

Report to the Future Melbourne (Planning) Committee

Agenda item 6.4

**Ministerial Planning Referral: TPM-2004-6/A
Crown Casino Retail Precinct, 27-45 Whiteman Street, Southbank**

6 May 2014

Presenter: Angela Meinke, Manager Planning and Building

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Application (reference 2004/0109A) at 27-45 Whiteman Street, Southbank. Notice of the application to amend a planning permit was referred by the Department of Transport, Planning and Local Infrastructure (DTPLI) on 6 March 2014 (refer Attachment 2 – Locality plan). The applicant and owner is Crown Melbourne Limited.
2. The Minister for Planning issued a planning permit on 2 September 2004 for the 'use and development of land for the purposes of a car park in association with existing Crown Entertainment Complex West End Car Park'. This approval allowed an extension to the existing car park to create an additional 1,243 spaces.
3. The 2004 application was referred to the Council for comment. The provision of additional car parking to meet this increased demand was supported; however the administration was of the view that the use of these car parks by commuters would exacerbate existing traffic congestion problems during peak times. A condition of permit was imposed which required the restriction of the hours of use of this additional car parking.
4. The current application seeks approval to amend the planning permit issued by the Minister for Planning by deleting condition 2 of the permit. This condition prohibits the use of 1,283 car parking spaces between 5:30am to 9:30am weekdays (excluding public holidays).

Key issues

5. Key issues relevant to this application to amend a planning permit are:
 - 5.1. The proposed removal of the condition would be inconsistent with relevant policies of the Melbourne Planning Scheme. The Melbourne Planning Scheme discourages commuter car parking. This is stated in the Municipal Strategic Statement and the Parking Overlay, Schedule 1.
 - 5.2. The removal of the condition and the resulting change in usage patterns will exacerbate existing traffic congestion on the surrounding road network. The traffic volume on the surrounding road network is already at or near capacity during the morning peak.
 - 5.3. The removal of the restriction on the use of the car parking spaces would also be to the detriment of the master planning of City Road, which is a key action of the Southbank Structure Plan. Council administration is currently developing a draft City Road Master Plan, which seeks to improve the public realm by exploring options to change the layout and design of the road. Additional traffic on City Road would potentially worsen the existing issues which the master plan seeks to address.

Recommendation from management

6. That the Future Melbourne Committee resolves that a letter be sent to the Department of Transport, Planning and Local Infrastructure advising that the Melbourne City Council objects to the application for the reasons set out in the Delegate Report (refer Attachment 3).

Attachments:

1. Supporting Attachment
2. Locality Plan
3. Delegate Report

Supporting Attachment

Legal

1. The Minister for Planning is the responsible authority for determining the application.

Finance

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

Conflict of interest

3. 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

4. Council officers have not advertised the application or referred this to any other referral authorities. This is the responsibility of the DTPLI acting on behalf of the Minister for Planning who is the responsible authority.

Relation to Council policy

5. Relevant Council policies are discussed in the attached delegate report (refer Attachment 3).

Environmental sustainability

6. The proposed amendment would have detrimental social, environmental and economic impacts by the additional supply of commuter car parking leading further traffic congestion on the surrounding road network.

Locality Plan

27-45 Whiteman Street, Southbank



PLANNING REPORT MINISTERIAL REFERRAL

Application number:	TPM-2004-6/A
DTPLI Application number:	2004/0109A
Applicant / Owner	Crown Melbourne Ltd
Address:	Crown Casino Retail Precinct, 27-45 Whiteman Street, SOUTHBANK VIC 3006
Proposal:	To remove Condition 2 of the planning permit which restricts the use of 1,283 car parking spaces between 5.30 am and 9.30 am Monday to Friday (excluding public holidays)
Date received by City of Melbourne:	7 March 2014
Date of report	10 April 2014
Responsible officer:	Adam Birch

1. SUBJECT SITE

The application relates to the existing West End Car Park for the Crown Entertainment Complex. The car park is a seven level building containing over 3,000 car parking spaces. Entries/exits to the car park are located on Kings Way and the corner of Clarke and Haig Streets (see Photos 1 to 3).

