

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.7**

**Planning Application TP-2013-648  
557 St Kilda Road, Melbourne**

**11 November 2014**

**Presenter:** Karen Snyders, Planning Coordinator

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of an application for planning permit at 557 St Kilda Road, Melbourne (refer Attachment 2 – Locality Plan). The planning application was lodged on 16 August 2013 and amended on 23 July 2014. The application is being presented as it has received 199 objections. One objection is in the form of a petition with 45 signatures.
2. The applicant and owner is Bluestone Park P/L and Kevin Hunt Property P/L.
3. The site is located on the north side of Moubray Street, between St Kilda and Punt Roads. It is occupied by Ormond Hall and surrounding outdoor areas, the largest of which is to the west of Ormond Hall. The application seeks approval to extend the existing licensed premises, carry out development, increase hours of operation and patron numbers, amend the existing General Licence to an On Premises Licence and reduce car and bicycle parking requirements. Proposed patron capacity is 2,000 including a maximum of 1,200 in the outdoor area west of Ormond Hall. The number of patrons in this outdoor area is proposed to be reduced after 10 pm (refer Attachment 3 – Plans).

**Key issues**

4. Key considerations- include impacts associated with patron numbers, noise and hours of operation.
5. Nearby land uses include the Alfred Hospital to the north, Fairfield House (part of the Alfred Hospital) to the east, the Freemasons residential care facility for aged persons to the east of Fairfield House and Wesley College to the south of the subject site. To the west and north-west of the subject site at 555 St Kilda Road is an area of vacant land. A permit has been issued by the Minister for Planning allowing development of this land for a multi-storey residential building. Land uses on the west side of St Kilda Road in the vicinity of the subject site include a mix of commercial and residential uses.
6. There is a history of noise complaints to the City of Melbourne regarding the premises.
7. In order to address amenity impacts after 10 pm the applicant proposes that patron numbers in the outdoor area west of Ormond Hall be gradually reduced. For example on Friday and Saturday, maximum patron numbers would reduce from 1200 before 10 pm to 800 from 10 pm to 11 pm and 600 from 11 pm to midnight. This would be difficult to enforce and it is unclear how it could be managed. Acoustic consultant's reports conclude that subject to the gradual reductions in patron numbers proposed and appropriate controls over music noise, noise impacts will be acceptable. Objectors have raised matters including anti-social behaviour by patrons departing the venue. The proposed increase in patron capacity is likely to exacerbate such problems.
8. The change in licence type is supported. Subject to conditions requiring changes, the consideration of the application provides an opportunity to further regulate the operation of the premises. The proposal includes an extension to Sunday trading hours from 11 pm to 1 am. In this noise-sensitive location, liquor should not be consumed outdoors after 11 pm. The proposed increase in patron numbers in the outdoor area is not supported. The increase in patron numbers for the indoor areas is considered to be acceptable. The following table summarises.

Current Patron Capacities

Ground floor west wing of Ormond Hall – 260 pursuant to liquor licence
Ground floor outdoor area – 267 based on an area of 200 square metres, approved under Planning Permit TP-1997-419/B. If the outdoor area is treated as that shown on red line plan, existing total patron capacity is approximately 1,800

Proposed Patron Capacities

West wing of Ormond Hall (ground and first floor, including outdoor terrace) - 800
Ground floor outdoor area - 1200

Recommended Patron Capacities

West wing of Ormond Hall (ground and first floor, including terrace) - 800
Ground floor outdoor area - 267

**Recommendation from management**

9. That the Future Melbourne Committee resolves that a Notice of Decision be issued subject to the conditions set out in the attached delegate report (refer Attachment 4).

**Attachments:**

1. Supporting Attachment
2. Locality Plan
3. Plans

## Supporting Attachment

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### Legal

1. The City of Melbourne is the responsible authority for determining the application.

### Finance

2. There are no direct financial issues arising from the recommendations contained in this report.
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. Notice of the application was first given on 14 November 2013 by ordinary mail to owners and occupiers of surrounding properties and by posting two notices on the site for a 14 day period in accordance with Section 52 of the Planning and Environment Act 1987. In response, 149 objections were received. Notice of the amended application was given by mail on 6 August 2014 to all objectors. A consultation meeting held at the Town Hall on 22 May 2014 was attended by a number of objectors, Councillor Pinder-Mortimer, Council officers, the applicant and the venue operator.

### Relation to Council policy

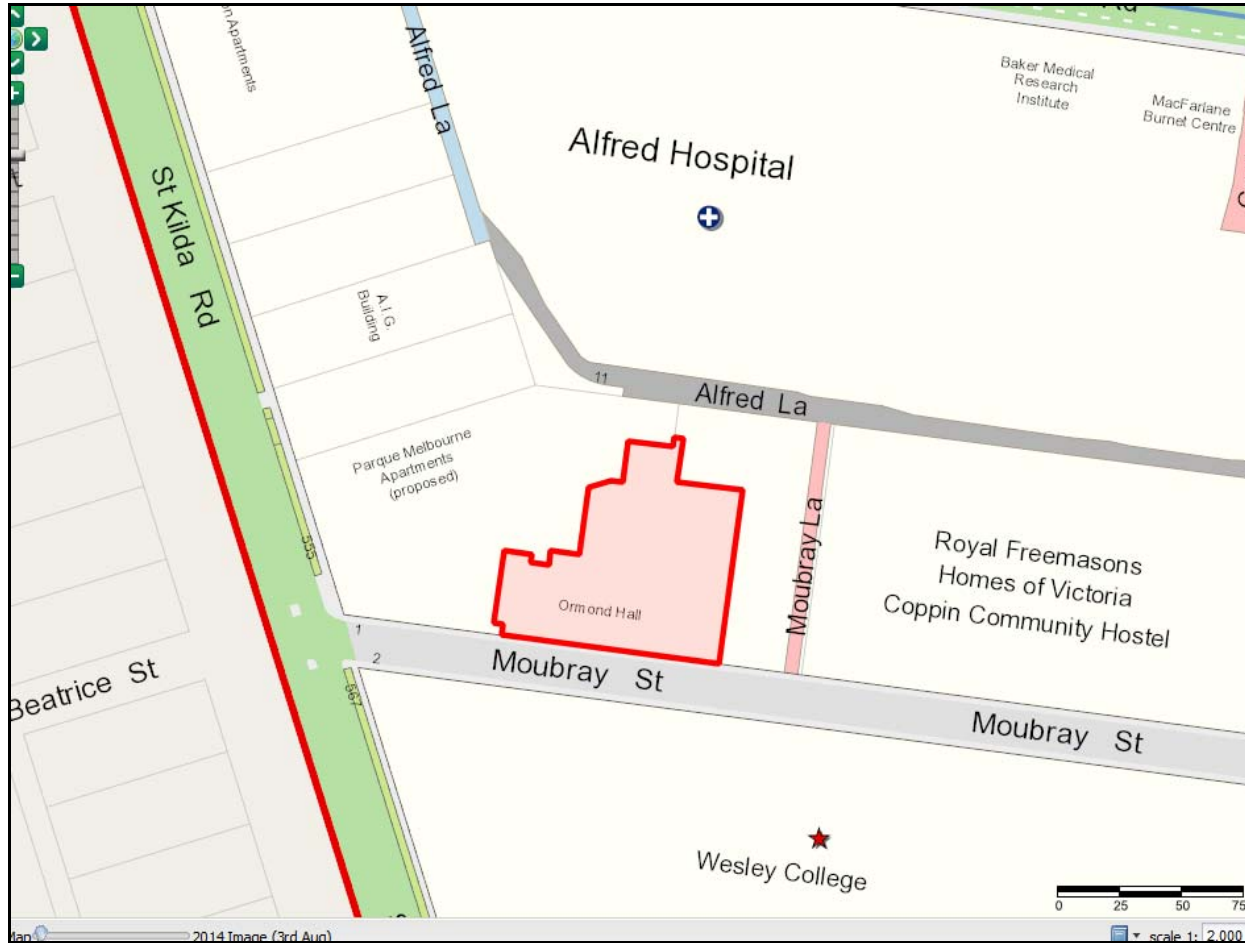
5. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

### Environmental sustainability

6. A Waste Management Plan forms part of the application submission and complies with Council's 2012 guidelines. In relation to water efficiency, pursuant to Clause 22.19 of the Melbourne Planning Scheme, the development should achieve 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Retail rating tool or equivalent.

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Locality Plan  
557 St Kilda Road, Melbourne

