APPLICATION FOR PLANNING PERMIT: 267 LITTLE LONSDALE STREET, MELBOURNE

Division: Sustainability & Regulatory Services

Presenter: Con Livanos, Executive Officer Planning

Purpose

1. Partial demolition and alterations to the existing roof deck to incorporate a new stair access

2. This report is presented to the Planning Committee at the request of Councillors Wilson and Ng.

Summary

Application Number: TP-2007-253

Proposal: Partial demolition and alterations to the existing roof deck to incorporate a new stair access.

Applicant: Herbert Mason Architecture

Zoning: Capital City Zone Schedule 1 – Outside the Retail Core

Overlay: Design and Development Overlay – Schedule 1 (Area 1)
Design and Development Overlay – Schedule 2 (Area 1)
Design and Development Overlay – Schedule 3
Design and Development Overlay – Schedule 4

Existing Use: Tavern

Number of Objections: One

Recommendation from Management

3. That the Planning Committee determine to issue a Notice of Decision to Grant a Planning Permit subject to the conditions at Attachment 1 of this report.

Proposal

4. The subject site is located on the southern side of Little Lonsdale Street, at the corner of Drewery Lane (Attachment 2). The site contains a 2-storey building with a single-storey extension to Little Lonsdale Street, with seven shops at street level. The section of the building relevant to this proposal is the single storey section which contains the Rue Bebelons bar approved in TP-1995-5. While the permit issued for Rue Bebelons does not limit operating hours, the current liquor licence allows for operation until 3am.

5. It is proposed to construct a deck on the roof of the bar with associated acoustic screening (refer to plans at Attachment 3). Part of the deck will have a roof which will enclose the western end of the deck and access stairs.
6. The deck is proposed to operate 9am to 11pm Monday to Friday and 1pm to 11pm Saturday to Sunday.

**Key Issues**

7. The key issues relate to:

7.1. the existing amenity impacts from smokers currently using Little Lonsdale Street footpath for smoking and

7.2. the potential amenity impacts of the proposed deck on nearby residential properties.

8. At present patrons wishing to smoke are required to leave the premises and stand on the footpath. This can result in adverse impacts on the public realm such as inhibiting pedestrian flows along Little Lonsdale Street.

9. In the case of the subject premises, the alterations will have a positive outcome for the public realm by providing patrons with an area for smoking within the premises.

10. Potential noise issues will be addressed by conditions to be placed on the permit. These conditions require the deck be closed to patrons at 11pm and that no amplified music be provided.

**Relation to Council Policy (including Municipal Strategic Statement)**

**Municipal Strategic Statement (Clause 21.02)**

11. Clause 21.02-1 Municipal Profile states that:

   “The Central City and Docklands support a diversity of uses operating 24 hours a day, ranging from office uses through the day; and residential, leisure and entertainment uses through the day and night...”

12. Clause 21.04 Land Use, recognises that:

   “Amenity is a key priority of the City. It must be managed and enhanced in a way which ensures quality of life for existing and future residents. However, the type of amenity achieved will vary in different parts of the municipality....”

13. The intention of the Municipal Strategic Statement is to identify the amenity expectations and standards for both residential and non-residential uses in the different parts of the City. Table 3 at Clause 21.04, “Land Use Amenity Principles” sets out amenity standards and expectations for various zones in the City.

14. For the Capital City Zone the land use amenity principles are as follows:

   “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; and

   New residential use and development in these zones needs to acknowledge and manage off-site impacts including appropriate acoustic attenuation measures.”
15. Clause 21.04-2 (Retail, entertainment and the arts):

“To provide a diverse range of leisure, cultural and entertainment facilities and enhance the City as Victoria’s pre-eminent cultural and entertainment location; and
Support and encourage the growth of a vibrant cultural environment in the Central City, Southbank and Docklands, by supporting entertainment uses and the arts.”

16. Clause 21.08-1 (Central City) recognises that:

“The Central City is Victoria’s largest and most varied focus of activity, a vibrant mixed use area which operates 24 hours a day and is the State’s gateway to the global economy”.

17. The vision for the Central City at Clause 21.08-1 includes the following:

“...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 been carefully managed to minimise off site impacts, in recognition of the growing residential community within the Central City.

The Central City has grown as a high-density inner city residential environment. Excellent construction and effective management of non residential uses as well as good design of new dwellings in the City has meant that a diverse range of uses can co-exist. Noise and light spill has been recognised as an inevitable part of inner city living because of the diverse land uses, people and traffic in the area at all times. Significant amenity benefits are obtained through excellent access to the facilities and services and to public transport...”

18. For land use implementation strategies with the Central City, the following is identified:

“Encourage the development of a range of complementary precincts within the Central City that offer a diverse range of specialists retail, cultural and entertainment opportunities;

Support entertainment, bars, eating and other evening uses throughout the Central City; and

Encourage the provision of varied facilities and services which support the diversity of tourists visiting the Central City.”