2. BACKGROUND AND HISTORY

A planning permit was issued by the former Minister of Planning (Mary Delahunty MP) on 2 September 2004. This permit allowed the 'use and development of land for the purposes of a car park in association with existing Crown Entertainment Complex West End Car Park'. This approval allowed an extension to the existing car park. It involved the construction of a seven-level car park over the roads of Haig and Clarke Street and on the land with a street address known as 25-33 Haig Street, Southbank (see photos 4 to 5).

The expansion added an additional 1,283 to the existing West End Car Park. In addition, the Crown Entertainment Complex has a basement car park with capacity for 1,781 vehicles. Overall, a total of 5,023 car parking spaces are provided for the entire complex. The total floor area for the Crown Entertainment Complex is now 427,790 square metres.

The original application referred to the City of Melbourne (by the then Department of Sustainability and Environment), included submissions demonstrating a need for additional car parking to cater for the demand generated by Crown during peak periods. The provision of additional car parking to meet this demand was supported; however, the City of Melbourne was of the view that the use of these car parks by commuters would exacerbate existing traffic congestion problems during peak times.

Photo 1 Car Park from Kings Way Undercroft



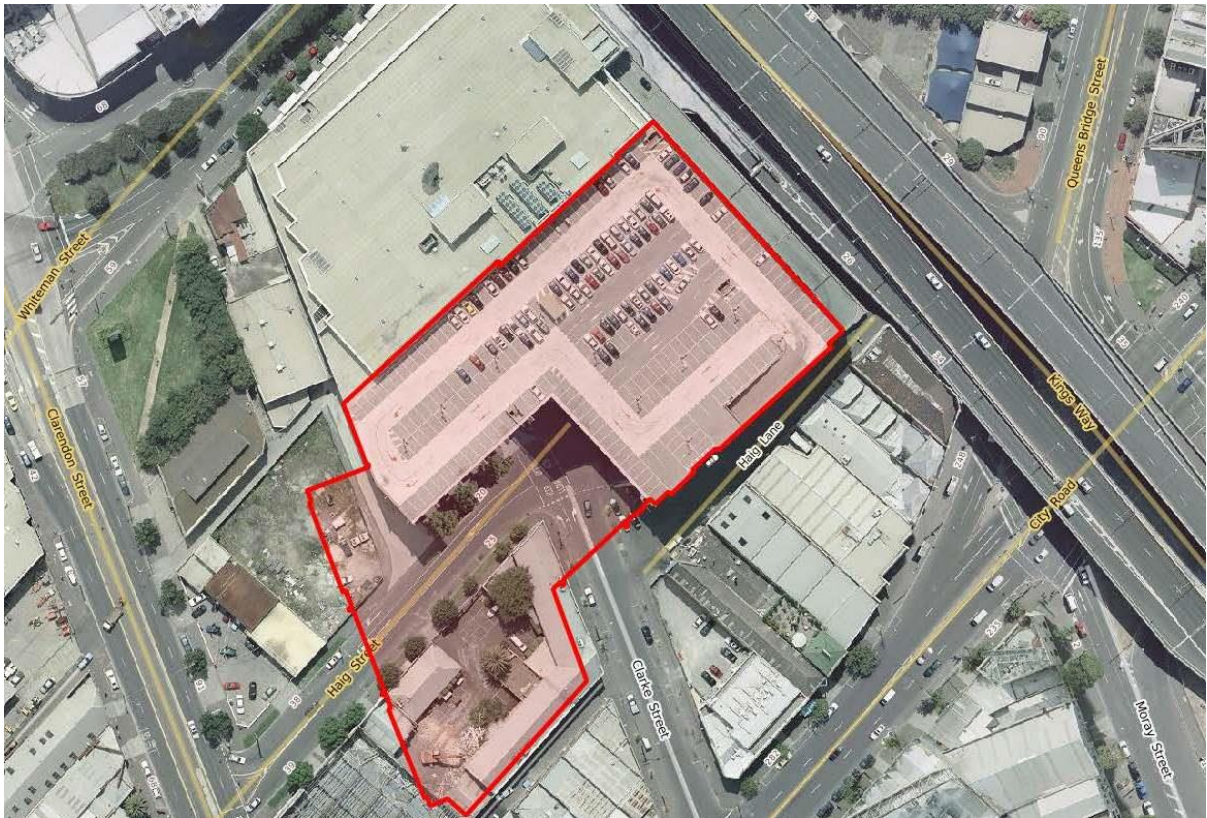
Photo 2 Haig Street Entry



Photo 3 Clarke Street Entry



Photo 4 and 5 Aerial Photographs taken in 2005 and 2014



Condition 1 (a) of the permit issued on 2 September 2004 required amended plans showing (among various other changes and conditions):