Attachment 2  
Agenda item 6.7  
Future Melbourne Committee  
11 November 2014





MOUBRAY STREET

STREET PARKING

STREET PARKING

EXISTING SUBDIVISION

RENOVATED EXISTING SHED

NEW ARBOR  
NOT PART OF  
THIS APPLICATION  
PLANNING PERMIT  
No. 2012-214

OFFICE

OFFICE

557 ST KILDA ROAD  
CENTRAL COURT

OFFICE

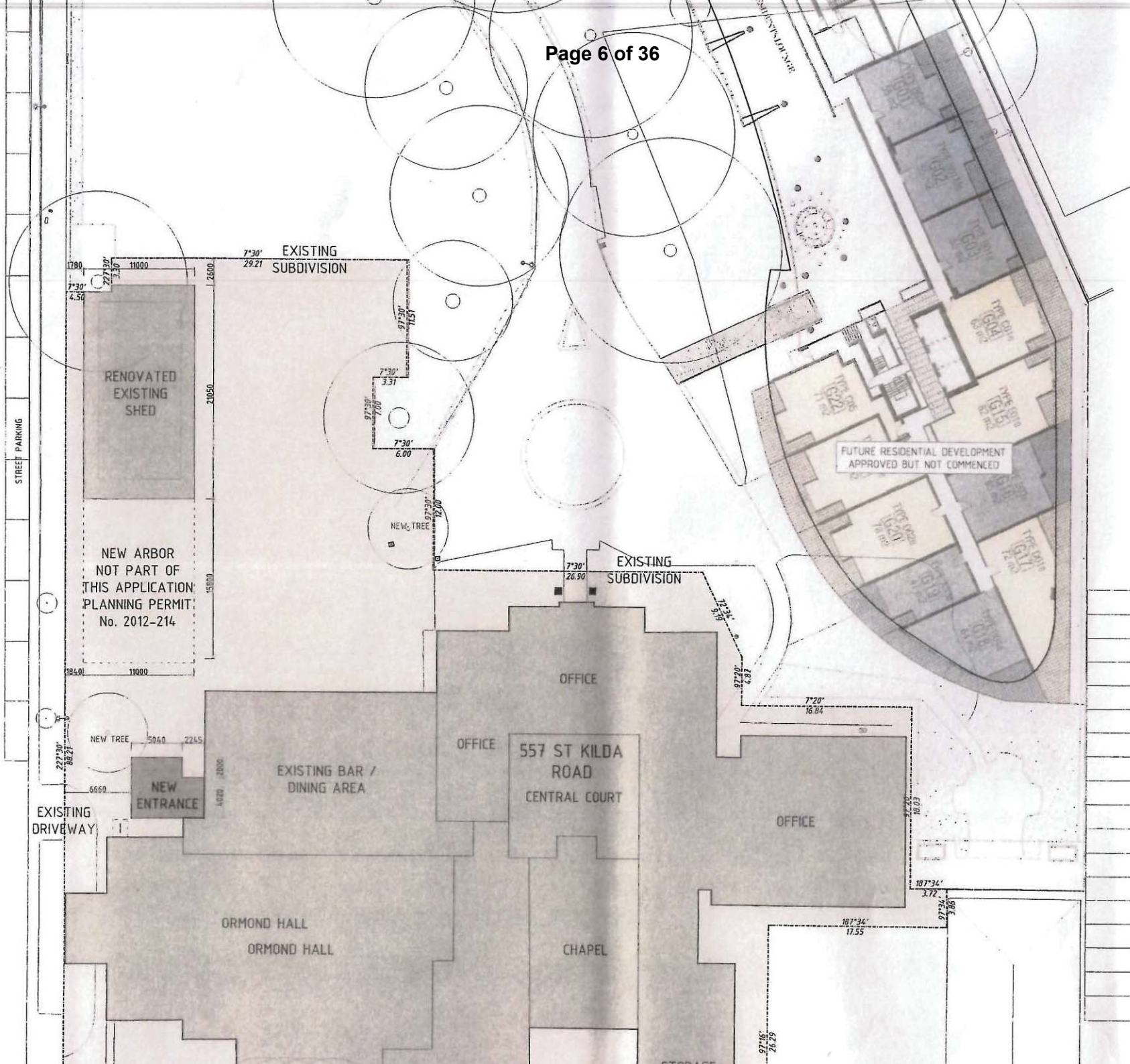
EXISTING BAR /  
DINING AREA

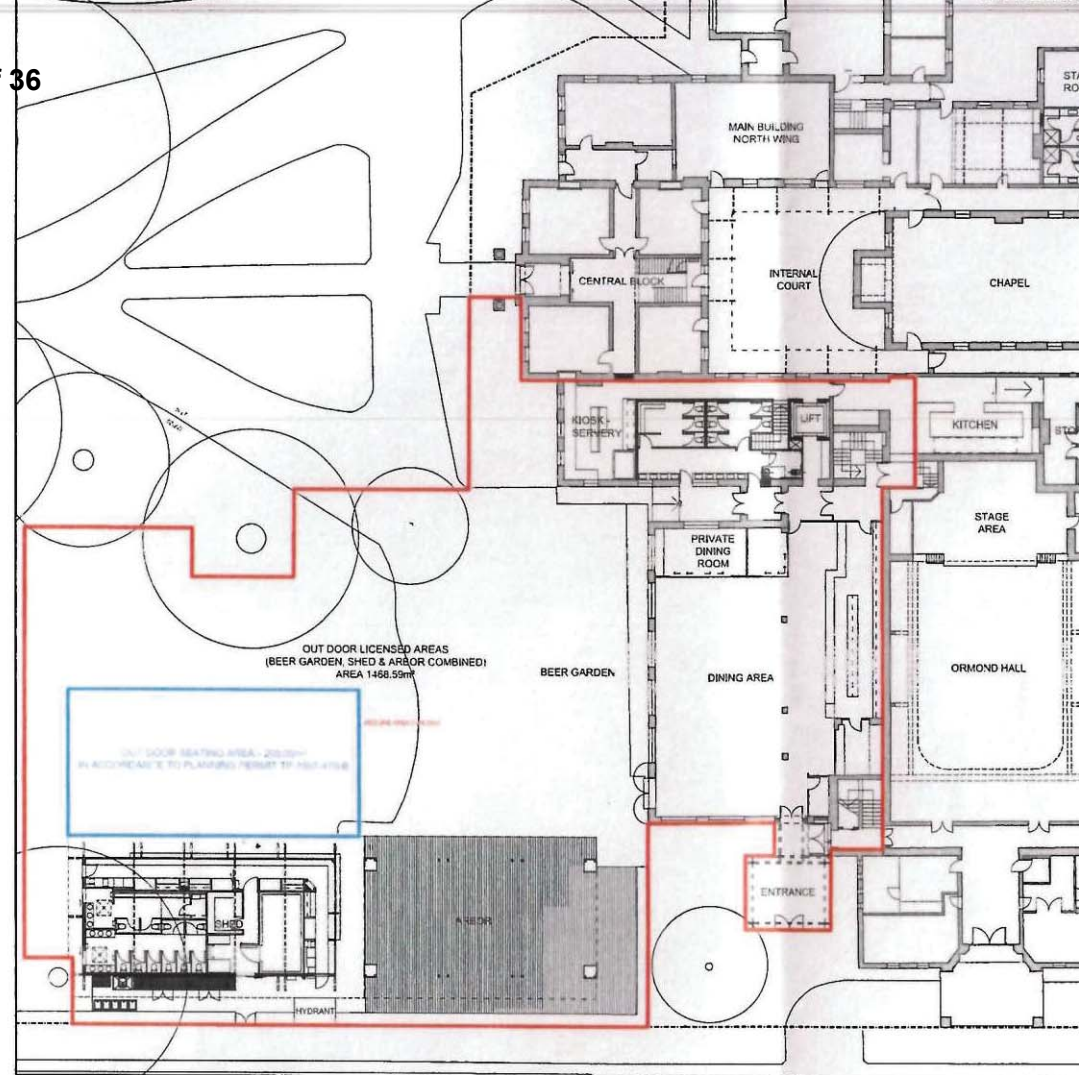
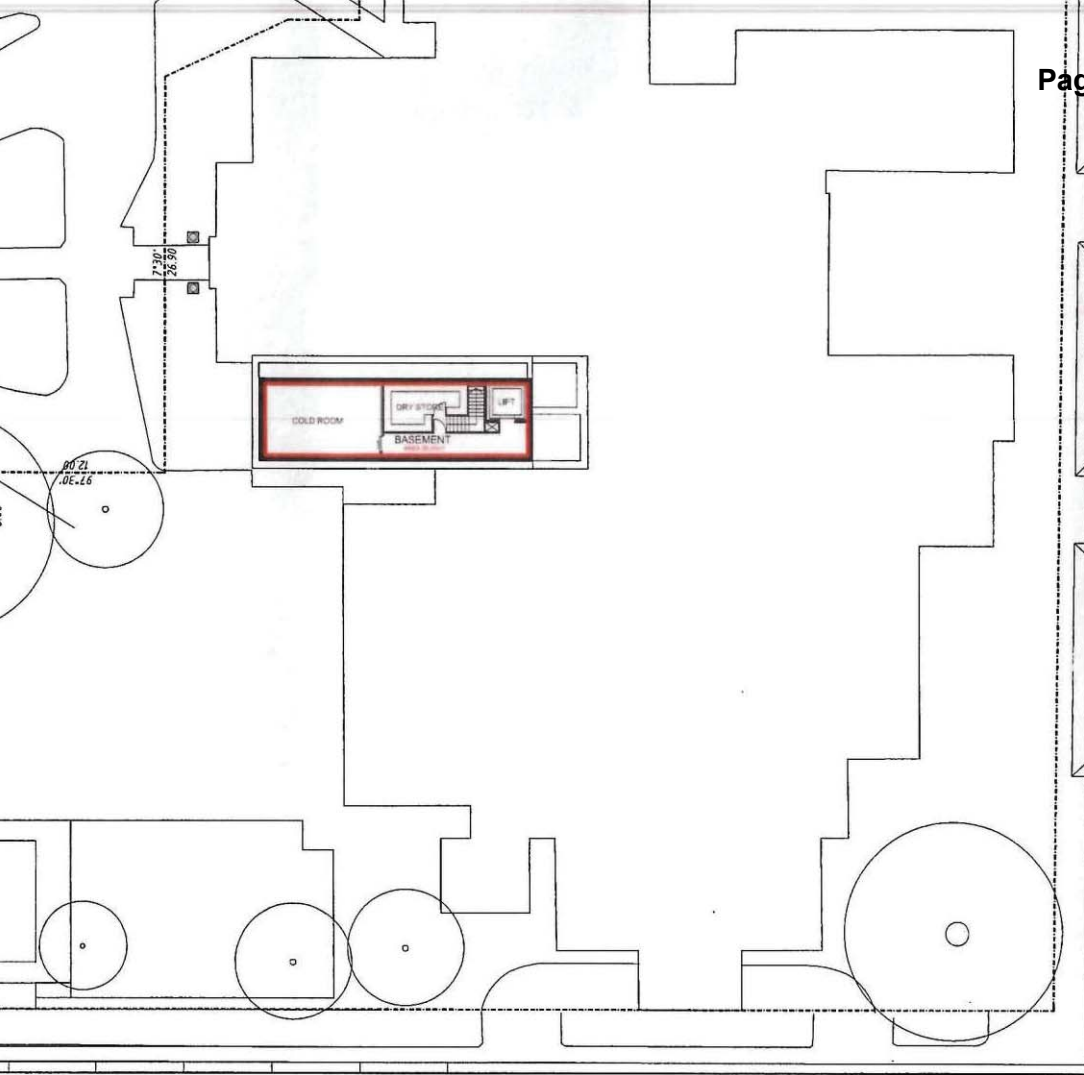
NEW ENTRANCE