Time Frame

19. Section 79 of the Planning and Environment Act 1987 (“the Act”) provides that an applicant for permit may appeal to the VCAT against failure of the Responsible Authority to grant a planning permit within 60 days, excluding the notification period. The application has exceeded the 60 day time limit and therefore, may be subject to an appeal at VCAT.

Consultation

20. The application was advertised via a notice on site and notices to adjoining owners and occupiers. As a result, one (1) objection has been received. The issues raised in these objection are summarised as follows:

20.1. overlooking from patrons into the apartments;

20.2. noise from the deck;
20.3. recommend that a ‘half roof’ be proposed to deflect noise away from the apartments;

20.4. enclose the stair to prevent noise disturbance from patrons going to and from the deck; and

20.5. a condition should confirm that there will be no amplified music and that the deck will close at 11pm.

Finance

21. There are no direct financial issues that arise from the recommendations in this report.

Legal

22. Division 1 of Part 4 of the Act sets out the requirements in relation to applications for permits pursuant to the Planning Scheme.

Background

23. To the north of the site, across Little Lonsdale Street, is a church and a multi level apartment building known as Uni Lodge. To the west are the Central Melbourne Apartments which is a 4 storey building containing 6 apartments. The apartments have balconies and sliding doors which overlook the subject site.

24. The site is located just west of the corner of Little Lonsdale and Swanston Streets and is in very close proximity to the State Library, QV development and Melbourne Central complex.

Attachments:
1. Proposed Planning Permit Conditions
2. Locality Plan
3. Proposed Development Plans
1. Prior to the commencement of any 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 received on 13 July 2007 and 31 August 2007 but amended to show:
   
a). Amendments to all relevant plans to reflect the construction of the part roof to the western side of the deck (as shown on plans received by Council 31 August 2007)

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

2. The development as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

3. The deck hereby approved must be vacated and closed to patrons at 11pm Monday to Sunday inclusive without the prior consent of the Responsible Authority.

4. No loudspeaker, amplifier, relay or other audio equipment must be installed or used on the deck hereby approved.

5. Prior to the commencement of the use hereby permitted, a Patron Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The Patron Management Plan shall include (but is not limited to):
   
a) Monitoring and control of sound sources and levels within the premises;
   b) Where specifically permitted, the management of DJs for keeping music within acceptable levels.
   c) The contact number and name of the designated manager for lodging of complaints.
   d) The keeping of a complaints register and procedure for treating complaints;
   e) Management of patrons entering and leaving the premises.
   f) Management of patrons wishing to leave the confines of the venue or other enclosed space to smoke;
   g) Pass out arrangements where permitted;
   h) Signage placed on exit points requesting patrons to consider the amenity of the neighbourhood and to minimise noise;
   i) Security arrangements and the conduct of security staff
   j) General operation proposed by the applicant.

The operation of the use must be carried out in accordance with the endorsed Patron Management Plan or as amended with the prior written consent of the Responsible Authority.

6. Prior to the commencement of the use hereby permitted, a clearly legible sign shall be placed directly outside the entrance to the premises, identifying a telephone number effective for contacting the designated manager at all hours during which the premises is operating. The design, lighting and maintenance of the sign shall be to the satisfaction of the Responsible Authority.
7. 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 Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

NOTES:
(a) The operator under this permit is encouraged to become a member of the City Licensing Forum and the Melbourne City Council’s Melbourne Licensees Accord and to adopt the “Responsible Practice Guidelines for Licensees within the City of Melbourne (2007)”.

(b) Disabled access and facilities for the permitted area should be considered by the relevant building surveyor as part of the building permit approval process.

(c) The number of patrons permitted on the terrace area licensed premises at any time will be limited to the safe and amenable operating capacity of the premises as determined by the Building Act 1993. This shall include the provision of adequate toilet facilities and required fire exits.
FINANCE ATTACHMENT

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There are no direct financial issues that arise from the recommendations in this report.

Joe Groher
Manager Financial Services
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.

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.

Section 61(b) provides that the Responsible Authority may decide to grant a permit subject to conditions.

Section 79 of the Act provides that if the Responsible Authority fails to grant a permit within the prescribed time an applicant may appeal to the Victorian Civil and Administrative Tribunal. If the applicant does so appeal, section 84 of the Act provides that the Responsible Authority may decide on an application at any time after an appeal has been lodged; however the Responsible Authority must not issue or give a permit, a notice of decision or a notice of refusal after the appeal has been lodged.

The Act provides that the Responsible Authority must give the applicant and each objector a notice in the prescribed form of its decision 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.

Kim Wood
Manager Legal Services