

**LEVEL 10
477 COLLINS STREET
MELBOURNE VIC 3000**

ADVERTISED PLAN

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

2 October 2023

Taylor Alley
Development Approvals and Design
Department of Transport and Planning

Submitted via online application hub

Dear Taylor,

PERMIT NO. PA2101480 14 AND 16 CHARLES STREET, KEW SECTION 72 AMENDMENT APPLICATION

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1. INTRODUCTION

Urbis continues to act on behalf of Trinity Grammar School in relation to Planning Permit No. PA2101480 for 16 Charles Street, Kew.

Planning Permit No. PA2101480 (the Permit) was granted on 16 May 2022 and allows:

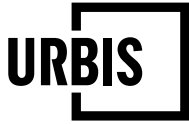
'Use of land for an Education Facility (school administration office) and reduction of car parking requirements for Trinity Grammar School'.

Urbis has been instructed to submit an amendment to the Permit under the provisions of section 72 of the *Planning and Environment Act 1987* seeking the following changes:

- To remove the brackets from the permit preamble to allow the land at No. 16 Charles Street to be used as an outdoor learning area for school students in place of the existing administration building. We note that site will continue to be used as an Education Centre, with no change of use proposed.
- To add land at No. 14 Charles Street, Kew to the address of the land in the permit preamble to allow an education centre, to allow the existing building to accommodate a school uniform shop, administration office and break out space and the garden to be used as outdoor learning space in conjunction with Trinity Grammar School, Kew.

We note this application does not require a permit for buildings and works pursuant to Clause 62.02-2, where no permit is required for:

- *A fence.*



- *Furniture and works normally associated with an education centre including, but not limited to, outdoor furniture, playground equipment, art works, drinking fountains, rubbish bins and landscaping.*

In support of this application, please find enclosed:

- Current certificate of titles
- Site plan prepared by McIldowie Partners, dated 25 September 2023 (Rev 3)

Given the existing permit is for change of use only, it is noted that the above plan is provided for information purposes only.

2. SUBJECT SITE AND SURROUNDS

The subject site is made up of two land parcels as described below.

2.1. 16 CHARLES STREET

No. 16 Charles Street, Kew has an approximate area of 819 square metres. The site is generally rectangular in shape and has a direct street frontage to Charles Street of approximately 19.3 metres.

As noted earlier, the site is currently permitted for use as a school administration office associated with the existing operations at Trinity Grammar School. It is afforded with Planning Permit No. PA2101480 which allows:

'Use of land for an Education Facility (school administration office) and reduction of car parking requirements for Trinity Grammar School'.

The building has recently been demolished and the site is currently undeveloped.

It is noted that the site sits outside of the Development Plan Overlay for the school.

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Figure 1 – 16 Charles Street, Kew