ORMOND HALL  
ORMOND HALL

CHAPEL

FUTURE RESIDENTIAL DEVELOPMENT  
APPROVED BUT NOT COMMENCED



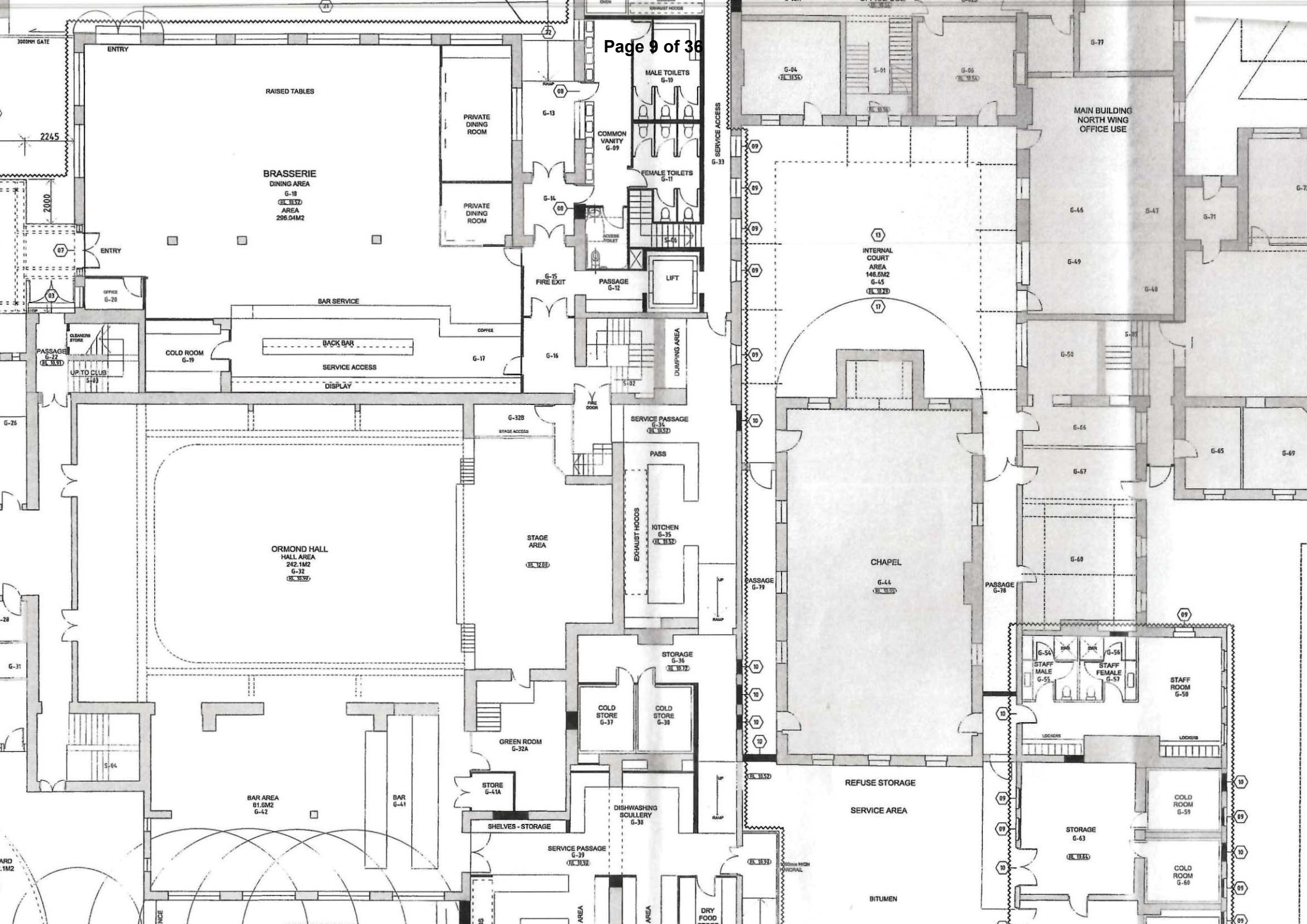


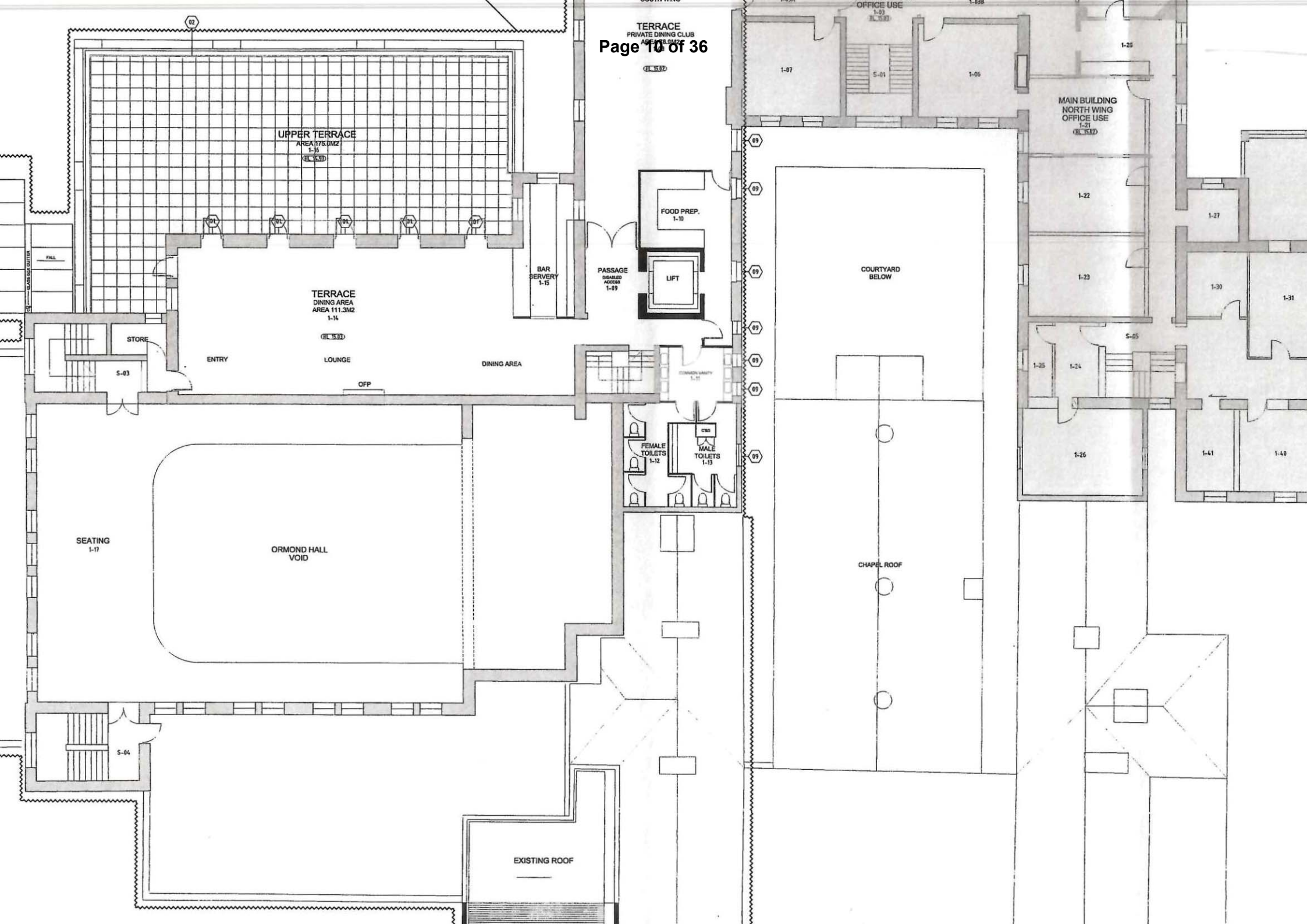
BRASSERIE - GROUND FLOOR

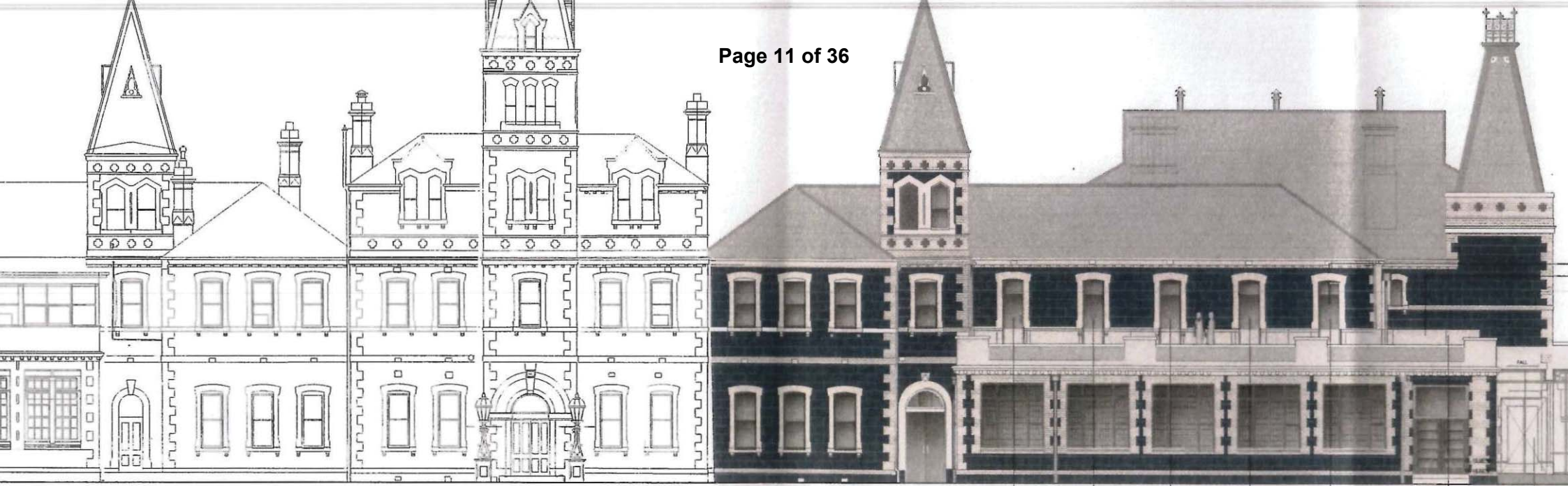
DEVELOP  
31 00  
PLAN











TION

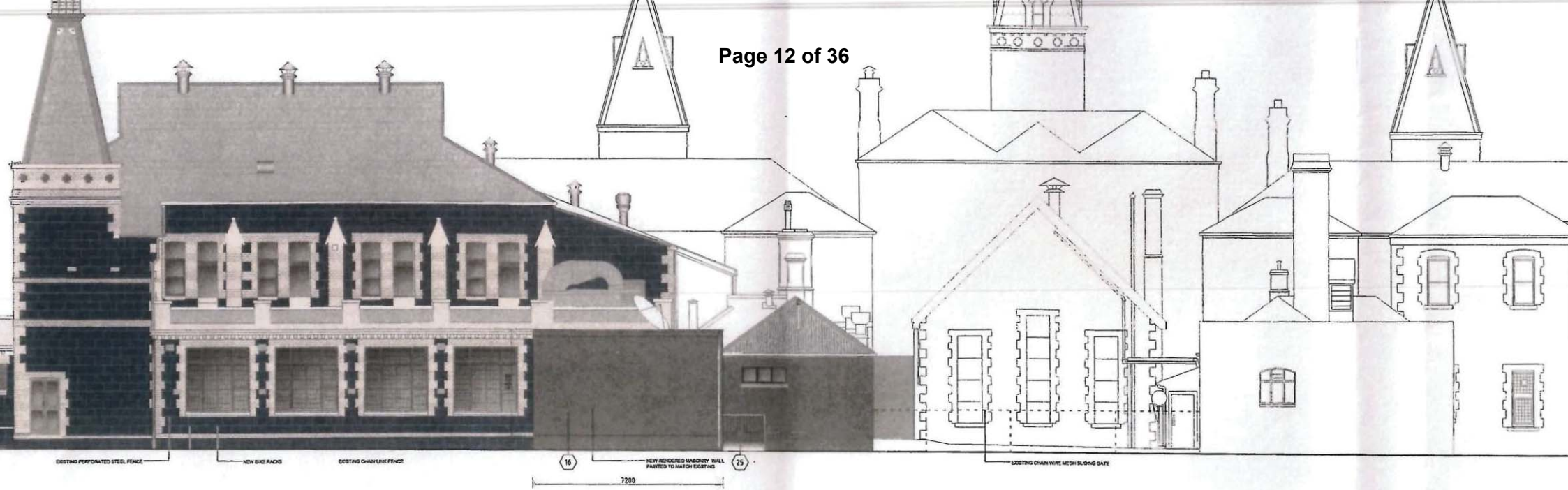
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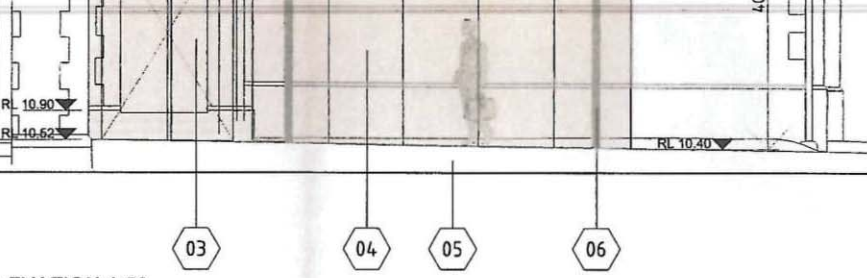


