

**APPLICATION FOR PLANNING PERMIT: TP-2011-1009
132 LITTLE LONSDALE STREET, MELBOURNE**

4 September 2012

Presenter: Martin Williams, Executive Officer Planning

Purpose and background

1. This application is presented to the Future Melbourne Committee at the request of Councillor Shanahan.
2. The purpose of this report is to advise the Committee of an application for change of use to a night club (live music venue), display of business identification signage, external modifications and a partial waiver of the bicycle requirements at 132 Little Lonsdale Street, Melbourne (refer Attachment 2 – Locality Plan).
3. The subject site is located on the northern side of Little Lonsdale Street between Russell and Exhibition Streets on the eastern corner of Bennetts Lane. The site is occupied by a three storey “D” graded Edwardian era (1900-15) building. The building has been occupied by a number of uses and is currently vacant.
4. To the rear of the site is a public laneway known as Corporation Lane CL0077 which provides access to the subject site and the immediately adjoining site at 130 Little Lonsdale Street.
5. To the east of the site are four buildings which have heritage gradings and have recently been placed in a heritage precinct. There is a mixture of residential, commercial and retail uses located within close proximity to the subject site, including the Bennetts Lane Jazz Club.
6. The application was advertised and received 17 objections.

Key issues

7. The key issues for consideration in the assessment of this application are the location of the premises and potential amenity impacts upon nearby properties.
8. The site is located within an area which has a broad mix of uses including residences and late evening venues. Local policy encourages small venues (100 patrons or less) within the Capital City Zone provided they have appropriate noise attenuation and are appropriately managed to minimise adverse impacts to the area.
9. The proposal has been reduced in scale during the planning process and is now proposed to occupy the ground floor only. The number of patrons has been reduced from 166 to 95 and the hours of operation are proposed to be between 7am to 11pm, 7 days per week. Access to the site will be via a side entry from Bennetts Lane until 6pm. After 6pm access will be from the rear laneway. An airlock to this entry will help mitigate noise escaping from the venue.
10. It is considered that the intensity of the proposed use as modified is modest and that the existing building can be acoustically attenuated and that a management plan will ensure that the venue is appropriately managed to minimise adverse off-site impacts.

Recommendation from management

11. That the Future Melbourne Committee issue a Notice of Decision to Grant a Permit subject to the conditions included in the delegate’s report (refer Attachment 4 - Delegate’s Report).

Attachments:

1. Supporting Attachment
2. Locality Plan
3. Proposed Plans
4. Delegate Report

SUPPORTING ATTACHMENT

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (the Act) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the Responsible Authority must give the applicant and each objector a notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The Responsible Authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the Tribunal for a review of the decision or, if an application for review is made, until the application is determined by the Tribunal or withdrawn.
3. In making its decision, section 60(1)(c) of the Act requires the Responsible Authority to consider, amongst other things, all objections and other submissions which it has received.

Finance

4. There are no direct financial issues arising from the recommendations contained in this report

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

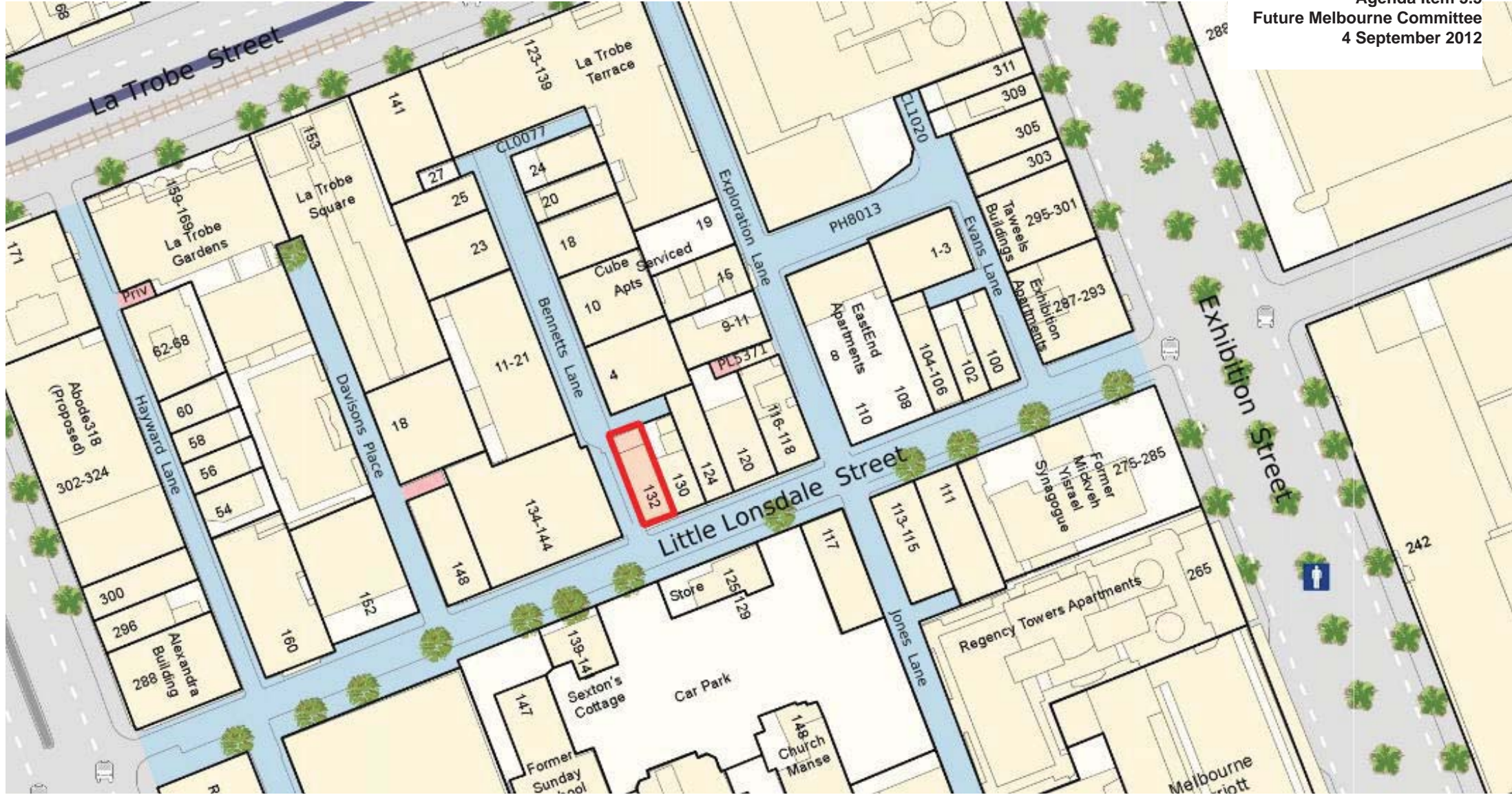
6. Formal notification (advertising of the planning application) was carried out for the application.

Relation to Council policy

7. Relevant Council policies are discussed in the attached officer report (refer Attachment 4).

Environmental sustainability

8. Environmental sustainability has not been discussed in the assessment of this application, however as part of the overall proposal, green garden walls were approved at the rear of the building under planning permit TP-2011-815.



Approx. Scale 1:1000



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132 Lt Lonsdale St

Proposed Alterations and Fitout

Town Planning Submission Document - Revision B

Rev No.	Date	Amendments / Issue	Drawn
A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000

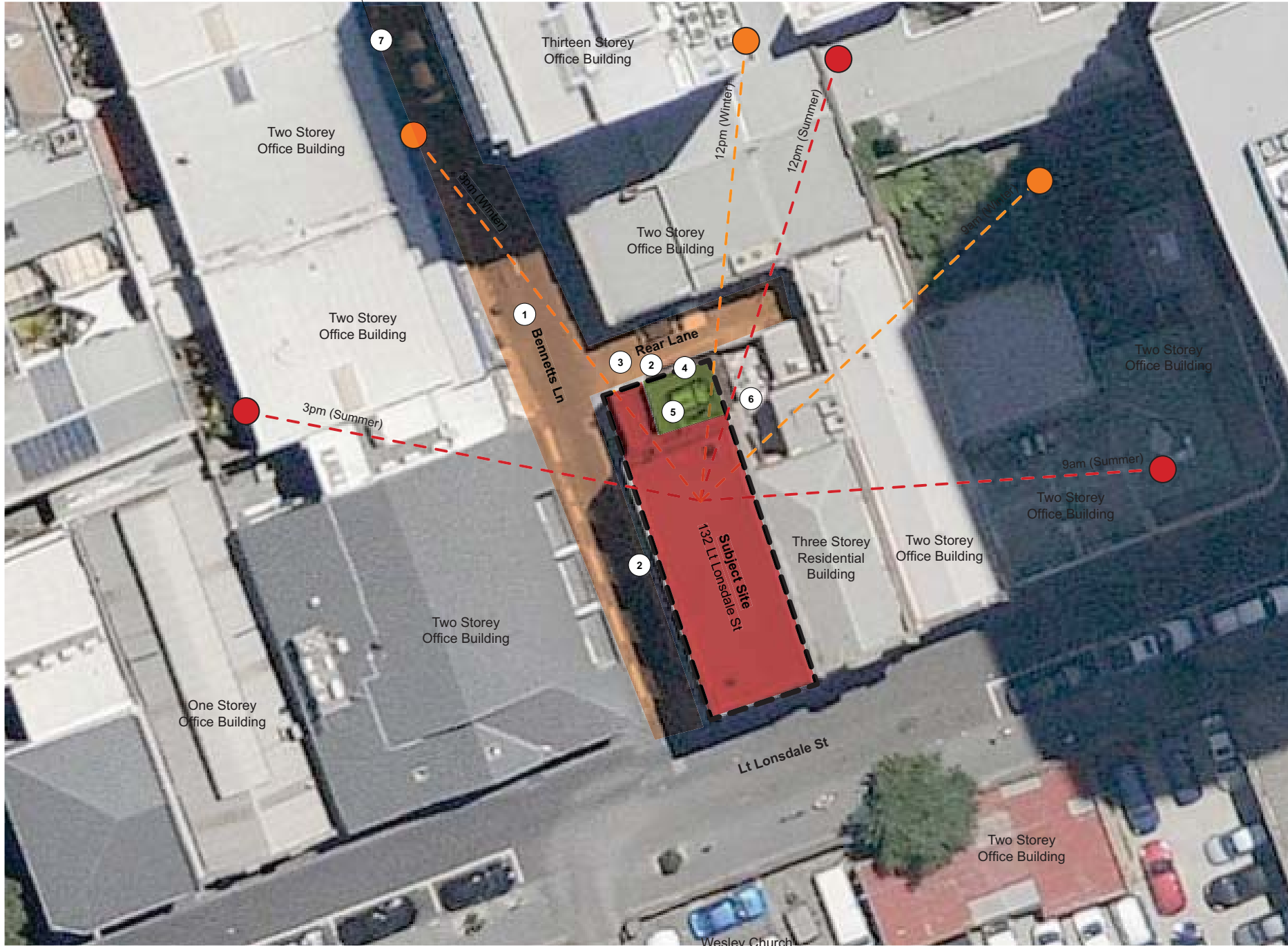
Drawing
Cover Page

Scale
Date Tuesday, 8 May 2012

Project Number
RC001
TP000
Rev B

NOTES





NOTES

- Portion of existing building retained.
- Proposed green wall and activation of rear staircase.
- 1. Bennetts Lane - quiet laneway with less pedestrian and vehicular activity than Lt Lonsdale St.
- 2. Potential to activate Bennetts Lane and rear laneway to subject site through proposed use and relocation of main entrances.
- 3. Rear laneway to subject site currently underused and presents a poor public interface. Proposed use and vertical planting aim to activate this laneway, provide passive surveillance and create a more desirable interface.
- 4. North facing rear boundary with adequate sunlight presents desirable environment for green wall/vertical planting.
- 5. Existing external staircase.
- 6. Neighbouring private open space.
- 7. Pedestrian connection to existing Bennetts Lane Jazz Club.

