable given:
- (a) The constraints of the building;
 - (b) The majority of uses in the surrounding area do not have a designated outdoor smoking area within the premises and instead rely on public outdoor areas; and
 - (c) As the venue is not a bar or entertainment venue, but rather a restaurant, there is a lesser need for a dedicated smoking area.
75. The Noise and Amenity Action plan required via condition will include provisions for ensuring that smokers do not cause unreasonable noise impacts.
76. The venue does not provide for live music and will have internal speakers for the provision of background music only. A condition will require music to be background levels only and ensure no external speakers are erected.
77. As the venue is a Restaurant, a condition will require the provision of food at all times when liquor is being sold and consumed. This will minimise the possibility of patrons becoming intoxicated at the venue, particularly in comparison to a bar or night club venue.
78. As will be discussed later in the report, waste will be stored on site and collected from the western-abutting laneway, in accordance with the submitted Waste Management Plan. A condition will also require that emptying of bottles and cans into bins to only occur between 7am and 10pm on Monday to Saturday or after 9am on Sundays and public holidays.

Hours of operation

79. Clause 13.07-1L-02 seeks to limit the sale and consumption of liquor from licenced premises to no later than 11pm for sites within 30m of a residential zone.
80. The proposed licence hours are:
- (a) Between 11am and 11pm, Sunday to Thursday; and
 - (b) Between 11am and 12 midnight (the following morning), Fridays and Saturdays.
81. The licence hours between Sunday to Thursday are in accordance with policy and are therefore supported. A variation of 1 hour is sought for the venue on Friday and Saturday nights.
82. A variation to the licence hours until 12 midnight on Fridays and Saturdays is supported, for the following reasons:
- (a) The site is within the C2Z where commercial uses are encouraged to locate. Policy at Clause 02.03-6 (Economic Development) supports a night-time economy and the proposed licenced restaurant will contribute to this outcome within the surrounding area;
 - (b) The hours are also consistent with the site's commercial zoning, which would otherwise allow trading until 1am had the site not been within 30m of a residential zone;

- (c) The variation to the hours is limited to Friday and Saturday nights, where greater levels of night time pedestrian activity is typical;
- (d) There are no outdoor areas associated with the restaurant, with the venue design and location within the basement also providing no direct interface with residential uses;
- (e) Patron dispersal will typically be towards Church Street where there is access to public transport, ride share pick-up areas as well as other food and drink and entertainment venues;
- (f) The Noise and Amenity Action Plan required via condition will include provisions to ensure that patron dispersal does not adversely affect the amenity of nearby sensitive uses and will also include procedures for the management of complaints;
- (g) The proposed licenced premises is not considered to result in an unreasonable cumulative impact. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*) provides an assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the sale and consumption of liquor (i.e. premises type, patron numbers and operating hours) the required level of assessment will vary;
- (h) Based on this decision, Council has development an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type, size and closing hours of the premises, to help determine what level of assessment is appropriate. The below matrix table also sets out the change in circumstances on the site between patron numbers and hours for the sale and consumption of liquor:

Type of premise	Risk Factor
Café / Restaurant	0
Bar / Restaurant /	1
Bar	3
Hotel / Tavern	3
Nightclub	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 of premise	Risk Factor
11pm	0
12am	1
1am	2
2am	3
3am	3
Beyond 3am	4

- (i) Applying the matrix of risk, a reasonable consideration would suggest a score of 1-3 would be no risk and higher than 3, potential risk. In this instance the venue achieves a score of 2 between Sunday and Thursday and a score of 3 on Fridays and Saturdays. As such, the venue is not considered to be a risk and a cumulative impact assessment is not required. However, it is noted that the majority of licenced venues are located along Church Street or Swan Street (with Swan Street containing more late-night venues). The level of consumption at the proposed restaurant would be modest in comparison to other late-night venues in the surrounding area, given food service will be the primary activity occurring within the restaurant.

83. For the above reasons, the licence hours until 12 midnight on Fridays and Saturdays are acceptable. The licence hours will form conditions, should a permit issue. The application was also referred to Council's Compliance Unit, who were supportive of the licence on the basis that the sale and consumption of liquor is in association with a Restaurant, that background music only will be played and that the hours will be limited to 12 midnight on Fridays and Saturday and 11pm on other days.

Patron numbers

84. Clause 13.07-1L-02 encourages venue size and patron numbers that:

- (a) *Provide for a safe and amenable operating venue capacity; and*
- (b) *Reflect the strategic and physical context of the site.*

85. Policy guidelines require consideration of:

- (a) *Whether the number of patrons to be accommodated are within the safe and amenable operating capacity of the premises, based on the Liquor Licensing Fact Sheet - Maximum Patron Capacity (Victorian Commission for Gambling and Liquor Regulation, 2018);*
- (b) *An assessment by a building surveyor detailing the patron capacity of the licensed premises where an application proposes an increase in patron numbers or a new licence; and*
- (c) *Whether the number of patrons has a cumulative impact on the local area.*

86. The proposal seeks approval for a maximum of 100 patrons within the Restaurant at any one time. As noted in the venue design section above, the seating layout provides for more than 75% of patrons to be seating (e.g. more than 75 seats are provided). This will align with the VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity.
87. The VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity also recommends that the maximum number of patrons that can be accommodated on the premises is determined by applying a ratio of one person per 0.75sqm floor area. Based on this ratio, the 269sqm restaurant is capable of accommodating up to 348 patrons.
88. Despite this, the submitted patron capacity report, produced by Floreancig Smith Building Surveyors, notes that the maximum patron capacity for this site is 100 based on an occupancy permit calculation which considers sanitary facilities, floor area and exit widths for the establishment. Given the above, the proposal for a maximum of 100 patrons is supported and will form a condition should a permit issue.

Noise

89. Clause 13.07-1L-02 seeks to design, manage or modify licenced premises to minimise any unreasonable noise impacts on the local area. Policy guidelines at Clause 13.07-1L-02 require consideration of (as is relevant):
- (a) Whether noise emissions from licensed premises comply with the standards specified in EPA Publication 1826 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues or any other requirement, such as accepted sleep disturbance criteria or relevant Australian Standards (except for an application for a restaurant, including a café, where the preferred hours of operation specified in this policy are met; or any application for a packaged liquor outlet);
 - (b) The preparation of an acoustic report (except for cafes but includes restaurants with an open courtyard and restaurants with a residential interface);
 - (c) Employing on-site noise attenuation measures to licensed premises where unreasonable amenity impacts may result from proposed activities on the surrounding area; and
 - (d) The preparation of a Noise and Amenity Action Plan (except for restaurant, café or packaged liquor outlet).
90. The proposed red line area includes the majority of the Level 1 basement only. The proposal will be conditioned to cease the sale and consumption of liquor at 11pm, Sunday to Thursday and 12 midnight on Fridays and Saturdays (the appropriateness of these hours has been discussed earlier in the report). No live music will be provided, and a standard condition will limit any music to background levels. As previously discussed, both the applicant's acoustic consultant and SLR agree that patron noise from patrons leaving the venue can be adequately managed via a Noise and Amenity Action Plan. Subject to the inclusion of these conditions, it is expected that the impact of any noise generated will be minimal.
91. While nearby land is within a residential zone, considering the interface with commercial zoning and a Major Employment Precinct, any noise produced, and speakers kept at background level are not considered to result in unacceptable noise. Overall, it is not expected that the sale and consumption of liquor during the hours associated with a restaurant will result in unreasonable amenity impacts to these sensitive uses.
92. Clause 13.07-1L-02 does not specifically require a Noise and Amenity Action Plan to be submitted for liquor licence applications that pertain to restaurants. This recognises the low-risk nature of these types of licences. However, due to the concerns raised in the acoustic report and acoustic peer review, a Noise and Amenity Action Plan will be conditioned, primarily to address the management of patrons leaving the venue.
93. Additionally, standard conditions would be included to ensure that noise at all times complies with the requirements of the Environmental Protection Regulations under the Environment Protection Act 2017 and the Incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021). Conditions will also require ongoing compliance with the endorsed acoustic report and noise and amenity action plan.

94. SLR have also recommended that the applicant's acoustic report be updated to include graphs or tables of the hourly background noise monitoring results and note the day and time of measurement used as the background noise level for the purposes of calculating the night period music noise limits. These matters will be addressed via a condition for an amended acoustic report, should a permit issue.

Built Form and Urban Design

95. The built form and urban design assessment for this proposal is guided by State and Local policies at Clause 15.01-1L (Urban Design), Clause 15.01-2S (Building Design), Clause 15.01-2L (Building Design), Clause 15.01-1L (Urban design) and Clause 13.07-1L-01 (Interfaces and amenity). In the interests of providing a concise assessment and avoiding repetition between State and local design principles, the following assessment will group similar themes where applicable.

Urban form, character and context

96. As outlined in the Surrounding Land description of this report, the surrounding neighbourhood character is mixed. The land zoned C2Z largely consists of two storey office buildings, with taller buildings located closer towards the Church Street corridor. Some low-scale residential development is interspersed throughout this commercial area, noting that these are non-conforming uses. There is also an emerging character of more intense commercial development within the Church Street hinterland area (e.g. between Brighton Street and Church Street). This is evident in the newly constructed building at 12-18 Albert Street at 7 storeys and the approved development at No. 9 Kingston Street, at 6 storeys. Images of these developments are provided below.

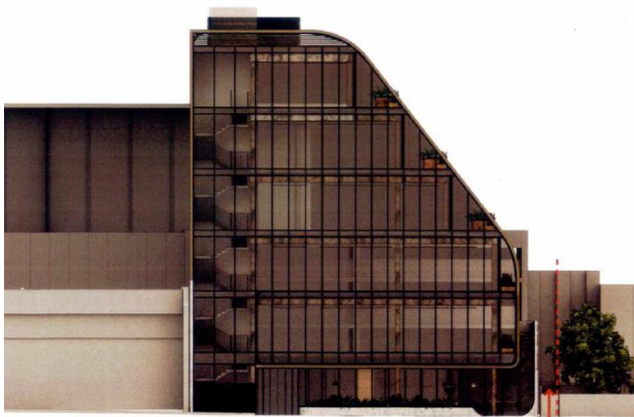


Figure 13 - Artist's impression of No. 9 Kingston Street (source: PLN19/0025 advertised design report))



Figure 14 - Photo of No. 12-18 Albert Street (Planning Officer, August 2024)

97. Developments such as the examples above (which exceed the preferred height of the Draft UDF) were considered acceptable considering the detailed design responded to their physical and strategic context, including providing a transition in scale to sensitively respond to the low-rise residential area east of these sites.

98. The built form of the wider surrounding area is dominated by its location within a commercial zone and its proximity to the Swan Street Activity Centre and Cremorne Major Employment Precinct. This mixture in built form types and heights is typical of this area of Richmond and Cremorne, with Clause 15.01-2L (Building design) directing mid-rise development to be accommodated within the employment, commercial and industrial areas of the municipality. As a major employment precinct, this area will continue to experience an intensification of use and development.
99. Considering the recent approvals of larger scale developments, the developments' proximity to the Swan Street MAC, location within a major employment precinct, various public transport links and that the surrounding sites are not located within a heritage overlay to restrict development, it would be a reasonable expectation that this site and others in the street would experience further intensification in use and development.
100. The area of Richmond south of Swan Street and between Church Street and Brighton Street is undergoing significant change with regards to building heights and forms, with an emergence of dense mid-rise to high-rise development. However, it is acknowledged that the taller forms in excess of 6 storeys are concentrated along key boulevards and main streets (e.g. Cremorne Street, Balmain Street and Church Street) and are not evident in the core of the suburb where the subject site is located, or with direct abuttal to residentially zoned land.
101. Based on the context outlined, a mid-scale development on the subject site is expected. However, a detailed assessment against the appropriateness of the height and massing are prudent in determining the acceptability of the proposal from a built form perspective. The subject site does not benefit from the strategic positional benefits of other higher scale development described above. The subject site is located at the edge of the C2Z; at the interface with properties in the NRZ. As such there is a need to sensitively transition any future built form to this residential interface.

Height, scale and massing

Building height

102. The proposed development presents as an overall 6 storey building which equates to 24m, inclusive of the plant (22.6m up to the parapet). It is also noted that the development has reduced in height from the originally submitted and previously advertised proposal, which presented as an overall 7 storey development, equating to 27.4m. The overall height has since reduced by 3.4m via the removal of one level.
 103. As previously identified, the Draft UDF and proposed DDO53 envisions a maximum overall height of 20m (5 storeys) for this land. Given the Draft UDF is yet to be formally incorporated into the Scheme and in the absence of any specific height requirements currently in existence, Clause 02.03-4 (Built environment and heritage) and Clause 15.01-2L (Building design) requires regard to the physical and strategic context of the site. Clause 15.01-2L also directs mid-rise development in employment, commercial and industrial areas.
 104. The proposed building height of 6 storeys is generally reflected in the emerging character of mid-rise development at the edge of the C2Z in the surrounding area, including the two approved developments on Kingston Street and Albert Street discussed above. No. 9 Kingston Street is approved at a height of 6 storeys and 24.1m (to the top of the lift overrun) and No. 12-18 Albert Street is approved at a height of 7 storeys and 26.7m (to the top of the lift overrun). Similar to the subject site, these developments also share an interface with residentially-zoned land, as demonstrated in the image below.
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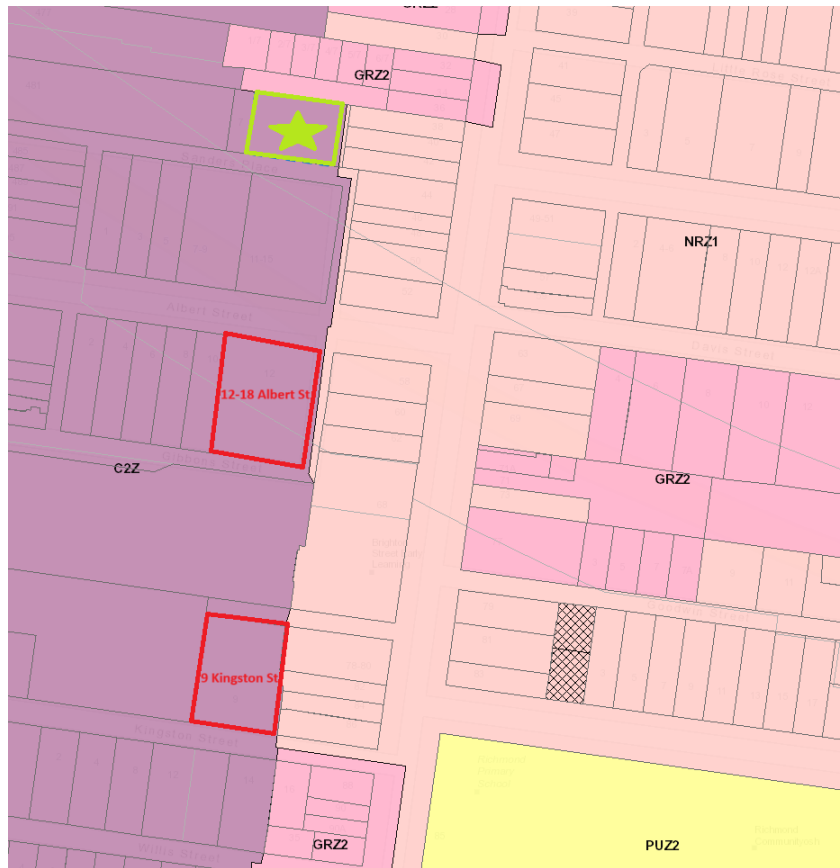