RL 24.00

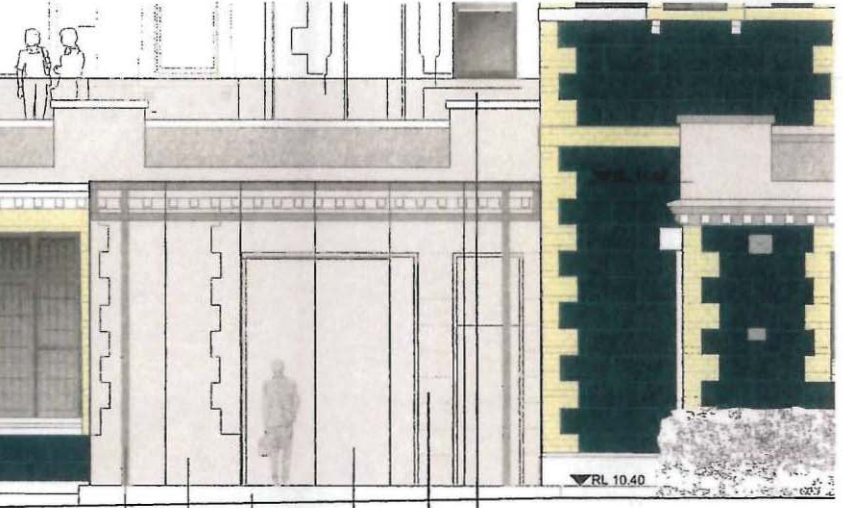
RL 21.15

NEW RENOVATED MASONRY WALL  
PAINTED TO MATCH EXISTING  
FFL 15.15



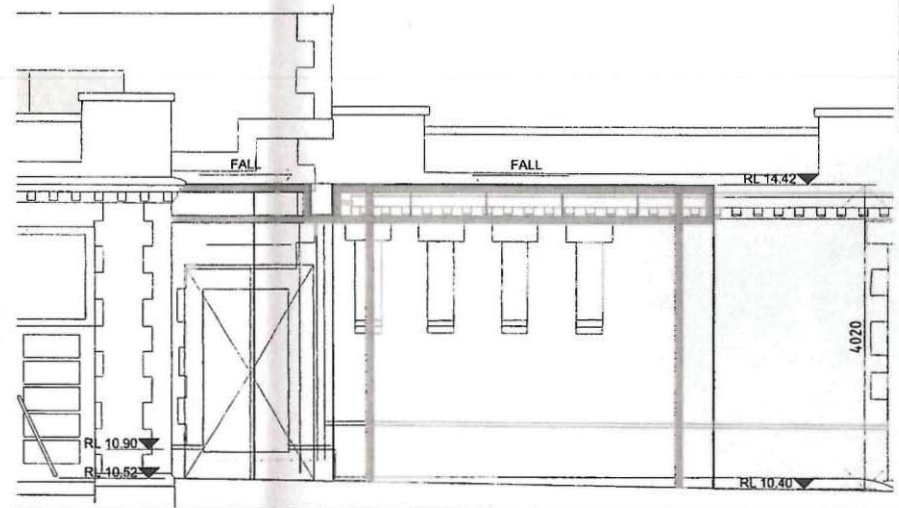


ELEVATION 1:50

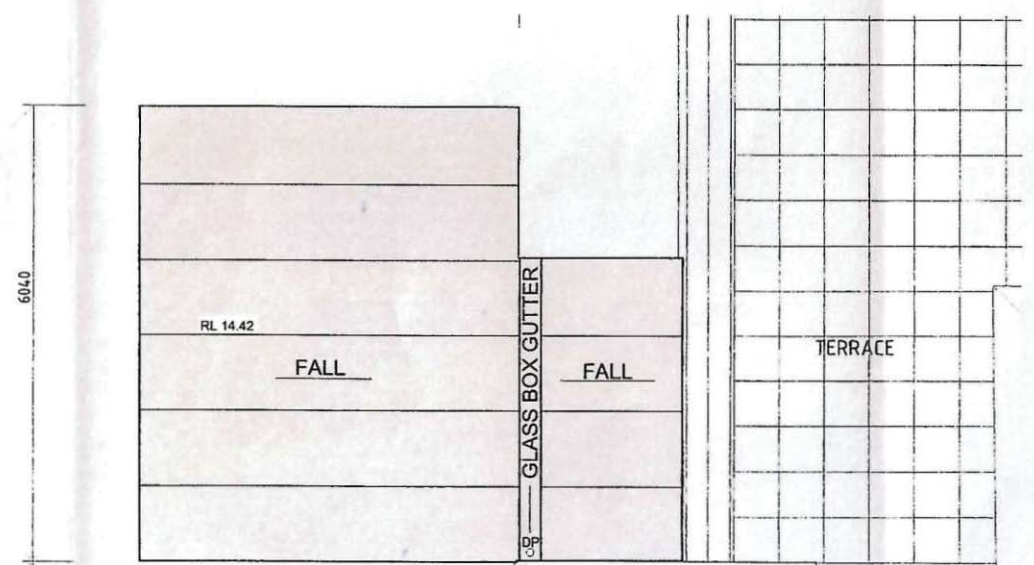
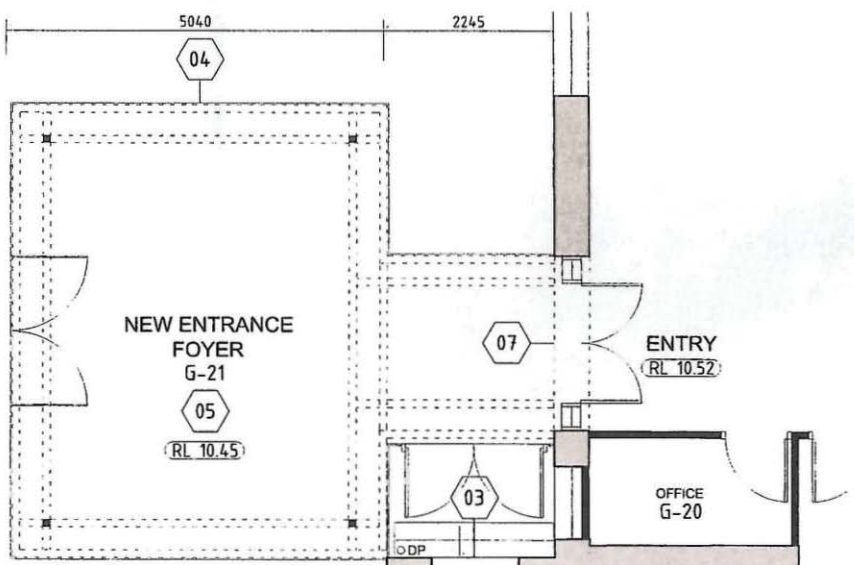
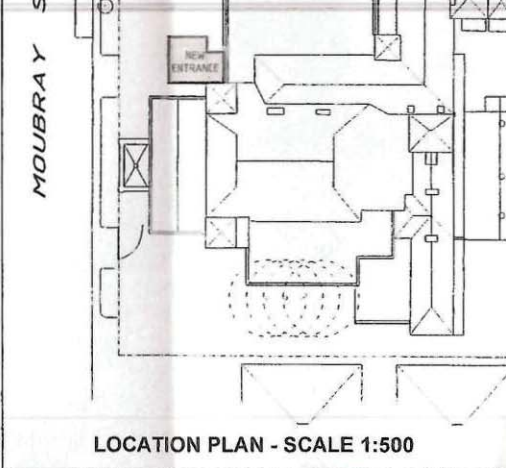


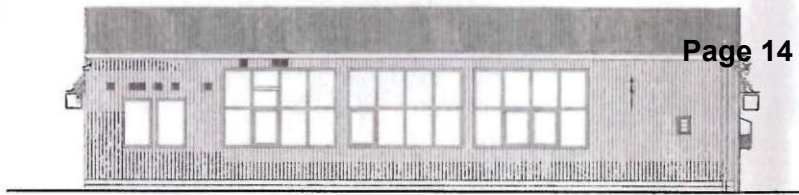
ELEVATION 1:50

1000mm HIGH CLEAR TOUGHENED GLASS BALUSTRADE  
 CLEAR TOUGHENED GLASS STRUCTURE SUPPORTED ON INTERNAL METAL FRAME

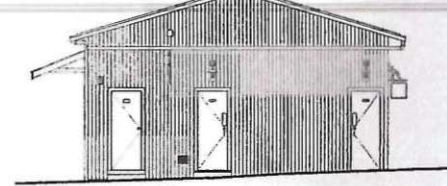


SECTION 1:50

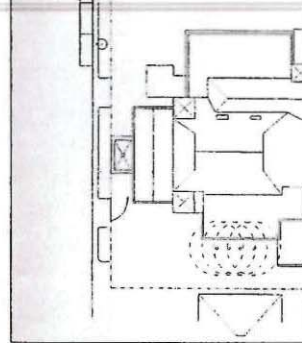




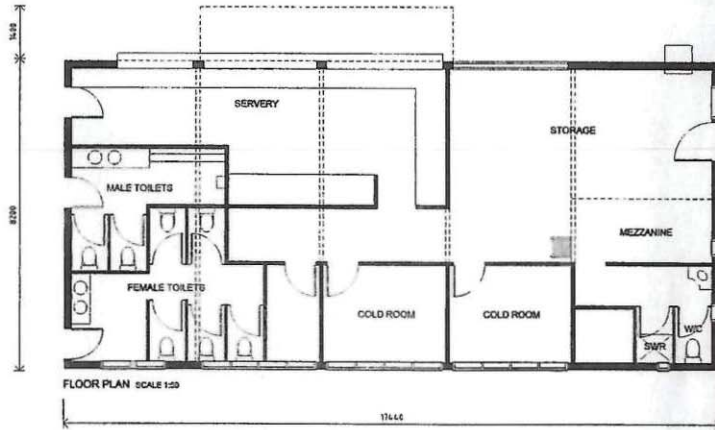
SOUTH ELEVATION



WEST ELEVATION

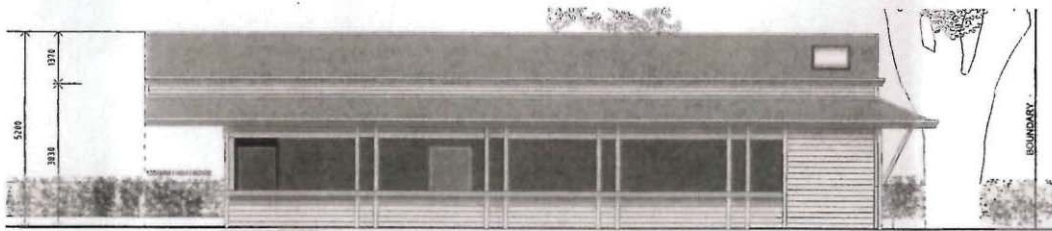


LOCALITY PLAN - N.T.