Source: Street view – July 2021

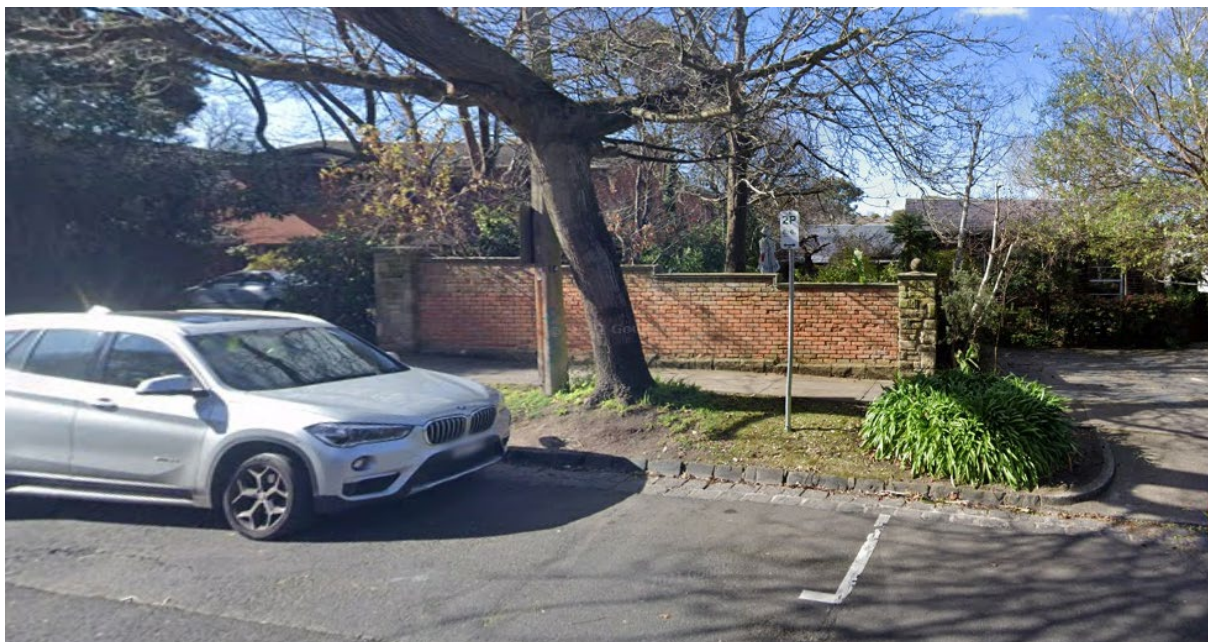
2.2. 14 CHARLES STREET

14 Charles Street accommodates a single storey dwelling with private open space generally to the west and east of the property. Vehicular access is provided at the south-western corner of the property.

Trinity Grammar School is the owner of this land. This site also sits outside of the Development Plan Overlay for the school.

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Figure 2 – 14 Charles Street, Kew (Street view)



Source: Street view – July 2021

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Figure 3- Aerial image of subject site



2.3. CERTIFICATE OF TITLE

No. 16 Charles Street is formally known as Lot 47A LP22738 and No. 14 Charles Street is formally known as Lot 46A on Plan of Subdivision 022738.

Both sites are encumbered by covenant 1927498.

The covenant relates to the development of land and applies the following restrictions:

a) *“At any time, erect or build or cause to be erected or built on the land secondly described hereby transferred or any part thereof any buildings other than for residential purposes with or without houses and garages and all constructed of brick stone or concrete with roofs of material other than galvanised iron sheet metal or fibre cement”*

b) *“At any time, erect or cause or permit to be erected on or adjacent to the front alignment to the street of the said land secondly described as shown on the said Plan of Subdivision or any part of such alignment any fence of a greater height above the level of the footpath than two feet six inches”.*

c) *“Any time erect or cause or permit to be erected within a distance of twenty-seven feet from the front alignment, or the said land secondly described to the street as shown on the said Plan of Subdivision any fence of greater height than two feet six inches”.*

d) *“Any time erect or permit or cause to be erected any hoarding on the said land secondly described or any part thereof”.*

e) *“At any time use the said land secondly described or any part thereof for quarrying purposes or save for the purpose of making foundations of any building excavate or remove from the said land secondly described any earth sandstone clay or gravel”.*

It is noted that the covenant relates to the development of land, thus the proposed change does not breach the requirements of the covenant. Additionally, the proposed landscaping works (permit not required) will not breach the amended covenant as it is in relation to landscaping only.

2.4. SURROUNDING AREA

The subject site is located in a primarily residential and institutional area that accommodates a mix of building types and sizes. The school site is located within close proximity to Xavier College (20 metres), Glenferrie Train Station (1.3km) and Tram Routes 16 and 109.

The subject sites interfaces can be described as follows:

- **North:** Abutting the site to the north is No. 18 Charles Street, which is a part of the Trinity Grammar Campus. No. 18 and 20 Charles Street are currently permitted for education centre use. A permit was issued on 28 November 2022 (PP22/0559) for the land at 18-20 Charles Street which varied the Restrictive Covenant 1927498 in relation to the use of land, materials and front fence.
- **East:** To the east, No. 16 Charles Street abuts No. 15 College Parade which is a single storey dwelling owned by Trinity Grammar School. It has secluded private open space to the west of the property with a single vehicular crossover at the east and a single car garage situated at the rear. No. 14 Charles Street abuts No. 13 College Parade to the east, which comprises a single storey brick dwelling with private open space at the rear of the property.

- **South:** No. 16 Charles Street abuts No. 14 Charles Street to the south. Abutting No. 14 Charles Street to the south is No. 12 Charles Street, which is currently an empty lot and is privately owned.
- **West:** The sites immediately about Charles Street to the west, a local road which runs on a north-south axis between High Street and Barkers Road. Charles Street allows for a single lane of traffic in each direction and on street carparking.

