

Planning Report

Amendment to Planning Permit No. 2011/013331A

374-380 Lonsdale Street, Melbourne

Prepared for Brady Lonsdale Pty Ltd

Overview

Background

Applicant	Brady Lonsdale Pty Ltd
Address	374-380 Lonsdale Street, Melbourne
Lot Description	Lot A on PS814722

Relevant Planning Controls

Planning Policy Framework	Clause 15 – Built Environment and Heritage Clause 17 – Economic Development
Local Planning Policy	Clause 21.02 – Municipal Profile Clause 21.08 – Economic Development Clause 21.11 – Local Areas Clause 21.12 – Hoddle Grid Clause 22.22 – Licenced Premises
Zone	Clause 37.04 – Capital City Zone, Schedule 1
Overlays	Clause 43.02 – Design and Development Overlay, Schedule 1 and 10 Clause 45.09 – Parking Overlay, Schedule 1
Particular Provisions	Clause 52.06 – Car Parking Clause 52.27 – Licensed Premises Clause 52.37 – Bicycle Facilities
Other Considerations	Planning Scheme Amendment VC159 Planning Scheme Amendment C382melb PPN61: Licensed premises: Assessing Cumulative Impact VCGLR Liquor Licence Fact Sheet: Maximum Patron Capacity

Permit Application Details

Existing Permit Preamble	Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings, residential hotel, office and retail (other than adult sex bookshop, department store, hotel, supermarket and tavern) in accordance with the endorsed plans.
Proposed Permit Preamble	Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings, residential hotel, office, bar , and retail (other than adult sex bookshop, department store, hotel and supermarket) in accordance with the endorsed plans.

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Quality Assurance

Planning and Urban Context Report

Amendment to Planning Permit No. 2011/013331A
374-380 Lonsdale Street, Melbourne

Project Number

320.0409.00.P

Revision (see below)

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Prepared By

MM

Reviewed By

DS

Project Principal

DS

Date of Issue

30 September 2020

Revisions

Rev	Date	Details	Prepared By	Reviewed By	Project Principal
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1 Introduction

1.1 Purpose

This report has been prepared by Tract upon the instructions of Brady Lonsdale Street Pty Ltd to accompany an amendment to Ministerial planning permit 2011/013331A (**Planning Permit**) under Section 72 of the *Planning and Environment Act 1987 (Act)* to facilitate the use of a portion of the level 7 residential hotel for the use as a 'bar' (operated by Voco, the residential hotel operator) at 374-380 Lonsdale Street, Melbourne (**Site**).

The proposal also includes internal modifications to the endorsed Level 7 plan which correspond with the proposed use, includes input from the interior designer, and some minor corresponding changes to the Planning Permit.

The proposal seeks to amend:

- The Planning Permit preamble to allow the use of part of the site as a 'bar'.
- Plans endorsed under Condition 1 (Level 7 Plan).
- Add any additional conditions required to control the operations of the proposed use.

Please see Chapter 5 of this report for a discussion of the proposed changes to the Planning Permit.

The application has been assessed against the relevant planning controls and policies within the *Melbourne Planning Scheme (Scheme)*, including the Licenced Premised Policy set out at Clause 22.22.

We note, Planning Scheme Amendment VC159 was gazetted into the planning scheme on 8 August 2019, amending the Victoria Planning Provisions to introduce new land use terms, revise the definition of land use terms and change where land use terms are nested. As part of the amendment, the land use term 'tavern' (still included in the Table of Uses within the Capital City Zone, Schedule 1) was amended to 'bar', with the definitions remaining the same.

For the purposes of this report, we refer to the term 'bar' (rather than 'tavern') when describing the proposal.

1.2 Planning Permit Triggers

This proposal triggers the following clauses:

- Clause 37.04-1 (Capital City Zone) - use of land for a 'Tavern [bar]'.

1.3 Planning Permit Background

The Site benefits from the Planning Permit which allows for:

Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings, residential hotel, office and retail (other than adult sex bookshop, department store, hotel, supermarket and tavern) in accordance with the endorsed plans.

The approved building is currently under construction.

1.4 Application Background

On 7 July 2020, on behalf of our client, we sent an email enquiry to the Department of Environment, Land, Water, and Planning (DELWP) outlining a proposition for a bar area on level 7 (that can accommodate up to 53 people based on building surveyor advice) and which is currently approved as part of the residential hotel guest amenities area and open

to the general public as a food and drink premises (with a liquor licence issued). The intention being to make a portion of the level 7 area open to the general public as a bar (noting that it would also still remain available as a food and drink premises to guests of the residential hotel and members of the public).

We noted that given the scale and intensity of this proposed land use could be considered as ancillary (and therefore not require further planning permission to operate) to the main use of the land as a residential hotel, for the following reasons (inter alia):

- The bar accounts for 8.5% (53 out of 625 pax) of the level 7 capacity or 4.1% (53 out of 1,295 pax) of the total residential hotel amenity areas capacity.
- The bar will accommodate up to 53 patrons (based on advice from the building surveyor), and some of these patrons may well be guests of the residential hotel (therefore further reducing the potential 'intensity' of the secondary land use).
- The bar will only be open to 1am (which is consistent with the relevant licensed premises policy at Clause 22.22 of the Scheme – and noting that the venue will already be open at this time for guests of the hotel (across the entirety of level 7 and including the bar area).

In response to the 7 July 2020 enquiry, DELWP nonetheless acknowledged the reasons above but advised that the proposed bar would constitute a separate land use which would sit outside the realms of the original permit, and as such would require an amendment to the permit under Section 72 of the *Planning and Environment Act 1987*.

Following further correspondence with the City of Melbourne and DELWP, it was also confirmed that DELWP was the Responsible Authority for such an amendment application.

1.5 Project Team

The project team assembled by Brady Lonsdale Street Pty Ltd for this application consists of:

- **Tract**– Town Planners.
- **Ted Hart and Associates** – Liquor Licencing.

1.6 Report Structure

This Planning and Urban Context report sets out in detail the Site context, design response adopted, and provides a comprehensive assessment of the proposal against the relevant planning provisions of the Scheme.

2 Site & Surrounds

2.1 The Site

Title particulars

The Site comprises one parcel of land formally recognised as Lot A on Plan of Subdivision 814722W.

Based on a review of Certificate of Title, there are no restrictive covenants or other encumbrances that have effect on the proposed use.

A copy of the Certificate of Title is enclosed with the application material.

The Site and Approved Building

The Site is irregular in shape, with a total area of approximately 2,915sqm.

The approved building on the Site is generally comprised of two residential towers above a podium base, which are 51 levels (south tower) and 67 levels (north tower) respectively. The south tower fronts Lonsdale Street to the south, with the north tower located toward Little Lonsdale Street.

The south tower is comprised of 252 residential hotel rooms (with shared hotel amenities), 152 residential apartments, and 10 retail spaces. The residential hotel rooms will be operated by Voco - an international lifestyle hotel provider with established hotels in the Hunter Valley and the Gold Coast.

The north tower is comprised of 614 residential apartments and recreation amenities (exclusively for the residential use).

Level 7 of the Approved Building

This application has regard to the use and function of level 7 of the approved building.

The approved layout of Level 7 of the approved development includes the following:

- Southern portion - a food and drink premises and outdoor balcony area (used by patrons of the residential hotel and their guests).
- Northern portion - a communal recreation / dining area for the residential dwellings within the building.

The northern and southern portion of level 7 are demarcated and there is no ability for the users / guests of the spaces to access the other except by utilising the lifts on the ground floor with a security tag.

This proposal does not have any impact with respect to the northern portion of level 7.

2.2 Locality and Context

The Site is located on the north side of Lonsdale Street between Elizabeth and Queen Street within the Hoddle Grid of the Central Business District (CBD).

Contextually, the Site is located in a precinct that comprises a broad range of uses commensurate with the type of activity found in the Central City. The surrounding precinct is experiencing change through recent significant redevelopment on nearby sites consisting of office and residential development, including 272 Queen Street, 150 Queen Street, 280 Little Lonsdale Street, 388 Lonsdale Street.