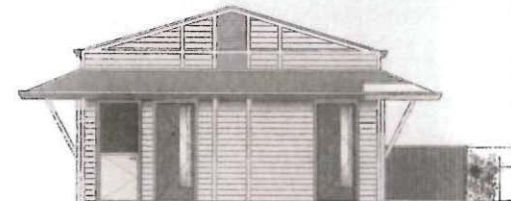


FLOOR PLAN SCALE 1:20

EXISTING PLAN & ELEVATIONS - SHED



NORTH ELEVATION



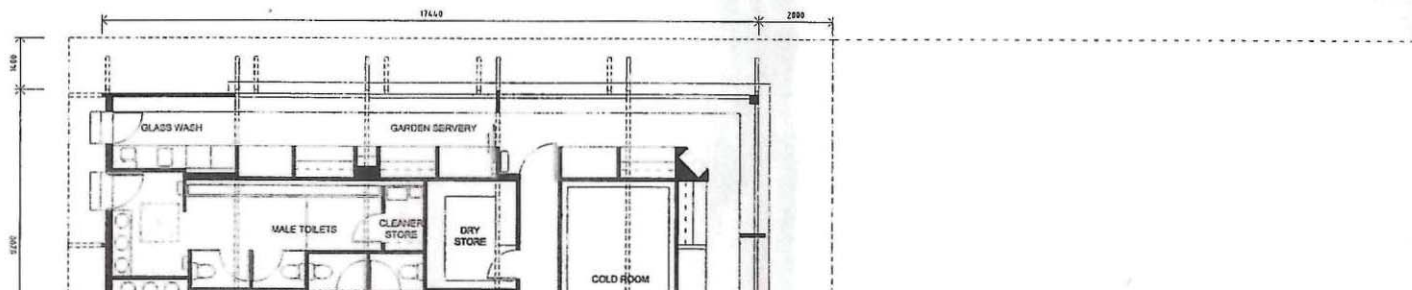
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



14100

17440

2500

100MM HIGH FIXED VERTICAL TRACKER BATTERY SCREEN  
EXISTING 1200MM HIGH FENCE & HEDGE

100MM HIGH FIXED VERTICAL TRACKER BATTERY SCREEN  
EXISTING 1200MM HIGH FENCE & HEDGE

## DELEGATED PLANNING APPLICATION REPORT

<b>Application number:</b>	<b>TP-2013-648</b>
<b>Applicant:</b>	<b>Bluestone Park Pty Ltd &amp; Kevin Hunt Property P/L</b>
<b>Address:</b>	557 St Kilda Road, MELBOURNE VIC 3004
<b>Proposal:</b>	Extend existing licensed premises, carry out development, increase hours of operation and patron numbers, increase licensed area, amend existing General Licence to On Premises Licence and reduce car parking and bicycle parking requirements
<b>Date of application:</b>	16 August 2013. Application amended on 23 July 2014.
<b>Responsible officer:</b>	Stephen Vecris

### 1 SUBJECT SITE AND SURROUNDS

The site has a total area of 5580 sqm and is located on the north side of Moubray Street, between St Kilda and Punt Roads. It is occupied by Ormond Hall and surrounding outdoor areas, the largest of which is to the west of Ormond Hall.

Ormond Hall is a two storey bluestone building constructed during the Early Victorian period. It is 'A' graded within a Level 1 streetscape pursuant to Council's Heritage Places Inventory. Integrity and condition are both described as 'good'. It is also included on the Heritage Victoria Register.

There are a number of existing uses within Ormond Hall, including offices and storage areas, as well as a hall approved for use for private and public functions and a bar/restaurant. Further information regarding this is set out below.

The site also includes a shed adjacent to the Moubray Street frontage of the site. The shed includes a servery which opens to an outdoor area. East of the shed, a pergola (or arbour) is currently under construction. To the north of the shed and arbour is an outdoor area used as a bar/restaurant.

The site is affected by a number of easements and a covenant pursuant to the Heritage Act. The current application is not contrary to either the easements or the covenant.

Nearby land uses include those described below.

To the west and immediately north of the western portion of the subject site is a vacant, landscaped area (555 St Kilda Road). A planning permit has been issued to develop this site. Further information regarding this is set out below.

North of 555 St Kilda Road, at 553 and 549 St Kilda Road are multi-storey buildings occupied by commercial uses. North of 549 St Kilda Road, at 545 St Kilda Road is a 3 storey building, occupied by apartments

North of the subject site, across Alfred Lane, fronting Commercial Road is the Alfred Hospital.

To the east of the subject site and to the north of the eastern part of the subject site is 'Fairfield House', which is part of the Alfred Hospital.

East of Fairfield House, across a private lane (Moubray Lane) is the Freemasons Homes of Victoria Coppin Community Hostel residential care facility for aged persons.

South of the subject site, on the opposite side of Moubray Street is Wesley College.

Land uses on the west side of St Kilda Road in the vicinity of the subject site include a mix of commercial and residential uses.

## **2 BACKGROUND AND HISTORY**

### **2.1 Pre-application discussions**

There were no pre-application discussions.

### **2.2 Planning Application History**

The subject site has an extensive history in terms of planning permits. Following is a summary of those most relevant to the current application.

Planning Permit TP-1997-419 was issued 8 August 1997 and allows:

' Use of part of the existing building and part of the abutting gardens for the purposes of a bar/restaurant with a General Liquor Licence, trading over the following hours:

Monday to Saturday, 7 a.m. to 1 a.m. the following day.

Sunday, 10 a.m. to 11 p.m.

Condition 3 of this permit states that the outdoor dining area must be restricted to an area of 200 sqm.

The endorsed plans show that the indoor area is a west wing of Ormond Hall and that the outdoor seating area is west of Ormond Hall, to the north of the shed on the Moubray Street frontage.

On 23 February 2006, Planning Permit TP-1997-419 was amended and re-issued as TP-1997-419/A. Condition 3 of TP-1997-419 was amended, removing the 200 sqm limit on the size of the outdoor area. The plan endorsed under this permit shows a much larger outdoor area.

On 15 October 2009, the permit was amended again and re-issued as TP-1997-419/B. The plans endorsed under this permit shows the size of the outdoor area has been reduced to 200 sqm.

Planning Permit TP-2002-490 was issued on 1 July 2002 and allows alterations to the existing shed on the Moubray Street frontage of the subject site, to include new doors and external decking adjacent to the shed. The endorsed plans show that the shed includes a bar and servery.

Planning Permit TP-2003-930 was issued on 1 April 2004 and allows the use of Ormond Hall:

'...for the purpose of a Hall for private and public functions and events and waiving of the car parking requirement...'

The permit conditions include a limit of 500 patrons and the following hours:

Sunday – 10 a.m. to 11 p.m.



Good Friday and Anzac Day, 12 noon to 11 p.m.

Any other day, 7 a.m. to 1 a.m. the following day. The endorsed plan shows features including a courtyard, stage and bar.

On 21 July 2014, this permit was amended and re-issued as TP-2003-930/A. The amendment does not significantly alter the permit or the endorsed plans. The major change is that an area of office floor space (approximately 184 sqm) is converted to toilets and a kitchen, forming an extension to the existing floor area approved under the original permit.

Planning Permit TP-2012-214 was issued on 20 December 2012 and allows alterations and additions to the existing shed along the Moubray Street frontage. The endorsed plans show a pergola immediately east of the existing shed. The pergola measures approximately 20 metres x 12 metres and has a retractable roof.

On 16 December 2013, Heritage Victoria issued Permit No. P20251. The endorsed plans show a development very similar to that forming the subject of the current application. The major difference between the two set of plans is that the Heritage Victoria set does not include proposed alterations to the existing shed on the Moubray Street frontage, unlike the plans submitted to Council. The alterations to the shed also require approval from Heritage Victoria.

The adjoining site to the west and north-west is 555 St Kilda Road.

On 3 August 2009, the Minister issued Planning Permit 2008/0788 allowing development of the land for residential purposes and a convenience shop. It is understood that this permit has since been extended and is current. The most recent set of endorsed plans on Council's file show a multi-storey building separated from the subject site by landscaping.

### **3 PROPOSAL**

The application as advertised in November 2013 is summarised below.

#### Development

- Demolish existing kitchen on east side of Ormond Hall and erect new kitchen with same footprint.
- Erect new glazed entry foyer to Moubray Street frontage.
- Erect first floor terrace 175 sqm in area over western part of Ormond Hall. At first floor level, adjacent to this terrace, existing office areas are to be converted to indoor dining areas, one of which will open onto the terrace.
- The shed on the Moubray Street frontage is to be altered. Changes include new windows, wall cladding and an extension to the roof line and the addition of canopies to create covered areas around the shed. This shed currently functions as a servery for patrons in the outdoor area, storage area and also provides toilet facilities. The use of the shed will not change substantially. A screened bin storage area south of the shed is also proposed.
- The submitted plans also include new landscaping.

#### Changes to 'red line' area

The main changes to the red line (licensed) area are summarised below.

The outdoor area is to be increased in size. The relevant liquor licence does not specify a maximum patron capacity for this area. Further information regarding patron numbers is set out below. The harbour area (currently not licensed) will also be included in the licensed area.

The first floor terrace, indoor dining areas and associated toilets will also form an extension to the existing licensed area.

#### Patron numbers

Pursuant to Planning Permit TP-2003-930/A, Ormond Hall has a patron capacity of 500. No change is proposed to this number.

The ground floor west wing of Ormond Hall has a capacity of 260 patrons pursuant to a General Licence. This is proposed to increase to 400 patrons. This licence also covers the shed and outdoor area. However, the red line shown on the liquor licence is substantially larger than the currently approved outdoor area, pursuant to Planning Permit TP-1997-419/B, which limits the size of this area to 200 sqm. It is also noted that this permit does not cover the shed. The applicant's building surveyor has advised that the 200 sqm outdoor area has a maximum patron capacity of 267. This area will be increased in size and its capacity will increase to 1600. The existing capacity of the outdoor area, based on the red line plan is approximately 1600.

The first floor terrace and associated indoor area have a capacity of 400 patrons.

Based on the above and excluding Ormond Hall, patron capacities are 527 (existing, and treating the outdoor area as being 200 sqm) and 2,400 (proposed).

Alternatively, if the outdoor area is treated as being that shown on the red line plan, existing total capacity is approximately 1800.

#### Operating Hours

No change is proposed to the operating hours of Ormond Hall, as approved under Planning Permit TP-2003-930.

Trading hours approved for the ground floor west wing of Ormond Hall and the outdoor area, pursuant to Planning Permit TP-1997-419/B are 7 a.m. to 1 a.m., Monday to Saturday and 10 a.m. to 11 p.m. on Sunday.

Proposed trading hours for all areas (other than Ormond Hall) are to be 7 a.m. to 1 a.m. the following day, 7 days per week.

#### Change of Licence type

A General Licence currently applies to ground floor west wing of Ormond Hall and the outdoor area while Ormond hall has an On-Premises licence. It is proposed that the entire licensed area be covered by an On-Premises Licence.

#### Car and bicycle parking

No car parking is to be provided on site, as per existing conditions.

The applicant advises that loading/unloading will continue to be carried out via the laneway located at the east boundary of the site. Note – Planning Permit TP-2003-930/A (Ormond Hall) states that loading/unloading must take place from Moubray Street.

Six new bicycle spaces are to be provided on site.

On 23 July 2014, the application was amended. The changes made to the application are summarised below.