Figure 15 – Zoning map showing locations of subject site (green), 12-18 Albert St & 9 Kingston St and their interface with residentially-zoned land (DTP, April 2025)

105. Upon review of the planning officers' reports for these two applications, the heights of these developments were supported, given the tallest elements of the buildings were located furthest away from the residentially-zoned land and the buildings decreased in height as they approached their residential interfaces. This is reflected in the buildings' sloped eastern facades, as clearly demonstrated in Figures 13 and 14 of this report.
106. The originally advertised proposal was for a 7 storey building with a maximum height of 27.4m. The proposal has since been amended under Section 57A of the Act, which reduced the height to 6 storeys and 24m (a reduction of 1 storey and 3.4m). The tiered design incorporating greater setbacks from the east at the upper levels has been retained. A comparison between the advertised proposal and the current proposal is shown in the below image:

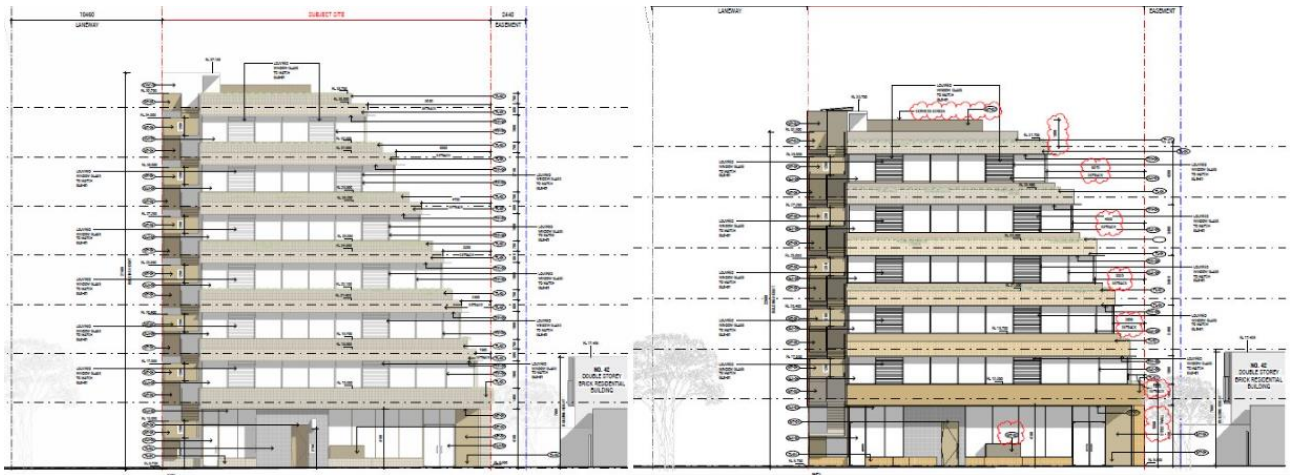


Figure 16 – Original development proposal – 7 storeys

Figure 17 – Current development proposal – 6 storeys

107. The original application was referred to Council's Urban Design Consultant (Hansen) and Strategic Planning team, who were not supportive of the 7 storey building height, noting the following:
- (a) The height is a substantial departure (i.e. 7.3m) from the preferred heights of the Draft Cremorne UDF (5 storeys / 20m) which is intended to create a more suitable transition from the commercial Church Street corridor to lower scale residential areas further east; and
 - (b) The height of 27.3m overwhelms surrounding residential properties and results in excessive visual bulk.
108. As a result of these concerns, Hansen recommended that a revision to the built form massing be provided to reduce visual bulk, which could be achieved by reducing the overall height, or by 'pushing out' the lower or mid-levels closer to the eastern boundary to help visually conceal the upper form.
109. The amended proposal has sought to address Hansen's recommendations by reducing the height of the building by one storey and 3.4m, as illustrated in Figures 16 and 17 above. The revised design has not followed the recommendation to push the lower levels of the building further towards the eastern boundary. This approach is supported given it would result in increased building mass towards the eastern-abutting dwellings, which could exacerbate visual bulk impacts.
110. Whilst the revised building height remains non-compliant with the 20m / 5 storey preferred height of the Draft Cremorne UDF, the reduction in height has resulted in a notable reduction in the building's visibility from the residential areas along Brighton Street, as illustrated in the following images. These diagrams include the proposed envelope of the development at No. 475-481 Church Street however it is noted that this development is yet to be approved and should be disregarded.



Figure 18 – Artist's impression of previously advertised (left) and revised (right) development, viewed from Brighton Street approximately from Nos, 44, 46 and 48 Brighton Street

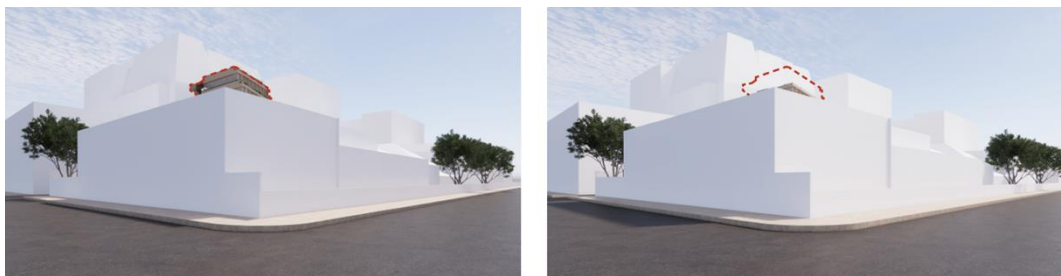


Figure 19 - Artist's impression of previously advertised (left) and revised (right) development, viewed from the corner of Albert Street and Brighton Street

111. To further mitigate visual bulk impacts, the eastern elevation of the building has adopted a “twisting profile” with the setbacks from the eastern boundary greater towards the northern end of the site and increasing as the building height increases. This design response consequently results in the tallest elements of the building being located towards the western side of the site, away from the residential interface. This approach is similar to that taken by the developments at No. 12-18 Albert Street and No. 9 Kingston Street and is a successful method in reducing visual bulk to the more sensitive uses to the east.
112. The external finishes have also been amended to adopt a darker colour palette at the lower levels, increasing to a lighter colour palette for the upper levels. This graduated transition from dark to lighter tones emphasises the building's lower forms and draws attention away from the upper levels, ensuring they read as more recessive elements in the streetscape, as shown in Figure 20. Planter boxes along the eastern elevation also soften built form along this interface.



Figure 20 – Artist's impression of previously advertised proposal (left) and revised proposal (right) from the backyard of No. 40 Brighton Street

113. In addition, each level on the eastern elevation has been further simplified to reduce the number of steps in the built form. This has been achieved by adopting a consistent parapet height at each level, as illustrated in the below image. The sections outlined in red on the original proposal have been removed.
114. These treatments also assist in mitigating visual bulk impacts to the north of the site.
115. The northern boundary wall is softened by it gradually stepping away from the north-eastern corner of the site as the building height increases, which maintains outlook to the sky along parts of the private driveway and from sections of the adjacent dwellings to the north. As is also discussed in the Off-site amenity impacts section, the living areas of dwellings at No. 7 Sanders Place are oriented towards the north, with views to the south generally considered to be a secondary outlook.

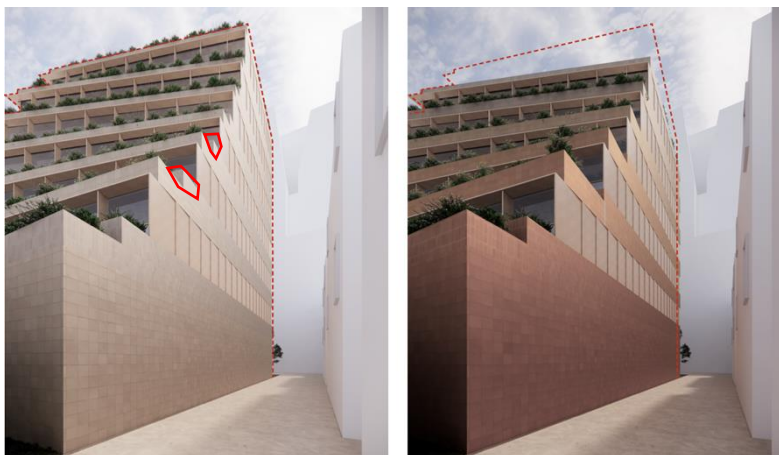


Figure 21 – Artist's impression of original proposal (left) and revised proposal (right) showing reduction in parapet heights at each level

116. In reviewing the amended proposal, Council's Strategic Planning Unit have advised that they are still not supportive of the development, noting that the building continues to not comply with the preferred building heights and setback requirements of the Draft DDO53. Whilst the building height and setbacks are still a departure from that envisaged by the Draft UDF, the design response has adopted measures to reduce the scale of built form towards its residential interfaces through material treatments, increased upper level setbacks and a reduction in the overall building height as discussed above.

117. It is also noted that the height requirements of the Draft DDO53 are discretionary, not mandatory. However, the proposed development, through the design response discussed above, continues to meet the design objectives of the Draft DDO53 in providing a mid-rise built form character with taller built form reinforcing the Church Street activity spine and transitioning to a lower built form on narrow, east-west side streets and at the interfaces with adjoining low rise residential areas and to ensure development responds to interfaces with residential precincts by providing a suitable transition in scale and form that minimises amenity through visual bulk, overlooking and overshadowing, as will be discussed later in the report.
118. The revised building envelope is considered to reflect the scale and massing of built form observed within similar site contexts (such as No. 9 Kingston Street and No. 12-18 Albert Street) and is considered to meet the criteria at Clause 15.01-2L (Building Design) that building heights should have regard to the physical and strategic context of the site. The revised design response is also not considered to result in unreasonable visual bulk. As such, a height of 6 storeys / 22.6m is supported.

Street wall

119. The development proposes a 3 storey street wall to Sanders Place with a maximum height of 11.8m (measured in Objective Trapeze). The height of the street wall is less than the maximum preferred under the Draft Cremorne UDF, which prescribes a 12m maximum street wall height. Whilst this height is greater than the two storey street walls approved at No. 12-18 Albert Street and No. 9 Kingston Street, a three storey street wall is acceptable having regard to the future built form context of the surrounding area.
120. Whilst existing buildings along Sanders Place are two storeys in height, the Draft Cremorne UDF envisages street wall heights up to 16m further west towards Church Street. The proposed 3 storey / 11.8m street wall is therefore considered to provide an appropriate transition in scale down towards the residential areas east of the site, where maximum building heights are limited to 9m and 2 storeys. This is reflected in the Draft UDF's preferred street wall height of 12m for the subject site.
121. The street wall reduces in height towards the eastern boundary, to 1 storey / 5.5m. This reduction in height further demonstrates the development's sensitive transition towards the lower scale residential context east of the site. In combination with the 2.5m buffer provided by the easement; the height of the street wall at the site's eastern end will minimise visual bulk impacts towards dwellings on Brighton Street. This is considered a positive design response.
122. Council's Strategic Planning Unit and Hansen are also supportive of the street wall height, both observing that the heights are consistent with the preferred heights under the Draft UDF. The street wall height of the proposed development is therefore supported.

Setbacks and building separation

123. Clause 15.01-2L seeks for development to incorporate setbacks that:
- (a) Reflect the general pattern of front, side and rear setbacks in the streetscape, particularly on the same side of the street;
 - (b) Limit excessive tiered building profiles on street and laneway frontages and encourage use of contextual materials and finishes at upper levels; and

-
- Architectural section drawing of the Double Storey Brick Residential Building. The drawing shows a cross-section of the building, including the foundation, ground level, and various floors. Key features include:
- Foundation and Ground Level:** The foundation is shown at the bottom, with ground level indicated by a dashed line. The building is situated on a sloping site.
 - Structural Elements:** The drawing shows the structural layout of the building, including walls, floors, and a central staircase.
 - Rooms and Spaces:** The building contains several rooms, including a living area, a kitchen, a bathroom, and a bedroom. The central staircase provides access to the upper floor.
 - Annotations and Details:**
 - Window Glass:** Annotations indicate "LOUVERED WINDOW GLASS TO MATCH GL-01" for various window openings.
 - Brickwork:** Red dashed circles highlight specific brickwork details, with labels such as "SPRINKLER SCREEN", "BRICK", and "BRICKWORK".
 - Floor Levels:** Numerical floor levels are provided for different parts of the building, such as RL 11.200, RL 10.200, RL 9.200, RL 8.200, RL 7.200, RL 6.200, RL 5.200, RL 4.200, RL 3.200, RL 2.200, RL 1.200, and RL 0.200.
 - Staircase:** The central staircase is labeled "STAIRCASE" and shows the vertical circulation between floors.
- The drawing is a detailed technical representation of the building's structure and layout, used for construction and planning purposes.

127. In addition, the upper-level street setbacks of the developments at No. 12-18 Albert Street and 9 Kingston Street are also less than the preferred 3m setback of the Draft UDF, with both developments having a maximum setback of approximately 1m from the street. These setbacks were considered acceptable considering the design responses which also adopted a graduated building height from east to west, providing an appropriate transition in building height towards the more sensitive, residential areas and an element of visual interest and relief within the streetscape. As noted in Hansen's urban design advice *'We are generally supportive of this approach, despite the relatively minor upper-level setbacks, given the laneway/ service condition of Sanders Lane and given the allotments to the south are also within the C2Z.'*
128. The officer's report for No. 12-18 Albert Street acknowledged that the levels above the podium were further softened by glazing. Similarly, the proposed development incorporates extensive glazing to its upper levels on the southern elevation as well as planter boxes to further soften the appearance of the building. In addition, as the building height increases, the external materials adopt a lighter finish, which will allow the upper

levels to read as lighter-weight form in comparison to the more robust street wall. Based on the above, the street wall height to Sanders Place is supported.