Figure 4 – Boundary of School Owned Properties



Source: Nearmap 2023

3. PROPOSAL

This application seeks to amend the permit preamble at 16 Charles Street and add 14 Charles Street to the Education Centre use, to support the operation of Trinity Grammar School's Kew Campus. The existing administration use approved at 16 Charles Street will be shifted to 14 Charles Street, with a new outdoor learning space proposed at 16 Charles Street. The open learning space will support the function of the main school campus as well as the function of 18 and 20 Charles Street.

3.1. 16 CHARLES STREET

The existing building used for School administration purposes has been demolished (no planning permit required for demolition). It is now intended to use the property as an outdoor learning space.

The proposal requires an amendment to the permit preamble (PA2101480) and associated endorsed plans to allow:

'Use of land for an Education **Facility Centre** (~~school administration office~~) and reduction of car parking requirements for Trinity Grammar School'.

It is proposed to remove the brackets from the pre-ambule to avoid unnecessary amendments to the preamble in the future and for consistency with the planning scheme definitions.

It is proposed to replace the endorsed plan with the enclosed plan and landscape the area to increase the outdoor area for students. It is noted that no formal sports courts will be constructed and the overall number of students on the campus will not change. The area will be used as an outdoor learning space for the school.

Landscaping in this area will comprise a large, grassed area with a mix of small shrubs and plants. Removable furniture will also be placed on the site.

3.2. 14 CHARLES STREET

The proposal seeks approval for the use of the site as an 'Education Centre' in association with Trinity Grammar School. The existing uniform shop is proposed to be located in the front of the existing building with the remained of the building used for administration and breakout space. The use of the site for an Education Centre is proposed to function in accordance with the existing operations of Trinity Grammar School.

The existing building on the subject site will be used by existing Trinity Grammar School staff, students, and volunteers. The surrounding open space is to be accessible for outdoor learning with teacher supervision. Notably, there will be no changes to the existing building, car parking arrangements and no increase in student or staff numbers.

The front portion of the building will accommodate the school uniform shop. The existing two car parking spaces within the driveway are proposed to be used by the uniform shop volunteers one day a week. The rear of the building will be used for administration and as a break out space.

The existing approval at 16 Charles Street restricts staff numbers to 8 on site at one time under Condition 2 of the permit. We confirm the proposed staff numbers at both 14 and 16 Charles Street is a maximum of 8 staff on-site at any one time. This application therefore does not seek any changes to the maximum staff requirement under Condition 2.

4. PLANNING POLICY

4.1. PLANNING POLICY FRAMEWORK

The Planning Policy Framework seeks to develop the objectives for planning in Victoria (as set out in the *Planning and Environment Act, 1987*) to foster appropriate land-use and development planning and practices that encompass relevant environmental, social and economic factors.

The following clauses of the PPF are relevant to this application:

- **Clause 13.07-1S Land Use Compatibility** aims to ensure that land uses are compatible with the functions and character of the area whilst facilitating appropriate commercial or other uses.
- **Clause 13.07-1L Discretionary uses and development in residential areas** builds on the provisions of Clause 13.07-1S and applies to all Section 2 uses in any residential zone. The policy recognises the need for other land uses to be located within residential areas, including schools.

This policy seeks to ensure that discretionary uses in residential areas do not adversely affect residential amenity.

- **Clause 19 Infrastructure** recognises the importance of community infrastructure including the provision of education facilities. It seeks to support the location of education facilities in established areas which are highly accessible to public transport, activity centres, and areas which support safe bicycle and pedestrian networks.
- **Clause 19.02 Education Facilities** seeks to assist integration of education facilities within designated education precincts that are highly accessible to public transport. It seeks to consider demographic trends, existing and future demand requirements, and the integration of facilities into communities for education facilities.
- **Clause 19.02-2S Education facilities** seeks to facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.
- **Clause 19.02-2L Education facilities - Boroondara** - builds on the provisions of Clause 19.02-2S and sets out strategies to provide education facilities where there are minimal adverse amenity impacts on adjoining residential properties, prepare a masterplan for the overall development of education facilities, and apply the Development Plan Overlay to land prior to an application being made for the use and development of land as an education facility.