The total patron capacity of the premises has been reduced from 2,400 people to 2,000 (excluding Ormond Hall).

Other than on New Year's Eve (and excluding Ormond Hall), the amended application proposes the following reductions in patron capacities within the garden/arbours area.

Friday and Saturday

- 800 patrons from 10 p.m. to 11 p.m.
- 600 patrons from 11 p.m. to midnight.
- 450 patrons from midnight to 1 a.m.

Sunday to Wednesday

- 300 patrons from 10 p.m. to 11 p.m.
- 200 patrons from 11 p.m. to 1 a.m.

Thursday

- 500 patrons from 10 p.m. to 11 p.m.
- 450 patrons from 11 p.m. to midnight.
- 400 patrons from midnight to 1 a.m.

On any day, 1200 patrons until 10 p.m.

The amended application also states that the applicant would accept a number of conditions on the permit, including the following:

- Trading hours on Anzac day and Good Friday to be noon to 1 a.m. and 10 a.m. to 1 a.m. on Sundays.
- No outdoor amplified live music permitted.
- Outdoor music to be limited to background levels only.
- No loudspeaker may be installed or used outdoors.

#### 4 STATUTORY CONTROLS

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

Clause	Permit Trigger
Commercial 1 Zone	<p>Pursuant to Clause 34.01-1 a permit is not required to use the land for a retail premises (other than a shop). The proposed use can most accurately be described as a tavern, which falls under the definition of 'retail premises'. Therefore, the proposed use does not require a permit.</p> <p>Pursuant to Clause 34.01-4, a permit is required to construct a building or to construct or carry out works, with a number of exemptions. The proposed works do not fall under any of the exempt categories and therefore require a permit.</p>
Design and Development Overlay	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building and to construct or carry out works, unless exempted by the relevant schedule.</p>
Schedule 17	<p>Pursuant to Clause 2.2 a permit is not required for a building or works to be constructed up to 33 metres in height above the Australian Height Datum. As the proposed works are less than 33 m in height above the AHD, no permit is required under this overlay</p>

Schedule 19 (Area 41)	Schedule 19 does not exempt any buildings or works from the need for a permit. Within Area 41 a discretionary maximum building height of 60 m applies, as does a 13.7 m setback requirement from St Kilda Road
Heritage Overlay 492 (557-563 St Kilda Road and 1-23 Moubay Street)	Pursuant to Clause 43.01-2, no permit is required under the Heritage Overlay to develop a place included on the Victorian Heritage Register (VHR). As the subject site is included on the VHR, no permit is required under the Heritage Overlay.
Clause 52.06 Car Parking	<p>Pursuant to Clause 52.06-2, before a new use commences or the floor area or site area of an existing use is increased, the car spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority. A permit is required to reduce the requirement.</p> <p>Table 1 at Clause 52.06-5 set out a ratio of 0.4 spaces per patron for a tavern.</p> <p>Using this ratio, the increase in patron capacity generates a requirement for 589 car spaces.</p>
Clause 52.27 Licensed Premises	Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor.
Clause 52.34 Bicycle Facilities	<p>Pursuant to Clause 52.34, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land.</p> <p>No bicycle parking ratio is specified for a tavern under Clause 52.34, however pursuant to Clause 75 a tavern is nested under Retail Premises. The following bicycle parking ratios are set out for Retail Premises:</p> <p>1 space per 300 sqm of leasable floor area for employees and 1 space per 500 sqm of leasable floor area for patrons.</p> <p>Using these ratios (and treating the outdoor area as leasable floor area), the proposal generates a requirement for 6 spaces for employees and 3 spaces for patrons. The proposal provides 6 bicycle spaces. Therefore, a permit is required for a reduction</p>

## 5 STRATEGIC FRAMEWORK

### 5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

Clause 13.04-1, Noise abatement seeks ‘to assist the control of noise effects on sensitive land uses’. This clause aims to ‘ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques appropriate to the land use functions and character of the area’.

Clause 17.01-1, Economic Development seeks 'to encourage developments which meet community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'.

Clause 15.01-2 Urban design principles seeks to achieve high quality architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Clause 18.02-1 Sustainable personal transport seeks 'to promote the use of sustainable personal transport'.

## **5.2 Local Planning Policy Framework (LPPF)**

### **5.2.1 Municipal Strategic Statement (MSS)**

Council's Municipal Strategic Statement (MSS) is contained at Clause 21.

The MSS in 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.

Clause 21.16-1 relates to St Kilda Road and South Yarra. The vision includes the following:

'St Kilda Road remains a premier boulevard containing high density office and residential development. The continued development of the area has necessitated the introduction of a wide range of uses and services to support residents, workers and businesses...'

Statements regarding economic development include the following:

- 'Ensure that the mix of uses does not prejudice the established character of St Kilda Road as a premier office and residential boulevard'.

Policies regarding built environment and heritage include the following:

- 'Ensure future development in St Kilda Road respects and maintains the prominence of the landscaped boulevard character...'

### **5.2.2 Local Policies**

The relevant local policies are summarised as follows:

Clause 22.17 Urban Design outside the Capital City Zone includes the following objectives:

- To ensure that the scale, siting, massing and bulk of development complements the scale, siting, massing and bulk of adjoining and nearby built form.
- To ensure that the height of buildings relates to the prevailing patterns of height and scale of existing development in the surrounding area.
- To reduce unacceptable bulk in new development.
- To ensure that building design including the use of materials and activities at the ground floor frontages of buildings creates and improves pedestrian interest and engagement.

- To ensure that development uses design and detail to ensure all visible facades (including the rear and sides of buildings) provide a rich and positive contribution to the public realm.
- To ensure that development avoids ambiguity and conflict in the design of fronts and backs of buildings.

The clause provides a list of urban design policies generally relating to building design, height, scale and bulk which the responsible authority should have regard to when assessing new developments.

Clause 22.22 Policy for Licensed Premises that require a planning permit seeks to achieve the following objectives:

- 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.

In relation to noise and patron numbers, the clause provides the following relevant policies:

- The licensed premises should be operated to ensure that noise emissions from the premises:
  - will not have an unreasonable impact on the amenity of the surrounding area;
  - comply with the standards as specified in the State Environmental Protection Policies; and
  - are regulated and monitored, making use of noise limiters where appropriate.
- Noise impacts associated with waste management and bottle crushing should be minimised by incorporating measures such as:
  - On site storage of waste;
  - The use of on-site bottle crushers within noise proof enclosures; and
  - Limiting waste collection before 7 a.m. and after 9 p.m. or earlier when licensed premises is closed.
- The maximum number of patrons permitted in a licensed premise should be limited to manage any unreasonable impact on the amenity of the surrounding uses and area and the maximum occupancy capacity of the premises, as determined by the Building Act 1993.

The clause seeks to limit the hours of operation for licensed premises located in the Business Zones to the following:

- 11 p.m. if the licensed premises are within 30 metres of a residential zone;
- 1 a.m. elsewhere.
- Outdoor areas, including smoking areas, rooftops and open courtyards, should not be occupied past 1 a.m. and in noise sensitive areas alcohol should not be consumed in those areas after 11 p.m.

The decision guidelines for assessing new licensed premises applications are outlined in Clause 22.22-5.

## 6 ZONE

The subject site is located within the Commercial 1 Zone. The purpose of this zone includes:

'To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses'.

Decision guidelines which the responsible authority must consider include:

'The interface with adjoining zones, especially the relationship with residential areas'.

'The provision of car parking'.

## 7 OVERLAYS

The subject site is affected by HO492 (557-563 St Kilda Rd and 1-23 Moubray Street), DDO17 (Shrine Vista) and DDO19-A41 (St Kilda Road Area 41).

As stated above, the proposal does not require a permit under either Design and Development Overlay 17 or Heritage Overlay 492.

The purpose of DDO 19 includes:

- 'To encourage site development that will enhance the appearance, dignity and spaciousness of St Kilda Road'.
- 'To encourage appropriate landscaped outdoor uses within a garden environment'.

With regard to Area 41, the table to Schedule 19 includes the following discretionary height and setback controls:

- 60 metre height.
- 13.7 metre setback from St Kilda Road.

## 8 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

Clause 52.06, Car Parking

Clause 52.27, Licensed Premises

Clause 52.34, Bicycle Facilities.

## 9 GENERAL PROVISIONS

The following general 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.

## 10 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was first given on 14 November 2013 by ordinary mail to the owners and occupiers of surrounding properties (including properties on the west side of St Kilda Road in the City of Port Phillip) and by posting two notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*. 149 objections were received in response.

Notice of the amended application was given by mail on 6 August 2014 to all objectors. Further objections were received in response.

## 11 OBJECTIONS

The application received a total of 199 objections. One objection is in the form of a petition, with 45 signatures. Key points raised are summarised below.

- Excessive patron numbers will adversely impact on neighbouring residents both while at venue and as they depart.
- As an outdoor venue, noise of people socialising cannot be contained within the site and this will affect residents.
- Anti-social behaviour in surrounding area by patrons leaving venue including vandalism, noise, and rubbish left in street and drunkenness.
- Excessive noise from patrons and music is currently being experienced with windows and doors of objectors apartments closed.
- Impact on available on-street parking in the area.
- Traffic congestion.
- Proposed building alterations may compromise heritage features.
- Applicants have for several years been in breach of City of Melbourne and VCGLR laws regarding noise from outdoor area.
- Proposed operating hours are unreasonable.

Increase in patron numbers will increase problems associated with the venue.

The following statements are made in relation to licensed venues in general:

- Operators of licensed premises have little knowledge of or commitment to ensuring departing patrons are properly supervised.
- Staff in licensed venues do not adhere to responsible service of alcohol provisions as they are intimidated by intoxicated patrons. Licensees profiting from alcohol sales are reluctant to refuse service.
- If intoxicated patrons are removed, they are escorted into the street and left to their own devices, often resulting in damage or assault.
- Recently, due to complaints and assaults in connection with late night licensed premises, hours of operation have been reduced in some cases and in the issuing of new licenses. This has resulted in a fall in a number of offences.

These statistics should not be ignored and are a compelling reason to refuse the application.

## 12 CONSULTATION

Given the receipt of the above objections, the following consultation was undertaken:

On 3 February 2014 a meeting was held between Council officers and the applicant.

Matters discussed include the following:

Applicant may reduce proposed patron capacity.

Major issues regarding this application will include number of patrons in outdoor area, management and type of entertainment provided in outdoor area.

All objectors and the permit applicant were invited to a consultation meeting held at the Town Hall on 22 May 2014.



Twenty-three objectors completed an attendance sheet at the meeting. The meeting was also attended by Councillor Pinder-Mortimer, Council officers, the applicant and the operator of the venue.

Matters discussed/issues raised at the meeting include those outlined below.

- The size of the proposed outdoor area is similar to that of the outdoor area currently being used.
- It is currently possible to purchase packaged liquor from the venue as it has a General Liquor Licence.
- Applicant does not intend to provide live amplified music outdoors.
- St Kilda Road residents have been affected by music noise from the subject site in the past, including live bands. Concern that current proposal will make matters worse.
- Anti-social behaviour of departing patrons.
- Venue is currently poorly managed.
- Noise from patrons talking over music.
- Concerns regarding patrons leaving premises carrying glasses of alcohol, impact on availability of on-street car parking, people noise from outdoor area, vandalism and lack of crowd controllers at gate.