129. Where development interfaces with residentially-zoned land, the Draft UDF prescribes a maximum interface wall height of 8m, with upper levels to be set back 45 degrees above the interface wall height, up to a minimum distance of 12m from the interface wall. Along the eastern elevation, the development proposes a maximum boundary wall height of 5.5m, complying with the Draft UDF. However, the development does not meet the 45 degree upper level setback above the boundary wall.
130. Along the northern elevation, a 4.5m up to 22m high wall is constructed on the northern boundary and also does not comply with the preferred setbacks under the Draft UDF, as illustrated in the following mark-ups prepared by Council's Strategic Planning Unit:

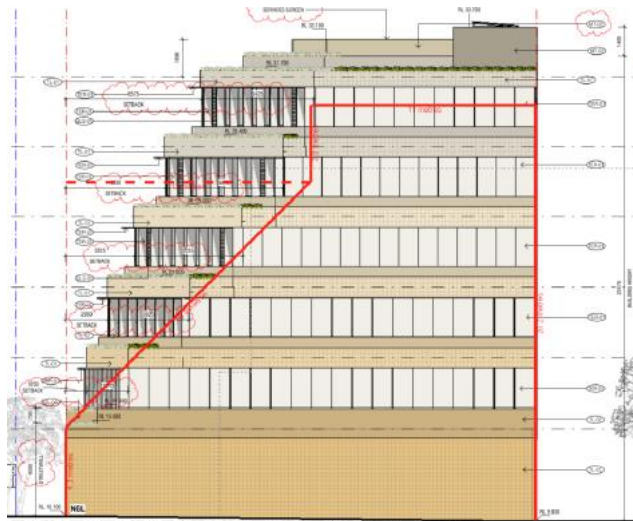


Figure 23 – Proposed north elevation with Draft UDF preferred upper-level setback envelope outlined in red

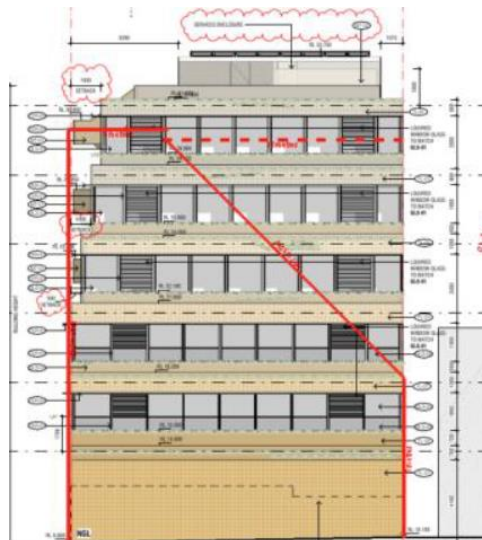


Figure 24 – Proposed east elevation with Draft UDF preferred upper-level setback envelope outlined in red

131. Council's Strategic Planning Unit recommended that the setbacks from the eastern and northern boundaries be increased to comply with the preferred setbacks of the Draft UDF. However, this recommendation will not be adopted, as will be outlined in the following paragraphs.

132. The intent of the Draft UDF's preferred upper-level setbacks for residential interfaces is to protect the amenity of existing residential zones in terms of visual bulk, overshadowing of private open space and overlooking. These three amenity considerations have been considered at length in the Off-site Amenity section of this report and in the above paragraphs with respect to visual bulk. As has been discussed throughout the report, the proposed design response appropriately demonstrates a sensitive transition to existing residential areas and is consistent with the transition of other approved mid-rise development towards established residential areas. As will be discussed within the Architectural Expression section of the report, the design response also demonstrates high quality and well-articulated facades which contribute towards minimising visual bulk impacts.
133. Regarding the northern interface, the development incorporates a number of strategies to address visual bulk and the transition to the dwellings at No. 7 Sanders Place. Visual bulk from the northern boundary wall is softened by it stepping away from the north-eastern corner as building height increases. This results in the tallest elements of the boundary wall being concentrated towards the western boundary, which is supported considering the Draft UDF envisages taller buildings towards the Church Street spine. This "peeling away" of the building from the northern boundary will also maintain transparency through the site and outlook for south-facing windows of the northern-abutting dwellings.
134. The development also adopts a varied material palette along the northern boundary wall to further add visual interest. This includes the use of terracotta cladding with insets to add depth, bronze-coloured tiles which graduate to a lighter colour as building height increases as well as planter beds along the north-east corner which will add additional softening to the built form.
135. In addition to this design response, the driveway of No. 7 Sanders Place provides an additional 4.7m wide buffer between the subject site and the dwellings, which will further reduce the visual impact of the development. As will be discussed in the Off-site Amenity section of this report, the primary outlook for these dwellings is to the north.
136. It is further noted that adopting Strategic Planning's recommendations for both the northern and eastern elevations to comply with the preferred upper level setback requirements of the Draft UDF would significantly compromise the development potential of the site, noting the site's constraints with a width of 22.7m and depth of 16.4m. The upper level setback requirements (which apply to a minimum depth of 12m from the boundary) would consequently apply to more than 50% of the site's frontages, as is evident in Figures 23 and 24 above. This restriction in development on the site is at odds with the strategic directions for the area for more mid-rise development, owing to its location within a major employment precinct, proximity to a major activity centre and public transport services. As such, the proposed setbacks are supported.
137. The development will be built on the boundary along the western elevation. Clause 15.02-1L seeks to ensure walls on boundaries *minimise adverse impacts on the amenity of adjoining residential properties through unreasonable overshadowing of private open space, visual bulk or loss of daylight to habitable room windows*. In addition, the Draft UDF prescribes a maximum boundary wall height of 20m (for non-residential interfaces) and also prescribes a setback of 3m where the development exceeds the boundary wall height by 1 to 3 levels. This is to ensure that development is well spaced and sited to avoid visual bulk and provide equitable access to outlook, daylight, sunlight penetration and views to the sky.
-

138. The western boundary wall will have a maximum height of 23.9m and exceeds the preferred boundary wall height by approximately 1.5 levels, as shown in the below image:

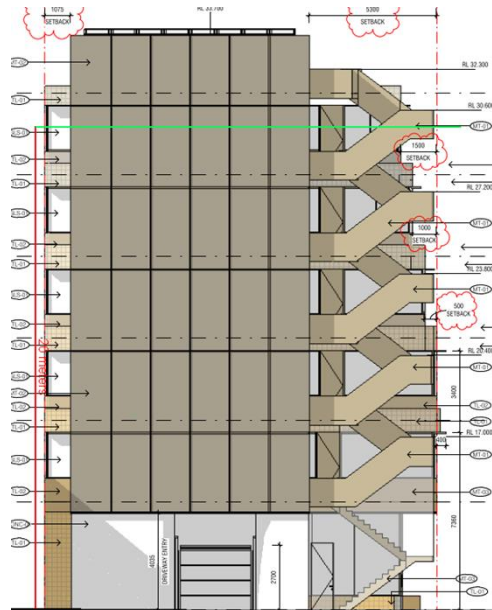


Figure 25 – West elevation showing Draft UDF preferred 20m maximum boundary wall height in green

139. Whilst the western boundary wall exceeds the preferred height under the Draft UDF, and does not provide a setback above this height, the western boundary wall results in an acceptable design response. This will be discussed in further detail in the Architectural Expression section of the report. However, in summary, the open-style treatment of the external stairs and the materiality on this elevation will provide a highly articulated façade that expresses the development in the round, creates visual interest and ensures there is no blank wall expression.
140. The setbacks of the building from the eastern boundary address the abovementioned building separation objectives and are considered to achieve visual relief, daylight access, overshadowing outcomes and views of the sky. A 5.49m wide laneway also directly abuts the subject site to the west, which will provide a further buffer between the proposed development and any future development further west along Sanders Place. It is further notated that the Draft UDF envisages a building height of 28m on the neighbouring site to the west (on the opposite side of the laneway). As such, future development on this site would likely obscure views of the western boundary wall. The proposed 23.9m western boundary wall is therefore supported.

Architectural expression

141. Clause 15.01-2S (Building design) seeks to achieve building design and siting outcomes that contribute positively to the local context and enhance the public realm. The Draft UDF encourages architectural excellence, achieved through (amongst other things):
- Avoiding the use of surfaces at facades which cause unacceptable glare to the public realm;
 - Avoiding continuous walls of buildings when viewed from the street by providing visual breaks, articulated massing and/or separation between building forms at street level and upper levels; and

- (c) *Avoiding blank walls visible to the public realm. Where a solid external wall is unavoidable, walls should be detailed and include articulation to provide visual interest.*
142. As discussed within the built form assessment of this report, the development adopts a number of massing strategies to break up the built form, thereby providing visual breaks and views to the sky from the public realm.
143. In relation to materials and finishes, the primary material palette will consist of polished and perforated, bronze-coloured metal cladding, bronze-coloured tiles in both a glossy and matte finish (graduating from a darker to lighter finish as building height increases), black tiles, terracotta cladding and reflective, fluted/obscure and clear glass. The proposed materiality is of high quality and will provide visual interest at each of the building's facades. The materials are generally consistent with Clause 15.01-2L which encourages a simple palette of durable materials that respond to the streetscape character through type, colour, finish and contrast.
144. The use of darker-coloured finishes to the lower levels emphasises the lower levels of the building. As building height increases, lighter-toned finishes are applied which allows the upper levels to read more recessively. Overall, the proposed materials are supported. A condition will require a notation to confirm a graffiti-proof treatment will be applied to the ground level frontages, where applicable.
145. Each façade includes a high level of articulation, achieved through a variation in materials, broken up with glazing as well as landscaping which will soften built form. Hansen had raised concern with the original proposal's western façade, observing that *"the majority of the western elevation consists of simple, unarticulated concrete paneling ... we believe that further articulation, similar to the northern wall treatment, is necessary to ensure the building is well-articulated, providing visual interest from all sides."*
146. The amended plans lodged under Section 57A of the Act have sought to further refine the articulation of the western elevation. This façade now includes glazing along the northern end of the boundary wall, expressed joint, bronze coloured, perforated metal cladding and polished bronze metal to the external fire stairs. These treatments are of high quality and provide visual interest from the wider public realm as illustrated in the below image. The revised material treatments to the western façade are therefore supported.



Figure 26 – Artist's impression of western elevation

147. Hansen were otherwise generally supportive of the development's architectural expression, however also recommended that highlight windows be incorporated into the development's ground floor eastern wall, to improve internal amenity whilst adding additional articulation to this ground level wall. Views of the eastern boundary wall from neighbouring SPOS on Brighton Street would largely be obscured by existing boundary fencing and as such, further articulation of this wall is not considered necessary. In addition, the Shop is provided with south-facing windows to provide a source of natural light. Council's ESD officer is also satisfied with the overall development's daylight access, noting 72% of floor area achieves a daylight factor of at least 2%. As such, this recommendation will not be adopted.
148. In relation to glare, extensive glazing is proposed across the building's eastern and southern facades. Glazing treatments will vary between clear, reflective and fluted glass. However, the percentage of reflectivity has not been nominated. There are also concerns that the bronze-metal cladding and tiles could result in unreasonable glare impacts to the surrounding area. Planning Practice Note 96 (Glare and Reflectivity) acknowledges that extensive use of glass and polished cladding is more likely to cause reflected glare than other materials in the built environment.
149. Glazing across the eastern façade will be broken down as individual windows that will be installed as individual panels. The floor above will also cantilever over these windows, which will go some way in mitigating glare impacts. The glazing and polished metal, and glossy tiles to the southern elevation are not considered to result in unreasonable glare, given they are south-facing and will not receive direct sunlight. However, there are concerns that the western elevation could have unreasonable glare noting the extensive use of polished metal to the external stairs. There are also concerns with glare impacts to the dwellings at No. 7 Sanders Place, given there are glossy tiles proposed to this façade and that the north-facing boundary wall will receive direct sunlight.
150. A condition will require the submission of a Façade Strategy, to ensure the materials to be used for the development are reviewed prior to construction, with a higher degree of detail provided to ensure they are of a high architectural quality in accordance with the plans submitted to dated. The Façade Strategy will also be required to include details to demonstrate that the materials will not result in unreasonable glare.
151. A condition will also require the materials schedule to be provided on a single page, rather than across three separate pages relating to selected portions of the building which do not capture all the materials proposed in the development.

Public Realm

152. Clause 15.01-2L seeks the following in relation to the public realm:
- (a) *Provide active frontages in commercial areas;*
 - (b) *Design ground level street frontage of new development to provide a high level of pedestrian amenity and visual interest and contribute to strong ground floor relationships and high-quality outcomes;*
 - (c) *Orient development to the street, and to both streets for a corner site; and*
 - (d) *Discourage dominant car parking, garage doors and driveways.*
153. In addition, the Draft UDF seeks to “ensure new development enhances the public realm and contributes to a network of pedestrian friendly streets through street activation ... open spaces, comfortable wind conditions and street setbacks at ground level.”

154. The above objectives have been achieved at ground level. The development will be oriented to front Sanders Place. The development incorporates a 1.5m deep ground level setback, which will provide a safe pedestrian entry point for all proposed uses between the building and Sanders Place, separating pedestrians from vehicles on the road. The first floor above will cantilever over the ground level setback, providing weather protection for pedestrians.
155. A high degree of glazing is proposed across the ground level frontage, allowing views into and out of the site which will activate the building with the street and also provide opportunities for passive surveillance. The external fire stairs on the western side of the building will also be open, allowing views out towards the public realm.
156. Hansen had previously commented on accessibility and security concerns relating to the exposed external stair, and sought clarification on accessibility as there were concerns with this space potentially being used as a refuge. The amended plans lodged under Section 57A of the act have sought to resolve this issue, by enclosing the ground level component of the stairs with a metal mesh security screen and gate, as shown in the below image. This finish maintains the sense of openness within this corner. External lighting is also proposed under the ground level awning, which will illuminate the frontage during night-time hours and enhance perceptions of safety.