The Site includes the following interfaces:

- North: Little Lonsdale Street, a city street approximately 12m in width, consisting of street infrastructure and parallel on-street car parking. Further north is comprised of a mixture of multi storey development including 8 Sutherland Street and 5 Sutherland Street.
- East: 364-373 Lonsdale Street, a six-storey reinforced concrete office building with ground level retail. The property contains three businesses, one shop, three food and drink outlets and one BYO licence.
- South: Lonsdale Street, an approximately 30m wide major city road, consisting of street infrastructure, and on-street car parking. Across Lonsdale Street, on either side of Niagara Lane, are 383 Lonsdale Street (a three storey hotel / bar with a late night general licence) and 377-381 Lonsdale Street (a four storey brick building with three businesses, four food and drink premises, with two restaurant and café liquor licenced and one on-premises liquor licence).
- West: Timothy Lane, a pedestrian laneway that is being extended to connect Little Lonsdale Street and Lonsdale Street as part of the Planning Permit. Further west is 382 Lonsdale Street (a five-storey office and retail building) and 388-392 Lonsdale Street (MIT House) which is an approximately 11 storey building that has an approved addition of seven storeys currently under construction.

Please refer to the cumulative impact assessment at Chapter 5 of this report for further details on the surrounding liquor licences and land uses.



Figure 1: Aerial Plan (Source: Nearmap, 2019; OneMap, 2019) (Site: Outlined in Red)

3 Proposal

This section of the report is to be read in conjunction with the Architectural Plan (Level 7) prepared by Elenberg Fraser and the associated material prepared by Ted Hart and Associates.

3.1 Overview

The amendment seeks planning approval to facilitate the use of a portion of the level 7 residential hotel for the use as a 'bar' (accommodating a maximum of up to 53 patrons) that currently forms part of the approved food and drink premises for guests of the residential hotel and members of the public (operated by Voco).

It is proposed that the principal location for the bar is a small internal space of approximately 40sqm (shown as 'bar' on the proposed architectural plans), with users also having access to the outdoor terrace should they wish (noting that pool is prohibited from their use due to Condition 22 on the Planning Permit which is not sought to be altered to allow public use of the pool).

The key details of the proposed function of the use are outlined below.

The proposal also includes minor internal arrangements to the layout of level 7 of the approved development that have been driven by inputs from the interior designer for the residential hotel.

3.2 Approved Operations

The residential hotel is operated by Voco - an international lifestyle hotel provider with established hotels in the Hunter Valley and the Gold Coast.

The residential hotel component of level 7 is currently approved as a food and drink premises for guests of the residential hotel and the public.

Part of the approved operations includes an internal area serviced by a floating drinks / bar table that overlooks onto the pool / outdoor area. Members of the public are not allowed to utilise this space as a 'bar' under the existing approval.

The level 7 amenities facilities (such as the outdoor pool) and the remaining parts of the hotel within the building, are only accessible to persons who are staying at the residential hotel or are attending a function organised at the residential hotel. This is an enforceable obligation pursuant to Condition 22 of the Planning Permit, which states [*emphasis added*]:

Any recreational facilities, including lounge, swimming pools and gymnasiums within the building must only be accessible to the persons who are residents or guests of the residents. It is the responsibility of the management to ensure that access is restricted to persons registered to stay on the premises and their guests who hold a security pass or key to a room on the relevant date.

Refer to Figure 2 – Extract of Approved Level 7 Drawing

A General Liquor Licence (No. 31959341) has been issued for Levels 5, 6, and 7 of the approved building, with the following conditions (not an exhaustive list):

- The level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- Music in the external area may be provided at no more than background music level and must cease no later than 11pm.

- Overall maximum capacity of 1,295 patrons, broken down as follows:
 - Basement Internal Dining Area (93 patrons)
 - 5th Floor Internal Function Area (166 patrons) External Function Area (33 patrons)
 - 6th Floor Function Area (378 patrons)
 - 7th Floor Internal Dining Area (346 patrons) External Dining Area (226 patrons) Bar Area (53 patrons)
- Trading hours as follows:
 - Good Friday and ANZAC Day Between 12 noon and 1am the following morning
 - On any other day Between 7am and 1am the following morning

General Liquor Licence (No. 31959341) forms part of the application material.

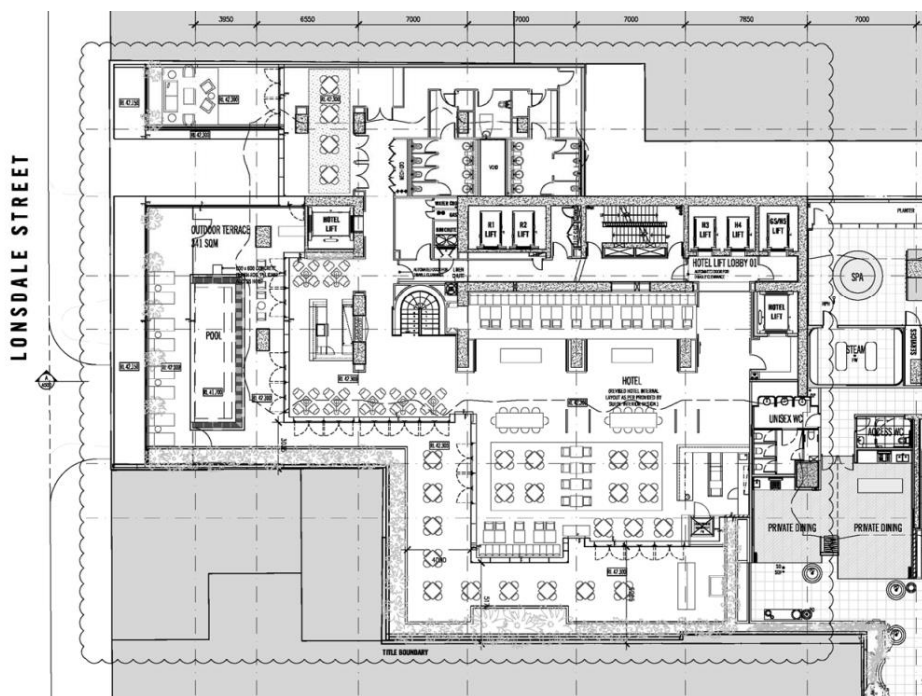


Figure 2 – Extract of Approved Level 7 Drawing (Source: Elenberg Fraser)

3.3 Proposed Land Use and Area

It is proposed to open the internal 'bar' area to the public.

Members of the public attending the 'bar' area will also be allowed to utilise the outdoor terrace (not including the pool area).

Refer to Figure 3 – Extract of Proposed Level 7 Drawing

A 'bar' is defined as:

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

We note, Amendment VC159 (gazetted on 8 August 2019) to the Scheme introduce the term 'bar' whilst having previously been noted as a 'tavern' (the term utilised in the Planning Permit preamble).

Besides in name, the definitions are identical.