Following this meeting, the applicant reviewed the proposal. Subsequently, the application was amended.

## **13 REFERRALS**

### **13.1 Internal**

The application was referred internally to Engineering Services, Urban Design, Heritage Adviser, Building Control and Urban Landscapes.

#### **13.1.1 Engineering**

##### Traffic

Initial advice was received from Traffic Engineering in a memo dated 19 December 2014. Main points raised are summarised below.

- Applying the Planning Scheme ratio of 0.4 spaces per patron for a tavern, proposed increase in patron numbers generates a requirement for additional 749 car spaces.
- Proposal will have severe impact on the availability of the parking supply in the area. Strong objection is offered to the proposed increase in patron numbers.
- No information is provided on the type of bicycle parking proposed.
- Existing loading facilities on site are acceptable.
- If a permit is issued, applicant should be advised that on-street parking restrictions will not be changed for the development and that staff etc. will not be eligible to receive parking permits.

Subsequently, the applicant's traffic engineer met with Council's traffic engineers and following this meeting, provided additional information in relation to matters including:

- Existing patronage mode of travel.

- Proposed patronage.
- Anticipated parking demands.
- Applicant is willing to reduce patron capacity to 2,000 (excluding Ormond Hall).

Council's traffic engineer reviewed this information and advised that, based on survey work carried out by the applicants' traffic engineer, available on-street parking supply exceeded demand at all surveyed times on Friday, Saturday and Sunday. Further analysis and a chart provided indicate that the maximum limit was only reached on several occasions, including the Christmas period.

Given the additional information provided and the proposal to reduce patron capacity to 2,000 (excluding Ormond Hall), no objection to the application is offered with regard to Traffic management matters.

#### Waste

The waste management plan complies with Council's 2012 guidelines. Recommended conditions regarding waste matters are provided.

#### Infrastructure

Comments raise matters of detail which can be addressed by conditions if a permit is issued.

#### **13.1.2 Heritage Adviser/Urban Design**

On 16 September 2013, Heritage Victoria referred an application for the proposed development of the site to Council for comment.

After receiving advice from the Heritage Adviser, Council responded to Heritage Victoria, offering no objection to the grant of a permit.

Urban Design comments on the planning application were subsequently received, broadly supporting the application, but recommending minor changes to the glass entry feature. The Heritage Adviser agreed that this modification would improve the heritage outcome for the site. Council advised Heritage Victoria of this. The permit issued by Heritage Victoria does not require this modification.

#### **13.1.3 Building Team**

A Construction Management Plan will be required.

#### **13.1.4 Urban Landscapes**

All trees to be removed are on private property and none are on the Exceptional Tree Register.

When work commences it is possible that Council street trees could be impacted by construction traffic and activities. During all phases of work Council trees must be protected in accordance with the City of Melbourne's Tree Protection Policy.

### **13.2 External**

There was no requirement to refer the application externally.

## **14 ASSESSMENT**

The application seeks approval to extend the existing licensed premises, carry out development, increase hours of operation and patron numbers, increase licensed

area, amend existing General Licence to On Premises Licence and reduce car and bicycle parking requirements. The key issues for consideration in the assessment of this application are the history of the venue and impacts associated with:

- Patron numbers.
- Noise.
- Hours of operation.
- Reliance on on-street car parking.
- Cumulative impact.
- Change of licence type.
- Whether the proposed development is appropriate.

#### **14.1 History of premises**

Decision guidelines set out under Clause 22.22.5 for extensions to existing licensed premises include consideration of complaints and problems with the premises as well as breaches of planning permit or liquor licence conditions.

There is a history of noise complaints to Council regarding these premises.

Planning Permit TP-1997-419/B includes the conditions below.

'The outdoor dining area must be in accordance with the plans endorsed under this permit'.

As stated above, the outdoor area approved under this permit is 200 sqm in area. Based on Building Regulations, this area can accommodate up to 267 people. The operator of the venue has been using an area much greater than 200 sqm, catering for well over 267 patrons, based on the red line area approved under the relevant liquor licence.

'The maximum noise level emitted from the premises shall not exceed level specified in the State Government Protection Policy (Control of Music Noise from Public Premises), No. N-2'.

It cannot be stated with certainty whether this condition has been breached. However, the history of complaints to Council regarding music noise from the venue suggests it is likely this condition has been breached.

'No nuisance or annoyance to persons beyond the site shall be caused by the use hereby permitted'.

Based on complaint history and objections to the current application, this condition has been contravened.

#### **14.2 Patron numbers**

Excluding the use of Ormond Hall as approved under Planning Permit TP-2003-930/A, the venue currently has the following patron capacities:

- 260 within the ground floor west wing of Ormond Hall pursuant to the relevant liquor licence.
- 267 within the outdoor area, based on an area of 200 sqm approved under Planning Permit TP-1997-419/B.

However, it is understood that the outdoor area has been operated in accordance with the relevant liquor licence which allows the use of an area of well over 200 sqm. The precise patron capacity of this area is not known as the liquor licence does not

specify a capacity for this area and the relevant red line plan is not drawn to scale. It is estimated that this area has a capacity of approximately 1600.

Proposed capacities are:

- 800 within the ground floor west wing of Ormond Hall and the new first floor area above. This is an increase of 540 patrons within this part of the venue.
- Maximum of 1200 within the garden/arbours area.

In relation to patron numbers, Clause 22.22 states that the maximum number of patrons should be limited to manage any unreasonable impact on the amenity of surrounding uses and the maximum occupancy capacity of the premises, as determined by the Building Act 1993.

The applicant has suggested a gradual reduction in patron numbers after 10 p.m. This would be difficult to enforce when the venue is at capacity. It is unclear how this could be practically managed. For example at 10 p.m. on a Wednesday, this would require 900 patrons to move from the outdoor area.

There is a history of noise complaints and on-going breaches of existing permit conditions in relation to this venue. Complaints regarding noise emissions from the site have mostly been from residents on the west side of St Kilda Road. A permit exists for a new apartment building at 555 St Kilda Road. This is much closer to the subject site than the apartments on the west side of St Kilda Road. Objections and matters raised at the consultation meeting include concerns about poor behaviour in streets by departing patrons. In light of these circumstances, the increase in patron capacity of the outdoor area is not supported.

The increase in the capacity of the ground floor west wing of Ormond Hall and the first floor addition above (including an outdoor area) is acceptable because the increase capacity is mostly indoors, where music and patron noise can be contained more effectively than outdoors. Nevertheless, the outdoor space is in a noise sensitive area. Therefore, alcohol should not be consumed in this area after 11 p.m.

Reducing the capacity of the garden /arbours area to 267 (the permitted number based on an area of 200 sqm as approved under Planning Permit TP-1007-419/B) will substantially reduce amenity impacts resulting from the use of this area, compared to the proposed patron capacity of 1200.

### **14.3 Noise**

One of the main sources of potential amenity impacts from licensed premises is noise. Main noise sources are:

- Music noise from within the site.
- Patron noise from within the site.
- Noise from departing patrons.

#### Noise from within the site – Patron Noise

Acoustic reports have been submitted by Marshall Day Acoustics (MDA). A report initially submitted with the original application was superseded by a further report which formed part of the application as advertised in November 2013. A supplementary report forms part of the application as amended on 23 July 2014. These reports include the information set out below.

The closest noise sensitive use will be the apartment building at 555 St Kilda Road.

Noise from existing activities in the outdoor area was measured during a Christmas celebration on 21 December 2012 between 4.30 p.m. and 6 p.m. Patron noise during this event was considered representative of a 'worst-case' scenario. During the measurement period there were approximately 1200-1300 patrons in the garden/arbours area and amplified music at background level was played through a public address system. Noise measurements were taken within the outdoor area and at a location representing the facade of the proposed dwellings. The measurement results include an indication that at a distance of 40 metres, patron noise dominated over music noise.

There are currently no legislative controls or noise guidelines which can be applied to assess patron noise in outdoor areas.

MDA has prepared assessment criteria for noise levels. Criteria for the night time period are the most stringent. Compliance with night time criteria will result in compliance with day and evening criteria. The criterion set is 60-65 dBL amax for the maximum noise level measured outside an open bedroom window for the hours of 10 p.m. to 7 a.m. the following day, Monday to Saturday and 10 p.m. to 8 a.m. for Sunday. This criterion derives from NSW government policy.

With reduced patron numbers in the garden/arbours area, as per the amended application, predicted maximum noise levels will remain in the range of 65-73 dBL amax and may at times exceed the proposed maximum noise criterion at night by up to 8 dB. Advice from the applicant's acoustic engineer indicates that the dBL amax measurement relates to a random burst of noise and this is independent of crowd size.

Measured background noise levels are provided as is a table setting out allowable levels of noise (5dB above background noise levels). Subject to the reduced patron numbers in the garden/arbours currently proposed, the allowable noise levels will not be exceeded. These are referred to as 'steady state' noise levels (crowd 'hum' or 'babble', as opposed to random bursts of noise, referred to above).

The applicant's acoustic engineer has verbally advised that patron noise from the first floor terrace (if used as tavern or dining area) will not be heard above noise from the garden/arbours. The acoustic report states that it is assumed that this terrace will be mainly used for dining purposes.

At Yve Apartments, located on St Kilda Road approximately 165 metres west of the subject site, patron noise is unlikely to be detectable above traffic noise in St Kilda Road

#### Music Noise

Music noise levels in the garden/arbours are predicted to comply with SEPP N-2 criteria for the nearest apartments at 555 St Kilda Road.

Control over live amplified internal music noise can be achieved by the installation of an in house sound system in conjunction with a music noise limiting system.

Appropriate noise levels may be difficult to achieve for some performers or performance types playing non amplified music outdoors.

A list of suggested permit conditions is provided.

The report also states that with proper management control it is likely that SEPP N-2 limits for music noise at the nearest dwellings can be complied with and that compliance with SEPP N-1 is also likely with correct design and selection of equipment and plant.

The report submitted with the application as first advertised also states that with appropriate facade design of the building at 555 St Kilda Road an acceptable level of

internal amenity can be achieved with windows closed and recommends glazing and masonry types to achieve this. This has been discussed with the acoustic engineer who advises that subject to the reduction in patron numbers, as per the amended application this is no longer necessary and that standard construction will be adequate to achieve acceptable internal amenity. Advice has also been received that the statement regarding closing windows also applies to the amended application.

Further advice has been requested from the acoustic consultant as to whether reducing the size of the garden/arbours area to 200 sqm as per Permit TP-1997-419/B will result an acceptable level of internal amenity to the apartments with windows open. Advice including that set out below has been received in response.

Building facades are commonly designed so that internal noise levels from external steady-state sources (e.g. – traffic) meet those prescribed in the relevant Australian standard when windows and doors are closed.

However, it is generally accepted that opening windows or doors may mean noise levels within the dwellings exceeds levels prescribed by AS2107. This does not necessarily mean that internal amenity will be compromised by opening windows or doors. At subject site, noise from patrons at the nearest affected apartments will be comparable to or below existing traffic noise depending on crowd size and time of day.

Across an open window, internal noise levels from patrons and traffic would be below that likely to interfere with domestic activities such as watching television or having a conversation.