4.2. ZONING

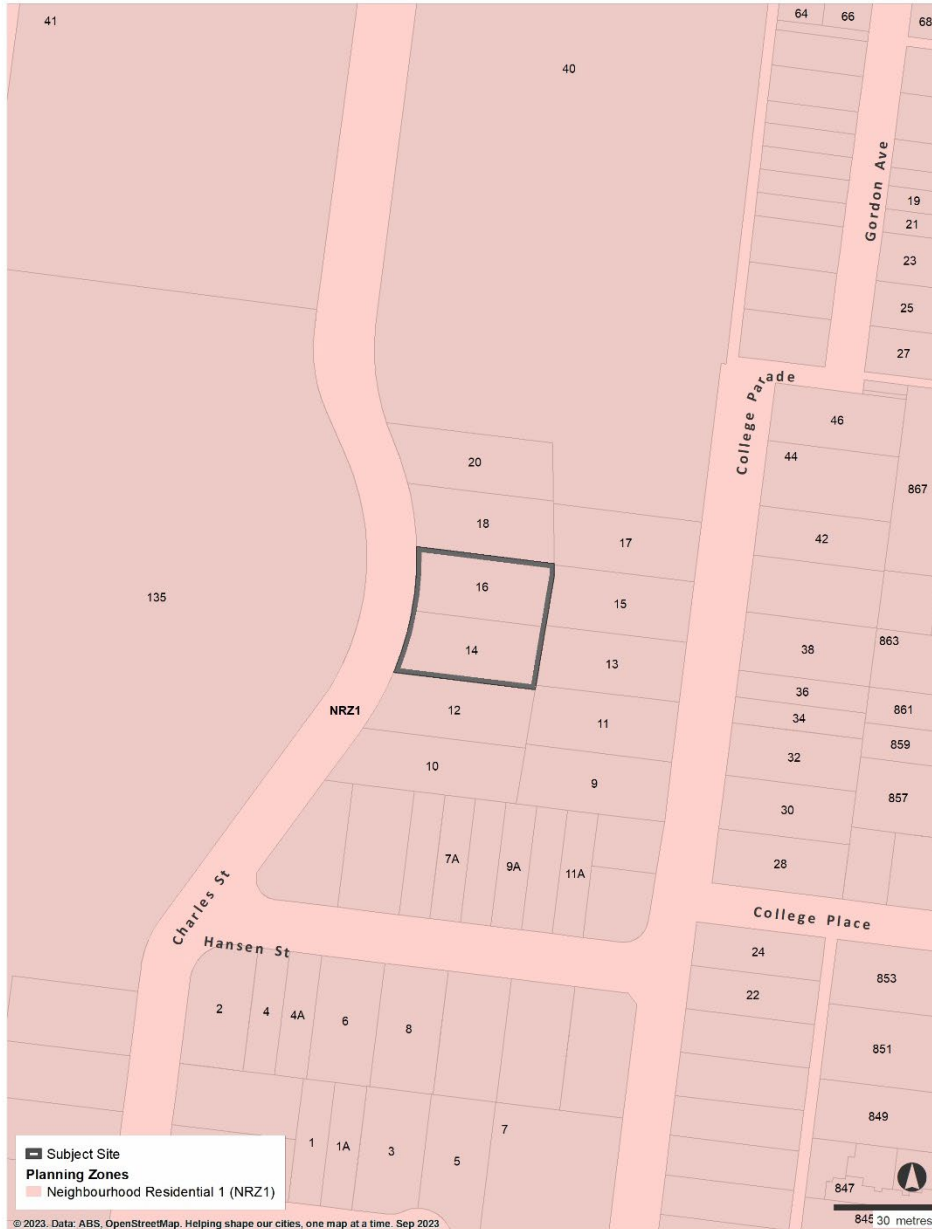
The site is located within the Neighbourhood Residential Zone – Schedule 1. A key purpose of zone is:

- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Under this zone, a permit is required for use of land as an Education Centre (Clause 32.09-2).

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Figure 5 – Zoning Map



4.3. OVERLAYS

The site is not affected by any overlays.

4.4. PARTICULAR PROVISIONS

4.4.1. Clause 52.06 Car Parking

Pursuant to Clause 52.06-2, before a new use commences, the number of car parking spaces required must be provided to the satisfaction of the Responsible Authority. For an education centre, the car parking rate relates to the number of employees attending the school.

It is noted that this application does not seek to change the overall number of staff on the campus and therefore there is no requirement for additional car parking provisions as a result of this application, as parking rates have been determined for the school as a whole through past planning approvals.