The designation of 1,283 car parking spaces within the Crown Entertainment Complex West End Car Park including the extension approved by this permit, to be available only after 9:30am on any weekday (Monday to Friday) not being a public holiday. The area these spaces occupy must be physically separated from the remainder of the car park, and this physical barrier must be clearly notated on the plans.

The planning permit was subsequently amended on 25 January 2005, to delete Condition 1 a) and inserting Condition 2 and 3 which state:

2. A total of 1,283 car parking spaces within the Crown Entertainment Complex West End Car Park (including the extension approved by this permit) must not be used between 5.30am and 9.30am Monday to Friday not being a public holiday.
3. Crown Limited shall retain hourly electronic counts of the number of vacant spaces in the West End Car Park between 5.30 am and 9.30 am Monday to Friday to ensure that a minimum of 1,283 spaces remain vacant during the times specified in condition 2. Data of the electronic counts for the preceding three months shall be submitted to the Responsible Authority every three months from the date of the commencement of the use, or as otherwise agreed in writing by the Responsible Authority.

3. THE PROPOSAL

The application proposes to amend the Ministerial Planning Permit 2004/0109 by deleting Condition 2 which relates to the restriction of the use of 1,283 car parking spaces during early morning weekday hours.

In support for the amendment, the applicant has submitted a traffic assessment report prepared by GTA Consultants and covering letter which argues that the condition restricts Crown's ability to operate as a business and adversely affects the gaming and corporate taxes paid to the government.

4. PLANNING SCHEME PROVISIONS

Since the issue of permit, the following policies of the Melbourne Planning Scheme are of relevance and have either been amended or introduced:

State Planning Policies	Clause 18.02-5 Car Parking
Municipal Strategic Statement	Clause 21.09-5 Private Motorised Transport Clause 21.13-1 Southbank

Statutory Controls	
Capital City Zone Schedule 3	The land was previously zoned Capital City Zone Schedule 1 at the time the permit was issued. This land has been rezoned to Capital City Zone Schedule 3. A planning permit is required for a commercial car park.

<p>Parking Overlay 1 (Capital City Zone Outside the Retail Core)</p>	<p>This overlay operates in conjunction with Clause 52.06. A schedule to this overlay may vary the requirements of Clause 52.06.</p> <p>Schedule 1 specifies that a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of this schedule.</p> <p>This does not include the provision of additional car parking, to the satisfaction of the responsible authority, which is required to serve:</p> <ul style="list-style-type: none"> • On site use for dwellings or a residential hotel. • A use that generates a significant demand for short stay parking (up to 4 hours) and the spaces are not accessible to vehicles between the hours of 5.30am and 9.30am Monday to Friday, or such other hours that the responsible authority is satisfied are appropriate. <p>Where no part of the site is used for dwellings the number of car parking spaces must not exceed the number calculated using one of the following formulas: The net floor area of buildings on the site in square metres divided by 200 (5 x NFL / 1000); or the site area in square metres divided by 83 and a third. (12 x SA / 1000).</p> <p>The net floor area was 342,042 square metres in 2005. This has expanded to 427,790 square metres in 2014. A total of 5,023 spaces are provided onsite. Based on the current floor area, the maximum number of spaces required under this provision is 2,138. Therefore 2,885 additional spaces are provided.</p> <p>The car parking in association with the use of the residential hotels, does not require a planning permit. A permit is required for the other associated use with spaces accessed between 5:30am to 9:30am weekdays.</p> <p>Therefore a permit is required to provide car parking as a result of the removal of Condition 2 of the planning permit.</p> <p>Decision guidelines are provided under this schedule.</p>
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Particular Provisions	
<p>Clause 52.06, Car Parking</p>	<p>A schedule to this overlay was in place when the original permit was issued. This schedule is now deleted and the provisions of it are now articulated under the Parking Overlay Schedule 1.</p> <p>Since the issue of permit this particular provision has been amended.</p>

5. PUBLIC NOTIFICATION

In accordance with Section 52(1)(b) of the *Planning and Environment Act 1987*, DTPLI has given notice of the application to the City of Melbourne.