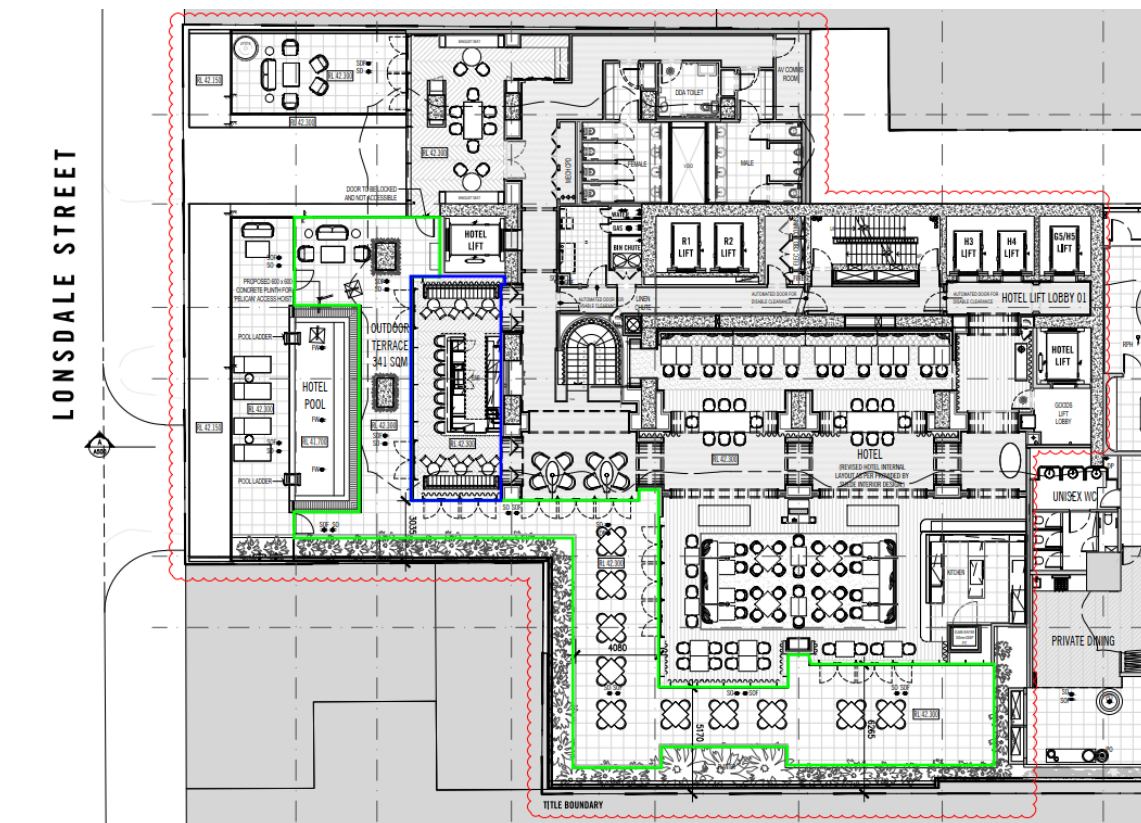


Figure 3 – Extract of Proposed Level 7 Drawing (Source: Elenberg Fraser) (Proposed Bar Area Outlined in Blue and Outdoor Area Outlined in Green)

3.4 Proposed Operations

The proposed bar area will be operated by Voco as part of its management of the residential hotel component of the approved building.

As above, a General Liquor Licence has already been issued for the level 7 operations which contain conditions around patronage, levels of noise and hours of operation. We note that this proposal seeks to be consistent with those conditions, albeit opening up a 'bar' area to the public.

We note that whilst the description for a bar may include dancing, amusement machines, and gambling, that there is no intention to use the bar area for these other purposes, and indeed, given its size and configuration this would clearly be impractical and our client would accept a condition to this effect. This can clearly be seen in the proposed level 7 plan.

The proposed operations are as follows:

- The principal location for the bar is a small internal space of approximately 40sqm (shown as 'bar' on the proposed architectural plans), although users of the bar will also have access to the outdoor terrace should they wish - please see Figure 3 which illustrates this.
- The floor area of the building will remain unchanged but include minor internal rearrangements and a portion of the food and drink area to be made available to the public as a 'bar'.
- Maximum public 'bar' patronage of 53 patrons (please see advice form the building surveyor in regard to maximum patronage).
- The proposed bar area would be established with some tables and chairs. This would provide a place for customers to relax and socialise.
- The proposed bar area will remain open to the guests of the residential hotel (therefore, there may be times where no member of the public are attending the 'bar').

- Food will be available to the customers of the proposed bar.
- Music will be only be at a background level (consistent with the approved operation).
- Music in the external area may be provided at no more than background music level and must cease no later than 11pm.
- Trading hours as follows:
 - Good Friday and ANZAC Day Between 12 noon and 1am the following morning
 - On any other day Between 7am and 1am the following morning

3.5 Internal Changes

The proposal also includes minor internal arrangements to the layout of level 7 of the approved development that have been driven by inputs from the interior designer.

These are best appreciated through a side by side comparison with the endorsed plans.

Refer to **Figure 4 – Comparison of Endorsed to the Proposed Level 7 Drawing**

In summary, the changes involve the following:

- Greater level of internal detail (including further detail on the locations of chairs and tables).
- Relocation of internal doors and room dividers.
- A slightly more pronounced internal ‘bar’ area resulting from the above changes.

It is submitted that these internal changes are generally in accordance with the endorsed plans or could be assessed under the secondary consent provisions of the Planning Permit as the proposed changes do not authorise anything which requires consent and is consistent with the controls applying at the time and the conditions under the Planning Permit.

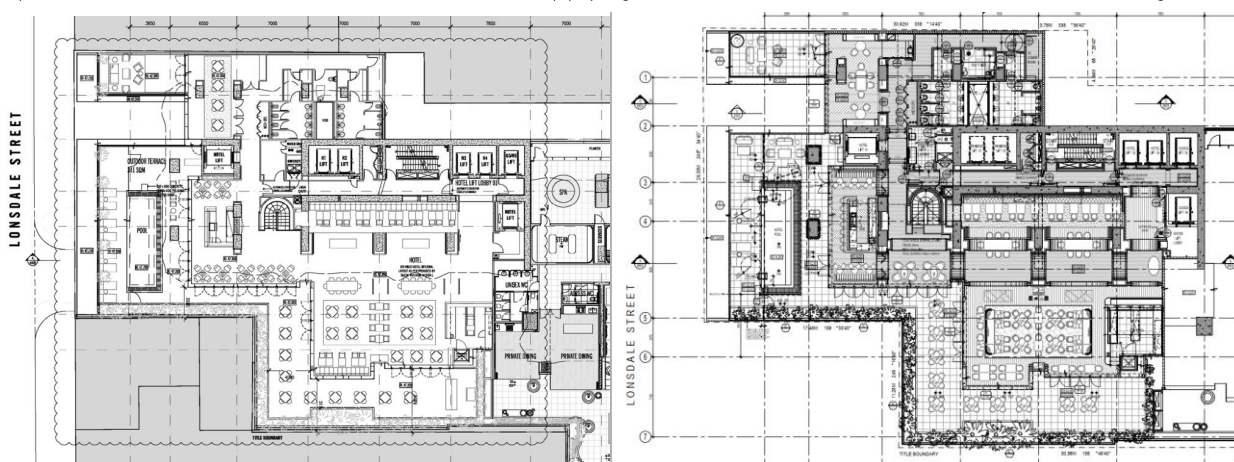


Figure 4 – Comparison of Endorsed to the Proposed Level 7 Drawing (Extract of Endorsed Drawing, Extract of Proposed Drawing) (Source: Elenberg Fraser)

3.6 Proposed Changes to the Permit Conditions

The amendments sought to the Planning Permit are as follows:

- The Planning Permit preamble amended to allow the use of part of the site as a ‘bar’.
- Plans endorsed under Condition 1.
- Add any additional conditions required to control the operations of the proposed use.

Please see Chapter 5 of this report for a discussion of the proposed changes to the Planning Permit.

3.7 Traffic and Car Parking, and Bicycle Parking

3.7.1 Traffic and Car Parking

No additional on-site car parking or changes to the loading facilities are required as part of this proposition. Please refer to Chapter 5 of this report for an assessment of carparking.

3.7.2 Bicycle Parking

No additional bicycle parking spaces are required as part of this proposition. Please refer to Chapter 5 of this report for an assessment of bicycle parking.

3.8 Waste

We understand that a Waste Management Plan (WMP) has been prepared under Condition 13.

Given the internal bar is approved under the Planning Permit, with this application seeking to open this space up the public, we would respectfully submit that the existing WMP does not need to be amended as there would be no change with respect to waste generation.

4 Planning Policies & Controls

This section identifies the relevant sections of the Planning Policy Framework (PPF), Local Planning Policy Framework (LPPF), the zone, overlay, and particular provisions of the Scheme as applicable to the proposed development.

To ensure planning schemes further the objectives of planning in Victoria, planning authorities must consider and give effect to the general and specific policies contained in the PPF and LPPF.

4.1 Planning Policy Framework

The provisions of the PPF that are most relevant to this proposal have been summarized below.