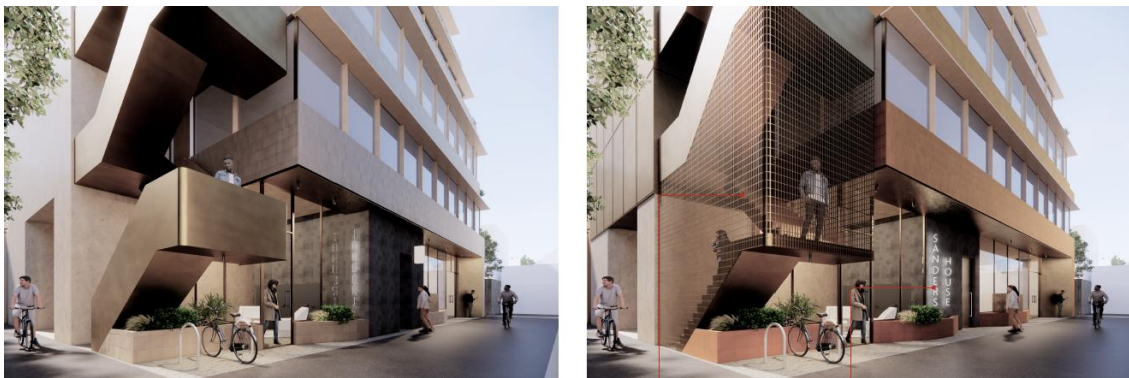


Figure 27 – Artist's impression of ground level frontages for the original proposal (left) and current proposal (right)

157. Council's internal Urban Design Unit had previously raised concerns with the lack of a ground level setback as part of the original proposal. Under the original proposal, the ground level was set back between 1.2m up to 1.8m. However, the fire stairs and restaurant entry were only set back 0.39m from Sanders Place. Council's Urban Design unit advised that an additional setback should be provided, to improve the pedestrian refuge from Sander Place, to allow some degree of social occupation of the space and to also sufficiently accommodate bicycle infrastructure and fire boosters.
158. The revised proposal submitted under Section 57A of the Act satisfactorily addresses this recommendation, by increasing the ground level setback to Sanders Place to 1.5m in front of the shop, restaurant entry and office lobby area.
159. Urban Design also recommended that a road safety or pedestrian access audit be submitted to provide evidence that the site can be accessed safely and comfortably by pedestrians including mobility impaired at a range of daytime and nighttime hours to suit building uses.
160. This recommendation will not be adopted in this instance, given:

- (a) There is already street lighting in Sanders Place which will adequately illuminate the street during nighttime hours. External lighting is also proposed within the ground level frontage to illuminate entry spaces;
 - (b) Vehicles would be travelling down Sanders Place at a low speed due to the narrow width of the road and would exercise additional care while travelling;
 - (c) Vehicle volumes in Sanders Place are not expected to be high, even as a result of the proposed development, as only 8 car spaces are proposed;
 - (d) Motorists would become accustomed to more pedestrians in the environment and would adjust driving behaviour accordingly;
 - (e) Sanders Place primarily accommodates localised traffic movements as opposed to external traffic movements; and
 - (f) There is already a degree of pedestrian activity in Sanders Place owing to existing office buildings surrounding the subject site.
161. In addition, Council's Engineering unit have not recommended this audit, for the reasons outlined above (discussed informally on 24 March 2025). It would also be onerous for a single development in Sanders Place to take full responsibility of a road safety audit given there are other properties which front and have access to this laneway.
162. Urban Design have also recommended that the visitor bicycle parking spaces be relocated as they obstruct pedestrian movement through the ground level frontage. Planning Officers do not agree with this view, noting that the bicycle spaces are in a location that is clearly visible from Sanders Place and easily accessible from Church Street. Their location is also consistent with advice from Council's Strategic Transport Unit, who prefer visitor bicycle parking spaces to be placed in publicly accessible spaces. The recommendation will therefore not be adopted.



Figure 28 – Artist's impression of ground level frontage showing bicycle parking will not obstruct access to building entry

163. The ground level frontage along the western laneway also provides a reasonable degree of activation. The access to the external stairs is provided from the western laneway. The staircase is open and will promote passive observation of the laneway as well as increased activation. The visitor bicycle parking on the south-west corner of the site also increases activity along this laneway interface. Whilst the gate opens outwards, this is a requirement for fire safety reasons and is unlikely to cause obstruction to the laneway given its width. The vehicle accessway is clearly visible and includes convex mirrors to facilitate visibility of other laneway users for vehicles exiting the building.

Overshadowing

164. Any redevelopment of the subject site will likely increase the extent of overshadowing. It is clear that with regard to the context of a C2Z in a major employment precinct and the preferred height controls of the Draft UDF where mid-rise development is anticipated to be accommodated, additional overshadowing is expected. The submitted shadow diagrams do not clearly distinguish between the shadow footprint of the existing building and the proposed shadows. However, as the building is increasing from 2 to 6 storeys and is located on the northern side of Sanders Place it is clear that additional overshadowing to the surrounding public realm will occur.
165. The submitted shadow diagrams are modelled on the September Equinox which is widely regarded as an acceptable balance between managing on and off-site amenity expectations. This is reflected in the ResCode standards of Clause 54 and Clause 55 which require consideration of overshadowing impacts to SPOS at the September Equinox only.
166. Whilst the Draft UDF includes provisions relating to overshadowing of the public realm, the policies only apply to overshadowing of public open spaces, Church Street and the southern footpath of Balmain Street east of the railway bridge. There are no specific requirements for overshadowing of Sanders Place. However, any future development of the subject site, including a development that was fully compliant with the Draft UDF, would result in additional shadows to Sanders Place due to the narrow nature of the road, which is 4.05m to 4.4m wide. The shadows of the proposed development on Sanders Place are therefore considered acceptable.
167. Overshadowing of SPOS and daylight to existing habitable rooms within the residential properties to the east will be discussed in the Off-site Amenity section of this report.

Wind

168. Clause 15.01-1L (Building Design) seeks to minimise the potential for development, particularly taller buildings, to create adverse wind conditions in the public realm at street level through building siting and design. In respect of wind impacts, Council commissioned a peer review by MEL consultants of the applicant's desktop wind impact assessment and agrees with the conclusions that:
- (a) *Wind conditions in the ground level footpath areas and access ways would be expected to be within the recommended walking comfort criterion*
 - (b) *Wind conditions at the main entrances would be expected to be within the recommended standing comfort criterion;*
 - (c) *Wind conditions in the benched seating area would be expected to be within the recommended sitting comfort criterion;*

- (d) Wind conditions at the rooftop communal area would be expected to be within the recommended standing comfort criterion; and
- (e) Wind conditions would be expected to fulfil safety criterion.

169. The above wind conditions achieved for the surrounding public realm as well as communal terrace are acceptable. Whilst only standing criteria is met for the rooftop communal open space, this is acceptable as the terrace is not associated with residential use where it could be relied upon for open space.
170. However, MEL have recommended that the applicant's wind impact assessment elaborate further on the wind impacts to the private outdoor areas on Nos. 38, 40 and 42 Brighton Street. The applicant's assessment claims that wind conditions could be elevated in some locations but are not expected to exceed the recommended comfort/safety criteria. MEL advise that this statement is too general and as such further clarification is required. This will be addressed via a condition for an amended wind impact assessment. The amended assessment will also be required to be revised for consistency with the condition 1 plans.
171. A Wind Tunnel assessment has not yet been undertaken. However, the applicant's wind impact assessment has recommended a wind tunnel test be conducted during the detailed design stage of the development to quantify the wind conditions and determine the proper wind control measures where necessary. MEL are supportive of this approach, noting that a desktop assessment during the early stages of design development is appropriate for providing architects, developers and responsible authorities advice on the wind effects of the design.
172. In addition, should the proposed development at No. 475-481 Church Street be approved (and subsequently constructed), this development would increase shielding for direct wind flow and reduce the wind impacts of the proposed development.

Site coverage

173. The level of site coverage in excess of 80% is acceptable. In accordance with policy at Clause 15.01-2L the pattern of site coverage in the immediate area is higher than 80%, with 100% site coverage typical for established and new commercial buildings throughout Richmond.

Landscaping

174. A landscape plan has not been submitted with the application. However, the development plans show indicative landscaping as follows:
- (a) A planter box at the bottom of the fire stairs at ground level, within the front setback;
 - (b) Planter boxes at each level along the eastern elevation;
 - (c) Planter boxes at each level between Level 3 and Level 5 along the southern elevation; and
 - (d) Planter boxes along the northern perimeter of the roof services and eastern and south perimeters of the roof terrace.

175. Clause 15.01-2L encourages trees and vegetation planting to increase their canopies and coverage to contribute to an urban forest. Due to site constraints, it is not feasible for canopy tree planting to be included. However, the development incorporates extensive use of planter boxes across the eastern and southern elevations which will adequately contribute towards urban greening objectives within the surrounding area. This has been illustrated in the below image:



Figure 29 - Extract from materials schedule showing landscaping along eastern façade

176. A condition will require the submission of a landscape plan that provides specific details about the plant species selected, the required growing media and details about ongoing maintenance, amongst other requirements. The landscape plan will also need to demonstrate that plants do not unreasonably obstruct the outlook from the office tenancies.

Services and equipment

177. The service equipment has been integrated into the overall design and massing of the building. The service equipment is located on the roof terrace and will largely be obscured by the western boundary wall which forms the stairwell and lift core. A fire hydrant is proposed within the ground level front setback. The fire hydrant is well-integrated with the rest of the building and will be enclosed by a bronze, perforated metal cupboard to obscure views. The cabinet doors will open within the site and will not obstruct the passage of Sanders Place users.
178. Council's Engineering unit had recommended that the plans should include an annotation that the utility cabinet doors along Sanders Place can open at 180 degrees and be latched onto the building wall when open. This recommendation was to ensure that the service cupboard doors do not obstruct the passage of Sanders Place users. As the setback from Sanders Place has now increased, the fire booster cabinet doors will open within the subject site. As such this recommendation will not be pursued.

Environmentally Sustainable Design & Internal Amenity

179. Policy at Clauses 02.03 (Strategic Directions), 15.01-2S (Building Design), 15.01-2L (Building Design) 15.01-2L-01 (Environmental Sustainable Development) and 19.03-3L (Water Sensitive Urban Design) of the Scheme encourage environmentally sustainable development (ESD), with regard to water and energy efficiency, building construction and ongoing management. The following are key ESD commitments of the proposed development:
- (a) Total BESS score of 70%, which exceeds the minimum 50% required to achieve best practice and satisfies the minimum requirements to achieve ESD excellence (70%);
 - (b) Provision of a 3.5kWp rooftop solar photovoltaic system;
 - (c) Provision of electric vehicle charging infrastructure;
 - (d) Rainwater harvesting system for irrigation and toilet flushing via a 5kL rainwater tank;
 - (e) High-performance glazing and energy efficient building services, appliances and fixtures;
 - (f) No gas connections throughout the building; and
 - (g) Provision of employee and visitor bicycle parking spaces, including end-of-trip facilities.
180. Council's ESD advisor initially identified that the proposal did not meet Council's Best Practice ESD standards and identified a number of deficiencies and outstanding information required to be addressed, as outlined in the referral comments dated 23 October 2024 (and included as an attachment to this report). Some of the outstanding issues to address included (and were not limited to):
- (a) Inconsistencies in BESS claims against what was shown in the development plans;
 - (b) A requirement to commit that all car parking will have enabling infrastructure installed for future electric vehicle charging stations; and
 - (c) Provision of further information on how best practice claims have been achieved.
181. The applicant sought to address these outstanding issues in the SMP lodged with the Section 57A amendment. The updated SMP was re-referred to Council's ESD advisor who confirmed that the SMP is now satisfactory and can be endorsed (referral comments dated 6 March 2025).

Internal amenity

182. Policy at Clause 15.01-2L seeks high-quality environments for building occupants including internal spaces, access to private open space, daylight and ventilation.
183. The proposed development is considered to provide a good level of amenity and indoor environmental quality (IEQ). The BESS summary confirms that the IEQ score will be 58%, exceeding the minimum 50% that is considered best practice.

184. The development provides large expanses of glazing at all levels with operable louvre windows included on each level. The SMP submitted indicates that the office areas will be ventilated through a combination of natural and mechanical measures. The mechanical ventilation system will be designed to achieve, monitor and maintain an increase in outdoor air of at least 50% above the Australian Standard (1668.2:2012). Council's ESD officer is satisfied with this outcome.
185. The development also achieves good access to daylight for the office levels as well as shop at ground level. Based on the daylight modelling provided, the Office areas achieve daylight to at least 50% of the floor area, exceeding the minimum 33% required to achieve best practice. The Retail floor area (excluding the Restaurant) will achieve daylight to 30% of its floor area, falling marginally short of the minimum 33% required to meet best practice. However, this outcome is acceptable considering the overall development results in 72% of the total floor area achieves a daylight factor of at least 2%. Council's ESD officer has advised this design response to be satisfactory and has not recommended that daylight be increased to the Shop tenancy.
186. The basement level Restaurant has not been included in the daylight modelling as it is assumed that the use will primarily operate during night-time hours. Council's ESD officer has not raised issue with this outcome.
187. The development includes a recessed entrance area that provides direct access to the Office lobby, the Restaurant and the Shop as well as the lift core and end-of-trip facilities and service rooms.
188. A communal outdoor area is proposed at roof level which will enhance the on-site amenity of the building. Each office level will also be equipped with lockers, bathrooms and kitchenettes for staff use. Separate bathroom facilities are also provided for the Shop and Restaurant tenancies. Bicycle parking and end of trip facilities are also incorporated into the design at ground level.
189. Furthermore, Clause 15.01-2L specifically identifies that developments should be encouraged to provide:
- (a) Lighting of common spaces;
 - (b) Passive surveillance of common spaces; and
 - (c) Landscaping that maximises sightlines.
190. The development adequately responds to the above requirements, noting that this is a proposal for a commercial use with large open plan floor plates with access to daylight direct from windows due to the dual aspect allotment.
191. Whilst the common roof terrace does not receive passive surveillance from the office tenancies, it is considered that this is not warranted. Due to the nature of the use this area would be utilised typically during office hours. To ensure the use of the terrace does not have an unreasonable amenity impact on the surrounding area, a condition will require a notation to confirm that the roof terrace will be accessible to office employees only. This will ensure that the roof terrace is not accessible during more sensitive, night-time hours when the Restaurant is operating.
192. In relation to landscaping, a condition will require a notation on the landscape plan to ensure that plant growth will be maintained to ensure view lines are maximised.

Off-site Amenity Impacts

193. The relevant policy framework for amenity considerations is contained within Clause 13.07-1L-01 (Interfaces and amenity) and Clause 15.01-2L (Building design). As the site and surrounds description identifies, there are dwellings within residentially-zoned land immediately north and east of the subject site.
194. Commercial 2 zoned land is where a range of commercial and light industrial uses are to be located (and hence their associated built form). Dwellings (other than caretaker's dwellings) are prohibited in this zone. Underlining this, the decision guidelines for buildings and works in Clause 34.02 do not refer to consideration of impacts on residential uses more generally but rather of the interface with adjoining zones, especially the relationship with residential areas. Furthermore, the purpose includes "that uses do not affect the safety and amenity of adjacent, more sensitive uses" but does not refer to development specifically. This issue has been discussed in many Tribunal decisions within the C2Z (formerly Business 3 Zones) including:

W Huczek & D Starkiewicz v Yarra CC [1999] VCAT 45 (31 August 1999)

[97] Neither the zone purpose, nor the decision guidelines, indicate an intention that residential amenity should be an issue in this zone, or residential standards of amenity applied within it.