Rev No.	Date	Amendments / Issue	Drawn
A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

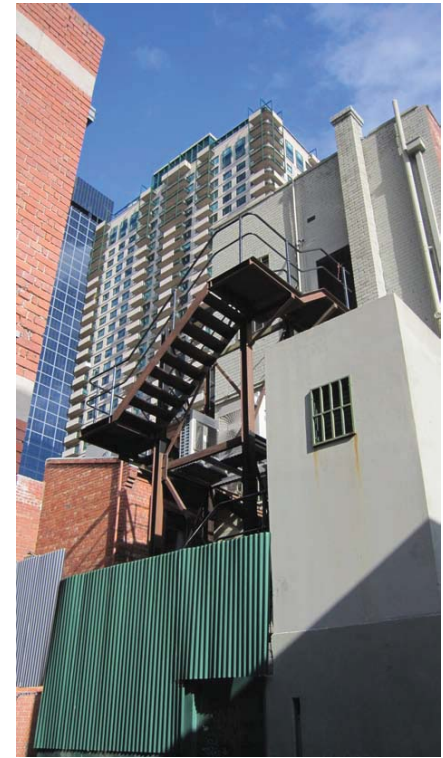
Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000



Drawing
Site Analysis / Design
Response
Scale: NTS @ A3
Date: Tuesday, 8 May 2012

Project Number
RC001
TP002
Rev B

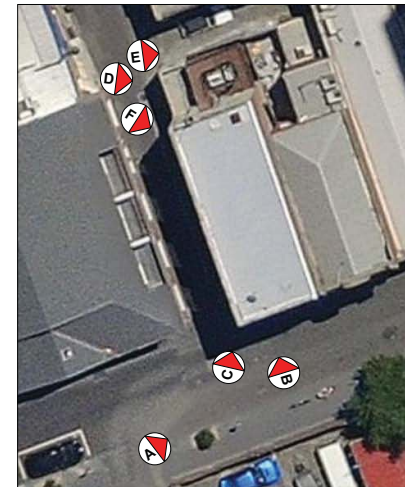


A. Lt Lonsdale St streetscape

B. Front facade

C. View north along Bennetts Lane

D. Existing rear fence and external staircase



E. View along rear laneway adj. north boundary of subject site

F. View along Bennetts Lane

Key Diagram

A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM
Rev No.	Date	Amendments / Issue	Drawn

Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000

Drawing
Site Photos

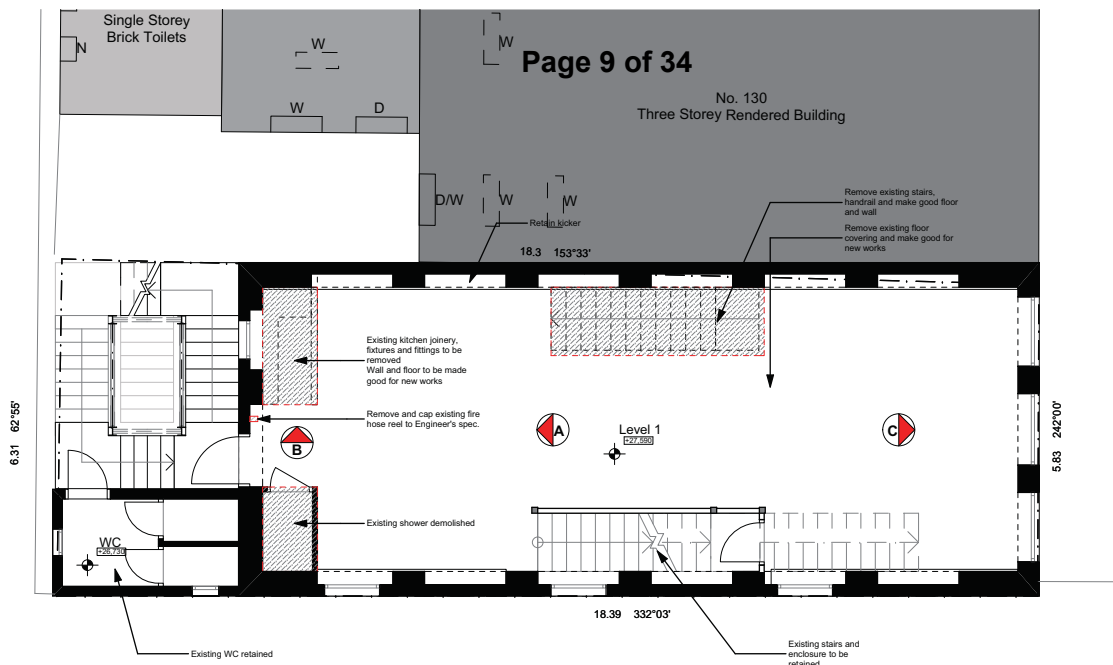
Scale NTS @ A3
Date Tuesday, 8 May 2012

Project Number
RC001

TP003
Rev B

Rear Lane

No. 130
Three Storey Rendered Building

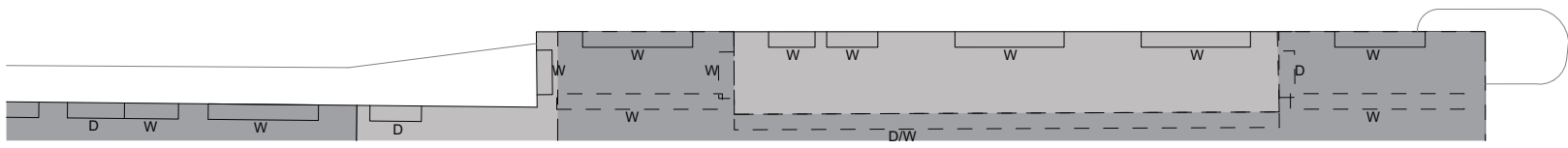


Lt Lonsdale St

NOTES

- Legend
 W - Habitable Window
 D - Door
 N - Non Habitable Window

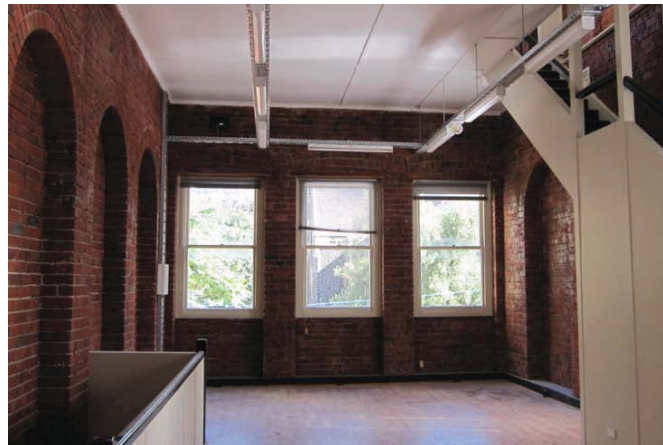
Bennetts Lane



A. Internal elevation, rear exit door to external stair



B. Existing pantry



C. Internal elevation, front facing windows to Lt Lonsdale St

A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM
Rev No.	Date	Amendments / Issue	Drawn

Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
1332 Lt Lonsdale St
Melbourne VIC 3000

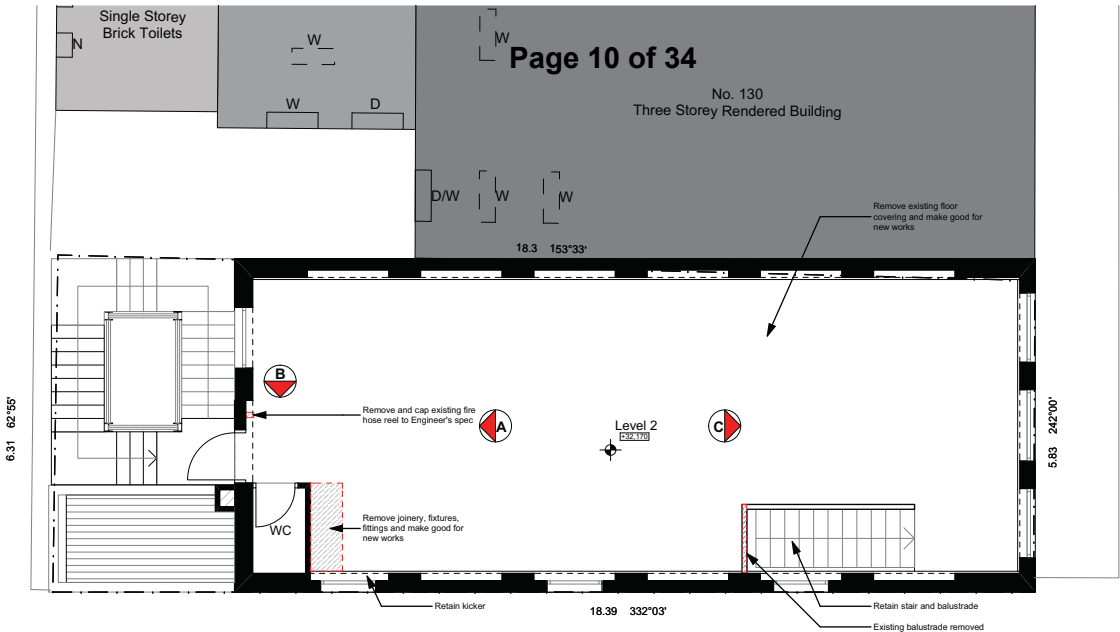


Drawing
Existing Conditions -
Level 1
Scale 1:100 @ A3
Date Tuesday, 8 May 2012

Project Number
RC001
TP005
Rev B

Rear Lane

No. 130
Three Storey Rendered Building

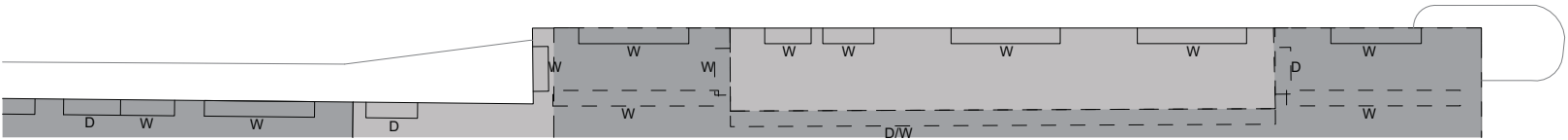


NOTES

- Legend
- W - Habitable Window
- D - Door
- N - Non Habitable Window

Lt Lonsdale St

Bennetts Lane



A. Internal elevation, rear exit door to external stair

B. Existing WC

C. Internal elevation, front facing windows to Lt Lonsdale St

Rev No.	Date	Amendments / Issue	Drawn
A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