Clause 15 – Built Environment and Heritage

Clause 15 aims to *ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context.*

- **Clause 15.01-2S (Building Design)** aims to *achieve building design outcomes that contribute positively to the local context and enhance the public realm.*
- **Clause 15.01-5S (Neighbourhood Character)** requires that development to *recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Clause 17 – Economic Development

Clause 17 seeks to *strengthen and diversify the economy*, where all sectors are critical to economic prosperity. Specifically, planning is to encourage growth by providing land, facilitating decisions and resolving land use conflicts so that each region may build on its strengths and achieve its economic potential. Specific sub-clauses relevant to the Site and proposal include:

- **Clause 17.01-1S Diversified economy** – aims to *strengthen and diversify the economy*, particularly in existing employment areas.
- **Clause 17.01-2S Diversified economy – Metropolitan Melbourne** – *seeks to support the Central City to become Australia's largest commercial and residential centre by 2050, by planning for office, retail, residential, education, health, entertainment and cultural activity spaces.*
- **Clause 17.02-1S Business** – *seeks to encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

Clause 21 – Municipal Strategic Statement

Clause 21 identifies Council's vision of a *bold, inspiration and sustainable city* in order to *grow Melbourne as a global city and as one of the top ten most liveable and sustainable cities in the world.* Relevant key objectives and strategies include:

- **Clause 21.02 Municipal Profile** identifies the City of Melbourne as the State's premier location for economic and cultural infrastructure for a wide variety of uses.

- **Clause 21.08 Economic Development** – recognises the Central City as the prime location for commerce in metropolitan Melbourne. It is also policy to support the dense co-location of business, education, medical and research centres to strengthen the Central City’s competitive and innovative capacity.
- **Clause 21.11 Local Areas** – identifies the Site within the ‘Hoddle Grid’ Local Area.
- **Clause 21.12 Hoddle Grid** – outlines local level strategies within areas identified within the ‘Hoddle Grid’ Local Area.

Clause 22 – Local Planning Policies

Clause 22 specifies Local Planning Policies (LPP) which are intended to guide decision-making in relation to a specific discretion in a zone, overlay or particular provision. Specific sub-clauses relevant to the Site and proposal include:

- **Clause 22.22 (Policy for Licenced premises that Require a Planning Permit)** – applies where a permit is triggered under Clause 52.27 of the Scheme or where a permit for a tavern, hotel or nightclub in the Capital City Zone and Docklands Zone is required. The policy seeks to (amongst other things) manage the operation of licensed premises to minimise adverse impacts on the amenity of the area and maintain the positive character, image and function of the city. This is achieved through a range of policy provisions (controlling patron numbers, hours of operation, etc.) and application requirements addressing management, amenity, and cumulative impact.

Please see Chapter 5 for a full assessment against Clause 22.22.

4.2 Zoning

The Site is located within the Capital City Zone (CCZ), Schedule 1 (CCZ1) - *Outside the Retail Core*.

The CCZ provides for the use and development of land in Melbourne’s Central City area, recognising its role as the capital of Victorian and an area of national and international importance. Specifically, the purpose of the Capital City Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To enhance the role of Melbourne’s central city as the capital of Victoria and as an area of national and international importance.*
- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.*
- *To create through good urban design an attractive, pleasurable, safe and stimulating environment.*

The CCZ1 applies to land identified as being outside the retail core.

The purpose of the CCZ1 is to provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.

Use

Clause 37.04-1 applies a table of uses, requiring any proposed use to comply with conditions stipulated for Section 1 and 2 uses. The provisions stipulated at Clause 37.04-1 are deferred to the Schedule.

With respect to land use, Clause 37.04-2 states that *any requirement in the schedule to this zone must be met*.

The use of land for a ‘Tavern [bar]’ is Section 2 and therefore requires a permit.

Refer to **Figure 5 – Zone Plan**



Figure 5: Zone Plan (Source: OneMap, 2019) (Site: Outlined in Red)

4.3 Overlays

The Site is subject to the following overlays:

- Design and Development Overlay – Schedule 1 (DDO1);
- Design and Development Overlay – Schedule 10 (DDO10); and
- Parking Overlay – Schedule 1 (PO1).

Design and Development Overlay

Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise. As there are no buildings and works proposed (beyond minor internal rearrangement which would otherwise be exempt from planning permission), the DDO1 and DDO10 are not applicable.

Parking Overlay

The Site is affected by the Parking Overlay – Schedule 1 (PO1).

The specific purpose set out in the PO1 is:

- *To identify appropriate car parking rates for various uses within the Capital City Zone.*

A permit is required to provide car parking spaces in excess of the car parking rates shown in the figure below.

$$\begin{aligned} \text{Maximum spaces} &= \\ & \frac{5 \times \text{net floor area of buildings on the site in sq m}}{1000 \text{ sq m}} \\ \text{or} \\ & \frac{12 \times \text{site area in sq m}}{1000 \text{ sq m}} \end{aligned}$$

Figure 6 – Figure at Clause 3.0 of the PO1 (Source: Melbourne Planning Scheme, 2020)

As no additional car parking is proposed as part of this application and the maximum spaces remains under the maximum threshold (see DELWP officer report), no permit is required under this control.

4.4 Particular Provisions

Clause 52.06 – Car Parking

One of the purposes of Clause 52.06 is to ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

Pursuant to Clause 52.06-5 (Number of car parking spaces required), the statutory car parking rate generated by the proposed development is dictated by the PO. The rate of parking allowed under the PO1 is described above.

Clause 52.27 – Liquor Licence

The purpose of Clause 52.27 is:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

A permit is required to use land to sell or consume liquor If the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence.

Pursuant to the Schedule of Clause 52.27 all licences required under the Liquor Control Reform Act 1998 do not require a permit within the CCZ.

4.5 Other Considerations

4.5.1 Planning Practice Note 61: Licensed Premises: Assessing Cumulative Impact

The purpose of this practice note is to:

- Explain cumulative impact in relation to licensed premises in the planning system.
- Provide guidelines that:
 - assist a permit applicant when considering and responding to the potential cumulative impact of their proposal
 - support a council when assessing the cumulative impact of licensed premises as part of a planning permit application.

The practice note provides guidance on preparing and assessing an application under Clause 52.27.

As discussed above, the application does not trigger a permit under Clause 52.27 as all liquor licences are exempted under the CCZ1. Notwithstanding this, one of the objectives of the local policy at Clause 22.22 is to ensure that the cumulative impacts of licensed premises are assessed where venues are clustered in the one location. As such, the practice note provides useful information for undertaking and assessing such potential impact.

Please refer to Chapter 5 of this report for a cumulative impact assessment.

4.5.2 VCGLR Liquor Licence Fact Sheet: Maximum Patron Capacity

The VCGLR has a maximum patron capacity policy that guides how patron capacity is determined for a liquor licence.

Maximum patron capacity is the maximum number of patrons allowed on a licensed premises at any one time. This is to prevent (amongst other things) overcrowding inside the venue and to minimise impacts on local amenity.

One of the following three documents is required in order to determine the maximum patron capacity [*emphasis added*]:

- the most recently issued planning permit which contains a maximum patron capacity or
- a copy of an occupancy permit showing a prescribed patron capacity or
- a report from a registered building surveyor that states:
 - the area in square metres available to the public for the whole of the internal premises (excluding toilets, passageways and the like) and (if applicable) for any external areas such as courtyards or decks and
 - the number of patrons that may be accommodated on the internal premises and (if applicable) on any external areas of the premises based on a ratio of one person per 0.75 square metres and
 - the number of patrons that may be accommodated based on the Building Code of Australia. Please ensure that the report displays the building surveyor registration number.

In satisfaction of the third dot point above, this application is accompanied by a patron calculation report prepared by Approved Building Surveyors Pty Ltd. The report confirms that the internal area of the proposed level 7 bar (available to the public) is approximately 40sqm and the requirement to have one person per 0.75sqm the maximum number of persons to be accommodated cannot be more than 53 persons. Notwithstanding that it is proposed for members of the public to be able to access the outdoor terrace area (should they wish), it is proposed that no more than 53 patrons from the public attending the 'bar' area be allowed in the bar area.

Consistent with this report (and noting a general liquor licence has been issued by the VCGLR for this maximum patron capacity) the proposal applies for a maximum of 53 patrons attending the site for use as a bar.

4.5.3 Planning Scheme Amendment VC159

Planning Scheme Amendment VC159 was gazetted into the planning scheme on 8 August 2019, amending the Victoria Planning Provisions to introduce new land use terms, revise the definition of land use terms and change where land use terms are nested.

