

**Committee report to Council****Agenda item 5.2****Council****Referral of motion from the Future Melbourne Committee meeting 16 May 2023 – ATET****30 May 2023****Committee** Future Melbourne Committee**Presenter** Lord Mayor Sally Capp**Purpose and background**

1. In early 2021, the City of Melbourne granted a licence to Floating Spaces Pty Ltd (trading as ATET) (Company) to operate from North Wharf in Victoria Harbour. Separately, in August 2022, the City of Melbourne granted a planning permit to the Company to operate a 'Place of Assembly' in Docklands Harbour.
2. Since then, the City of Melbourne has received an unprecedented level of complaints from the community about the noise and amenity impacts of ATET. In response, the City of Melbourne has conducted regular noise assessments of ATET, held a community forum, and put significant resources towards additional security on North Wharf.
3. Planning Enforcement has thoroughly investigated the venue on several occasions, and has requested acoustic testing and acoustic reports from the venue operator. Council has also engaged independent acoustic testing, and peer reviews of the reports submitted by the venue operator by an independent suitably qualified Acoustics Engineer. All investigations resulted in both the venue's testing and Council's testing identifying the venue to be in compliance with the Noise Protocols as set by the State Government's regulator, the Environmental Protection Agency (EPA), and no enforceable breach identified.
4. Beyond regulatory powers, Council has continued to work with the operator as well as various authorities to facilitate discussions and explore opportunities to relocate the venue, however no alternative operating location within the municipality has been found.
5. Council has also been in discussions with the operator regarding changes to their operating model, speaker systems, and physical noise attenuation on the barge. To date, no changes have been made by the operator that lessen the impacts of the venue on the surrounding area and meets the community's expectations.
6. At the Future Melbourne Committee meeting on 16 May 2023 the Committee resolved to refer to the Council Meeting of 30 May the matter of whether or not to terminate the Crown Land Licence issued to the Company. The Crown Land Licence issued to the Company provides that the Licence may be cancelled by the Licensor when the Licensor is in default of the conditions of the licence, or subject to obtaining State approval. The Committee further noted through that meeting that Council will work with the Victorian Government and the Company over the next two weeks to try and resolve these issues in line with the community's expectations.
7. In that time officers have met with senior representatives of the EPA and Department of Energy, Environment and Climate Action (DEECA). On Tuesday evening, 23 May 2023, the EPA provided preliminary findings of its study examining the effects of noise levels from ATET on residential wellbeing and amenity.
8. EPA's monitoring found "noise levels from the ATET nightclub are unreasonable and clear non-compliances have been established, with multiple exceedances of noise limits identified during the measurement period.". The EPA's advice now results in a finding of non-compliance by the venue with the relevant EPA protocols which also infers non-compliance with the requirements of the conditions of the Planning Permit TP-2021-620/A which link to the protocol.

9. The EPA has advised that noise exceedances were detected in various directions from the venue and were on both low and higher frequency sounds. From this analysis it is apparent that significant changes would be needed to ATET's operations in order to effectively reduce and mitigate the music noise impacts, and bring ATET into compliance with the EPA Protocols.

#### **Consideration at Committee**

10. At the Future Melbourne Committee meeting on 16 May 2023 the Committee resolved the following motion as a matter of urgent business:
  - 10.1. That the Future Melbourne Committee refers to the Council meeting of 30 May the matter of whether or not to terminate the Crown Land Licence issued to Floating Spaces Pty Ltd (trading as ATET).

#### **Recommendation**

11. That Council:
  - 11.1. Considers whether or not to terminate the Crown Land Licence issued to Floating Spaces Pty Ltd (trading as ATET).