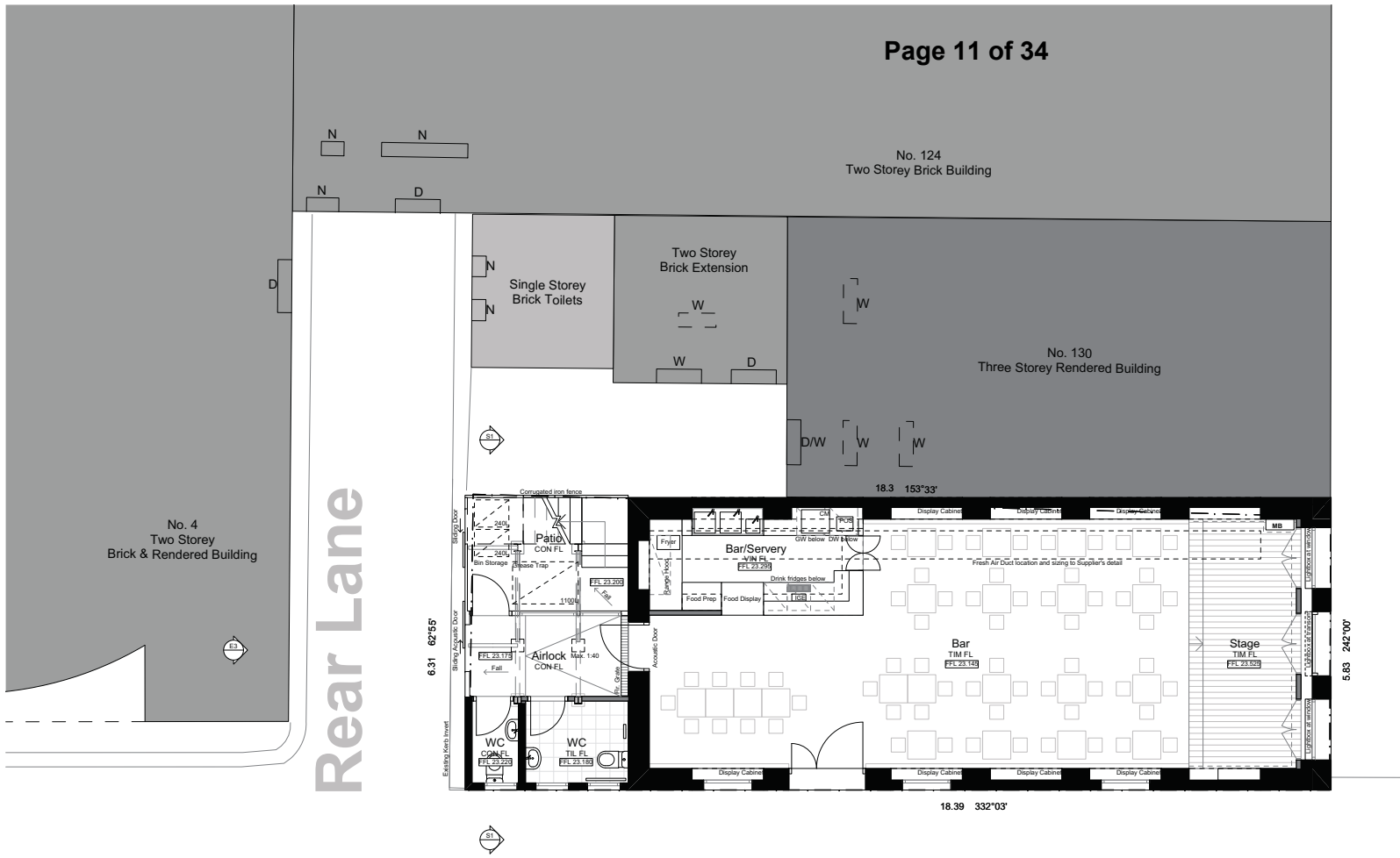
Client Details
Robert Cripps

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Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000



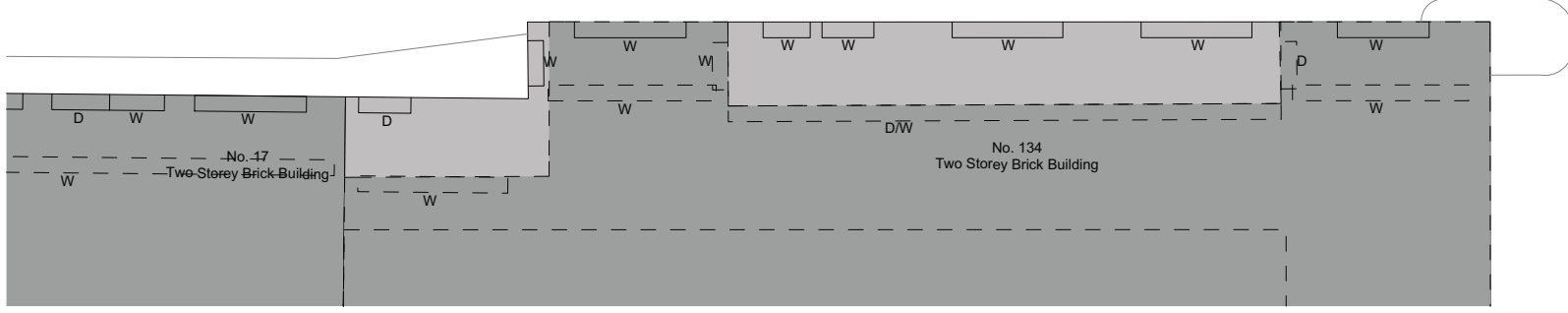
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Existing Conditions -
Level 2
Scale 1:100 @ A3
Date Tuesday, 8 May 2012

Project Number
RC001
TP006
Rev B



NOTES

- Legend
 W - Habitable Window
 D - Door
 N - Non Habitable Window



A	26/2/2012	Design changes	RM
B	13/5/2012	Design changes	RM
C	08/5/2012	Design changes	RM
Rev No.	Date	Amendments / Issue	Drawn

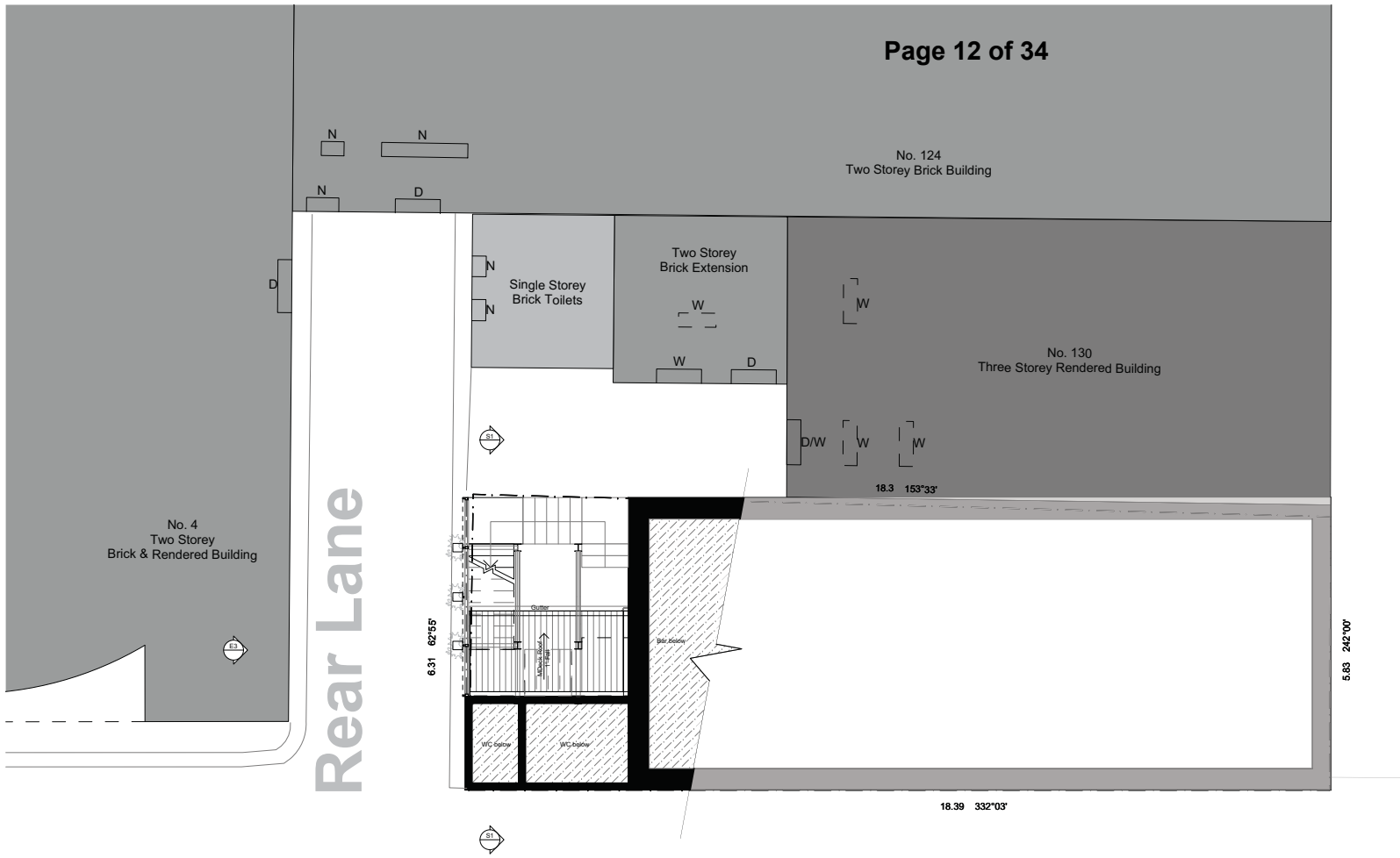
Client Details
 Robert Cripps

Project
Ruby's Music Room
 Proposed Alterations and Fitout
 132 Lt Lonsdale St
 Melbourne VIC 3000



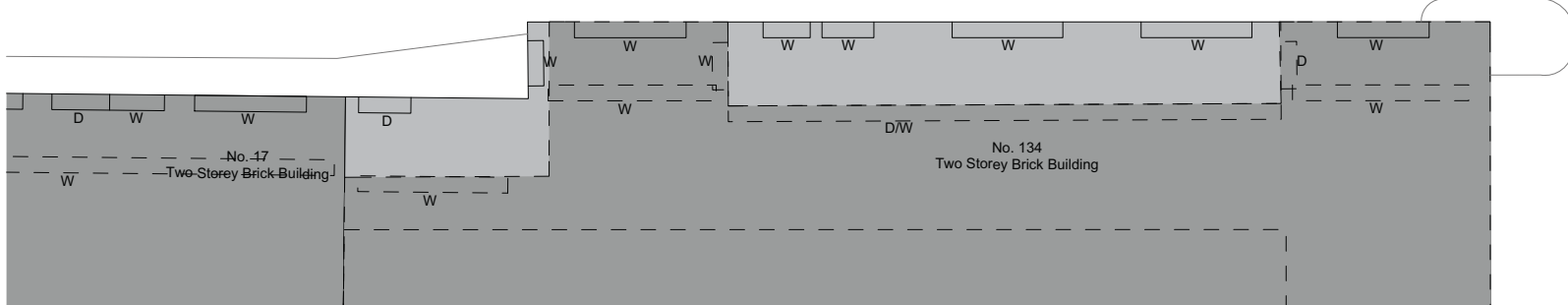
Drawing
Ground Level Plan
 Scale 1:100 @ A3
 Date Tuesday, 8 May 2012