As part of the amendment, the land use term 'tavern' was amended to 'bar', with the definitions remaining the same, and both remaining included within the term 'food and drink premises'.

We note the Schedules to the CCZ retains the reference to the land use term 'tavern' – which is not permitted under the existing Planning Permit in the preamble.

Given the above amendment, we submit that the land use term should be brought in line with the gazetted term of 'bar'.

4.5.4 Planning Scheme Amendment C382melb

Planning Scheme Amendment C382 was gazetted into the planning scheme on 28 May 2020, making changes to the Schedule to Clause 72.01 to clarify the Minister for Planning's role as responsible authority for developments exceeding a gross floor area (GFA) of 25,000 sqm.

The Amendment amended and inserted the following into the Schedule to Clause 72.01 [*emphasis added*].

The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2, and 3 of Part 4 and Part 4AA of the Act and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority in relation to:

- *development of land as part of a single project or multiple related projects, if it involves:*
 - *construction of a new building or buildings containing a total gross floor area of more than 25,000 square metres;*
 - *construction or the carrying out of works (including extensions, alterations or additions to a building or buildings) which will directly create an additional floor area of more than 25,000 square metres of a building or buildings; or*
 - *demolition or removal of a building or buildings or part of a building or buildings, if that demolition or removal is to be carried out to enable development within the meaning of one of the sub-paragraphs above;*
- *any provision of the planning scheme which requires a permit to be obtained for a matter, if that matter forms part of an application that includes development within the meaning of one of the sub-paragraphs above.*

DELWP has confirmed that given the building approved under the Planning Permit is still under construction, it is the Responsible Authority for this Section 72 Application.

5 Planning Assessment

5.1 Overview

The most relevant policy provisions and application requirements for licenced premises are set out at Clause 22.22 of the *Melbourne Planning Scheme*.

The key matters for consideration with respect to the planning permit application are:

- Is the proposal consistent with the Planning Policy Framework (PPF) and Decision Guidelines including the zoning controls?
- Does the proposal create any unreasonable amenity impacts or result in negative cumulative impacts?
- Does the proposal represent appropriate parking, traffic, and waste arrangements?

These matters are addressed in turn below.

5.2 Is the proposal consistent with the Planning Policy Framework (PPF) and Decision Guidelines including the zoning controls?

The proposal is consistent with the broader strategies governing the use and development of Melbourne's Central City at both the State and local level, and the intent of both the land use zoning and overlay provisions that affect the Site. The proposal is also consistent with the provisions of the relevant particular and general provisions.

The Scheme includes policy direction in regard to a diversified economy (and night-time economy) and entertainment within the Central City. Both the PPF and the LPPF recognise the importance of facilitating economic development and activity whilst seeking to ensure these aspirations do not unreasonably compromise amenity.

The proposal is a Capital City project and will assist in furthering Melbourne's identity as a unique identity; an identity that is comprised foremost of its people, creative and cultural centres.

In particular it is noted:

PPF

- The proposal is consistent with the thrust of Clause 15 (Built Environment and Heritage) by creating further enjoyable spaces that contributes to the sense of place and cultural identity of Melbourne's night-time economy whilst appropriately managing off site amenity impacts.
- The proposal is consistent with the thrust of Clause 17 (Economic Development) by providing for a diversified commercial use that will strengthen the night-time economy and the offering of a future successful operation. Clause 17 also emphasises that such facilities be within accessible locations. Council's policies seek to direct business with employment potential into the Central City. This location is best for a business that would appeal to both local people, but also customers from outside the municipality.
- The proposal is consistent with many policy directions as it will contribute to the on-going revitalisation of a 24-hour Central City. The Municipal Strategic Statement acknowledges that licensed premises contribute to the vibrancy and economic strength of the municipality. Specifically, Clause 21.08-1 acknowledges that some parts of the municipality (especially the Central City) are encouraged to develop where a range of activities to support the touristic and diverse needs of the residents.

- The proposal is consistent Clause 22.22 (Policy for Licenced Premises that Require a Planning Permit) by appropriately managing and operating the licensed premises to minimise adverse impacts on the amenity of the area and maintain the positive character, image and function of the city.

Please refer to the assessment below for further details.

CCZ1

- The proposed bar will support the entertainment offerings of the approved residential hotel by delivering a diversified operation which further activates the site. This is consistent with the purpose of the CCZ1 *to provide for a range of...recreational, tourist, entertainment and other uses that complement the capital city function of the locality.*
- The proposal (forming part of the wider residential hotel) will also provide for a significant employment generator and provide for premium socialising space within the Central City that will contribute to the vitality of the area and Melbourne’s night-time economy. Having regard to this, it is respectfully submitted that the proposed building is consistent with the purpose of the CCZ1.

The table below provides a response with respect to the relevant decision guidelines of the CCZ1.

Decision Guideline	Response
<i>The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i>	As outlined above, the proposed development is consistent with the relevant policy provisions of the Scheme.
<i>The comments and requirements of relevant authorities.</i>	We understand that the comments and requirements of relevant authorities will be sought by DELWP during the application process.
<i>The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.</i>	The proposed use is located within an approved building which has had due consideration of cyclists, pedestrians, vehicles, waste removal, emergency services and public transport.
<i>The provision of car parking, loading of vehicles and access to parking spaces and loading bays.</i>	Waste removal and supply vehicles will continue to access the building via Lonsdale Street (as under the current approval).
<i>The provision of car parking, loading of vehicles and access to parking spaces and loading bays.</i>	The proposal will not impact on the existing street access for emergency services and public transport.
<i>The provision of car parking, loading of vehicles and access to parking spaces and loading bays.</i>	No additional onsite car parking or loading facilities are proposed.
<i>The provision of car parking, loading of vehicles and access to parking spaces and loading bays.</i>	Given the proposed ‘bar’ area is approved for use by the residential hotel guests, with this application simply opening the area up to the public, it is submitted that there are no changes required to the loading areas.
<i>The existing and future use and amenity of the land and the locality.</i>	Please refer to the assessment below.

The impact on the amenity of any existing dwellings on adjacent sites

Please refer to the assessment below.

The design of buildings to provide for solar access, energy efficiency and waste management.

This application relates to the internal operation of the building, therefore matters of solar access and energy efficiency are not relevant as these were considered as part of the Planning Permit.

With regard to waste management, as above, given the proposed bar area is approved for use by the residential hotel guests and the public as a food and drink premises, with this application simply opening the area up to the public, it is submitted that there are no changes required to the endorsed waste management plan.

The impact on amenity of existing or proposed sensitive land uses susceptible to the off-site effects of industry.

We understand that no industrial uses occurring in the surrounding context that would pose a significant risk of amenity to the future occupiers of the proposal.

Having regard to the above, we would respectfully submit that the proposed building is consistent with the purpose, relevant provisions and decision guidelines of the CCZ1.

Decision Guidelines

More broadly, the decision guidelines at Clause 65 of the Scheme note that before deciding on an application the responsible authority must consider (amongst other things) the effect on the amenity of the area. This is discussed in greater detail below, but at a high level here, we note that the proposed bar area is contained wholly within the building, the outdoor space is already permitted for use as a food and drink premises, and the whole of level 7 is proposed to be operated consistent with the liquor licence for the residential hotel.

Given this, we would respectfully submit that the proposed use does not create any further potential for adverse amenity impacts in terms of noise or the like.

5.3 Does the planning permit application comply with the City of Melbourne's Licenced premises Policy?

As outlined above, the proposed land use is considered to be entirely consistent with the provisions of the Scheme.

The local policy at Clause 22.22 provides specific local policy guidance with respect to the operation and management of a bar.

A detailed assessment against the requirements of this policy is provided below.

We note that Clause 22.22 acknowledges that licensed premises contribute to the vibrancy and economic strength of the municipality and identifies that small licensed premises are particularly important to the vitality of the Central City as a 24-hour city. The specific objectives of this clause are:

- *To identify appropriate locations and trading hours for licensed premises.*
- *To manage the operation of licensed premises to minimise adverse impacts on the amenity of the area and maintain the positive character, image and function of the city.*
- *To ensure that the cumulative impacts of licensed premises are assessed where venues are clustered in the one location.*

Clause 22.22 provides policy which addresses the operational conditions of these types of establishments and sets policy requirements in relation to various amenities requirements.