[108] It is not for the Tribunal to refuse a commercial development which complies with the zone requirements in a "Business" zone on the basis that if residential standards of amenity are applied, it would have an adverse impact on a non-conforming residential use. Such assertions would render the planning controls unwieldily, cumbersome and unpredictable, and would lead to a reduction in confidence in those particular planning controls.

Burrett v Yarra CC [2005] VCAT 978 (24 May 2005)

[23] I am not suggesting that residential amenity considerations are irrelevant; however, expectations need to be tempered against the purpose of the Business 3 zone which does not include providing for residential use. On the contrary residential use is "prohibited", with caretaker's house being the exception. If the protection of the residential amenity of caretaker's houses is elevated to a matter of primary or significant importance in this type of zone, this could stifle the proper development of the area for its primary purpose.

[24] The policy at Clause 22.05 referred to by Ms Miles deals with the amenity impacts at interface locations. Whilst this site is located at the interface between the Business 3 and Residential 1 zones, the proper application of the policy is with respect to with interface issues between properties within different zones, not within the same zone. Further, the site is not located in an area where a mix of residential and commercial/industrial activity is encouraged and the potential for amenity conflicts needs to be carefully managed.

195. As such, the application of policies to protect the amenity of dwellings to a standard associated with residential areas would result in an unreasonable limitation of the development potential of the subject site. The vision for the area under the current zoning and Council's strategic planning is for increased development to contribute to accommodating employment growth, supporting economic viability and enhancing the employment precinct.

196. The following considerations of amenity are limited to the impact of the proposed built form, as the amenity impacts from the proposed land uses (Shop and Restaurant) were considered under the Land Use section of this report. In respect of the impact of development on adjoining properties, Clause 15.01-2L (Building Design) discourages impacts on existing adjoining development through:
- (a) *Unreasonable overshadowing of secluded open space and loss of daylight to habitable room windows;*
 - (b) *Visual bulk;*
 - (c) *Overlooking and excessive screening;*
 - (d) *Noise from building plant and equipment; and*
 - (e) *Loss of on-street car parking from excessive crossovers.*
197. Clause 13.07-1L-01 includes several strategies for non-residential use and development to achieve under the themes of noise, fumes and air emissions, storage and waste, light spill, overlooking and unsightly views. These will be assessed below.

Noise

198. The use of the land for an Office does not require a planning permit within the C2Z and it is considered unlikely that this use would result in unacceptable noise emissions to the nearby residential properties. Noise impacts from the proposed Shop and Restaurant uses were considered under the Land Use section of this report. Further, should a permit issue a condition will require noise emissions from the building (including from plant equipment, to comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.
199. The submitted acoustic report was referred to Council's Acoustic Consultant (SLR) for peer review of the acoustic impacts from plant equipment and vehicle access. In relation to mechanical services, specific equipment selections have not been determined at this stage of the project. Rather, the applicant's acoustic report has undertaken an indicative assessment based on early stage spatial drawings and noise levels for typical equipment and determined that noise impacts can be appropriately managed through:
- (a) Selection of quiet equipment;
 - (b) Locating equipment appropriately;
 - (c) Acoustic barriers around outdoor plant areas;
 - (d) Using variable fan speed controllers, CO2 sensors in the car park, timers, etc. so that the plant only operates when required and at a minimum duty; and
 - (e) Internally lined ducts or attenuators.
200. The applicant's acoustic report also confirms that the acoustic design of mechanical services should be revisited during the detailed design stage once sufficient details are available to confirm that the environmental noise limits can be satisfied.

201. SLR are comfortable with this approach but have recommended that the future acoustic review of mechanical services design should be conducted by a suitably qualified acoustic consultant. The acoustic review during the detailed design phase should also ensure that the proposed equipment complies with all relevant noise limits (i.e. the night period as well as day and evening periods). These matters will be addressed via a condition for an acoustic report to be submitted prior to the building being occupied.
202. Vehicle access is proposed from the western-abutting laneway with potential noise sources arising from the operation of the roller door and the car lift. Given the car lift will be fully enclosed within the building, it is not considered that its operation would result in unreasonable noise impacts. In addition, the applicant's acoustic report confirms that noise levels from the operations of the car lift would be below the mechanical services design target and propose the following measures to minimise noise from vehicle use of the car lift:
- (a) Irregularities in the driveway surface should be avoided where possible;
 - (b) Any drainage grates or speed bumps should be securely restrained to avoid any 'crashing' or 'banging' as cars drive over them; and
 - (c) The roller door should be regularly maintained to minimise noise during operation.
203. SLR are comfortable with this approach, however, highlight that the location of the car lift roller door (shown on the west elevation) is not shown on the ground floor plan. If the gate is located at or near the western boundary, then a sleep disturbance assessment of the gate should be conducted. A condition will require the roller door to be clearly shown on the plans. However, a sleep disturbance assessment is not considered necessary, given under existing conditions, there are already two roller doors in operation in proximity to the dwellings at No. 7 Sanders Place, as well as electronic access gate. As such, the operation of the proposed roller door is not considered to unreasonably add to the existing noise environment in terms of garage roller doors.

Overshadowing and daylight to windows

204. The decision guidelines of the C2Z include a requirement for buildings to provide for solar access. The amenity impacts associated with the proposal must be measured in the context of the future development of the land and that the zoning of the land seeks to encourage commercial areas for offices. As previously identified, Clause 15.01-2L (Building Design) only requires consideration of adjoining properties in relation to overshadowing and daylight to adjoining SPOS or habitable rooms.
205. In the absence of any specific guidelines, Standard B21 of Clause 55 (Rescode) will be used as a reference. This standard seeks to ensure buildings do not significantly overshadow existing SPOS between 9am and 3pm on 22 September. Within this six-hour time period, the Standard requires a minimum of five hours of sunlight.
206. The submitted shadow diagrams have included shadow modelling that includes the shadow footprint of the development proposed at 475-481 Church Street, as well as shadow modelling based on the existing built form context on this site. Given a permit has not been issued for this development, the following assessment will be based on the existing site and surrounds context.
207. In relation to overshadowing of SPOS to dwellings in the Neighbourhood Residential Zone, the submitted shadow diagrams confirm that any additional overshadowing to SPOS will occur at 3pm only at the September Equinox. The SPOS areas impacted are at Nos. 38 to 44 Brighton Street, east of the site.
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208. The extent of additional overshadowing is acceptable, noting that these properties adjoin the C2Z, where a more robust built form interface is envisioned. This is also reflected in the Draft UDF, which envisages buildings up to 20m on the subject site. As such, the Draft UDF contemplates that development on this site will result in additional overshadowing of SPOS. The extent of shadows have been limited by the design of the building, with the increased setbacks from this sensitive interface successfully limiting shadows to the adjacent SPOS.
209. The overshadowing impacts are limited to a one-hour period in the afternoon, with these areas of SPOS benefitting from uninterrupted sunlight to SPOS until after 2pm. This one-hour impact is considered to meet the objective at Clause 55.04-5 which seeks to ensure that buildings do not significantly overshadow existing SPOS. Considering the site context and preferred built form character for the surrounding area, this shadow impact is not considered to be 'significant'. Shadows at all other times throughout the day will fall upon the roofs of commercial buildings within the C2Z to the south.
210. Regarding daylight to existing windows to the east of the site, the closest habitable room windows which interface with the subject site are set back at least 5.38m from the common boundary. These windows will continue to benefit from substantial light courts and receive adequate daylight given the provision of the easement and increased setbacks of the building from these windows. This is also reflected in the shadow diagrams which demonstrate these windows would only be impacted by the proposed building's shadow at 3pm (at the September equinox). This period of the year is considered a reasonable benchmark for assessing daylight impacts as it strikes an appropriate balance between ensuring future development potential on the subject site and maintaining reasonable amenity to existing dwellings.
211. The townhouses at No. 7 Sanders Place feature a number of south-facing habitable room windows which interface with the subject site. The proposed development will not unreasonably impact daylight to these windows, considering they are south-facing and will not be subject to any additional overshadowing. The development will also be set back 4.7m from the nearest windows and will provide a generous lightcourt of approximately 104sqm (measured in Objective Trapeze).

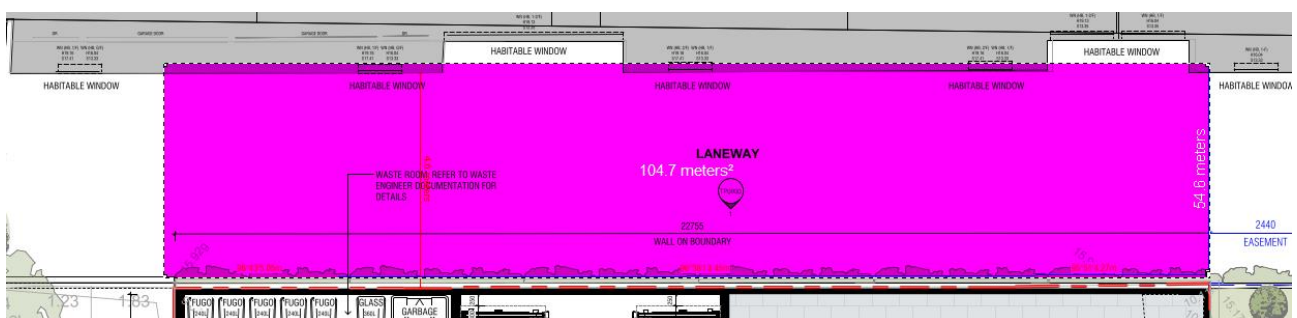


Figure 30 – Officer mark-up of ground floor plan showing lightcourt to south-facing windows at No. 7 Sanders Place

Visual bulk and overlooking

212. In respect of visual bulk, the appearance and bulk of the development when viewed from No. 7 Sanders Place is appropriate and will not result in unreasonable bulk impacts considering:

- (a) The dwellings at No. 7 Sanders Place are oriented to have their living areas and balconies / terraces with a primary outlook to the north. Only secondary outlooks (bedrooms and secondary windows to living / kitchen areas) face south towards the site;
- (b) The driveway for No. 7 Sanders Place provides a further 4.7m buffer between existing windows and the development;
- (c) The northern boundary wall is softened by it gradually stepping away from the north-eastern corner of the site as the building height increases, which maintains outlook to the sky along parts of the private driveway; and
- (d) The materials and colour palette appear gradually lighter as the building increases in height, providing further visual recession as the upper levels would appear more lightweight in nature.

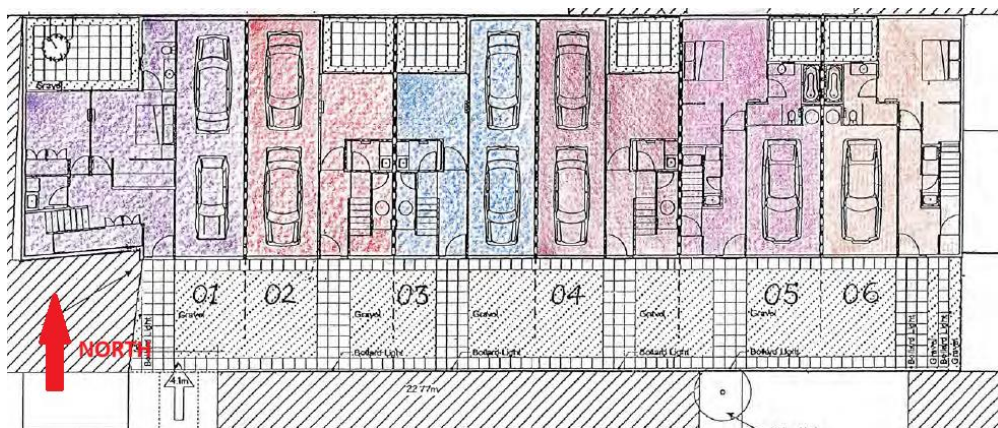


Figure 31 – No. 7 Sanders Place endorsed ground floor plan (PL01/0765)

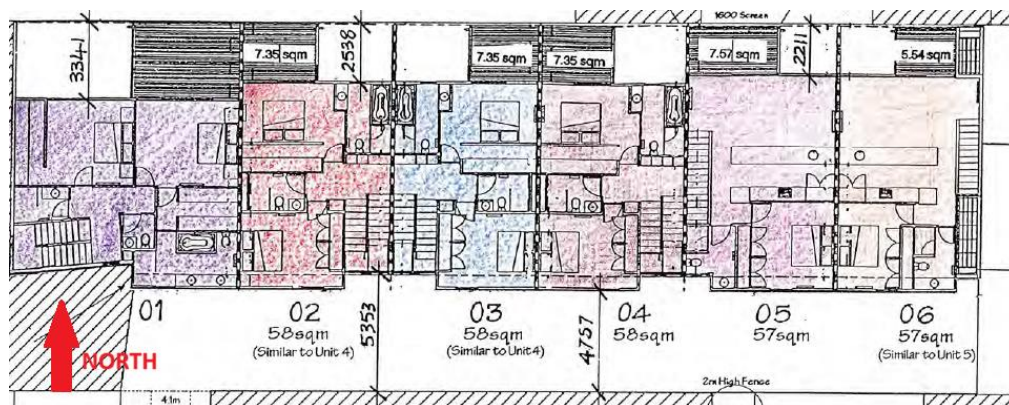


Figure 32 – No. 7 Sanders Place endorsed first floor plan (PL01/0765)

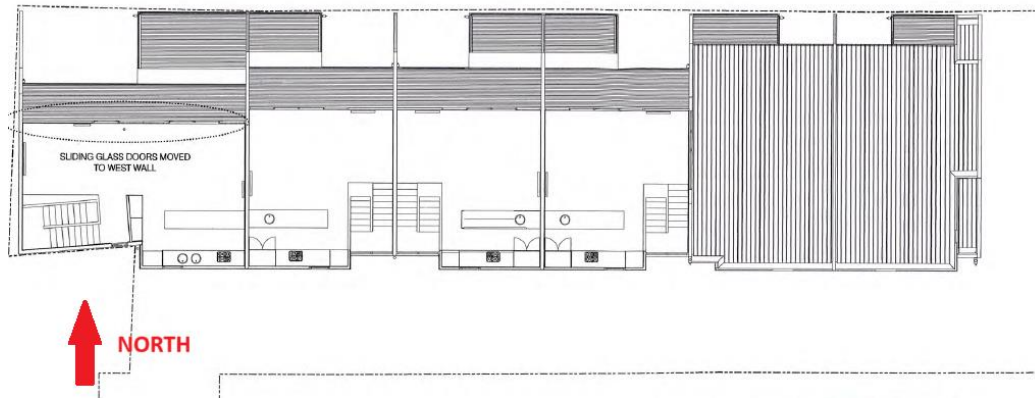


Figure 33 – No. 7 Sanders Place endorsed second floor plan (PL01/0765)

213. These treatments are illustrated in the below image, which also includes an outline of the originally-advertised proposal in red.