4.4.2. Clause 52.34 Bicycle Facilities

The clause sets out that 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. For an education centre, primary school and secondary school, Clause 52.34 sets out a rate based on staff and students.

As this application does not seek to change the overall number of staff or students at the school there is no requirement for additional bicycle parking provisions as a result of this application, as bicycle parking rates have been previously determined for the school through past planning approvals.

4.4.3. Clause 53.19 Non-Government Schools

Clause 53.19 aims include to facilitate upgrades and extensions to existing non-government schools. The clause specifically applies to an application to use or develop land for a secondary school or education centre that is ancillary to and carried out in conjunction with or on the same land or contiguous land in the same ownership as the secondary school.

4.5. GENERAL PROVISIONS

4.5.1. Clause 62.02 – Buildings and works

Clauses 62.02 set out exemptions from permit requirements in this scheme relating to the construction of a building or the construction or carrying out of works. The following exemptions are relevant to this application:

- *A fence.*
- *Furniture and works normally associated with an education centre including, but not limited to, outdoor furniture, playground equipment, art works, drinking fountains, rubbish bins and landscaping pursuant to Clause 62.02-2.*

5. PLANNING CONSIDERATIONS

Having regard to the current planning policy context and physical context of the subject site, the key planning considerations to be taken into account in assessing the proposal are:

- Policy support
- Appropriateness of use
- Consideration of amenity impacts

It is noted that clause e) of the covenant applying to the land restricts excavating or removing from the land any 'earth sandstone clay or gravel' except for the purpose of making foundations of any building. No excavating or removing of earth is proposed.

5.1. 14 CHARLES STREET, KEW

5.1.1. Policy support

The proposed change of use at 14 Charles Street is strongly supported by the Planning Policy Framework. The State Planning Policy Framework seeks for planning in Victoria to anticipate and respond to the needs of existing and future communities through the support of various uses that integrate appropriately within the immediate context. Moreover, the policy objectives within the SPPF support the enhancement of community liveability in-part through supporting the renewal, maintenance and improvement of educational facilities.

The purpose of the NRZ is to 'allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations'. The application of the NRZ to the site, and its immediate area, indicates that the education use is in an appropriate location, therefore the discretionary use within these areas may be supported.

The application is for a use in association with an existing education centre and can be assessed with no Development Plan Overlay being placed on the site. We confirm that planning permits for education use are able to be sought under the zone and expansion of existing non-governments schools is supported by State policy.

5.1.2. Appropriateness of use

The Discretionary Uses in Residential Areas Policy as part of the Boroondara Planning Scheme LPPF is applicable to the proposal and seeks: "*to ensure the sensitive integration of discretionary uses into their surrounding areas*". The proposal is consistent with the objectives of this policy, the above discussed SPPF and the suite of planning controls affecting the land, for the following reasons:

- The context of the site is supportive of education centre use due to its interface with Trinity Grammar School and the school being the owner, whilst it is contained within the Neighbourhood Residential Zone (NRZ).
- Due to the site's location adjacent to existing land owned by the school which is used for education purposes, the use will spatially integrate with the existing School facilities. Since there will be no change or alteration to the existing building it will not impose on the amenity of surrounding properties.

- The proposed land use change will support the ongoing operation and management of Trinity Grammar School, in accordance with Clause 19.02-2L Education facilities – Boroondara.
- The proposed Education Centre (School uniform shop and administration office) hours of operation will accord with the existing opening hours of Trinity Grammar School. Nearby residential properties will therefore not be subjected to unreasonable levels of noise, odours, or disturbed by any activity, during the night.
- The existing Trinity Uniform Shop is currently open every second Thursday from 2pm until 4pm. It is also open occasionally on Saturday mornings. We note the use is already operational, however is now moving location.
- The subject site will have a maximum number of 8 staff on site in accordance with the approval for 16 Charles Street. Access will be provided via the front entrance on Charles Street.
- There is parking available on site through a double vehicular entrance meaning there will be no impact on car parking in the street. The two existing on-site car parking spaces will be utilised by two volunteers that work at the uniform shop. It is noted existing staff members will continue to park in other car parking facilities available at the school. As there is no change to the existing staff numbers at the school there will be no change to traffic conditions in surrounding streets.
- There are no external physical changes proposed to the dwelling or front fence. Nearby residential properties will therefore not be subjected to unreasonable amenity impacts caused by insensitive development, nor will the residential character of the area be significantly changed.