The facade of the new building at 555 St Kilda Road will be designed primarily to control traffic noise. This treatment will also mitigate patron noise.

#### **Noise from patrons departing the venue**

A management plan submitted by the applicant includes the advice set out below regarding management of patrons departing.

- As no part of the venue will operate as a nightclub or live entertainment venue, it is not anticipated that large numbers of patrons will arrive or depart at any one time, ensuring patron departure will be gradual and orderly.
- Staff will be trained to encourage patrons to respect the amenity of the area.
- Signage will be placed at exits to inform patrons of the importance of leaving in a quiet and orderly manner.
- At peak times security staff will be posted on the corner of St Kilda Road and Moubray Street from 11 p.m. until close of business to ensure patrons leave in a quiet and orderly manner.

The impact of departing patrons on the amenity of the surrounding area is difficult to control even for the most responsible operator, particularly where the proposed use is a tavern, where there is a higher risk of patrons being intoxicated than would be the case at a restaurant. The departure of patrons can adversely impact on the amenity of the surrounding area. Based on objections received and comments from local residents who attended the consultation meeting, this has been a problem in the past. The proposed increase in patron capacity is likely to exacerbate such problems. While the proposal in the management plan to have security staff at the corner of Moubray Street and St Kilda Road is commendable, it will not address patron behaviour beyond this point. It is noted that the existing liquor licence includes a condition requiring that when live or recorded amplified music other than background music is played, a crowd controller must be present outside the premises to monitor arriving and departing patrons.

#### 14.4 Hours of Operation

Clause 22.22 states that hours of operation for licensed premises located in Business Zones should be limited to:

- 11 p.m. if the licensed premise is within 30 metres of a residential zone;
- 1 a.m. elsewhere.

In relation to outdoor areas including smoking areas, rooftops and open courtyards, the clause states these areas should not be occupied past 1 a.m. and in noise sensitive areas, alcohol should not be consumed in those areas after 11 p.m.

With regard to extensions to existing licensed premises, Clause 22.22 states that regard should also be given to complaints and problems with the premises and breaches of planning permit or liquor licence conditions. As stated above, there is a history of complaints to Council regarding the venue. Problems with the venue have also been raised in objections and at the consultation meeting.

The subject site is a noise sensitive area, given nearby sensitive uses including the existing Freemasons residential facility at 45 Moubray Street and the proposed residential development at 555 St Kilda Road. Based on Clause 22.22 policy, history and the residential development approved for 555 St Kilda Road, liquor should not be consumed outdoors after 11 p.m.

#### 14.5 Reliance on on-street car parking

As stated above, Council's Traffic Engineers objected to the application as originally lodged, based on the impact on availability of on-street car parking. Further information provided by the applicant's traffic engineer together with the reduction in patron numbers in the amended application have addressed this concern.

#### 14.6 Cumulative Impact

The *Practice Note 61 Licensed premises: Assessing Cumulative Impact* prepared by Department of Planning and Community Development provides the following general guidance as to when a cluster would occur:

- Three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or
- 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.

A cumulative impact assessment undertaken by Urbis on behalf of the applicant recognises that the proposed licensed premises will result in a cluster of such uses in this area. The assessment identifies that there are more than 15 licensed premises (including the subject site) within a 500 metre radius of the subject site.

To determine whether a cluster is appropriate, it is important to assess the mix of licensed premises located in the surrounding area and the impacts these premises have on surrounding land uses.

There are 26 other licensed premises (including some sites with multiple licences) within a 500 metre radius of the site. Premises with Renewable Limited Licences only have been excluded. In summary, the mix of other licensed premises within the study area is as follows:

- Two General licences.
- Two Late Night General licenses.
- Ten On-Premises licences.

- One BYO permit.
- Eleven Restaurant and Cafe licences.

The report states that the proposal will not unreasonably impact on land use mix and amenity for reasons including:

- The venue has been operating as a licensed venue since 1997 and is located within an established cluster of bars, cafes and restaurants.
- It will relinquish its licence to sell liquor for off premises consumption.
- Proposed licensed hours will not extend beyond those of other licensed premises in surrounding area. Proposal now provides certainty as to the maximum capacity which will allow for more planned and structured management.
- Amenity impacts arising from proposal are likely to be minimised because alcohol will be served and consumed within a controlled environment and the venue has indicated that it has a track record of effective management.

The report also states that it is possible that some adverse amenity impacts may arise as a result of extended opening hours on Sundays and increased licensed area. In order to minimise risks, mitigation strategies are suggested. These include:

- Encouraging patrons leaving to use public transport.
- Enforce orderly behaviour of patrons through appropriate crowd control measures.
- Minimise noise and other amenity impacts on future residents of 555 St Kilda Road through appropriate fencing, screening or other noise reduction measures.

The report concludes that the cumulative impact of this proposal on the amenity of the surrounding area will be negligible or positive. It also states that the venue's reported track record of effective management combined with the enforcement of an appropriate management plan and other appropriate mitigation measures will minimise the risks of unreasonable amenity impacts.

As stated above, complaints about the venue have been received by Council. Objections and comments made by objectors at the consultation meeting also suggest that the operation of the venue and the behaviour of departing patrons have caused detriment to the amenity of the area. Taking these factors into account and bearing in mind the number of other licensed premises nearby suggests that the large increase in patron capacity proposed is likely to exacerbate existing amenity impacts.

#### **14.7 Change of Licence type**

The change from a General Licence to On Premises is a positive change. Problems of rubbish being left in the surrounding area and anti-social behaviour identified by objectors are likely to be reduced as a result of this change.

#### **14.8 Proposed development**

The proposed development is relatively minor and uncontentious. It will have no impact on adjoining properties. As the site is included on the Heritage Victoria register, the development does not require a permit under the Heritage Overlay. It also does not require a permit under Design and Development Overlay 17 (Shrine Vista). It is consistent with the provisions applicable to Design and Development Overlay 19, Area 41 which includes a 60 metre discretionary height control,



13.7 metre setback requirement from St Kilda Road and encourages landscaped outdoor uses within a garden environment.

#### **14.9 Conclusion**

The proposal is acceptable and will not have unreasonable amenity impacts, subject to modifications, including a substantial reduction in the size of the outdoor area to address amenity impacts.

### **15 RECOMMENDATION**

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

1. Prior to the commencement of the development (excluding demolition) on the land, two copies of plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans on Council's file marked 'advertised plans, sheets 10-40 but amended to show:

- a) The licensed outdoor area at ground level to accommodate not more than 267 patrons.

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 doors to the first floor terrace must be fitted with automatic closing mechanisms and must remain closed at all times, except to allow access and egress.
3. Prior to the commencement of the use a report by a qualified acoustic consultant must be submitted to the satisfaction of the Responsible Authority outlining the following:
  - a) The applicable SEPP N-2 music noise limits for the day, evening and night-time periods.
  - b) Details of allowable music noise levels in each of the venue areas.

These details must be updated as new noise sensitive areas on or adjacent to the site are developed

4. No live music may be played outdoors.
5. Outdoor music and internal live amplified music levels shall be controlled by the installation of an in house sound system (which must be used for all amplified live music) in conjunction with music noise limiting systems.
6. Outdoor music must be limited to background level only and no such music may be played after 11 p.m. on any day.
7. No loudspeaker may be installed or used outdoors.
8. The maximum noise level emitted from the premises must not exceed levels specified in the *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1*.

9. The maximum noise level emitted from the premises must not exceed levels specified in the *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2*.
10. Except with the prior written consent of the Responsible Authority, the premises must only be open for the use hereby permitted between the following hours:
  - Monday to Saturday, 7 a.m. to 1 a.m. the following day.
  - Anzac Day and Good Friday, 12 noon to 1 a.m. the following day.
  - Sunday, 10 a.m. to 1 a.m. the following day.

Liquor must not be consumed in the outdoor areas after 11 p.m. on any day.

11. The maximum number of patrons in the brasserie and in the terrace areas above must not exceed 800, with not more than 235 in the outdoor area.
12. Prior to the commencement of the use the applicant must submit an operational management plan to address matters including the following:
  - a) The ways in which staff are to be made aware of the conditions attached to this permit.
  - b) Details of the proposed hours of operation of the premises.
  - c) A noise management plan to address the following:
    - On-going consultation between the management of the tavern and the management or occupiers of the future apartments at 555 St Kilda Road. If noise complaints relating to the outdoor areas are received from any of these parties, steps must be taken to address these complaints, to the satisfaction of the Responsible Authority.
  - d) The training of staff in the management of patron behaviour.
  - e) 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.
  - f) Details of the management of patrons in the outdoor area to minimise impacts on the amenity of nearby properties.
  - g) Measures to stop patrons leaving the tavern to smoke in adjacent public spaces and then returning to the tavern.

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.

13. At all times when the premises are open for business, a designated manager must be in charge of the premises.
14. Prior to the commencement of the use, a clearly legible sign must be placed directly outside the entrance to the premises, providing a telephone number effective for contacting the designated manager at all hours when the premises is operating. The design, lighting and maintenance of the sign must be to the satisfaction of the Responsible Authority.
15. Prior to the commencement of the use, signs must be attached to internal walls in prominent positions adjacent to entry/exit points. The signs must advise

patrons to leave the premises in a quiet and orderly fashion and not to linger in the surrounding area. The signs 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 striptease shows and their equivalent.
17. 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. If a bottle crusher is used, it must be placed within a noise proof enclosure, to the satisfaction of the Responsible Authority.
18. The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Leigh Design dated 6 August 2013. The submitted WMP must not be modified or altered without the prior consent of the City of Melbourne – Engineering Services, except that no bottles or other waste material may be removed from the site between the hours of 9 p.m. on any day and 8 a.m. the following morning.
19. All waste must be stored and handled within the site. Bins must not be placed outside the property boundary for collection
20. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.
21. Prior to the commencement of the development a schedule and samples of all external materials, colours and finishes including a colour rendered and notated elevation must be submitted to, and approved by the Responsible Authority.
22. Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
23. The vehicle crossings adjoining the site along Moubray Street must be reconstructed in asphalt, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
24. Existing street levels in Moubray Street must not be altered for the purpose of constructing new vehicle crossings without prior approval from the Responsible Authority – Engineering Services.
25. Prior to the commencement of the development, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group. This construction management plan must be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:
  - a) Public safety, amenity and site security.

- b) Operating hours, noise and vibration controls.
  - c) Air and dust management.
  - d) Stormwater and sediment control.
  - e) Waste and materials reuse.
  - f) Traffic management.
26. During all phases of work Council trees must be protected in accordance with the City of Melbourne's Tree Protection Policy.
27. The development and use as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
28. This permit will expire if one or more of the following circumstances apply:
- a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.
  - c) The use is not started within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the permit if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

29. Prior to commencement of development, a scheme for landscaping and planting in connection with the proposed development must be submitted to, and be approved by the Responsible Authority. The scheme must incorporate water sensitive urban design features to the satisfaction of the Responsible Authority. Except with the prior written consent of the Responsible Authority the approved landscaping must be implemented prior to the occupation of the development. The landscaped areas must be maintained to the satisfaction of the Responsible Authority.

#### Notes

Any requirement to temporarily relocate street lighting must be first approved by the Responsible Authority – Engineering Services.

**Stephen Vecris**

Senior Planning Officer