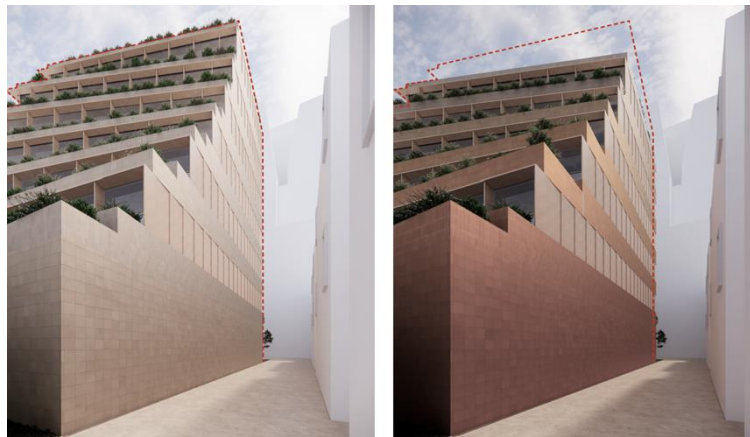


Figure 34 – Artist's impression of originally advertised proposal (left) and Section 57A amendment proposal (right), viewed from the north-eastern end of the driveway at No. 7 Sanders Place

214. The visual bulk impacts to dwellings east of the subject site are also considered to be appropriately managed. The eastern boundary wall will be constructed to a maximum height of 5.5m, whereas the Draft UDF contemplates boundary walls (interfacing with residentially-zoned land) up to 8m in height. Further, the setback of the building from the eastern boundary increases as the building height increases. This 'twisted' profile has also enabled the overshadowing impacts to be minimal.
215. The eastern elevation also incorporates the same material treatment applied to the northern elevation, where lighter colours to the upper levels make them appear more lightweight. The provision of planter boxes along the eastern elevation also helps to soften the mass of the building. These design treatments are demonstrated in the below image, which includes an outline of the originally advertised proposal in red.



Figure 35 – Artist's impression of originally advertised proposal (left) and Section 57A amendment proposal (right), viewed from the SPOS of No. 40 Brighton Street.

216. Local policy seeks unsightly views of business activity to be minimised when viewed from adjoining residential properties. Given the nature of the use, for an office, shop and restaurant, it is considered that the proposal would not result in unsightly views.
217. In relation to overlooking, it is an accepted principle that overlooking only occurs between habitable rooms (i.e. bedrooms and living rooms) and private open spaces within a 9 metre radius. The proposed development is for commercial purposes and therefore is not subject to the same requirements. Local policy at Clause 13.07-1L-01 (Interfaces and amenity) requires consideration of overlooking to SPOS and habitable room windows of adjoining properties. In the absence of any specific guidelines, Standard B22 of Clause 55 will be used as the test to assess the reasonableness of overlooking from the proposed office development to nearby SPOS and habitable rooms.
218. To the east of the site is residentially-zoned land, which includes SPOS at Nos. 36-44 Brighton Street which falls within a 9m radius of the east-facing office windows. To mitigate overlooking, the Level 1 and Level 2 east-facing office windows will be screened with fluted glazing up to 1.7m above floor level, with a maximum transparency of 25%, which complies with Standard B22. A condition will require the Level 2 obscure glazing dimensioned up to 1.7m above floor level.
219. Screening is not required to the Level 3 and above east-facing windows to SPOS areas or habitable rooms on Brighton Street. The following mark-up of the south elevation in Figure 36 (which shows the closest built form to the eastern boundary) shows that the Standard B22 view line would be obstructed by the built form of the lower planter box. As the built form progresses towards the north, the eastern setbacks increase and as such, the view line would become more restricted. There would also be no unreasonable overlooking to the west-facing, first floor window at No. 42 Brighton Street, as Figure 36 shows that this room falls outside the 9m radius from Level 3 and above east-facing windows. In addition, the setbacks from the eastern boundary increase as building height increases, which results in additional built form obstructing the view line. This is illustrated in Figure 37 with a mark-up of overlooking from Level 4.

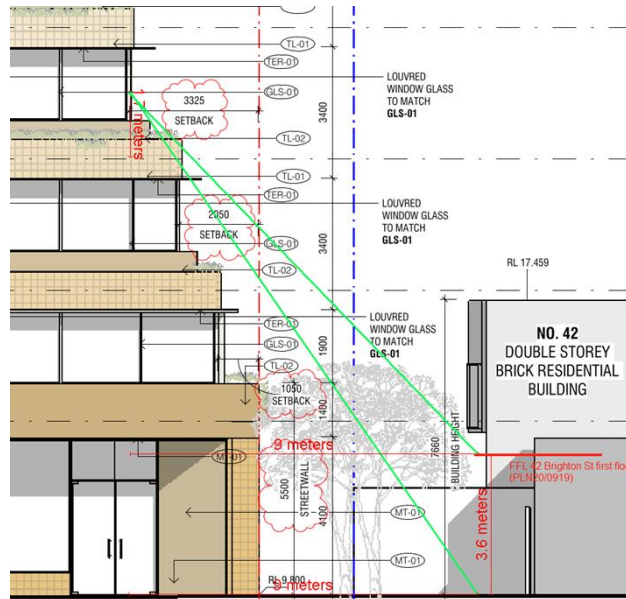


Figure 36 – Mark-up of south elevation showing Level 3 views (in green) to SPOS blocked by lower planter box

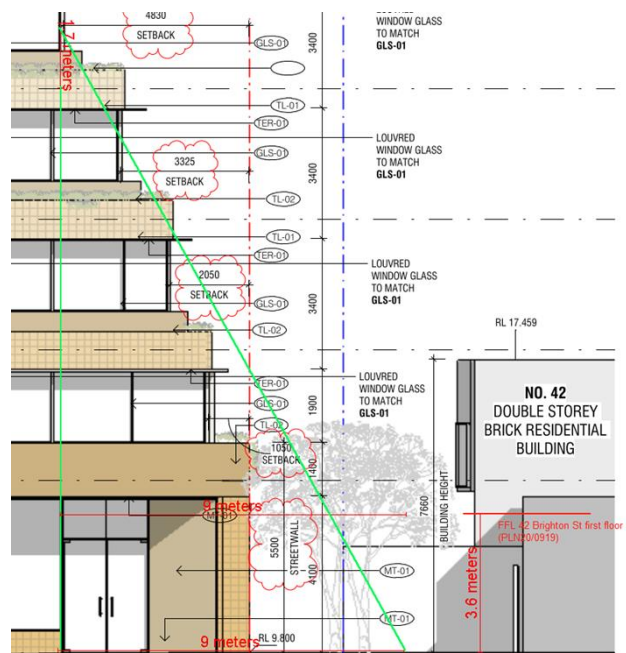


Figure 37 – Mark-up of south elevation showing Level 4 views (in green) blocked by lower built form

220. However, as shown in the below mark-up of the Level 3 floorplan, there may be views from the east-facing windows towards south-facing windows at No. 7 Sanders Place, including from the levels above as well. Overlooking diagrams have not been provided for this outlook. As such, a condition will require diagrams to demonstrate that there is no unreasonable overlooking from the east-facing office windows to south-facing habitable room windows at No. 7 Sanders Place, or for these windows to otherwise be screened in accordance with Standard B22.

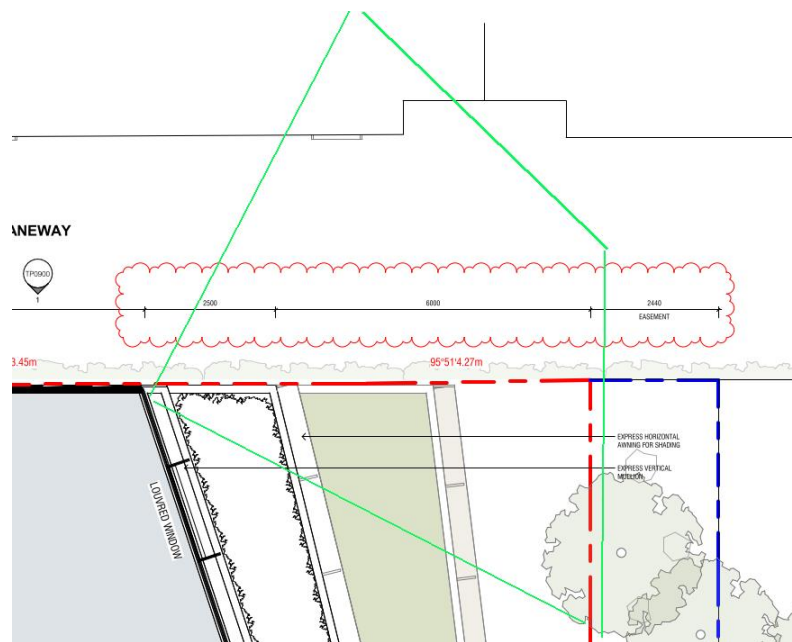


Figure 38 – Mark-up of Level 3 showing potential overlooking to south-facing window at No. 7 Sanders Place

221. There are no views to SPOS or habitable room windows within a 9m radius of the eastern perimeter of the roof terrace. Views from the north of the terrace will be obstructed by the roof services. Further, there are no views to SPOS or habitable room windows from the north or west as a solid boundary wall is proposed.

Fumes, air emissions and light spill

222. The Shop, Restaurant and Office uses will be enclosed with the uses conducted indoors (with the exception of the roof terrace). The proposed uses will not result in unreasonable air emissions. Light spill from the office tenancies will not be unreasonable, considering their use will generally be contained within standard business hours. The Office use is also as-of-right and does not require a planning permit to operate. The Restaurant use is located at basement level and as such there will be no light spill to the surrounding area. The eastern boundary wall will prevent any light spill from the Shop.
223. As discussed previously in the report, a condition will require a notation to confirm the roof terrace will be accessible to office tenants only. This restriction will ensure there are no unreasonable light spill impacts from the roof terrace, given it will only be used during office hours which are generally between 8am-6pm, Monday to Friday.

Storage and waste

224. All storage and waste will be adequately concealed within the building. This will be discussed in further detail later in the report, under the waste management section.

Equitable development

225. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development should be considered.
226. The proposed development will not compromise equitable development opportunities towards the north, as a boundary wall is constructed along this elevation. Further, land to the immediate north is zoned residential which has a 9m height limit. Equally, land to the east is also residentially-zoned and is subject to a 9m height limit. As such, there is limited potential on these adjoining sites for more intense development.

227. The development also proposes a solid boundary wall on the western elevation. As there are no primary windows on this elevation (except for west-facing kitchenette windows), the boundary wall is not considered to prejudice development opportunities for the adjoining property. The site is also separated from the western-adjoining property by a laneway/easement, which provides an additional buffer between the subject site and future development to the west.

City Link Exhaust Stacks

228. The DDO5 requires that notice of a development be given to the Transurban City Link Limited, Transport for Victoria and the EPA as previously identified. The design objectives of DDO5 are as follows:
- (a) To ensure that the development of land around the City Link exhaust stack is not adversely affected by the operation of the stack;
 - (b) To ensure that development of land around the City Link exhaust stack does not adversely affect the operation of the stack; and
 - (c) To ensure that the relevant authorities are informed of development within close proximity of the City Link exhaust stack and to facilitate comment by those authorities on any specific requirements relating to the design and built form of new development in the area which might be desirable having regard to the proximity of the stack.
229. All authorities were advertised to with Transport for Victoria raising no objection with the proposal in consultation with Transurban City Link, subject to a condition for a Plume Dispersal Study to be submitted to the Head, Transport for Victoria, CityLink and the Responsible Authority to demonstrate that the proposed development will not be adversely impacted by the operation of the stack, and to ensure the development does not adversely impact the operations of the stack. This requirement will form a condition should a permit issue.
230. The EPA had not responded to Council's referral at the time of writing this report.

Car Parking, Loading & Bicycle Facilities

Car parking

231. Under Clause 52.06 of the Scheme, the applicant is seeking a car parking reduction of 28 spaces for the Office use, 9 spaces for the Restaurant use and 5 spaces for the Shop use, equating to 42 spaces in total. Eight on-site car parking spaces are proposed for the Office use only (0.61 spaces per 100sqm) located within the Level 2 basement.
232. With regards to the car parking demand generated by the proposed office use, it is acknowledged that the statutory car parking rates outlined in the Scheme are conservative when applied in this instance, given the inner-city location of the subject site and proximity to alternative transport means.
233. Modal shifts to reduce the reliance on the use of private motor vehicles are not only welcomed, but required, to ensure that a holistic planning approach to precincts that are designated for greater change is applied.
234. In a local policy context, Clause 17.01-1L (Employment) seeks in relation to the municipalities major employment precincts that walking, cycling and public transport over car reliance is specifically encouraged.