6. REFERRALS

The application was referred to the City of Melbourne’s Principal Traffic Engineer who did not support the removal of Condition 2. See Appendix 3 for full comments. In summary, comments included:

- The condition is an appropriate means of deterring commuter car parking
- The charges for parking at Crown is extremely low compared to other commercial car parks.
- The increase in the net floor area since 2005 and its demand on existing car parking has presumably been considered under other planning permit assessments and is not a valid reason for the removal of the parking restriction.
- The demand for car parking is low between 5:30am to 9am for the West End Car Park and at capacity between 9am to 9:30am. At this time 400 spaces appear to be available in the basement car park.
- Traffic volumes in the area during the morning and afternoon peak are already near capacity and an additional 483 vehicular movements to the road network cannot be supported.

7. ASSESSMENT

The key issues in the consideration of this application are whether the proposal is consistent with relevant policies relating the car parking and traffic of the Melbourne Planning Scheme. This primarily falls under the decision guidelines of Schedule 1 to the Parking Overlay, which of relevance to this referral includes:

- Any relevant local planning policies
- Any effect on vehicle and pedestrian traffic in the area
- The suitability of use during weekends and outside normal business hours
- Whether the development incorporates other uses in the site that will contribute to achievement of relevant policies.
- The current usage patterns of any nearby public parking facilities
- Any adverse impacts on present vehicular traffic flows and in the context of any likely future changes in car parking and traffic conditions in the area.

Clause 18 (Transport) of the Melbourne Planning Scheme states that:

Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.

In relation to car parking, Clause 18.02-5 has the objective 'to ensure an adequate supply of car parking that is appropriately designed and located'.

Clause 21.09-5 of the Melbourne Planning Scheme (Local Policy – Transport – Private Motor Transport) includes the following relevant objectives and strategies:

- Objective 1 To encourage more efficient use of private motor vehicles
- Strategy 1.1 Recognise that cars are complementary to other modes of transport and their use should be visitors daily managed to minimise adverse impacts on other transport modes.
- Strategy 1.6 Discourage new commercial car parks.
- Strategy 1.7 Discourage commuter car parking in the Central City.
- Strategy 1.8 Encourage the co-location and sharing of car parking facilities.

And,

- Objective 2 To reduce the negative economic, social and environmental impacts of traffic and parking, particularly on residential areas and parklands.
- Strategy 2.3 Ensure that the cumulative traffic and parking impact of developments on an area are considered.
- Strategy 2.4 Ensure that traffic and parking impacts from new development is minimised.

In the Capital City Zone, Schedule 3, a planning permit is required for a commercial car park. A permit is also required under Parking Overlay Schedule 1 to supply car parking in excess of the rates specified under the schedule and to use car parking for uses other than a residential hotel and for uses that do not have a demand for short term parking.

The Melbourne Planning Scheme discourages commuter car parking in the central city due to the detrimental impacts that additional availability of commercial car parking can have on road congestion. This includes associated negative environmental, economic and social impacts. The City of Melbourne's Transport Strategy 2012 identifies that traffic congestion on City Road in the morning is mostly generated by commuters accessing off street car parking. The Strategy explains that additional peak hour congestion can compromise tram and bus services and be to the detriment of pedestrian and cycling amenity. Prolonged congestion on Clarendon Street and City Road has also been identified as an issue in the Southbank Structure Plan 2010.

Since the issue of the permit, the car parking policies of the Melbourne Planning Scheme have not altered significantly. Relevant revisions of the Scheme included an updated Municipal Strategic Statement and the transfer of the Parking Precinct Plan from a Schedule to Clause 52.06 to a Schedule of the Parking Overlay. There is no reason in the Scheme to warrant a different recommendation now.