These are addresses in turn below.

5.3.1 Noise

Noise Emissions from the Proposed Bar

The licensed premises should be operated to ensure that noise emissions from the premises:

- *will not have an unreasonable impact on the amenity of the surrounding area;*
- *comply with the standards as specified in the State Environmental Protection Policies; and*
- *are regulated and monitored, making use of noise limiters where appropriate.*

With regard to expected noise emissions from the licence premises, we note that General Liquor Licence (No. 31959341) has been issued for Levels 5, 6, and 7 of the Site, with the following conditions (not an exhaustive list):

- The level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- Internal music to a background level.
- Music in the external area may be provided at no more than background music level and must cease no later than 11pm.

Consistent with the above, the bar area is proposed to operate with the following conditions (not an exhaustive list):

- The floor area of the building will remain unchanged but include minor internal rearrangements and a portion of the food and drink area to be made available to the public for the use as a bar.
- As per state requirements, the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- Internal music to a background level.
- Music in the external area may be provided at no more than background music level and must cease no later than 11pm.

The bar is not proposed to increase the existing approved patronage associated with the residential hotel on the Site (noting the patron limits are set out in the accompanying Building Surveyor's letter), rather, it is simply intended to diversify the hospitality offer of the ancillary functions of the residential hotel users for its expected clientele. Further, the bar area will remain open to the users of the level 7 amenities area, so there very well may be times where no members of the public are utilising the space. As such, it is submitted that there will be no unreasonable additional amenity impacts arising from the use.

As described in the Management Plan, the internal area has sealed windows. As such, it is anticipated that noise from this area will not pose any impact to the surrounds. The manager will monitor noise levels to ensure there are no amenity issues. Further, signage at the front entrance to the premises will request that patrons leave the area quietly so as not to inconvenience neighbours (please refer to Appendix A of the Management Plan).

We note that any noise complaints are to be dealt with as per this plan's complaint management procedures (see part 1.5 of the Management Plan which is copied at Figure 7 below).

Accordingly, it is submitted that the proposed operation is not expected to increase the potential for noise impact to the amenity of the surrounding area.

NOTICE

**We respect our neighbours.
Please leave the area quietly
And respect the amenity**

Figure 7– Notice to patrons leaving the residential hotel / bar (Source: Alcohol Management Plan prepared by Ted Hart and Associates)

Noise Emissions from Waste Operations

Noise impacts associated with waste management and bottle crushing should be minimised by incorporating measures such as:

- *On site storage of waste;*
- *The use of on-site bottle crushers within noise proof enclosures; and*
- *Limiting waste collection before 7am and after 9pm or earlier when licensed premises is closed.*

Under the approved Planning Permit, the waste facilities for the development are located within the ground floor, which is accessed by staff via a goods lift. The waste facilities include a waste compactor and waste room central to the ground floor that are serviced by garbage trucks entering from Little Lonsdale Street consistent with Conditions 13 – 16 of the Planning Permit and the endorsed Waste Management Plan (prepared by Leigh Design).

Please see **Figure 8 – Extract of the Endorsed Ground Floor Plan.**

As discussed above, we note that the bar area is currently approved to operate for the guests of the residential hotel and members of the public for a food and drink premises, with this application simply 'opening up' some of level 7 to the public as a bar. Accordingly, there is no expected increase in waste generation (or noise associated with same) from the proposed bar.

Accordingly, we submit the potential noise impacts are appropriately managed under the approved operation.

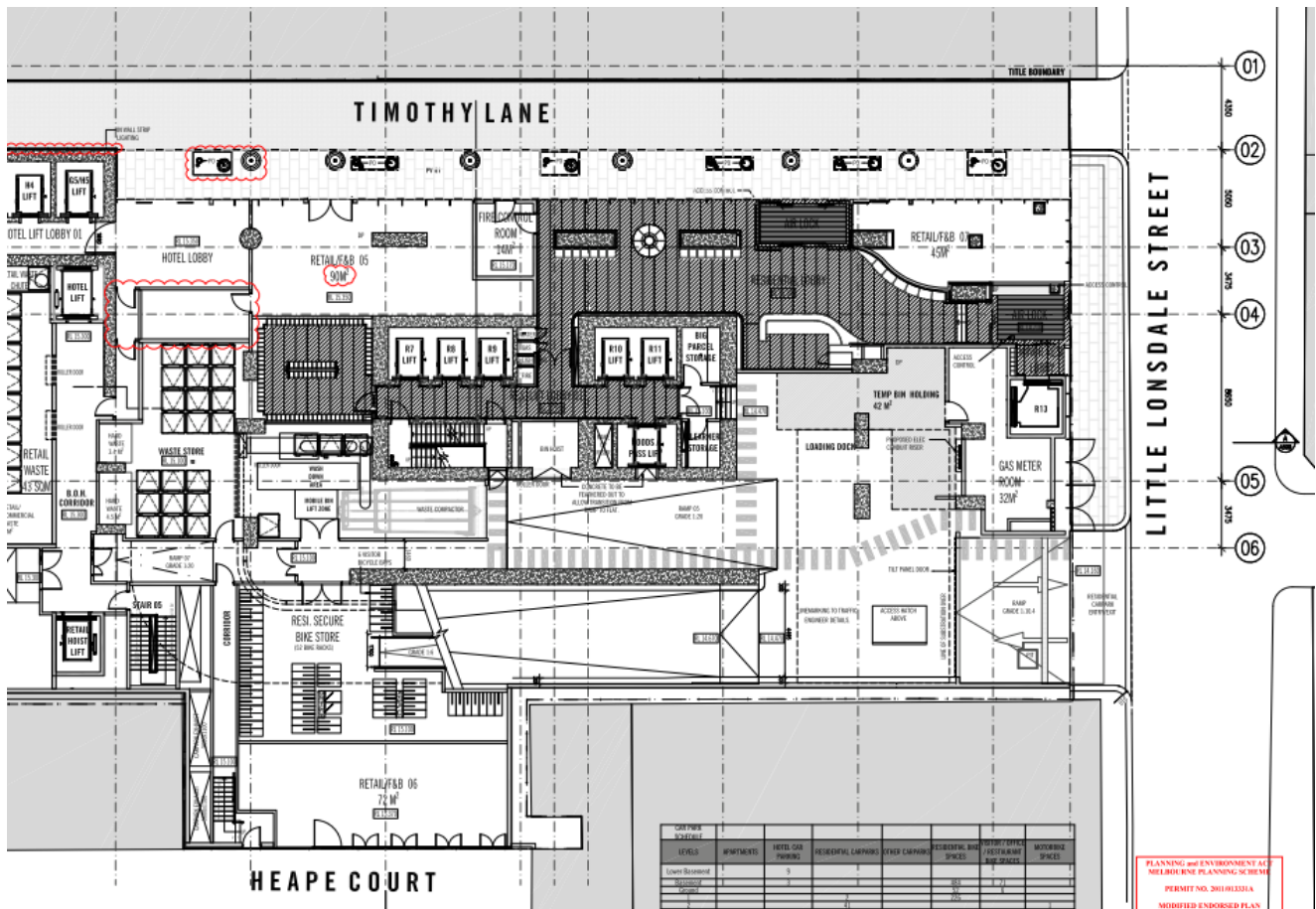


Figure 8 – Extract of endorsed ground floor plan showing the approved waste facilities (Source: Elenberg Fraser)

5.3.2 Patron Numbers

Pursuant to the patron numbers policy, the maximum number of patrons permitted in a licensed premise should be limited to manage any unreasonable impact on the amenity of the surrounding uses and area and the maximum occupancy capacity of the premises, as determined by the *Building Act 1993*.

As discussed above, the internal bar area is approximately 40sqm and the requirement to have a maximum of one person per 0.75sqm the maximum number of persons to be accommodated cannot be more than 53 persons. Whilst the external terrace area is clearly larger than this, the proposition remains the same to allow only up to 53 members of the public to utilise the level 7 bar and outdoor area for this purposes. It will be the responsibility of the management to ensure these patron numbers are adhered to.

Please refer to the patron number report prepared by Approved Building Surveyors.