235. In support of the reduced car parking on-site, examples of existing offices within the City of Yarra with reduced on-site car parking were provided by Council's Engineering Unit. Details of these offices are provided as follows:
- (a) 60-88 Cremorne Street, Cremorne – 0.72 spaces/100 m²;
 - (b) 51 Langridge Street, Collingwood – 0.54 spaces/100m²; and
 - (c) 33 Balmain Street, Cremorne – 0.78 spaces/100m².
236. The proposed parking rate of 0.69 spaces per 100sqm floor area is consistent with the rates described above. The Engineering unit considers this acceptable due to the location of the site and the sustainable transport options offered. Furthermore, the provision of car parking at this lower rate would encourage a modal shift from private vehicle use to more sustainable travel. Specifically in relation to the particular benefits of the site location, the reduction being sought by the proposal is further supported by the following:
- (a) The site is well serviced by public transport, including the following as identified by Council's Engineering Unit:
 - (i) Church Street trams – 180m walk;
 - (ii) Swan Street trams – 350m walk; and
 - (iii) East Richmond railway station – 230m walk;
 - (b) The surrounding area has a good bicycle network, with Church Street identified as a key cycle and pedestrian route within Clause 02.04 (Strategic Framework Plan). The proposal includes employee bicycle parking spaces and end of trip facilities in excess of rates specified within the Scheme to encourage staff to ride to work. Six visitor bicycle parking spaces are also proposed;
 - (c) Office land uses are particularly conducive to alternative transport modes given that trips typically occur within peak hour when public transport services are most frequent. The regularity and familiarity of the journey is also a factor that encourages alternative travel modes. Employees are also more likely to cycle to avoid peak hour traffic delays;
 - (d) There is limited on-street parking in the area, with restrictive parking controls acting as a disincentive for employees to travel to work by car. Occupant or visitor parking permits will not be issued for the development and building tenants would be entering leases aware of the on-site parking availability. Therefore, businesses with a high reliance on car parking are unlikely to take up a lease at the site;
 - (e) Visitors would likely be aware of the car parking constraints in the area or otherwise be made aware by the occupants of the building, thus also encouraging use of alternative modes such as public transport, cycling, ride share or taxis; and
 - (f) Council's Engineering Unit are supportive of the application on the basis that it is in line with the objectives of Council's Strategic Transport Statement noting that the site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site parking would discourage private motor vehicle use.
237. The above reasons are further supported by Clause 18.02-4L-01 (Car parking) which has the objective to ensure car parking is supplied and managed consistent with promoting travel by sustainable modes. The clause identifies that an application for a reduction in car parking can be supported where:

- (a) There is appropriate public transport accessibility and the subject land is located within walking or cycling distance to shops, jobs and amenities;
- (b) The use or development is unlikely to result in unreasonable impacts on existing on-street parking;
- (c) Increased motor vehicle traffic from the development is likely to unreasonably impact on the amenity of nearby residents;
- (d) The development uses the upper floors of existing commercial buildings in activity centres and employment areas more efficiently (where relevant); and
- (e) The development provides adequate bicycle parking.

238. As previously identified, the proposal meets the above and therefore it is considered that the reduction in car parking sought can be supported. The development also includes the provision of an electric vehicle charging point located at Car Space No. 1.

239. It is understood that on-street parking demand is very high and close to saturation point, however, existing patterns of car parking usage is not useful given policy within Clause 52.06 encourages the use of other forms of transport.

240. Council's Engineering Unit were supportive of the proposed reduction, stating the following:

"From a traffic engineering perspective, the car parking provision for the office use is considered appropriate in the context of the development and the surrounding area. The operation of the development should not adversely impact on the existing on-street parking conditions in the area. The Engineering Referral team has no objection to the reduction in the car parking requirement for this site."

Traffic

241. For the car parking spaces accommodated on-site, the applicant's traffic engineers and Council's Engineering unit quantified peak hour volumes of 4 vehicle movements both within the morning and afternoon peak (equivalent to 1 vehicle every 15 minutes on average). Council's Engineering unit confirmed that the additional traffic volume is not unduly high and would not have a detrimental impact on the traffic operation of Sanders Place or the surrounding road network.

242. Clause 18.02-4L (Road System) seeks vehicular entrances be provided from side streets or laneways, where appropriate. In accordance with this policy, the entry to the car park will be via the western-abutting laneway. This laneway is 5.49m wide (including the carriageway easement). Council's Engineering unit have reviewed the swept path diagrams and are satisfied that a B85 design vehicle can safely enter and exit the car park from this laneway, subject to the depth of the internal accessway being a minimum 5.4m. This will be discussed in the Loading assessment later in the report.

243. Council's Engineering Unit raised no issues with the location of, and access to, the parking facilities and it is therefore considered that additional traffic management control works would not be required. In relation to laneway queuing, the morning peak would be the critical time for the operation of the car lift, with Engineering confirming that the proposed car lift would be capable of servicing 30 vehicles per hour. The engineering comments include calculations to determine the likely number of vehicles queuing in the laneway to access the car stacker during the morning peak. These calculations have determined that the queue length would be equivalent to one car length. This means that one car would be inside the car lift and only one car queuing in the laneway.

244. The extent of vehicle queuing in the western laneway (i.e. one vehicle) is considered acceptable considering traffic volumes within the laneway are low. Council's Engineering unit are satisfied that the car lift device can operate within the morning peak without adversely impacting the traffic operation of the laneway.

Access and layout

245. Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
246. These details have been reviewed by Council's Engineering Unit who is satisfied with the layout of the car parking area, with no design changes other than for the internal accessway to be a minimum 5.4m deep, as the currently proposed 4.1m depth is insufficient for a B99 design vehicle. The width of the driveway/loading bay should also be dimensioned (between the sliding doors) however the engineering unit have not raised concern that this width would be insufficient. A 1:20 scale cross-section with a B99 design vehicle ground clearance template has also been requested, to confirm vehicle will not bottom out when entering the driveway/loading bay from the western laneway. These dimensions and diagrams will be addressed via conditions.
247. Several engineering conditions in regard to civil works, road asset protection, construction management, and impacts of assets on the proposed development have been recommended. These conditions are considered standard and will also be included as conditions.
248. Overall, the proposed design and configuration of access and car parking areas are considered to achieve a satisfactory outcome and will be further improved with the above details requested by Council's Engineering Unit.

Loading and unloading

249. Clause 15.01-2L (Building Design) includes several strategies for new development to achieve in relation to loading facilities. Relevantly, to minimise noise from deliveries through appropriate design, location and management of loading bays. Furthermore, Clause 65 (Decision Guidelines) also requires the consideration of loading and unloading facilities in relation to amenity, traffic flow and road safety.
250. An on-site loading bay is proposed with access via the western laneway. Council's engineering unit have recommended the loading bay depth be increased from 4.1m up to a minimum of 5.4m to safely accommodate a delivery vehicle on-site, without obstructing laneway access. However, increasing the depth of the loading bay to 5.4m will require the car lift to be moved further east, which will reduce the aisle width of the basement car parking area to approximately 5.6m and would compromise the turning movements of vehicles into and out of the parking spaces. This would require the deletion of all five car parking spaces on the eastern side of the basement, which is not supported.
251. Council's engineering unit advised via email correspondence on 4 April 2025 that the length of a B99 vehicle (which is the size of a small delivery van) is 5.2m. The applicant provided additional swept path diagrams on 9 April 2025 confirming that vehicles will still be able to manoeuvre in and out of the basement car parking spaces, with a maximum of one corrective manoeuvre, if the car lift is shifted an additional 1.1m east to accommodate the increased depth of the loading bay. As such, should a permit issue, a condition will require the driveway / loading bay depth to be increased to a minimum 5.2m.

252. As the loading bay will only be capable of accommodating small delivery vehicles (e.g. B99-design vehicles), a condition will also require the submission of a Loading Management Plan (LMP). The LMP will be required to include a statement that vehicles no greater than a B99-design vehicle will be permitted to conduct loading and unloading within the loading bay. The LMP will also need to include measures to address potential conflicts between delivery vehicles and tenants' vehicles accessing the site, as well as conflicts with other vehicles who rely on the western carriageway easement for access to their properties. In addition, the LMP will need to address the collection of waste, in accordance with the Waste Management Plan.
253. Further, conditions will require deliveries and waste collections to be undertaken with the times prescribed by Council's Local Law, to ensure these activities do not have an unreasonable amenity impact on the surrounding area.

Bicycle facilities

254. Clause 18.02-2L (Cycling) includes the objective to improve cycling infrastructure and encourage cycling as an alternative mode of transport for people of all ages and abilities, to be achieved through the following strategies:
- (a) *Encourage the provision of secure bicycle parking (including cargo bicycles);*
 - (b) *Encourage separate entrances for bicycles and motorised vehicles in developments;*
 - (c) *Provide easily accessible visitor bicycle parking;*
 - (d) *Encourage publicly accessible and safe cycling links through large sites, where links connect with the existing cycling network; and*
 - (e) *Encourage the provision of electric bicycle infrastructure.*
255. The above is particularly relevant to this application due to the car parking reduction of 42 spaces sought.
256. The proposal provides a total of 20 bicycle parking spaces on-site for employees, with the main access from the western laneway. Direct access from within the building to the bicycle store room is also provided, as encouraged by policy.
257. The number of bicycle spaces for employees exceeds the statutory rate outlined in Clause 52.34 (which requires 7 employee spaces) as well as the BESS rate (provision of an additional 50% of the planning scheme rate) which equates to 11 spaces. Council's Strategic Transport Unit have reviewed the employee bicycle parking provision and deem it to be adequate, considering it provides more than the planning scheme requirement as well as the requirements of the Council Alliance for the Sustainable Built Environment (CASBE), which based on an approximation of 1 employee per 10sqm for office land uses and per 50-100sqm for other non-residential land uses, results in the requirement for 14 employee bicycle parking spaces.
258. Council's strategic transport unit have identified the following deficiencies with the employee bicycle parking layout:
- (a) *A locking mechanism to the bicycle storage room is required to limit access to authorised users.*
259. This recommendation will form a condition should a permit issue. In addition, a condition will be included to require provision of at least 1 electric bicycle charging point. This is considered reasonable given the car parking reduction proposed and the requirements of Clause 18.02-2L as previously identified.

260. 12 visitor bicycle parking spaces are proposed, including 8 within the bicycle storage room and 4 horizontal rails located within the ground level frontage. The number of visitor bicycle parking spaces exceeds both the Scheme (3) and BESS requirements (5). The strategic transport unit are satisfied with the on-site visitor bicycle parking provision. However, they are not supportive of the 8 spaces proposed within the bicycle storage room and have recommended that all visitor spaces be provided in the form of publicly accessible horizontal rails.
261. This recommendation will not be adopted, considering the 4 horizontal spaces provided within the ground level frontage satisfy the minimum requirements of Clause 52.34 for visitor bicycle parking spaces.

Green Travel Plan

262. Clause 15.01-2L-01 (Environmentally Sustainable Development) requires the submission of a Green Travel Plan (GTP) for a non-residential building with a gross floor area of more than 1000sqm.
263. In accordance with this policy, a GTP has been submitted. The GTP includes a summary of surrounding transportation facilities including public transport, car share, bicycle facilities and pedestrian accessibility. The GTP also provides information on on-site car and bicycle parking facilities as well as other initiatives to encourage sustainable travel to the site. Council's strategic transport unit have reviewed the GTP and confirm it satisfies all the required information. The GTP will therefore be endorsed to form part of the permit should one issue.

Waste Management

264. Clause 19.03-5L includes several waste related strategies for developments to achieve. The strategies seek to ensure that waste and recycling (including separation, storage, collection and composting) is provided within well sized and designed facilities that are commensurate with the proposed uses. The facilities should also be located to enable ease of use by occupants and for disposal, with the facilities sensitively and discreetly located.
265. Furthermore, Clause 17.01-1L specifically seeks in relation to the municipalities major employment precincts that waste collection facilities are located away from pedestrian environments.
266. A Waste Management Plan (WMP) was submitted by the applicant and commits to the following waste management procedures:
- (a) On the ground floor a 19sqm waste storage room is proposed, including 3 x 1100L garbage bins, 1 x 1100L paper/cardboard bin, 1 x 1100L recycling bin, 1 x 360L glass recycling bin and 5 x food and organics bins;
 - (b) Waste collection will be undertaken by a private contractor using a mini rear-loading vehicle. The waste collection vehicle will prop temporarily within the western laneway adjacent to the waste room to undertake collection activities;
 - (c) Provision of ventilation to the bin storage room to ensure waste-related odours are minimized; and
 - (d) Waste areas to be frequently cleaned to prevent retainment of odours.

267. Council's Waste Management Unit have reviewed the waste management plan and have confirmed that it is satisfactory. The waste management plan will be endorsed and will form part of the permit should one issue.
268. Given the laneway / easement to the west of the site is 5.5m wide, it is considered that there is ample room for a vehicle to pass a mini, rear loading waste collection vehicle whilst it is propped in the laneway. The swept path diagrams for a mini waste loader vehicle confirms it has a width of 1.85m, which leaves a 3.6m wide passing area (typical laneway width). The condition for a Loading Management Plan will also require details on the management of potential conflicts between the waste collection vehicle and other vehicles using the western laneway/carriageway easement.

Objector Concerns

269. Objector issues have been addressed throughout the report. Outstanding issues raised are addressed as follows:

Construction impacts

270. This is not a planning consideration. Separate legislation, including Building and Local Laws, manages construction impacts. If building work is close to or adjacent adjoining property boundaries, the relevant building surveyor may require the developer to carry out protection work in respect of that adjoining property to ensure that the adjoining property is not affected or damaged by the proposed building work. This process is a matter addressed at the building permit stage.
271. Some noise and other off-site impacts are inevitable when construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction to ensure these impacts are mitigated.
272. Council's Local Law requires that a person must not engage in demolition or construction works as follows:
- (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.
273. These hours will be included as conditions. In addition Council's standard Construction Management Plan condition will also be included. Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to reject development of the site.

Loss of view

274. The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control.

275. Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view. In an inner urban situation, and particularly in a location where planning controls allow and encourage high or medium density developments, a view over other sites cannot be the sole or even major determinant of what type of development may be permitted in adjacent areas. Visual bulk impacts have been discussed at length in the body of the report.

Devaluation of property

276. The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the *Planning & Environment Act (1987)*, or the Yarra Planning Scheme.

Conclusion

277. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, the proposal achieves the State Government's urban consolidation objectives.
278. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies.

Legal and Legislative Obligations

Conflict of interest disclosure

279. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
280. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.