Project Number
 RC001
TP007
 Rev C



NOTES

- Legend
 W - Habitable Window
 D - Door
 N - Non Habitable Window



A	26/2/2012	Design changes	RM
B	13/3/2012	Design changes	RM
C	08/5/2012	Design changes	RM
Rev No.	Date	Amendments / Issue	Drawn

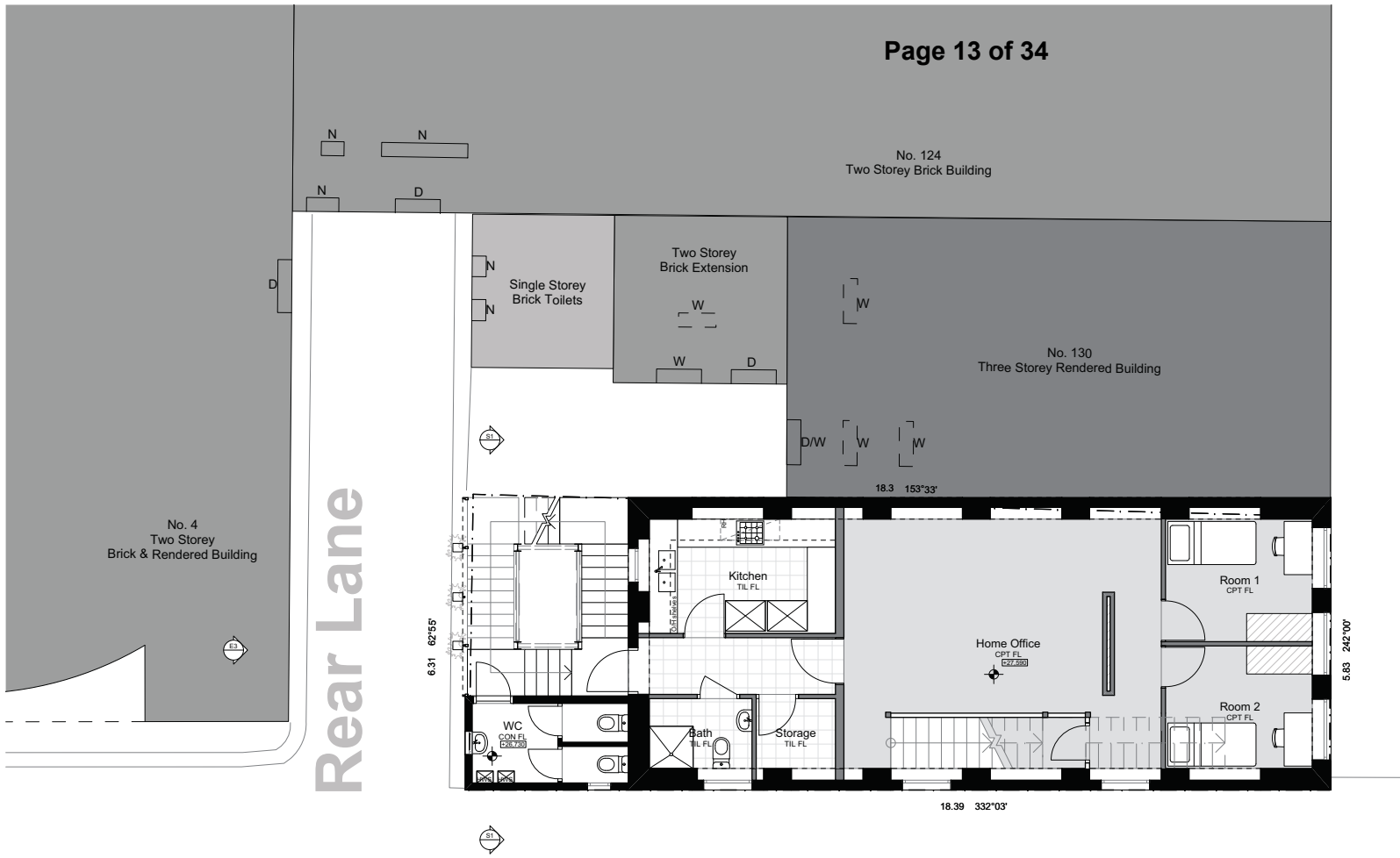
Client Details
 Robert Cripps

Project
Ruby's Music Room
 Proposed Alterations and Fitout
 132 Lt Lonsdale St
 Melbourne VIC 3000



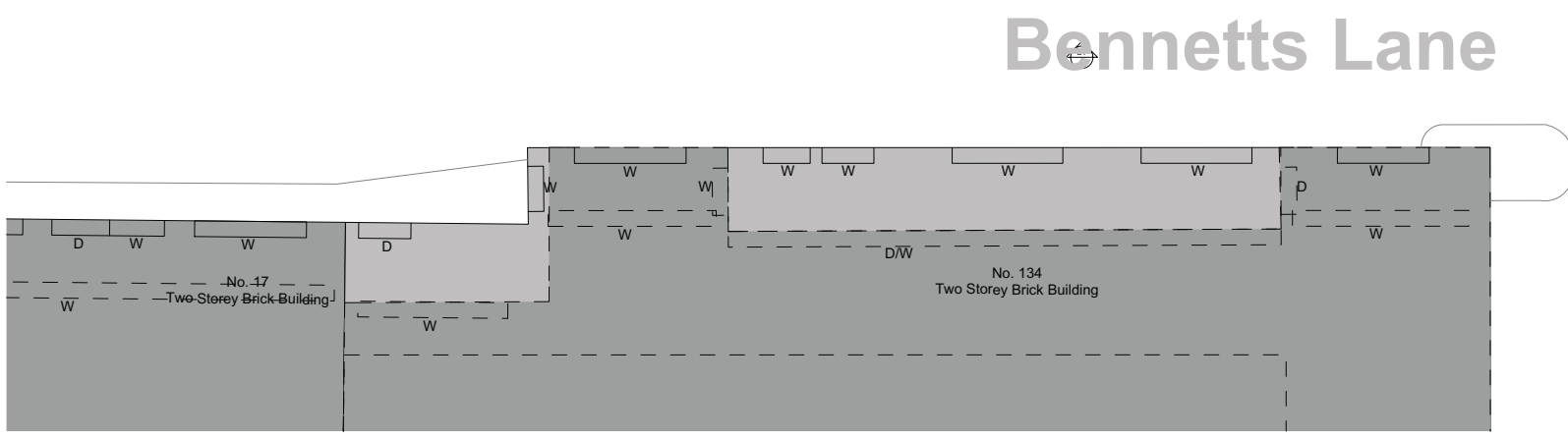
Drawing
Airlock Roof Plan
 Scale 1:100 @ A3
 Date Tuesday, 8 May 2012

Project Number
 RC001
TP008
 Rev C



NOTES

- Legend
 W - Habitable Window
 D - Door
 N - Non Habitable Window



A	26/2/2012	Design changes	RM
B	13/3/2012	Design changes	RM
C	08/5/2012	Design changes	RM
Rev No.	Date	Amendments / Issue	Drawn

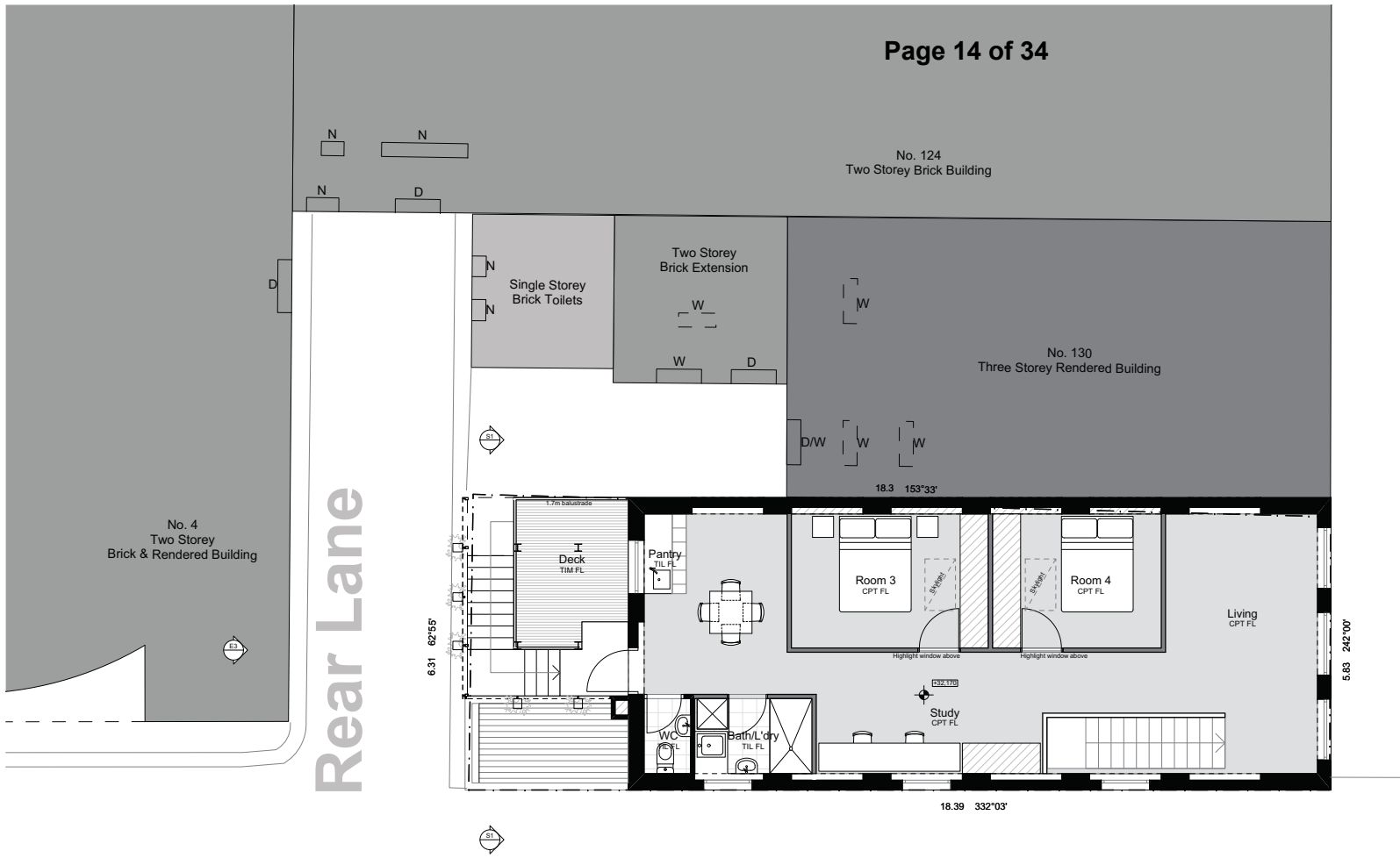
Client Details
 Robert Cripps

Project
Ruby's Music Room
 Proposed Alterations and Fitout
 132 Lt Lonsdale St
 Melbourne VIC 3000