5.1.3. Consideration of amenity impacts

With respect to the potential for external amenity impacts we reiterate that the proposal does not include any buildings and works to the existing dwelling on the subject site. As such, the proposal does not alter the appearance of the site, therefore there will be no visual amenity impacts.

With respect to the proposed use, the use of the site as part of the existing education centre will not result in any unreasonable amenity impacts as:

- The existing building on the subject site is proposed to accommodate a school uniform shop and administration office. Therefore, school classes will not be held in this building.
- The hours of operation will be consistent with the standard hours of the main school campus and will not result in adverse amenity impacts on the surrounding residential land uses.
- The proposal does not result in any changes to the existing car parking or access arrangements associated with the school.
- The proposal will not impact on the residential southern interface as the building will stay the same and the use will be occurring during the day with no additional noise impacts expected.
- The proposal will include a gate along the northern boundary which will provide a pedestrian connection between 14 Charles Street and 16 Charles Street. This will ensure the land uses remain connected to the main school facility and are easily accessible for staff and students.

Given the above, the proposal is considered an appropriate outcome for the site.

5.2. 16 CHARLES STREET, KEW

5.2.1. Appropriateness of use

Planning permit PA2101480 was issued for the site on 16 May 2022, which allowed the change of land use from 'Dwelling' (as of right) to 'Education Centre'. We note this application was assessed against Clause 13.07-1L (Discretionary Uses in Residential Areas Policy), where the change of use to an Education Centre was seen as an appropriate planning response. It is noted that this amendment to Planning Permit PA2101480 seeks to retain the previous approved 'Education Centre' land use, with a minor change. This minor change will remain consistent with Clause 13.07-1L and continue to support the function of Trinity Grammar School.

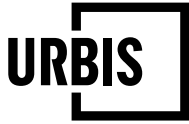
Further to this, the proposal is seen as appropriate for the following reasons:

- The proposed 'outdoor learning area' will continue to support the role and purpose of Trinity Grammar School, by providing a space for outdoor education. It will enhance the services provided within the school and provide additional amenity for students.
- The site is entirely surrounded by existing or proposed school land and does not have any direct residential abutments.
- The proposed hours of operation will accord with the existing opening hours of Trinity Grammar School. Nearby residential properties will not be subjected to unreasonable levels of noise, odour, or disturbed by any activity, during the night.
- The proposed use will not increase any student or staff numbers on campus, with existing students and staff to utilise the proposed outdoor area during standard school hours. The current approval (PA2101480) allows a car parking reduction based on a maximum of eight staff on the site at any one time. This maximum staff restriction is not proposed to change as a result of this amendment, therefore the car parking reduction considerations remain unchanged.
- Sufficient landscaping will be provided within the outdoor area, enhancing permeability within the site and maintaining the natural character of the existing streetscape.
- The school would consider a new permit condition to address noise levels generated by the use, such as '*Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues - Publication 1826.4) or any successive relevant legislation, to the satisfaction of the Responsible Authority*'.

5.2.2. Consideration of Amenity Impacts

With respect to the proposed change to the permit preamble, the use of the site as part of the existing education centre will not significantly change and not result in any unreasonable amenity impacts. It is in accordance with Clause 19.02-2S and 19.02-2S for the following reasons:

- Trinity Grammar owns all abutting properties to Number 16 Charles Street, with no unreasonable amenity impacts on immediate residential properties as a result.
- The proposed outdoor area will generate an appropriate level of noise. It is not a sports area and is surrounded by school owned properties.
- The hours of operation will be consistent with the existing hours of the main school campus and will not result in adverse amenity impacts on the surrounding residential land uses.



- As Trinity Grammar owns all abutting properties to Number 16 Charles Street, No. 14 will provide a further buffer to non-School owned residential properties.
- The proposal does not result in any changes to the existing car parking or access arrangements associated with the school.

6. CONCLUSION

Overall, the proposed changes at 14 and 16 Charles Street in association with Trinity Grammar School are considered an appropriate outcome that will enhance facilities for existing staff and students.

Should you have any queries or require any further information, please do not hesitate to contact me on the below details or Roger Wettenhall on 8663 4993 or at rwettenhall@urbis.com.au.

Yours sincerely,

Ellie Cooke

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Ellie Cooke
Consultant
+61 3 8663 4918
ecooke@urbis.com.au