Report Attachments

1. 5.5.1 PLN24/0350 - 1-5 Sanders Place Richmond - Site Context Map
2. 5.5.2 PLN24/0350 - 1-5 Sanders Place Richmond - Decision Plans
3. 5.5.3 PLN24/0350 - 1-5 Sanders Place Richmond - Renders
4. 5.5.4 PLN24/0350 - 1-5 Sanders Place Richmond - Referral Advice

5.6. – PLN24/0453 - 100 Madden Grove, Burnley

Author Kathryn Pound – Manager Statutory Planning
Authoriser General Manager City Sustainability and Strategy

Executive Summary

	
Property	100 Madden Grove, Burnley
Ward	Boulevard
Application number	PLN24/0453
Proposal	Retrospective approval of the Burnley Golf Course redesign (risk mitigation works) under the Heritage Overlay, specifically demolition of safety fencing, works (generally relating to changes in surface levels such as removing/ installing bunkers and greens), new pathways and drainage changes and removal of 145 trees
Zoning & Overlay/s	<ul style="list-style-type: none"> - Public Park and Recreation Zone - Heritage Overlay – Schedule 299 (The Boulevard) - City Link Project Overlay (part only) - Significant Landscape Overlay – Schedule 1 (part only) - Land Subject to Inundation Overlay (part only) - Development Contributions Plan Overlay – Schedule 1
Strategic setting	Designated open space area
Submissions	One submission (from adjoining land owner VicTrack who support the proposal subject to conditions)
Key reasons for support	<ul style="list-style-type: none"> - The demolition does not affect heritage fabric and raises no heritage issues - Trees being removed from the site have been grown after 1945 and are not therefore contributory to the heritage significance of the HO, so their removal is supported subject to appropriate replanting - The proposed works are minor and in keeping with the character of the site and its context and on balance present an acceptable heritage outcome

Recommendation	<p>That the recommendations of the independent Planning Consultancy, Glossop Town Planning, who were engaged to provide independent advice to Council in its role as Responsible Planning Authority in the processing and determining of the planning permit, be adopted so that:</p> <p>Council issues a Notice of Decision to Grant a Planning Permit, with conditions. Key condition/s include:</p> <ul style="list-style-type: none"> - Four additional river red gums or sugar gum trees to be planted
Contact Officer	Kathryn Pound, Manager Statutory Planning

Officer Recommendation

That having considered all objections and relevant planning policies, that the Committee adopts the recommendations of the independent planning consultancy and resolves to issue a Notice of Decision to Grant Planning Permit PLN24/045 at 100 Madden Grove Burnley for:

Control	Clause	Matter for which the permit has been granted
Heritage Overlay	43.01-1	To partially demolish a building (safety fencing)
Heritage Overlay	43.01-1	To construct and carry out works
Heritage Overlay	43.01-1	To remove trees

subject to the following conditions:

1. Within 3 months of the date of this permit (or as otherwise agreed in writing by the Responsible Authority), an amended Burnley Golf Course Re-Planting Maps (Proposed Planting) 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 must be generally in accordance with the advertised Burnley Golf Course Re-Planting Map but modified to show:
 - (a) The planting of at least four River Red Gums or Sugar Gums trees (or a mix of both).
2. Within 3 months of endorsement of plans under Condition 1, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Burnley Golf Course Re-Planting Maps (Proposed Planting) must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping works must be completed between May and September (inclusive).
3. The landscaping shown on the endorsed Burnley Golf Course Re-Planting Maps (Proposed Planting) must be maintained by:
 - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and

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

4. The provisions, recommendations and requirements of the Tree Management Plan prepared by Arbor Survey dated December 2023 must be complied with and implemented to the satisfaction of the Responsible Authority.
5. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

VicTrack Conditions

6. No entry to railway land is permitted without the written consent of VicTrack.
7. No drainage, effluent, waste, soil or other materials must enter, be stored or be directed to the railway land.
8. The development's landscaping and planting must be setback to ensure tree canopy does not extend over railway land.

End VicTrack Conditions

9. This permit will expire if:
 - (a) plans as required by Condition 1 are not endorsed within three months of the date of this permit; or
 - (b) the development is not completed within 6 months 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 three months afterwards for the condition 1 plans or within twelve months afterwards for completion.

NOTES

At all times the common boundary with the railway land must be fenced with a 1.8m paling or black chain mesh fence and must be repaired and maintained, all at no cost to VicTrack to prohibit unauthorised access to the rail corridor.

Any replacement, repair or reconstruction of any fence on the boundary to railway land must be in accordance with VicTrack's requirements.

History and Background

History of the Burnley Golf Course Risk Mitigation Project

1. In February 2023, Council approved the redesign works of the Burnley Golf Course (100 Madden Grove, Burnley). This was to undertake risk mitigation works associated with golf balls being hit outside the course boundaries (and onto CityLink). This followed community consultation in March 2020 as well as options having been presented to Council at a meeting in February 2021.
2. In May 2023, advice was sought from the Statutory Planning team regarding the need for a planning permit. At that time the Council Planner provided incorrect advice to the Council Project team. They advised that a planning permit was not required for the works.
3. The golf course risk mitigation works, which included tree removal, commenced in July 2023 and the project was completed in August 2024.
4. In February 2024, questions related to the project were raised at a Council meeting. As a result of further investigations, it was identified that a planning permit was required for the project. Specifically, a permit was required under the Heritage Overlay only, for the proposed demolition of safety fencing, works (generally relating to changes in surface levels such as removing/ installing bunkers and greens, new pathways and drainage changes) and the removal of trees.
5. An independent review was commissioned to investigate the failures in process that occurred. The findings of the Audit were presented to Council at the 13 August 2024 Meeting.
6. Officers from the Recreation Unit commenced preparing a retrospective planning permit application in 2024, once updated planning advice was received. This involved engaging consultants to prepare and lodge the required documentation.
7. The Manager Statutory Planning engaged a Planning Consultancy, Glossop Town Planning, to provide independent advice to Council in its role as Responsible Planning Authority in the processing and determining of the planning permit application. This was to manage potential risks associated with Council considering a Council application that was made retrospectively.
8. The Planning Consultancy was specifically engaged to ensure all obligations under the *Planning and Environment Act 1987* and Yarra City Council Planning Scheme are met. This included advising on all aspects of the processing of the application, including whether all required information was provided and the extent of any notice required. It also included undertaking a complete assessment of the application with a final recommendation about whether the development should be supported or not. Their final report can be found at **Attachment 1**.

Site Context

9. The site context is outlined in part 2 of the attached final report.

Proposal

10. The planning permit application was made retrospectively under the Heritage Overlay for demolition of safety fencing, works (generally relating to changes in surface levels such as removing/ installing bunkers and greens), new pathways and drainage changes and removal of 145 trees.
11. The proposal is outlined in detail in part 3 of the attached final report.
12. The aerial images below show the site pre and post development.

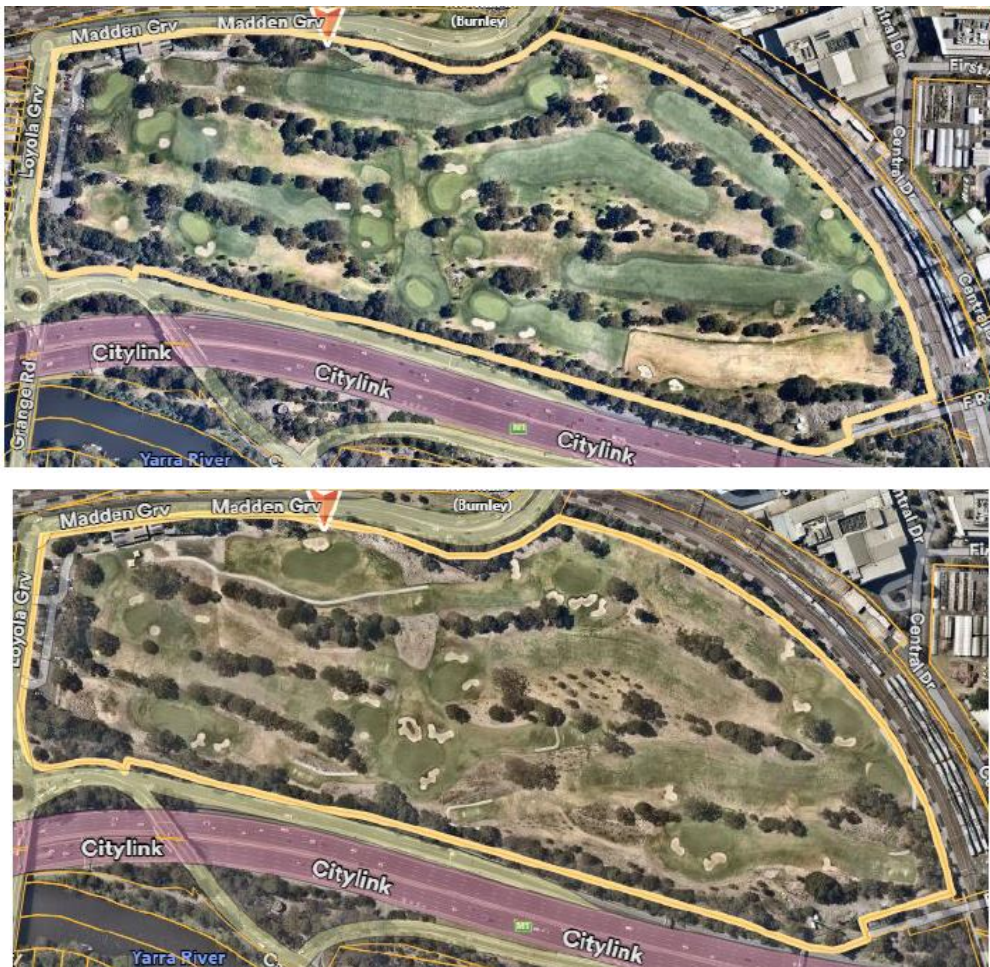


Figure 1: Aerial photography of the site pre-development (Top: Nearmap image 24 December 2021) vs post-development (Bottom: Nearmap image 1 February 2025)(taken from Glossop Town Planning report, March 2025)

13. Of the 145 trees removed, 3 were of 'high' arboricultural value, 12 were of 'medium' arboricultural value, and 130 were of 'low' arboricultural value. The trees removed are depicted with red dots in the figure below.



Figure 2: Excerpt from Arboricultural assessment indicating trees removed

14. The proposal incorporates new landscaping works, with replanting of 450 trees across the site, including a range of eucalypts that would reach heights of 30-50m at maturity.
15. The application was accompanied by various supporting documentation including a Heritage assessment by a consultant Heritage consultant and a Heritage Assessment by a Heritage arborist and planting schedule. A copy of relevant planning application material is **attached (see attachments 2 – 12)**.

Statutory controls

16. The statutory planning controls are outlined at part 4 of the attached final report.

Aboriginal Heritage

17. Aboriginal heritage matters are discussed at part 4.5 of the attached final report.

Internal and External Consultation

Advertising

18. As outlined in part 6 of the attached final report, the application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by three (3) signs displayed on the frontages.
19. As outlined in part 4.4 of the attached final report, the demolition and works components of the application are exempt from notice and review requirements.
20. As outlined in part 6 of the attached final report, Council received one submission from VicTrack who own the adjacent rail corridor land. The submission indicates support for the application, subject to conditions. Under the *Planning and Environment Act 1987*, this must be treated as an objection because the support is contingent on the inclusion of conditions.

21. The attached final report recommends that VicTrack's recommended conditions be incorporated into any permit issued for the site.

Internal and external referrals

22. Referrals undertaken are discussed at part 5 of the attached final report. All referral advice provided has been considered by Glossop Town Planning in their assessment and recommendation and is **Attachment 13** to this report.

Policy Implications

Planning Policy Framework (PPF)

23. The relevant planning policy framework is outlined at part 4.6 of the attached final report.

Officer Assessment

24. A full assessment of the application has been undertaken by the independent planning consultancy and is outlined at part 7 of their attached final report.
25. The primary considerations for the application were demolition, tree removal, works and replacement planting within the context of the Heritage Overlay requirements.
26. The attached final report concludes that the proposal presents an acceptable town planning outcome and is appropriate for the following key reasons:
- (a) *The only planning permit requirement for the demolition, tree removal and works is the HO;*
 - (b) *The demolition does not affect heritage fabric and raises no issues;*
 - (c) *Trees being removed from the site have been grown after 1945 and are not therefore contributory to the heritage significance of the HO. The tree removal raises no heritage or other issues; and*
 - (d) *The proposed works are minor and in keeping with the character of the site and its context and on balance present an acceptable heritage outcome.*
27. The replacement planting is generally appropriate although there should be some provision of the tree species which are historically valued in this area.
28. The report recommends that a Notice of Decision to Grant a Planning Permit be issued, with the inclusion of certain conditions, notably a requirement for four additional river red gums or sugar gum trees to be planted.

Conclusion

29. It is recommended that the recommendation of the independent Planning Consultancy, who have assessed the application in accordance with all requirements and obligations under the *Planning and Environment Act 1987* and Yarra City Council Planning Scheme, be adopted for the reasons outlined above and within the final report.
30. In particular, the application has a high level of compliance with the relevant requirements of the Yarra Planning Scheme and is an appropriate response to the heritage features of the site (subject to conditions).

Legal and Legislative Obligations

Conflict of interest disclosure

31. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
32. The Officer reviewing this report, having made enquiries with relevant members of staff and consultants engaged, and reports that no disclosable interests have been raised in relation to this report.

Risks Analysis

33. This application has been processed and assessed in accordance with the requirements of the *Planning and Environment Act 1987* and Yarra Planning Scheme, and in accordance with the recommendations of the independent planning consultancy who were specifically engaged to ensure all obligations were met.
34. The application being made retrospectively has no bearing on its processing and consideration under the *Planning and Environment Act 1987*.
35. The redesign works of the Burnley Golf Course were specifically undertaken to enable risk mitigation works associated with golf balls being hit outside the course boundaries (and onto CityLink). This is outlined further in the Safety Assessment & Design Approach report submitted with the application that is included as **attachment 5**.
36. Should Council determine to refuse the application, the applicant (Council's Recreation Unit) would need to determine next steps, given that the application has been made retrospectively. This could include appealing the decision to VCAT and/ or removing and reinstating works undertaken without approval, to the extent possible (i.e. noting it may be difficult to reinstate certain structures/ works and it is not possible to reinstate removed trees).

Report Attachments

1. 5.6.1 PLN24/0453 100 Madden Grove, Burnley - Glossop Town Planning Assessment Report
 2. 5.6.2 PLN24/0453 100 Madden Grove, Burnley - Planning Report submitted with application
 3. 5.6.3 PLN24/0453 100 Madden Grove, Burnley - Plans
 4. 5.6.4 PLN24/0453 100 Madden Grove, Burnley - Maps and Planting schedule
 5. 5.6.5 PLN24/0453 100 Madden Grove, Burnley - Safety Assessment & Design Approach
 6. 5.6.6 PLN24/0453 100 Madden Grove, Burnley - Letter of Support - Trethowan Heritage
 7. 5.6.7 PLN24/0453 100 Madden Grove Burnley - Heritage Impact Statement - Tree Department
 8. 5.6.8 PLN24/0453 100 Madden Grove Burnley - Arboricultural Report - Arbor Survey
 9. 5.6.9 PLN24/0453 100 Madden Grove, Burnley - Tree Management Plan prepared by Arbor Survey
 10. 5.6.10 PLN24/0453 100 Madden Grove Burnley - Significant trees on Burnley Golf Course
 11. 5.6.11 PLN24/0453 100 Madden Grove Burnley - 1945 Photograph prepared by Arbor Survey
 12. 5.6.12 PLN24/0453 100 Madden Grove Burnley - 1972 Photograph prepared by Arbor Survey
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13. 5.6.13 PLN24/0453 100 Madden Grove, Burnley - Referral advice