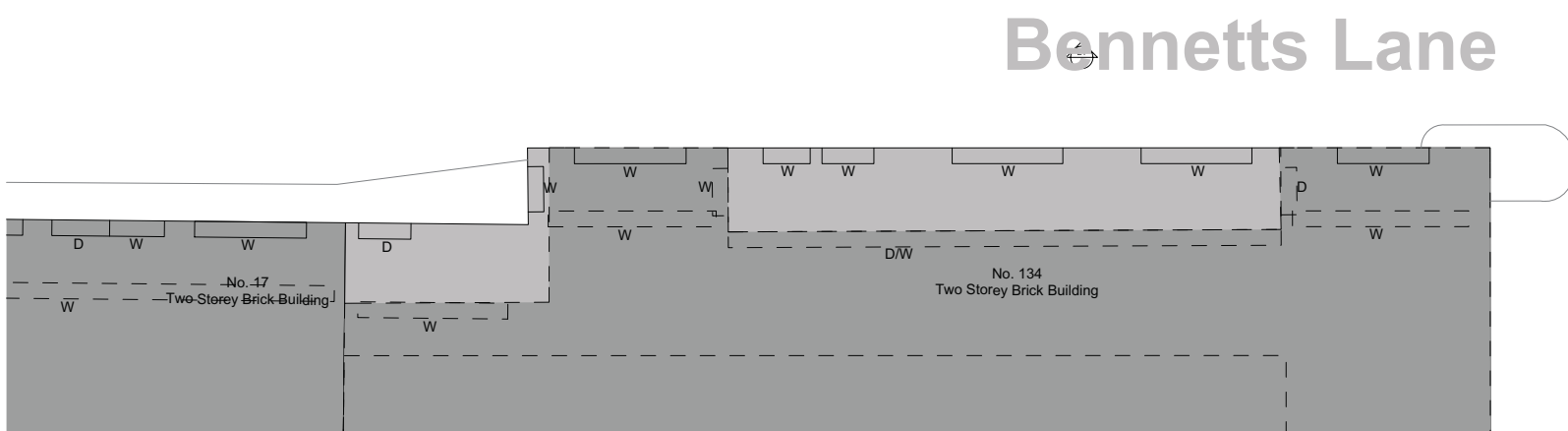
Drawing
Level 1 Plan
 Scale 1:100 @ A3
 Date Tuesday, 8 May 2012

Project Number
 RC001
TP009
 Rev C



NOTES

Legend
 W - Habitable Window
 D - Door
 N - Non Habitable Window



A	26/2/2012	Design changes	RM
B	18/3/2012	Location of kitchen exhaust shown	RM
C	10/4/2012	Design changes	RM
D	06/5/2012	Design changes	RM

Rev No. Date Amendments / Issue Drawn

Client Details
 Robert Cripps

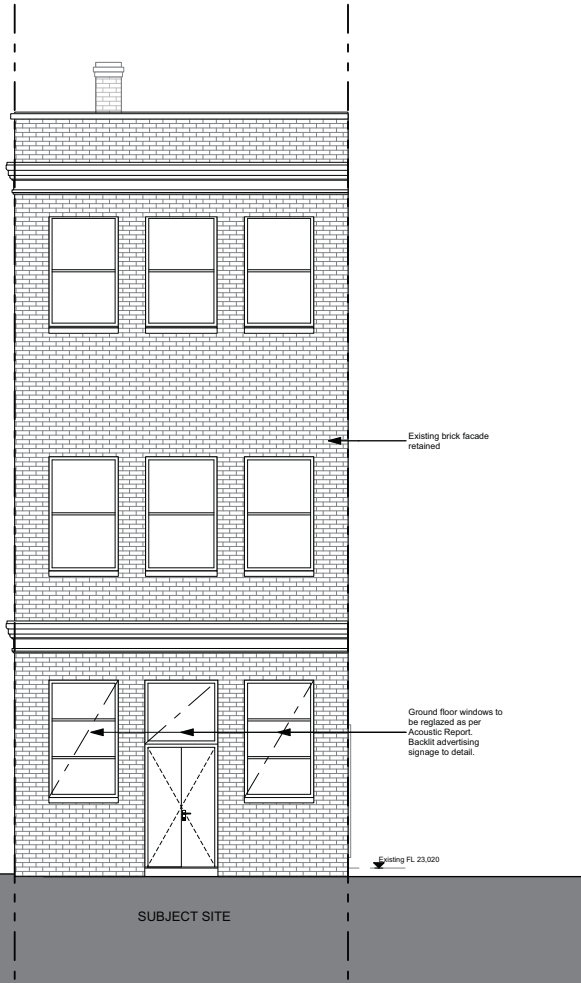
Project
Ruby's Music Room
 Proposed Alterations and Fitout
 132 Lt Lonsdale St
 Melbourne VIC 3000



Drawing
Level 2 Plan
 Scale 1:100 @ A3
 Date Tuesday, 8 May 2012

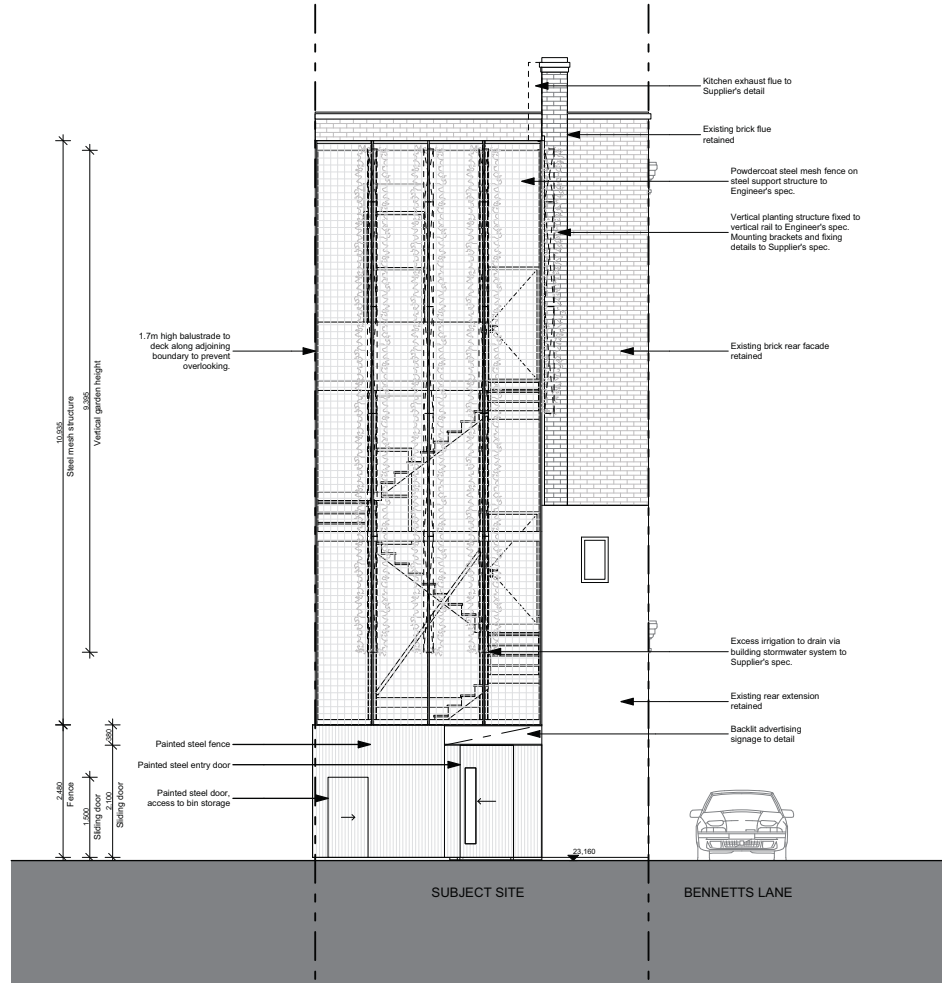
Project Number
 RC001
TP010
 Rev D

NOTES



South Elevation (Lt Lonsdale St)
1:100

Note:
Location and dimensions of landscape elements are indicative only and are subject to Supplier's detail.



North Elevation (rear laneway)
1:100

Note:
Location and dimensions of landscape elements are indicative only and are subject to Supplier's detail.

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A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000

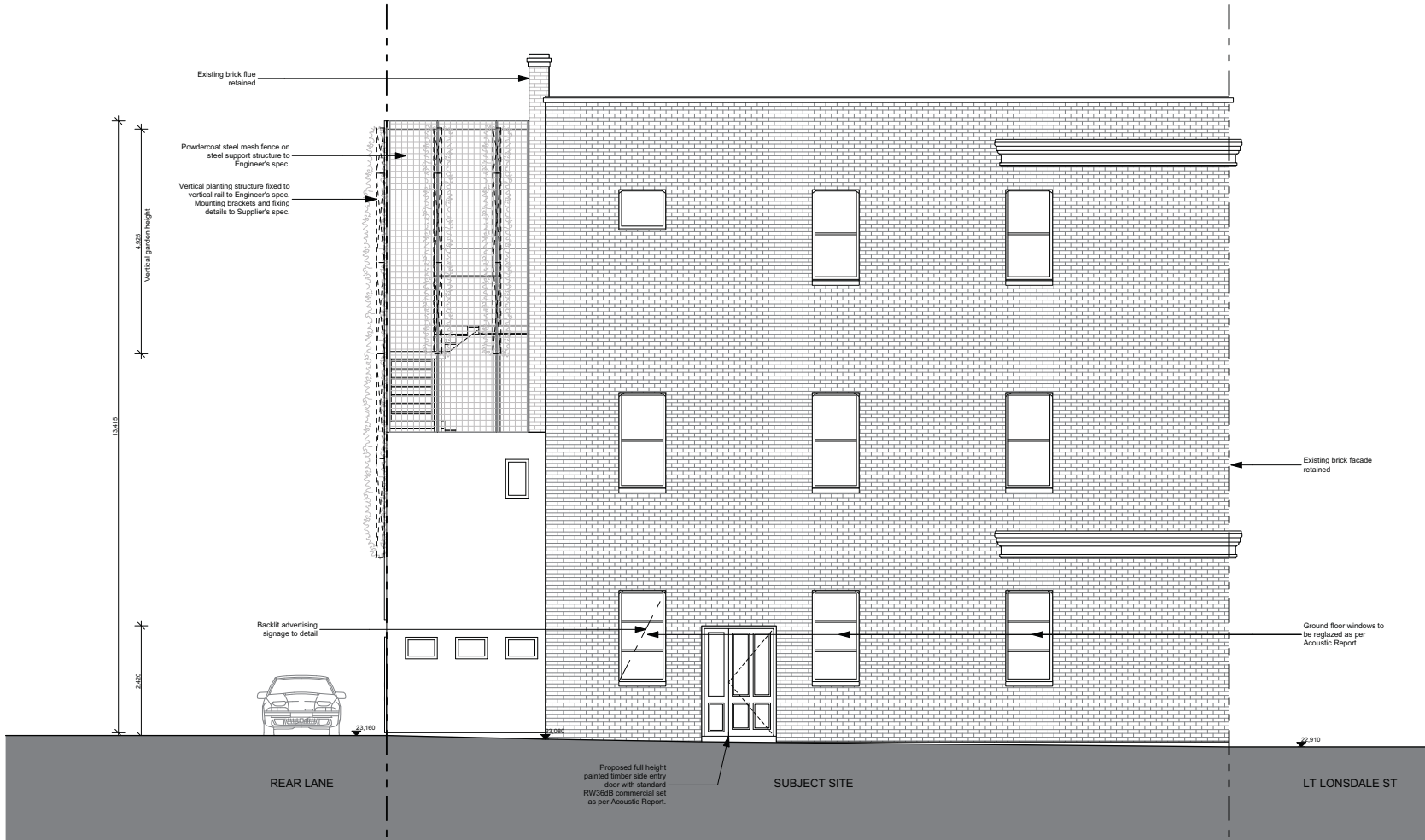
Drawing
Elevations I

Project Number
RC001

TP011
Rev B

Scale 1:100 @ A3
Date Tuesday, 8 May 2012

NOTES



North Elevation (rear laneway)
1:100

Note:
Location and dimensions of landscape elements are
indicative only and are subject to Supplier's detail.