We note, the general liquor licence granted for the Site (discussed above) have approved the 53 persons patron limit to the Level 7 bar area. As such, this proposal is entirely consistent with this approval.

5.3.3 Hours of Occupation (Capital City Zone and Docklands Zone)

Within the CCZ and Docklands Zone, the policy notes that taverns which accommodate less than 100 patrons and which have appropriate noise attenuation will be encouraged.

We submit that the proposed operation of the bar is entirely consistent with the above and therefore should be supported.

The policy further recommends the following in regard to hours of operation:

- *Hours of operation of taverns, hotels and nightclubs in the Capital City Zone and Docklands Zone should be limited to 1 am*
- *Outdoor areas, including smoking areas, rooftops and open courtyards, should not be occupied past 1 am and in noise sensitive areas alcohol should not be consumed in those areas after 11 pm.*

The proposed operations include (not an exhaustive list):

- Trading hours as follows:
 - Good Friday and ANZAC Day Between 12 noon and 1 am the following morning
 - On any other day Between 7 am and 1 am the following morning
- Music in the external area may be provided at no more than background music level and must cease no later than 11 pm.
- Whilst alcohol is proposed to be served until 1 am, it is submitted that this is consistent with the General Liquor Licence applying to level 7 of the residential hotel.

Accordingly, it is submitted the proposal is generally the opening hours policy of the Scheme and entirely consistent with the conditions of the liquor licence.

5.3.4 Application Requirements

An application for the establishment of a new licensed premise or the extension of existing licensed premises should be accompanied by the following information, as appropriate:

Plans

Location plan showing the proximity of the premises to other licensed premises.

Please refer to Figure 9 and the summary of some surrounding liquor licences below.

Location Plan showing the location of properties used for sensitive uses in direct line of sight and within 100m of the site.

Please refer to Figure 9 below and the endorsed plans prepared by Elenberg Fraser which provide a site context and summary of surrounding land uses.

Details of doors, windows and open space areas should be shown.

Please refer to the proposed level 7 plan prepared by Elenberg Fraser.

Site plan showing all areas likely to be used by patrons including areas outside the boundaries of the site i.e. public spaces or footpaths.

Please refer to the proposed level 7 plan and Endorsed Plans (depicting the ground floor etc.) prepared by Elenberg Fraser.

Site plan showing car parking layout (if parking is to be provided).

No car parking is provided for the proposed use.

Plan showing the existing and proposed internal layout of the premises.

Please refer to the proposed level 7 plan and Endorsed Plans (including the current approved Level 7 layout) prepared by Elenberg Fraser.

Plan showing the locations of all doors and windows within the premises.

Please refer to the proposed level 7 plan prepared by Elenberg Fraser.

Plan showing the total numbers of patrons to be accommodated on the premises and the allocation of these patrons to identified areas

Please refer to the proposed level 7 plan prepared by Elenberg Fraser and the patron calculation report prepared by Approved Building Surveyors Pty Ltd.

Written Submission

Licensed premises operating after 11pm are required to demonstrate how amenity impacts would be addressed, including the potential for cumulative impacts where there are existing late-night venues in the locality.

Matters of amenity impacts (as they related to matter including noise, management, patron numbers, rules, etc.) are discussed above.

With regard to cumulative impacts, as per Planning Practice Note 61 entitled, 'Licensed premises: Assessing cumulative Impact' (DELWP, June 2015), cumulative impact refers to both the positive and negative impacts that can result from clustering a particular land use or type of land use (Page 1). The Practice Note states that:

A cluster would occur when 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 (Page 2).*

At the time of this report, based on a review of the VCGLR interactive liquor licence map, the Site is identified within a cluster based on the definition above. However, we would note that it would be difficult (if not impossible) for any site within the Central City to not be within a cluster based on this definition.

An assessment of potential cumulative impacts is clearly a matter of fact and degree.

Please see **Figure 9 - VCGLR Liquor by Category Map**.

The positive impacts associated with a cluster include: the creation of a local identity, enhanced vitality, economic benefits, and increased ability to manage impacts (such as concentrating venues around public transport options).

As the Site and a majority of the existing licenced venues are located within the Central City, it is considered the venues are associated with the positive impacts of clusters.

The variety of venues and licence types within the Central City contribute to the vitality, character, and economic success of the Central City. The proposed use and the maximum capacity (of 53 patrons), associated with the approved residential hotel use at the Site will further contribute to the vitality of the Activity Centre by attracting business and visitors to the Site.

We note other similar developments, such as the RACV Club on Bourke Street which is predominantly used as a residential hotel and associated ancillary uses (for members and guests). We understand that in 2019 an application was lodged (TP-2018-507/B) to use the ground floor courtyard for the purposes of a bar accessible to the members of the public. We understand the permit was ultimately granted for this use. This allowed the RACV to diversify its retail offerings, strengthen the night-time economy to Bourke Street, increase passive surveillance, and to also attract potential members to the club to ensure the economic viability of the Club.

We submit that this is a comparable circumstance to what is proposed under this application where the bar area is clearly part of the overall offering of the business and does not present any further amenity impact. Noting again that there may well be circumstances where no members of the public are using the space (and it entirely occupied by the residents / visitors to the residential hotel component of the Voco business or members of the public using attending the level 7 food and drink premises).

The map below (extracted from the VCGLR website) shows the liquor licence venues proximate to the Site, with the details (licenced types and maximum trading hours) of some venues noted.

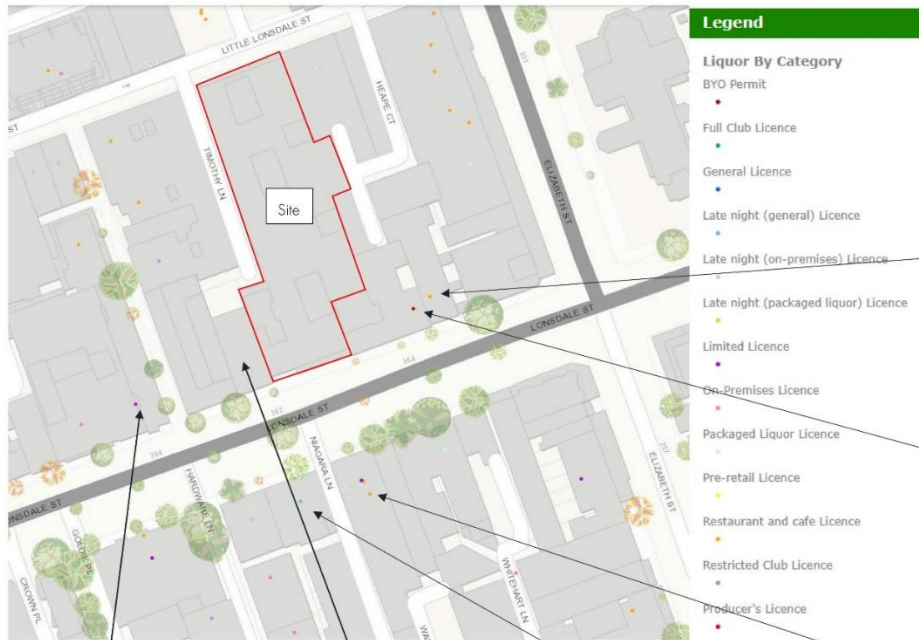
The proposed bar is on level 7 of the approved development. As such, it is not expected to attract the negative aspects of cumulative impacts (such as nuisance noise, violence, and property damage) due to the lack of street presence and the management of the residential hotel. In contrast, the bar is proposed to attract workers within the city who are attracted to the off-street nature of the proposal.

Accordingly, we would respectfully submit that there is no unreasonable potential for negative cumulative impacts.