The applicant has applied to remove Condition 2 of the permit and has submitted a traffic report to support its application. The applicant has put forward that the parking affected by Condition 2 is now subject to the Congestion Levy of \$1,300 per bay, and that this is unreasonable for the parking to be subject to both a restriction on permit and a tax.

The Traffic Report submitted by the applicant concluded that the 24 hour nature of the Crown Entertainment Complex is unique and that the business gives its own customers priority over commuters. The expanded development of the Crown Entertainment Complex has increased the floor area of the complex by 24%, effectively reducing the surplus of spaces. The existing car parking demand is low for long-term stays, particularly in the morning, and the traffic generated by the lifting of the restriction can be accommodated in the surrounding road network. Also it was suggested that development of residential apartments without car parking within Southbank has and may continue to increase demand for car parking at Crown.

The City of Melbourne's Traffic Engineers advised that the condition of permit restricting parking is an appropriate means to deter commuter parking and sees no reason for its removal. The traffic volumes on roads in the immediate area are already at or near capacity during the morning and afternoon peak. Additional traffic generation to the road network was not supported.

The proposed removal of the condition is considered to be inconsistent with Clause 21.09-5 of the Melbourne Planning Scheme, as the removal of the condition would not encourage more efficient use of private motor vehicles. Although the existing car park provides for co-located facilities for the Crown Entertainment Complex as a whole, the demand for parking for the nature of the land use (hotel accommodation, gaming, retail premises and other places of assembly) are generally for short-term stays and not during the morning peak. The demand for car parking during the morning hours is most likely to be for commuter parking, which is discouraged by the Melbourne Planning Scheme.

It is not considered that the car parking is likely to be used by occupants of apartments without car parking in Southbank. The ABS Census data from 2011 indicated that the

average car ownership rate for Southbank is 0.9 vehicles per dwelling, with 27.1% of occupied private dwellings with no registered motor vehicles.

The proposed removal of condition 2 is considered to be likely to have an adverse traffic impact upon the surrounding road network. The proposal would result in the order of an addition 436 vehicular movements during the morning peak if all 1,283 spaces affected by the condition were made available.

The impact on the surrounding road network includes impact on the heavily congested roads of Clarendon Street and City Road. These roads have direct access to Haig and Clarke Street which access the car park. Additional traffic on the surrounding road network would be to the detriment of the public realm improvements of the draft City Road Master Plan. This is relevant given that the project is a key action of the Southbank Structure Plan.

The restriction relates to only 1,283 of the total 5,023 spaces available for the Crown Entertainment Complex as a whole. The remaining 3,780 spaces have no restrictions on their availability. This means that 3,780 of the available spaces can already be used for commuter parking as well as visitors, staff and contractors of Crown. This supply is more than sufficient to meet the demands described by the applicant. The restriction is to just over 25% of the available spaces at Crown. This is considered appropriate given that the complex as a whole has a significant number of excess car parking spaces and that the imposed restriction is during a time of day when visitors to Crown are unlikely to use the facilities operated on the land.

Overall, the proposed amendment to the planning permit involving the removal of a condition restricting car parking during morning peak times is considered to be inconsistent with the relevant policies of the Melbourne Planning Scheme. If the restriction was to be removed, it is considered this would have a negative impact upon traffic congestion on the surround road network.

8. OFFICER RECOMMENDATION

That a letter be sent to DTPLI advising that the City of Melbourne objects to the amendment of the Planning Permit on the following grounds:

1. The proposal is contrary to the objectives of Schedule 1 of the Parking Overlay, Clause 18.02-5 and Clause 21.09-5 of the Melbourne Planning Scheme.
2. Condition 2 of the planning permit is appropriate to deter commuter parking, which is discouraged in the Central City.
3. The removal of condition 2 would exacerbate existing traffic congestion on the surrounding road network and would be to the detriment of the master planning of City Road.

Signature:

Date:

Adam Birch

Planning Officer

APPENDICES

Referral Documents

DM#8410780

Traffic Engineering Comments

DM#8444210