Rev No.	Date	Amendments / Issue	Drawn
A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000

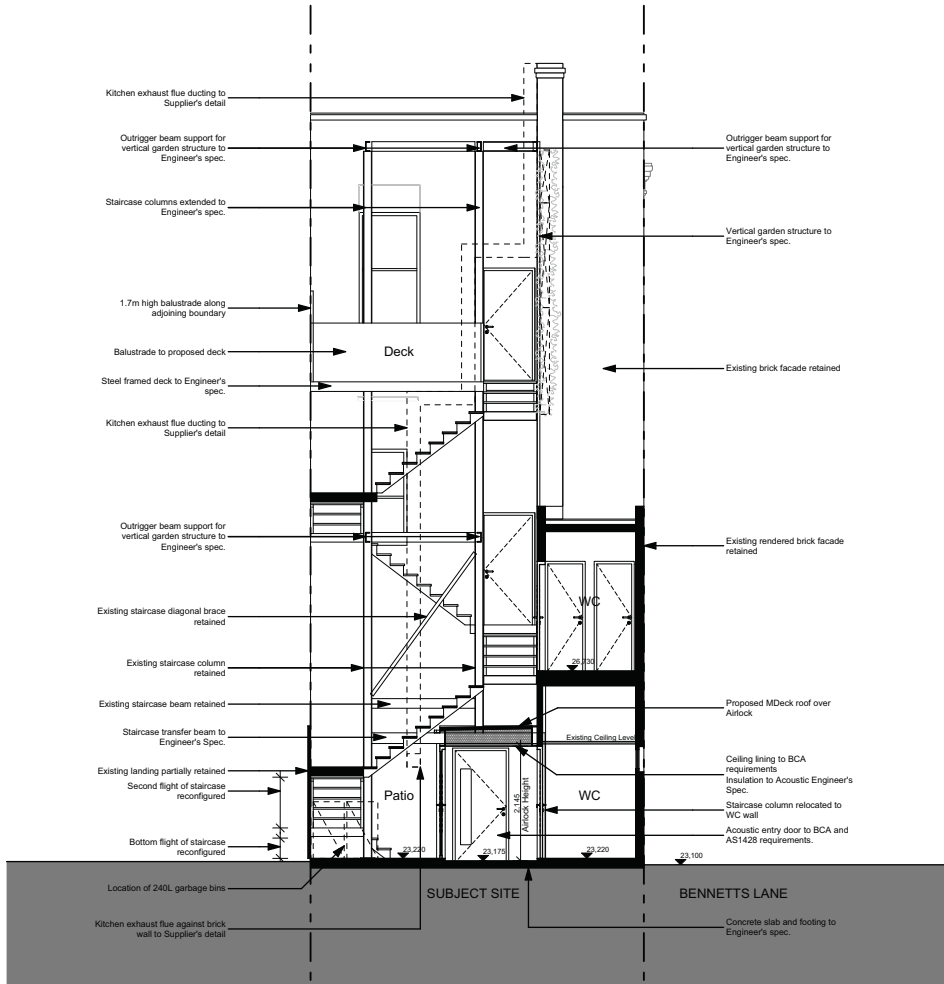
Drawing
Elevations II

Project Number
RC001

TP012
Rev B

Scale 1:100 @ A3
Date Tuesday, 8 May 2012

NOTES



Note:
Location and dimensions of landscape elements are indicative only and are subject to Supplier's detail.

Rev No.	Date	Amendments / Issue	Drawn
A	26/2/2012	Design changes	RM
B	08/5/2012	Design changes	RM

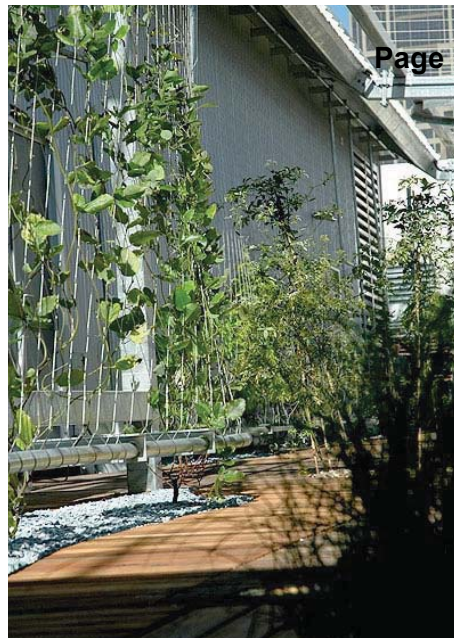
Client Details
Robert Cripps

Project
Ruby's Music Room
Proposed Alterations and Fitout
132 Lt Lonsdale St
Melbourne VIC 3000

Drawing
Sections

Scale 1:100 @ A3
Date Tuesday, 8 May 2012

Project Number
RC001
TP013
Rev B



Vertical planting attached to metal mesh structure



Vertical planting attached to metal frame structure, MFO Park Zurich

NOTES

Proposed vertical planting strips to have similar vegetation types and planting density
Note: Size and type of landscape elements are indicative only and are subject to Supplier's detail



Proposed vertical planting strips to have similar water collection tray and drainage detail
Note: Size and type of landscape elements are indicative only and are subject to Supplier's detail



Vertical planting attached to metal frame structure, MFO Park Zurich

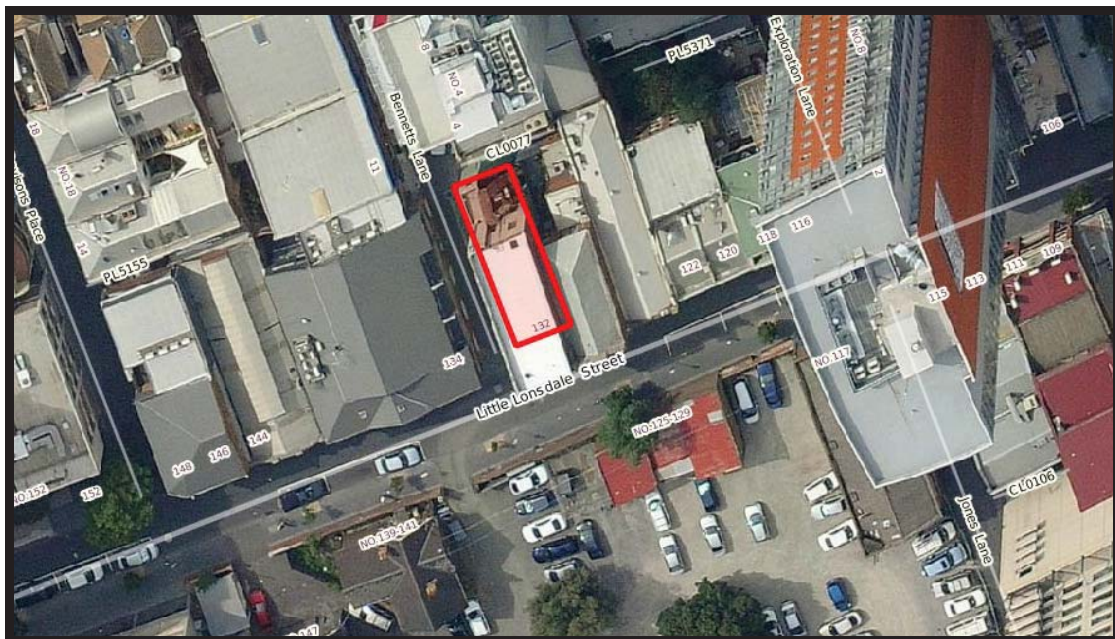
Rev No.	Date	Amendments / Issue	Drawn

DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2011-1009
Applicant:	Redleg Museum Services Pty Ltd
Address:	132 Little Lonsdale Street, MELBOURNE VIC 3000
Proposal:	Change of use to a night club (live music venue), display of business identification signage, external modifications and a partial waiver of the bicycle requirements of Clause 52.34
Date of application:	13 December 2011
Responsible officer:	Brendan Cousins

1 SUBJECT SITE AND SURROUNDS

The subject site is located on the north side of Little Lonsdale Street between Russell and Exhibition streets, on the eastern corner of Bennetts Lane. Figure 1 shows the subject site in the context of the immediate area:

**Figure 1**

The site is occupied by a three storey "D" graded Edwardian era (1900-15) building. The building is identified as a dominant end to the generally two-level 19th and early 20th century significant residential and commercial streetscape to the east. The building has been occupied by a number of uses and is currently vacant.

To the rear of the site is a public laneway known as Corporation Lane CL0077 which provides access to the subject site and that immediately adjoining at no.130 Little Lonsdale Street.

To the east of the site, within the Little Lonsdale heritage precinct overlay are four buildings. These buildings are all graded and are between two and three levels in height.

The nearest sensitive uses (residential) are located at:

- 128-130 Little Lonsdale Street (neighbouring property)
- 287-289 Exhibition Street (East End Apartments)
- 265 Exhibition Street (Regnancy Towers)
- 10 Bennetts Lane (Fraser Lane)

Within close proximity are a number of food and drink premises including:

Venue	Trading hours (summarised)
Bennett Lane Jazz Club, 25 Bennetts Lane	7am to 3am, except on Sundays, Anzac Day and Good Friday (1am close)
Laksa Bar (restaurant/café), 108 Little Lonsdale Street	7am to 11pm
Trunk Restaurant, 275 Exhibition Street	7am to 11pm
Troika Bar, 106 Little Lonsdale Street	12noon to 12 midnight Monday to Wednesday 12noon to 2am Thursday and Friday. 12 noon and 3am Saturday
Gami Chicken and Beer, 100 Little Lonsdale Street	7am to 11pm
N's Satay Bar, 296 Russell Street	1am to 1am

It noted that there are a number of commercial (office) buildings located in close proximity to the site including:

- 124 Little Lonsdale Street
- 134-144 Little Lonsdale Street
- 148 Little Lonsdale Street
- 4-8 Bennetts Lane
- 11-21 Bennetts Lane

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

There were no pre application discussions between the applicant and council.

2.2 Planning Application History

The following applications, have previously been considered for the subject site:

TP number	Description of Proposal	Decision & Date of Decision
TP-2011-815	Installation of vertical garden green walls and associated works	Permit issued 25/7/2012
TP-2012-302	External building and works, internal buildings and works associated with a single dwelling and business advertising signage	Permit issued 22/6/2012

3 PROPOSAL

The plans which have been considered in this planning assessment are dated 9 May 2012. These plans supersede advertised plans dated 28 March 2012.

The application proposes a nightclub (live music venue) at the ground level of 132 Little Lonsdale Street and associated external building works and business identification signage. The upper two levels of building are not included in the amended application, and have been deleted. A bicycle waiver is required pursuant to Clause 52.34 of the MPS.

The proposed live music venue (Ruby's Music Room) will provide café/light meals, a cocktail bar and live musical performances of classical and jazz.