Please see below summary of some of the surrounding liquor licences:

- **277 Elizabeth Street (licence No. 32345642)**
 - Restaurant and cafe Licence.
 - Background music level.
 - Maximum of 106 patrons.
 - Opening hours:
 - Sunday Between 10am and 2am the following morning
 - Good Friday & ANZAC Day Between 12 noon and 2am the following morning
 - On any other day Between 9am and 2am the following morning
- **366 Lonsdale Street (licence No. 31280792)**
 - BYO Permit.
 - Opening hours:
 - Sunday to Thursday Between 11.30am and 10pm
 - Friday & Saturday Between 11.30am and 2am the following morning
 - ANZAC Day (Sunday to Thursday) Between 12 noon and 10pm
 - ANZAC Day (Friday & Saturday) Between 12 noon and 2am the following morning
- **Shop 1 / 377 Lonsdale Street (licence No. 36133584)**
 - Limited Licence.
 - Sale of packaged liquor for off-site consumption.
 - Liquor may only be delivered during the following hours:
 - Sunday Between 10am and 11pm
 - ANZAC Day Between 12noon and 11pm
 - Monday to Saturday Between 9am and 11pm
 - Good Friday & Christmas day No trade.
- **383 Lonsdale Street (licence No. 31905758)**
 - Late Night (General) Licence
 - The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.
 - Live music.
 - Security.
 - 650 maximum patrons.
 - Trading hours for consumption on the licensed premises (not including roof garden and beer garden):
 - Sunday Between 10 a.m. and 5 a.m. the following morning except for the morning of Anzac Day when trade is to cease at 3 a.m.
 - Good Friday Between 12 noon and 5 a.m. the following morning.
 - Anzac Day Between 12 noon and 5 a.m. the following morning.
 - On any other day Between 7 a.m. and 5 a.m. the following morning except for the morning of Anzac Day when trade is to cease at 3 a.m.
- **389 Lonsdale Street (licence No. 32206458)**
 - Late Night (On-Premises) Licence

- The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- Live music.
- Security.
- 200 max patrons.
- The predominant activity (for the ground floor, shop D) carried on the licensed premises must be:
 - the preparation and serving of meals for consumption on the licensed premises;
 - and (b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.
- Opening hours:
 - Sunday Between 10 a.m. and 3 a.m. the following morning.
 - Good Friday and Anzac Day Between 12 noon and 3 a.m. the following morning.
 - Monday to Wednesday Between 7 a.m. and 3 a.m. the following morning.
 - Thursday to Saturday and the eve of a public holiday Between 7 a.m. and 5 a.m. the following morning.
 - On the eve of a public holiday (being a Sunday) Between 10 a.m. and 5 a.m. the following morning.
- **Ship 1 / 398 Lonsdale Street (licence No. 36098904)**
 - Limited licence.
 - Authorises the licensee to supply packaged liquor only when such liquor is ordered by mail, telephone, facsimile transmission or internet.
 - Liquor may only be delivered during the following hours:
 - between 9 a.m. and 11 p.m. on any day other than Sunday, Good Friday, Anzac Day or Christmas Day.
 - between 10 a.m. and 11 p.m. on Sunday.
 - between 12 noon and 11 p.m. on Anzac Day.
 - No deliveries are permitted on Christmas Day or Good Friday



VCGLR Liquor by Category Map (Approx. 100m Radius, Source: VCGLR)

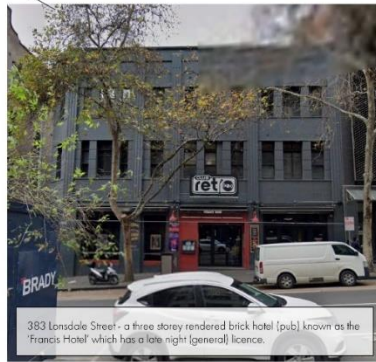
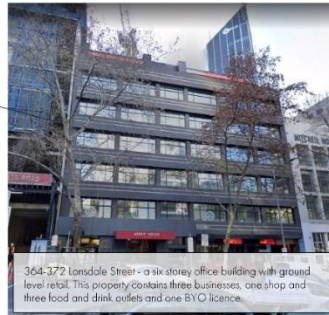


Figure 9 - VCGLR Liquor by Category Map (Source: VCGLR, City of Melbourne).

Applications for a tavern, hotel and/or nightclub should provide a Management Plan.

The policy suggests that the responsible authority may require a Management Plan be submitted, which may include matters relating to (not an exhaustive list) the provision of music, security arrangements, staff training, management of outdoor areas, and noise attenuation measures.

Please refer to the Management Plan prepared by Ted Hart and Associates.

5.3.5 Decision Guidelines

Before deciding on an application, the responsible authority must consider the decision guidelines as appropriate.

We submit that the assessment above adequately responds to and satisfies the decision guidelines of Clause 22.22.

5.4 Does the proposal represent appropriate parking, traffic, and waste arrangements?

5.4.1 Car Parking and Traffic, and Bicycle Parking

With regard to car parking, it is noted that no permit is required under Clauses 52.06, with car parking provided below the maximum rate. As such, no permit is required with respect to car parking. As such there will be no changes to the traffic conditions on the city streets resulting from this amendment.

With regard to bicycle parking / end of trip facilities, the approved building meets the numerical requirements of Clause 52.34 (as per Condition 1h of the Planning Permit). The relevant bicycle parking calculation should be based of the use of the site as a 'residential building' (nested under 'residential hotel'). As the proposal forms part of the residential hotel offering, there are clearly no changes to the bicycle parking requirements.

5.4.2 Waste

Please see 5.3.1 above.

5.5 Do the proposed changes to the plans result in any necessary changes to the planning permit?

With respect to consequential changes to the conditions of the Planning Permit to facilitate the amendment we would note/propose the following.

Permit Preamble – Modify

The permit preamble should be modified to remove reference to 'bar' being a prohibited land use (as part of the land use term 'retail') and instead be included as an approved land use.

Accordingly, we would respectfully suggest that the revised permit preamble should state:

Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings, residential hotel, office, **bar**, and retail (other than adult sex bookshop, department store, hotel and supermarket) in accordance with the endorsed plans.

Alternatively, should the Responsible Authority look to utilise the land use term 'tavern', we would respectfully suggest that the revised permit preamble should state:

Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings, residential hotel, office, **tavern**, and retail (other than adult sex bookshop, department store, hotel and supermarket) in accordance with the endorsed plans.

Condition 1a – Modify

Condition 1 (a) states the following:

The 'bar/lounge' located on Level 01 renamed to 'Residential Hotel Amenities Lounge'

We understand that the 'bar/lounge' on Level 1 was removed from the proposal as part of the endorsement process and that this matter has been addressed under the endorsement of plans for the site. As such, it may be appropriate to simply delete this condition as it has no particular utility.

Additional Conditions

We note that DELWP may seek to introduce conditions to control the use of the proposed bar. We would recommend the following as sensible additions to the permit conditions:

- The maximum number of patrons in the bar and associated outdoor terrace on level 7 must be no more than 53 patrons at any one time unless with the prior written consent of the Responsible Authority
- Except with the prior written consent of the responsible authority the bar area and associated outdoor terrace on level 7 must only operate between the following hours:
 - Good Friday and ANZAC Day Between 12 noon and 1am the following morning.
 - On any other day Between 7am and 1am the following morning.
- No amplified live music or entertainment is permitted on the premises at higher than background music level at any time without the prior written consent of the Responsible Authority.
- Music in the external area may be provided at no more than background music level and must cease no later than 11pm.
- The noise generated by the premises must at all times comply with the requirements of the State Environment Protection Policy, (Control of Noise from Commerce, Industry and Trade) No. N-1, and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
- The endorsed Alcohol and Patron Management Plan must not be altered or modified unless with the prior written consent of the Responsible Authority.
- A sign must be attached to an internal wall in a prominent position adjacent to the entry/exit point to advise patrons to leave the premises in a quiet and orderly fashion. The sign must be to the satisfaction of the Responsible Authority.
- At all times when the premises is open for business, a designated manager must be in charge of the premises.
- Empty bottles from the operation of the premises must be placed into a bag and deposited into recycling bins quietly so as not to cause disturbance to adjoining and nearby residents, to the satisfaction of the Responsible Authority.

6 Conclusion

This report describes the proposed amendment to the existing planning permit and plans for the site at 374-380 Lonsdale Street, Melbourne to facilitate the use of a 40sqm area on level 7 as a bar.

The application is consistent with the purpose of the zoning and overlay controls, and the relevant planning policy provisions of the *Melbourne Planning Scheme*.

The proposal adequately mitigates the opportunity for adverse amenity impacts and strengthens the retail offering of the approved development.

For the reasons outlined within this report, we would respectfully request that the planning permit be amended in the manner proposed.