The specifics of the proposed use include:

- **Hours of operation** - 7 days a week between the hours of 7am and 11pm (except Good Friday and Anzac where the hours will be 12pm to 11pm).
- **Patrons** - 94
- **Entry/exit** – Entry before 6 pm will be via Bennett's Lane. Entry after 6pm will be via the rear laneway, which has an airlock to prevent noise escaping from the venue.
- **Waste** – a waste management plan has been submitted with the application. Waste will be stored on the ground floor with collection times not before 7am or after 11pm

The associated external building and works and business identification signage include:

- New entry door to Bennetts Lane.
- Replacement of window panes with clear 8.38 Laminated Glass for acoustic attenuation reasons.
- Ground floor stair modifications
- New second floor deck, to be associated with a dwelling (approved by planning permit TP-2012-302). A side wall has been proposed to prevent overlooking.
- Ground floor kitchen flue
- New backlit advertising signs

- Little Lonsdale Street 2 x 1100mm (w) by 650mm (h) & 1100mm (w) by 900mm (h)
- Bennetts Lane window 1100mm (w) by 650mm (h)
- Rear lane 1200mm (w) by 300mm (h)

4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Triggers
Capital City Zone 1 (CCZ1)	<p>Pursuant to Clause 37.04-4, a permit is required to use the land as a night club.</p> <p>Pursuant to this Clause 37.05 schedule 1, a permit is required to construct a building and to construct or carry out works.</p> <p>Modifications to the a shopfront or entranceway of a building must be to the satisfaction of the Responsible Authority having regard to the architectural quality of the building.</p> <p>Pursuant to Clause 37.05 schedule 1, a permit required for a sign unless its meets the exemptions listed. The proposed signs are not included in the list of exemptions.</p>
Heritage Overlay Schedule 984 (HO984) Little Lon Precinct	<p>Pursuant to this clause a permit is required to construct a building and to construct or carry out works, including:</p> <ul style="list-style-type: none"> • Externally alter a building by structural work, rendering, sandblasting or in any other way. • Signage
Clause 52.27 Licensed Premises	<p>A permit is not required to use land in the Capital City Zone to sell or consume liquor under Clause 52.27.</p>
Clause 52.34 Bicycle Facilities	<p>Pursuant to Clause 52.34, the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land.</p> <p>Table 1 of this clause sets out the number of bicycle spaces required for specific uses. Pursuant to the table, and using 'Place of Assembly' as a land use, the requirement for the proposed venue would be less than 3 bicycle spaces (i.e. 1 to each 1,500sq.m for staff + 2 plus 1 to each 1,500sq.m for visitors). It is not proposed to provide any bicycle parking with respect the proposed use.</p> <p>Therefore a permit is required to waive the bicycle requirement pursuant to Clause 52.34-2.</p>

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

The objectives of Clause 11.04-4 Central Melbourne seek 'to strengthen Central Melbourne's capital city functions and its role as a primary business, retail, sport and entertainment hub for the State...'

The Clause outlines the following strategy of relevance:

- To maintain and build on Central Melbourne's role as a major hub of transport and communications networks and the State's gateway to the global economy as Victoria's largest and most varied centre of business, tourist, cultural, entertainment, research and government activities, attracting globally-oriented business activities and tourists from overseas and interstate.
- The objectives of Clause 17.01-1 (Business) seek to encourage development which meets the community's needs for a range of facilities (including entertainment) which will provide a net community benefit in relation to accessibility, efficient use of infrastructure and the aggregation and sustainability of such facilities

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS are summarised as follows:

Clause 21.04 Land Use

Clause 21.04 states that:

'Land uses influence the sort of amenity experienced by residents and visitors to the municipality. The presence of business, retail and entertainment uses can create active and vibrant areas with good access to services and facilities, but could also mean increased noise from the operation of businesses, on-street parking impacts, and impacts from signs, lighting and odours.'

'Residential amenity in the Capital City and Docklands Zones is not comparable to that of residential zones, and residential use and development in these zones must not compromise the other purposes and functions of the Central City and Central Activities District.'

Clause 21.08-1 Central City local areas

This policy seeks to ensure that the Central City continues to be a 24 hour precinct, attracting visitors from a wide catchment at all times of the day to a diversity of entertainment venues and facilities. However, entertainment venues and other potential noise generating premises have to be carefully managed to minimise off site impacts, in recognition of the growing residential community within the Central City.

The land use implementation strategies detailed under this policy aim to support entertainment, bars, eating and other evening uses throughout the central city.

5.2.2 Local Policies

The relevant local policies are summarised as follows:

Clause 22.01 – Urban Design within the Capital City Zone

The relevant objectives of this policy include:

- To enhance the physical quality and character of Melbourne's streets, lanes and Capital City Zone form through sensitive and innovative design.
- To improve the experience of the area for pedestrians.
- To create and enhance public spaces within the Capital City Zone to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities.
- To ensure that the design of public spaces, buildings and circulation spaces meets appropriate design standards.

The policy for facades at Clause 22.01 is to:

- Encourage new facades to respect the rhythm, scale, architectural features, fenestration, finishes and colour of the existing streetscape.
- Discourage replication of adjoining buildings.
- Encourage detail that engages the eye of the pedestrian.
- Encourage the use of high quality building materials and details.

Clause 22.04 Heritage places within the Capital City Zone.

The relevant objectives of this policy include:

- To conserve and enhance all heritage places, and ensure that any alterations or extensions to them are undertaken in accordance with accepted conservation standards.
- To consider the impact of development on buildings listed in the Central Activities District Conservation Study and the South Melbourne Conservation Study.

Clause 22.07 Advertising Signs

The relevant objectives of this policy include:

- To allow for the reasonable identification and marketing of institutions, businesses and buildings and communication of messages.
- To protect the characteristics of significant buildings and streetscapes.
- To encourage where appropriate, signs that contribute to the lively and attractive character of an area.
- To encourage signs that improve the quality of the area.

Clause 22.22 Policy for licensed premises that require a planning permit

Well managed licensed premises contribute positively to the activity, appearance, character, and image of the area. Small licensed premises are particularly important to the vitality of the Central City as a 24 hour city.

The objectives of this policy aim:

- 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.

It is policy that:

- Taverns, hotels and nightclubs which accommodate less than 100 patrons and which have appropriate noise attenuation will be encouraged throughout the Capital City Zone and Docklands Zone.

- Hours of operation of taverns, hotels and nightclubs in the Capital City Zone and Docklands Zone should be limited to 1am

The decision guidelines are discussed in the assessment section of this report.

6 PARTICULAR PROVISIONS

The following particular provision applies to the application:

- Clause 52.34, Bicycle Facilities
- Clause 52.06, Advertising Signs

7 GENERAL PROVISIONS

The following particular provisions apply to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.

8 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting three notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

9 OBJECTIONS

The application received 17 objections raising the following concerns (summarised):

Noise and amenity

- 132 Little Lonsdale Street is a very old building which will struggle to contain amplified noise.
- Acoustic report references “quiet classical music” however there is no protection if the business ever changes hands and the music style changes, eg. the report should relate to new noise, rather than the type of music style.
- Impact upon sleep by noise and drunk patrons.
- Noise impact associated with live music and patrons.
- Patrons queuing.
- Number of patrons (166) is excessive for the subject building.
- Unreasonable impact to nearby residences.
- Damage to surrounding properties and general damage to area;

Safety

- Area already overcrowded with food, alcohol and entertainment businesses.
- Amenity impacts associated with rooftop bar.
- Congregation of people smoking on footpath.
- Unclear as to when patrons will leave the premises.
- Concern with proposed exit to Bennetts Lane as it does not have a footpath.
- Safety concerns, potential for violent and unsociable behaviour.

- The venue will exacerbate existing problems such as public drunkenness and vehicle traffic.

Traffic impacts

- Cars leaving the venue will move en-masse into Little Lonsdale Street, thereby impacting upon the residents in the area late at night.
- Proposed venue is not located near transport, eg. taxis etc.

Other matters

- Applicant's submission lacks thoroughness and fails to mention many of the high rise tower apartments located in close proximity to the site.
- To grant a permit will open the door for subsequent extensions of trading hours and activities.
- There are other more suitable sites in the CBD such as basements or below level car park levels.
- Impact to Bennetts Lane Jazz Club, caused by confusion of having two Jazz Clubs located on Bennetts Lane.
- Nightclub operator should not have sole responsibility of recording incidents and complaints.
- Impact to commercial buildings, including loss of rental income and tenant and loss of rental value.

10 CONSULTATION

No further consultation was arranged. The amended plans dated 9 May submitted to address many of the concerns of the objectors, were informally advertised to all objectors.

11 REFERRALS

11.1 Internal

No internal referrals were required.

11.2 External

No external referrals were required.

12 ASSESSMENT

The application seeks to operate a live music venue (nightclub) on the ground floor of 132 Little Lonsdale Street. The key issues for consideration in the assessment of this application are:

- Location of premises
- Amenity impacts
- Operating conditions
- Impact to the public realm
- External works and signage

Location of premises

The subject site is located within the Capital City Zone where a use of the land as a nightclub requires a planning permit. The venue will provide live music with the

provision of light meals and a bar. The proposed use has been reduced in scale from the initial three level venue (14 December 2011), to the advertised (28 March 2012) two level venue for 166 patrons to the current (9 May 2012) ground level 94 patron venue.

The subject site is located within an area that is a mixture of low scale commercial and retail buildings along Little Lonsdale Street, a live music venue (Bennetts Lane Jazz Club) and high rise residential uses. It is evident that there is a wide range mix of uses in the area both sensitive and less sensitive.

The existing building is heritage graded being built approximately in 1900-15. As such it would require appropriate acoustic attenuation for a use that would introduce live and amplified music.

Planning policy supports the provision of a diverse range of uses within the CBD including office, residential, leisure and entertainment activities operating 24 hours a day. The MSS recognises that there must be a balance struck between the expectations of residents and policy encouraging 24 hour entertainment and other similar non-residential and commercial activities in the CBD. In this context, assessing the impact of the proposed venue on nearby residential amenity is a key issue.

The objectives of the Licensed Premises Policy (Clause 22.22) seek to guide the location and management of licensed premises to minimise impacts on surrounding land uses and to ensure that the cumulative impacts of licensed premises are assessed. Of particular relevance to the consideration of this application are guidelines in relation to the hours of operation, noise and patron numbers.

The proposed location of the site may be appropriate for a live music venue provided that the hours of operation, patron numbers, appropriate attenuation of the building, access to the site and potential amenity based impacts are addressed.

Amenity impacts

Noise

The two key noise sources required to be addressed are music noise and patron noise. In this instance both can be regulated by the implementation of recommendations of an acoustic report and managing the operation of the venue.

The acoustic report submitted with the application indicates that modifications to the building must be undertaken to prevent unreasonable impacts to nearby sensitive uses. The relevant sensitive uses located within close proximity include 128-130 Little Lonsdale Street, 287-289 Exhibition Street, 265 Exhibition Street and 10 Bennetts Lane. Proposed modifications include:

- Double glazing to windows and doors.
- Sealing of windows with a suitable mastic material.
- Internal acoustic walls
- Floor upgrades to isolate noise to the ground level.
- Use of the rear laneway for access after 6pm.
- A music sound level monitor

The report indicates that if measures such as those above are implemented, the venue can successfully operate in compliance with the relevant EPA policies N-1 and N-2.

It is considered that the acoustic report requires greater clarity in its conclusions and testing. The report provides unclear direction and conclusions with regard to existing background noise levels at sensitive use locations, reference to specific noise genres (eg. jazz and classical, rather than music noise in general) and does not clearly reference low frequency noise (vibration). Consequently, an amended acoustic report will be required that clearly details the background noise at each testing point and the actual testing level relative to music being played from the venue.

In addition to the acoustic report, it is appropriate to require conditions of permit that will help protect the amenity of nearby residents and the immediate area including:

- A operation management plan
- Compliance with SEPP N-1 and N-2
- No bottle removal between the hours of 9pm and 7am
- No music in any outdoor areas.
- Cessation of music at 11pm

Access

Access to the site will be from Bennetts Lane up until 6pm. After this time access will be via the rear lane through a airlock which will help prevent music noise escaping the venue. This arrangement is appropriate and will prevent queuing along Little Lonsdale Street and the escape of music from the venue. The use of the rear laneway will help minimise the impact of people to Bennetts Lane. Although there is no footpath to Bennetts Lane it, like many other laneways in the CBD is considered to be a shared space that not does not have a high volume of vehicle traffic. Entry to Bennetts Lane Jazz Club is located at the end of the no through lane and as such pedestrian traffic (associated with a commercial use) already exists along Bennetts Lane. With regards to queuing the management plan will require that there are no unreasonable queuing that may impact upon the laneway and nearby properties.

Operating conditions

Hours of operation

Proposed operating hours are from 7am until 11pm 7 days a week. It is policy that the hours of operation for night clubs in the CCZ is 1am and outdoor areas (eg. Smoking areas) should not extend past 1am, with no alcohol consumed after 11pm. The proposal clearly complies with the policy directions of Clause 22.22 in terms of operating hours.

It is noted that Bennetts Lane Jazz Club (25 Bennetts Lane) has a late night premises licence until from 7am until 3am except on Sundays, which is until 1am.

Patron numbers

Council's licensed premises policy encourages venues of less than 100 patrons in appropriate locations. The overall maximum capacity cannot exceed the capacity determined under the *Building Act 1993*. It has been determined that the ground floor has a capacity of 94 and as such is compliant with the policy direction of Clause 22.22.

Smoking area

The application proposes to use the part of the rear section of the building as a smoking area. The proposal allows smokers to remain within the venue, rather than relying on the use of a public space. This will enable the venue manager to better manage the behaviour of their patrons from within their property. It is expected that the amenity of the immediate vicinity, including that experienced by neighbouring

properties, will be enhanced by preventing patrons of the premises using the lane for smoking.

Waste

The applicant will be required to have a designation waste storage area on the premises. A waste management plan will be required to be submitted for approval by Council's Urban Services Group. Standard waste conditions will be required, including the times between which waste can be picked up and bottles crushed to avoid unreasonable noise impacts to the area.

Impact to the public realm

Potential impacts to the public realm are not unreasonable and will not be detrimental to the amenity of the immediate area. The MPS encourages small venues that add to the vitality of the Central City, provided that contributes positively in activity, appearance, character and image of the area.

Access to the venue will be via the side and rear of the building which will encourage patrons not to congregate along Little Lonsdale Street. Bennetts Lane is already active with patrons to the Bennetts Lane Jazz Club and is currently used for shared access between vehicles and pedestrians.

There are many transport options available in the central city besides the car and it is considered that the proposed closing time of 11pm enables patrons to utilise any of these options.

External works and signage

The external works are minor and will generally comply with the relevant objectives and decision guidelines of the Melbourne Planning Scheme, particularly Clause 22.01, Clause 22.04, Clause 43.02.

The works will not have a detrimental impact upon the heritage significance of the existing D graded building. The new door and windowpanes are reversible and are required for compliance with building regulations and for acoustic attenuation.

Works to the rear of the building including ground floor stair modifications, a new second floor deck and ground floor kitchen floor are appropriate to approve.

Specifically it is considered that:

- The deck is associated with the dwelling, with a screen to prevent overlooking to 130 Little Lonsdale Street. It will not be accessed by any future use of the ground level.
- The ground level kitchen flue is appropriately located and is wholly located within the property boundaries.
- Ground floor stair modifications will not be visible from street and will not have a detrimental physical or visual affect.

The rear laneway and Bennetts Lane signage are appropriately located and will integrate with the existing building. The signage allows for the reasonable identification of the building without detracting from the significant characteristics of the building.

The proposed location and the relative sizes of the three signs to Little Lonsdale Street are generally appropriate. The signs are proposed to be backlit with two proposed for the ground floor business and one for a law practice. Of the two ground floor business signs, a main logo will be located over the existing door and "upcoming events" sign located in the lower pane of one of the existing windows.

The signs will not obscure existing architectural features and will be located within existing windows and will not occupy the complete area of the windows. The Little Lonsdale Street entry will not be utilised as the main access to the building with the side door from Bennetts Lane and rear door utilised as the main entries to the building. It is considered that the signs are appropriate and will contribute to the lively and attractive character of an area.

To avoid clutter and an over dominance of illumination, specific details of the signs will be required as well as a restriction for the size of the signs and the degree/amount of illumination.

13 RECOMMENDATION

That a Notice of Decision to Grant a Permit be issued for the proposal subject to the following conditions:

1. Prior to the commencement of any demolition and the construction or carrying out of works on the land, the applicant must submit to the Responsible Authority three copies of plans drawn to scale generally in accordance with the plans accompanying the application but amended to show:
 - a. Specific details of the content of all signs including dimensions, materials, colours and degree of illumination (where applicable).
 - b. The dimensioned location of all signs clearly shown on all elevations.
 - c. The proposed sign located over the existing Little Lonsdale Street entry modified to reduce the degree of illumination. The degree of illumination should be contained to illumination of the logo and/or name of the premises only. The whole of the sign should not be illuminated.
 - d. One of the three signs proposed for the Little Lonsdale Street frontage being non-illuminated.
 - e. Any changes (if applicable) as required by the Waste Management Plan required by Condition 3 of this permit.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

Compliance

2. The development and use as shown on the endorsed plan(s) must not be altered or modified without the prior written consent of the Responsible Authority.

Waste management plan

3. Prior to the commencement of the use, a Waste Management Plan (WMP) must be submitted. The WMP must comply with Council's Waste Guidelines 2010 and be to the satisfaction of the Group Manager Engineering Services City of Melbourne.

Acoustic report

4. Prior to the commencement of the development, an amended acoustic report generally in accordance with Audiometric and Acoustic Services report dated 5 May 2012 must be submitted to and approved by the Responsible Authority. The report must identify all potential noise sources and sound attenuation work required to ensure that the noise levels generated by the premises do not exceed

the levels specified in the *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2* to the satisfaction of the Responsible Authority. Amended specific details in the report should include:

- a. Background noise measurements clearly set out either from the closest potentially affected residences or specifically affected properties
- b. Conformation that testing was conducted in relation to general music noise levels rather than specific genre music.
- c. Testing of low frequency noise to test the impact of potential vibration impacts to nearby sensitive uses.
- d. Consideration of music noise impacts in relation to open doors and windows of potentially affected properties.

When approved the report will be endorsed and will form part of the permit.

5. Prior to commencement of the use, the recommendations contained within the amended Acoustic Report as required by condition 4, must be implemented at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority.
6. Prior to the occupation of the premises, acoustic testing must be conducted by a qualified acoustic consultant. The testing must verify that the recommendations of the acoustic report as required by condition 4 above are achieved, to the satisfaction of the Responsible Authority. A report containing the results of the testing must be submitted to the Responsible Authority prior to the occupation of the use.

Management Plan

7. Prior to the commencement of the use, the applicant must submit an operational management plan (generally in accordance with the report accompanying the application) describing:
 - a. The ways in which staff are to made aware of the conditions attached to this permit.
 - b. Details of the type(s) of liquor licence sought – refer to definitions in the Liquor Control Reform Act 1998.
 - c. Details of the proposed hours of operation of the premises.
 - d. Details of the provision of music including the frequency and hours of entertainments provided by live bands, live music (DJ), amplified music and any other forms of entertainment.
 - e. Security arrangements including the number of personnel and their hours of operation.
 - f. Details of the maximum number of patrons to be permitted on the premises.
 - g. Pass-out arrangements.
 - h. Lighting within the boundaries of the site.
 - i. Security lighting outside the premises.
 - j. Bottle storage and removal arrangements including hours of pick up.
 - k. Noise attenuation measures.
 - l. The recommendations of any acoustic report submitted in support of the proposal.
 - m. The training of staff in the management of patron behaviour;
 - n. A complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses and residents. This must include details of a Complaints Register to be kept at

the premises. The Register must include details of the complaint received, any action taken and the response provided to the complainant.

- o. Details of the management methods to be employed to minimise queuing outside the venue.
- p. Details of the management of patrons in outdoor areas to minimise impacts on the amenity of nearby properties.
- q. Details of the management of patrons who are smoking.
- r. Installation of a music sound level monitor and details of the management of the system.

The management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed operational management plan unless with the prior written consent of the Responsible Authority.

Amenity

8. 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.
9. The use must not detrimentally affect the amenity of the area or the amenity of persons living in proximity of the site by reason of the emission of noise. The Responsible Authority, with just cause, may at any time request lodgement of an acoustic report, prepared by a suitably qualified acoustic consultant. The report must be to the satisfaction of the Responsible Authority and identify all potential noise sources and sound attenuation work required to address any noise issues and to comply with *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*. The recommendations of the report must be implemented by the applicant to the satisfaction of the Responsible Authority.
10. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.

Access

11. The entry and exit from the premises after 6pm for patrons must be via the rear entry. The Bennetts Lane entrance must not be used by patrons except for emergency access.

Hours of operation

12. Except with the prior written consent of the Responsible Authority, the premises must only be open for the use between the following hours:
 - Monday to Sunday 7am and 11pm
 - Good Friday and Anzac Day 12pm to 11pm.

Patrons

13. The maximum number of patrons within the venue must not exceed 94 at any one time unless with the prior written consent of the Responsible Authority.

Management of venue

14. At all times when the premises is open for business, a designated manager must be in charge of the premises.
15. 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.
16. Sexually explicit entertainment must not be provided on the premises at any time. Sexually explicit entertainment is that provided by a person or persons who are nude, display sexual organs or are topless females. Entertainment includes "table-top" dancing "lap" dancing, topless bar serving staff, live strip tease shows and their equivalent.

Waste and bottle removal

17. No bottles or other waste material may be removed from the site between the hours of 9.00 pm and 7.00 am the following morning, seven days a week.
18. 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.
19. All garbage and waste material must be stored in an area set aside for such purpose to the satisfaction of the Responsible Authority. No goods, garbage, packing material or similar material shall be left outside the venue on adjoining footpaths or roads.

Signage

20. The location, size, material of construction, colours, wording and degree of illumination of the signage shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.
21. The signage, including the structure and advertising material therein as shown on the endorsed plan, shall at all times be maintained in good order and condition to the satisfaction of the Responsible Authority.
22. The signage hereby permitted must not be animated or contain any flashing light.
23. The internal illumination of the signs hereby permitted must cease when the premises is not open for business.
24. The time for the commencement of the erection or display of the advertising signage hereby approved is two years from the date of issue and the time for completion is specified as two years from the date of such commencement.

25. In relation to the signage hereby approved, this permit expires 15 years from the date of issue, at which time the signage and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority

Permit expiry

26. This permit will expire if one of the following circumstances applies:

- the development is not started within two years of the date of this permit.
- the development is not completed within four years of the date of this permit.
- The use has not commenced within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

14 DECISION

The signature and date below confirms that the Lord Mayor, Deputy Lord Mayor and Councillors affirmed this recommendation as the Council's decision.

Signature:

Brendan Cousins

Senior Planning Officer

Date affirmed: