

Report to the Future Melbourne Committee

Agenda item 6.2

**Planning Permit Application: TP-2020-764
221-229 Faraday Street, CARLTON**

1 June 2021

Presenter: Larry Parsons, Head of Statutory Planning**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application seeking approval for use of the land to sell and consume liquor (restaurant and café liquor licence) at 221-229 Faraday Street, Carlton (refer Attachment 2 – Locality Plan).
2. The applicant is Metropol Planning Solutions on behalf of Ms Frankie Group Pty Ltd. The Owner is Suzanne Brown and the plans included have been prepared by La Greca Design Build.
3. The site is located in the Commercial 1 Zone (C1Z) and affected by the Heritage Overlay Schedule 1 (HO1 - Carlton Precinct), Design and Development Overlay Schedule 48 (DDO48 – Central Carlton North), and Parking Overlay Schedule 12 (PO12).
4. The application seeks to use the single storey brick building to sell and consume liquor in association with a restaurant with ancillary cocktail lounge. The proposed use seeks to sell liquor on the premises between the following hours:
 - Monday to Wednesday: 10am to 11pm.
 - Thursday to Saturday: 10am to 1am the following day.
 - Sunday: 10am to 11pm.
5. The proposal originally sought permission for 500 patrons within the 502 square metre premises. Given the objections received, the applicant has confirmed they would accept a permit condition that would reduce the number to 350 patrons with the exception of special events where 500 patrons are permitted up to six times per calendar year or with the prior written consent of the Responsible Authority.
6. The premises contains a main entry / exit at Faraday Street and the applicant confirmed they would accept a permit condition prohibiting patrons from using the existing rear door to Faraday Lane.
7. The building does not contain any outdoor areas and the restaurant will provide background music only.
8. Public notice of the application was undertaken and 24 objections have been received.

Key issues

9. The key issues for consideration are the appropriateness of the land use (to sell and consume liquor), the proposal's response to the relevant licenced premises policies, amenity impacts, and objections received.
10. The proposed use is consistent with all relevant State and Local Planning Policies, responding appropriately to the purpose of the C1Z, and the policy for licenced premises at Clause 22.22 and Clause 52.27. This conclusion is based on the proposed hours, reduced patronage, lack of live music, and lack of openings / outdoor areas that would otherwise create noise concerns.
11. The proposed use will not introduce unreasonable negative, cumulative impacts relating to the number of licenced premises within the surrounds as the central use of the land relates to the consumption of food.
12. The proposal will contribute to the lively atmosphere of this part of Carlton and can be appropriately managed through permit conditions (including a venue management plan and provision to seek acoustic audits), to ensure the amenity of the surrounding residential uses is not unreasonably impacted.

Recommendation from management

13. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions set out in the delegate report (refer Attachment 4 of the report from management).

Attachments:

1. Supporting Attachment (Page 2 of 22)
2. Locality Plan (Page 3 of 22)
3. Selected Plans (Page 4 of 22)
4. Delegate Report (Page 5 of 22)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (the Act) sets out requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

Finance

3. There are no direct financial issues arising from the recommendations contained within this report.

Conflict of interest

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

Health and Safety

5. Relevant planning considerations such as potential amenity impacts and any potential cumulative negative impact associated with licenced premises that could impact on health and safety have been considered within the planning permit application and assessment process.

Stakeholder consultation

6. Public notice of the application has been undertaken to surrounding owners and occupiers, pursuant to Section 52 of the Act.

Relation to Council policy

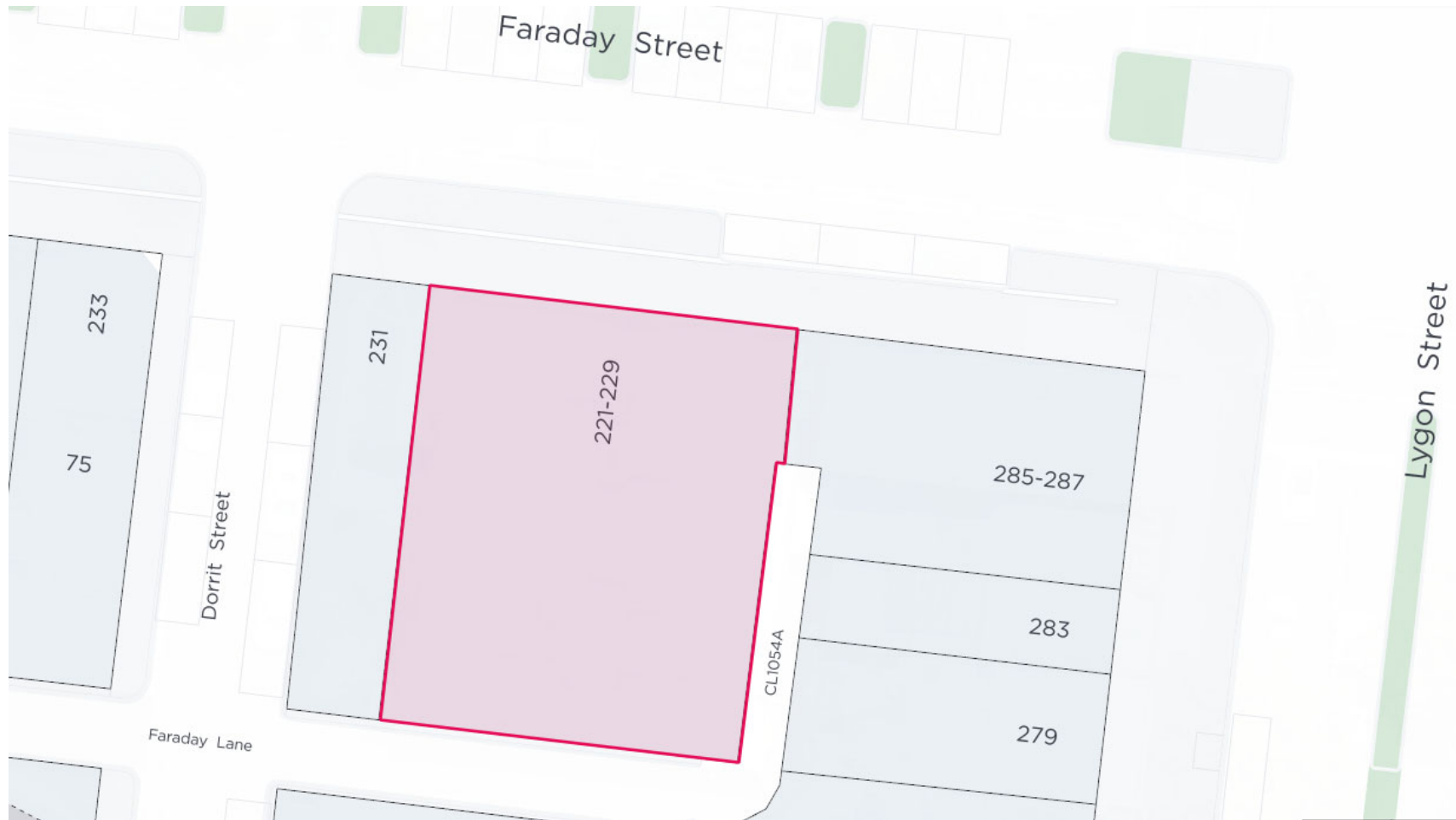
7. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

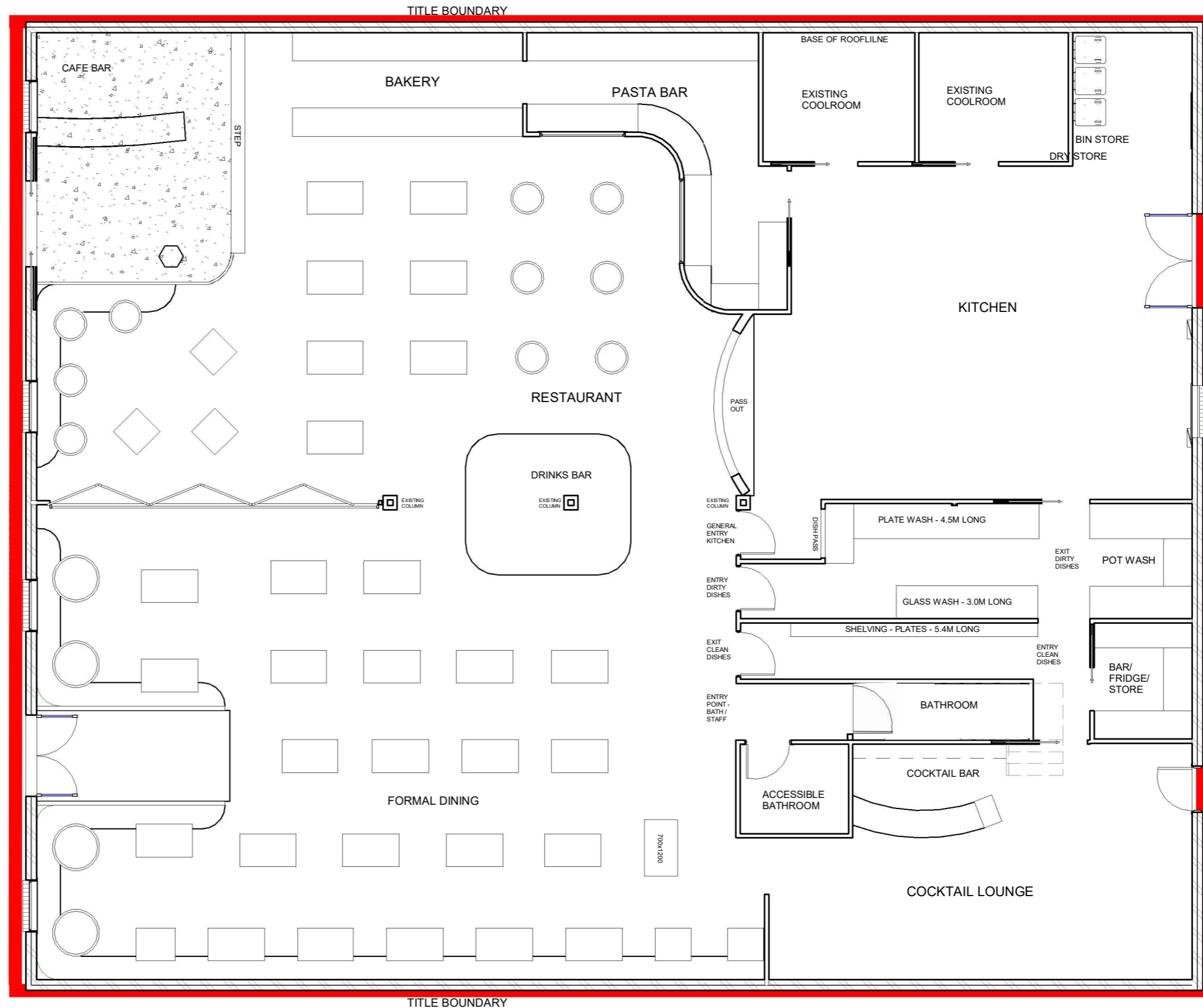
Environmental sustainability

8. This application is for a liquor licence and a Waste Management Plan (WMP) is not required as a permit is not required for the associated land use. The recommended conditions in the Delegate's Report (Attachment 4) provide for waste related management.

Locality Plan

TP-2020-764 – 221-229 Faraday Street, CARLTON





FARADAY LANE (laneway)

LIQUOR LICENCE APPLICATION DRAWINGS

DATE: 06/11/2020. DRAWING SCALE: 1:100 @ A3

SITE DETAILS

Ms Frankie: 221-229 Faraday Street Carlton 3053

**LICENCE AREA INDICATED BY
 RED LINE - 502.06**

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CHECK ALL DIMENSIONS AND ALL SITE CONDITIONS PRIOR TO THE COMMENCEMENT OF ANY WORK, THE PURCHASE OR ORDER OF ANY MATERIALS, FITTINGS, PLANT, SERVICES OR EQUIPMENT AND FABRICATION OF ANY COMPONENTS.

Ms Frankie Restaurant
 221-229 FARADAY STREET CARLTON

Title:	GROUND LEVEL - LIQUOR LICENCE PLAN
Sheet:	CD3-3004
Date:	06/11/2020
Drawn:	TLG
Scale:	1 : 100
Revision:	

LAGRECA
 DESIGN - BUILD

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DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2020-764
Applicant:	Metropol Planning Solutions on behalf of Ms Frankie Group Pty Ltd
Owner:	Suzanne Brown
Architect:	La Greca Design Build
Address:	221-229 Faraday Street, CARLTON VIC 3053
Proposal:	Use of the land to sell and consume liquor
Cost:	\$0 (land use application only)
Date of application:	1 December 2020
Responsible officer:	Ryan Cottrell – Senior Urban Planner

1 SUBJECT SITE AND SURROUNDS

1.1 The Site

This permit application relates to the land known as:

- Lots 1 and 2 on Title Plan 872728S (Volume 10100, Folio 833) (the **Site**) and/or;
- 221-229 Faraday Street, Carlton (the **Site**).

The Site is located on the south side of Faraday Street, Carlton (Figure 1).

The Site is rectangular and has a Faraday Street frontage that measures 20.73 metres, a depth of 24.51 metres, and an area of approximately 508 square metres.

The Site has a rear boundary that adjoins Faraday Lane for a length of 20.71 metres.

There are no restrictive covenants or easements relevant to this application.

The Site is presently developed with a single storey brick building that is vacant but has been used as a food and drink premises in the past.

The City of Melbourne's Heritage Places Inventory February 2020 (Amended July 2020) Part A affords the Site a 'Contributory' heritage category in a non-categorised streetscape.

Figure 1 – Locality map

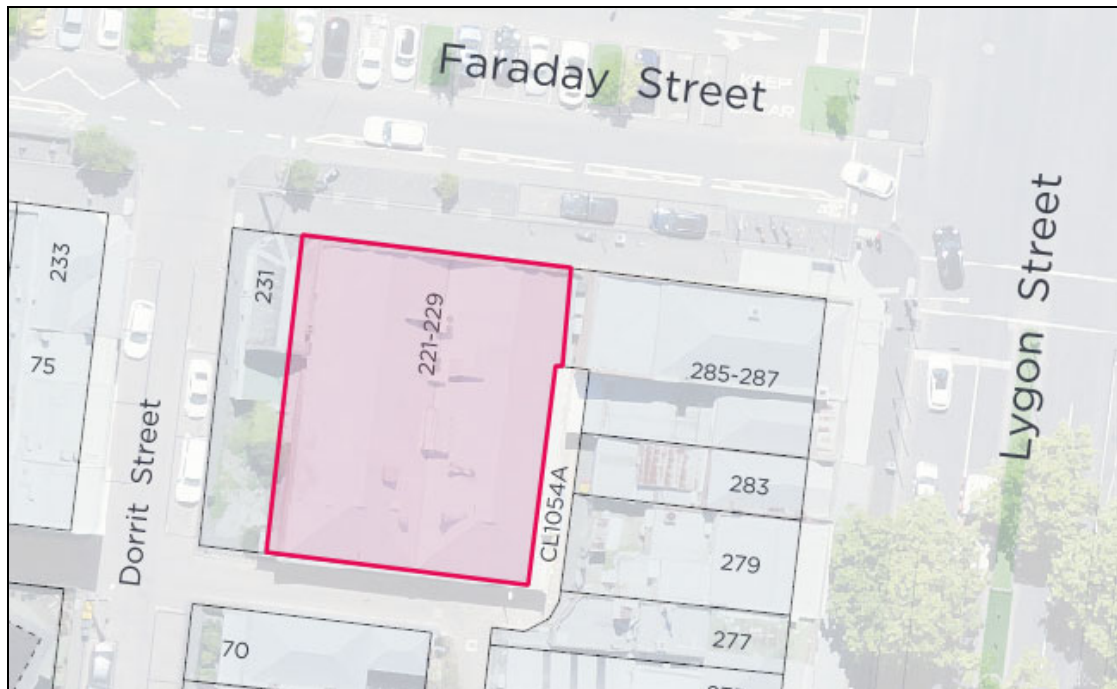


Figure 2 – The Site, Street view

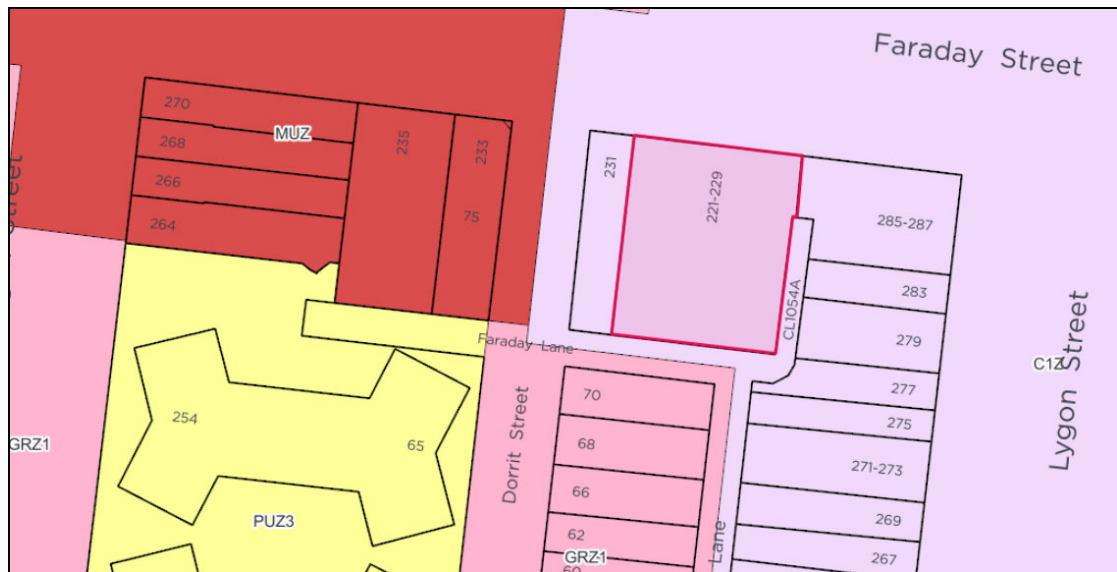


1.2 Surrounds

The immediate surrounds contain a mix of land uses which reflect the Commercial 1 Zone. The most common uses in the surrounds include retail, food and drink premises, office, and accommodation (residential).

The Site, and the land to the east, is located in the Commercial 1 Zone however, the land to the south is located in the General Residential Zone, Schedule 1 (GRZ1), the land to west is in the Mixed Use Zone (MUZ), and the land to the south-west is in the Public Use Zone (PUZ) (Figure 3).

Figure 3 – Zoning map



A description of the neighbouring properties is as follows (Table 1):

Table 1 – Description of the immediate surrounds	
Address	Building description
North (across Faraday Street)	
224 Faraday Street, Carlton	Three storey building that contains retail and office land uses. Built in the early 1950s.
299 Lygon Street, Carlton	Two storey building with contemporary addition that includes a roof terrace. The Land is used for retail and office.
226 Faraday Street, Carlton	Single storey building used as a shop (beauty products).
228-230 Faraday Street, Carlton	Single storey building used as a warehouse / store.
232-234 Faraday Street, Carlton	Single storey building used as residential accommodation.
236 Faraday Street, Carlton	Single storey building used as a dwelling.
238 Faraday Street, Carlton	Two storey building used as a boarding house.
East	
10 individual properties lining Lygon Street from 263 to 287 Lygon Street, Carlton	Two storey buildings that are used as either retail or office.
South	
70 Dorrit Street, Carlton (across lane)	Two storey building used as a dwelling. This property contains habitable room windows that face the Site.

68 Dorrit Street, Carlton	Three storey building used as an office.
66 Dorrit Street, Carlton	Single storey building with rear addition used as a dwelling.
62 Dorrit Street, Carlton	Single storey building used as a dwelling.
60 Dorrit Street, Carlton	Single storey building used as a dwelling.
West	
231 Faraday Street, Carlton (abutting)	Two storey building used as a shop.
233 Faraday Street, Carlton (across Dorrit Street)	Two storey building with retail and residential uses.
235 Faraday Street, Carlton	Two storey building with retail, office, and residential uses.
75 Dorrit Street, Carlton	Three storey apartment building.
65 Dorrit Street, Carlton	Three storey building containing dwellings.
53 Dorrit Street, Carlton	Three storey building containing dwellings.

1.3 Existing Liquor licences

1.3.1 Site and Surrounds

There is no current liquor licence for the Site.

The City of Melbourne's mapping and records show that within approximately 100 metres of the Site, there are 46 licences. There are a range of liquor licences within 100 metres of the Site; the licences are listed below (Table 2) (Figure 4). Many of the nearby licences line Lygon Street and there are some examples of licences to the east and west; a breakdown of those licences is as follows:

- General Licences: 3 (7 per cent)
- Restaurant and Café Licences: 24 (52 per cent)
- Limited Licences: 8 (17 per cent)
- On Premises Licence: 7 (15 per cent)
- Packaged Liquor Licence: 4 (9 per cent).

Note: Some of these licences may no longer be relevant as many business have closed due to the Covid-19 pandemic.

Table 2 - Surrounding Liquor licences				
Address	Distance from the Site (approx.)	Type of Licence	Land use	No of Licences
299 Lygon Street, Carlton	30 metres	▪ General Licence	Food and drink	2

		<ul style="list-style-type: none"> ▪ Packaged Liquor Licence 	premises / bar	
330 Lygon Street, Carlton	55 metres	<ul style="list-style-type: none"> ▪ General Licence ▪ Limited Licence 	Delicatessen / shop	2
333 Lygon Street, Carlton	133 metres	<ul style="list-style-type: none"> ▪ General Licence ▪ Restaurant and Cafe Licence 	Restaurant / bar	2
368-384 Lygon Street, Carlton	85 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ On Premises Licence ▪ Restaurant and Cafe Licence ▪ Packaged Liquor Licence 	Restaurant Shopping centre complex Bottle Shop	4
323 Lygon Street, Carlton	112 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ Restaurant and Cafe Licence 	Cheese shop	2
337-343 Lygon Street, Carlton	150 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ Restaurant and Cafe Licence 	Restaurant	2
350 Lygon Street, Carlton	49 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ Restaurant and Cafe Licence 	Restaurant	2
255-257 Lygon Street, Carlton	48 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ On Premises Licences ▪ Restaurant and Cafe Licence 	Restaurant / bar	3
237 Lygon Street, Carlton	94 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ On Premises Licence 	Restaurant	2
195-199 Faraday Street, Carlton	76 metres	<ul style="list-style-type: none"> ▪ Limited Licence ▪ On Premises Licence ▪ Restaurant and Cafe Licence 	Restaurant	3
275 Lygon Street, Carlton	5 metres	<ul style="list-style-type: none"> ▪ On Premises Licence ▪ Restaurant and Cafe Licence 	Restaurant	2
326-328 Lygon Street, Carlton	57 metres	On Premises Licence	Restaurant	1
205-207 Faraday Street, Carlton	72 metres	On Premises Licence	Theatre	1

253 Lygon Street, Carlton	55 metres	Restaurant and Cafe Licence	Restaurant	1
263 Lygon Street, Carlton	30 metres	Restaurant and Cafe Licence	Restaurant	1
306-308 Lygon Street, Carlton	94 metres	Restaurant and Cafe Licence	Restaurant	1
318 Lygon Street, Carlton	77 metres	Restaurant and Cafe Licence	Restaurant	1
320 Lygon Street, Carlton	71 metres	Restaurant and Cafe Licence	Restaurant	1
334-336 Lygon Street, Carlton	60 metres	Restaurant and Cafe Licence	Restaurant	1
201-203 Faraday Street, Carlton	79 metres	Restaurant and Cafe Licence	Restaurant	1
224 Faraday Street, Carlton	30 metres	Restaurant and Cafe Licence	Restaurant	1
198-204A Faraday Street, Carlton	75 metres	Restaurant and Cafe Licence	Restaurant	1
188 Faraday Street, Carlton	109 metres	Restaurant and Cafe Licence	Restaurant	1
172-174 Faraday Street, Carlton	146 metres	Restaurant and Cafe Licence	Restaurant	1
295 Faraday Street, Carlton	132 metres	Restaurant and Cafe Licence	Restaurant	1
364 Lygon Street, Carlton	80 metres	Restaurant and Cafe Licence	Restaurant	1
303 Lygon Street, Carlton	64 metres	Restaurant and Cafe Licence	Restaurant	1
305 Lygon Street, Carlton	68 metres	Restaurant and Cafe Licence	Restaurant	1
329 Lygon Street, Carlton	127 metres	Restaurant and Cafe Licence	Restaurant	1
302 Lygon Street, Carlton	101 metres	Packaged Liquor Licence	Bottle shop	1
321 Lygon Street, Carlton	107 metres	Packaged Liquor Licence	Bottle shop	1
Total				46

Figure 4 – Surrounding liquor licences within 100 metres



2 BACKGROUND AND HISTORY

The following application has previously been considered for the Site (Table 3):

Table 3 – Permits of relevance		
Reference	What the permit allows	Comments
TP-2020-481	Reduction (to zero) in the car parking requirement, together with a waiver of bicycle parking associated with the use of the land as a restaurant	This approval relates to the Site and restaurant use.

3 PROPOSAL

3.1 Plans / Reports considered in assessment

The plans and reports which have been considered in this assessment are identified in Table 4 below:

Table 4 - Plans / Reports considered in assessment		
Plan / Report Title	Drawing/ Report No/ Author.	Date Stamped / dated
Copy of Title	Volume 08064 and 10100; Folio 691 and 833.	10/06/2020

Planning Report	Metropol	01/12/2020
Drawing showing the proposed layout and redline plan prepared by La Greca Design Build.	Ground level – Liquor licence plan.	06/11/2020
Venue Management Plan (VMP)	Restaurant and ancillary bar – 221-229 Faraday Street, Carlton.	02/2021

3.2 Summary of proposal

3.2.1 Land use

The application seeks planning approval for the use of the land to sell and consume liquor in association with a restaurant with ancillary cocktail lounge. The specific details are at Table 5:

Table 5 – Proposal details	
Use	Restaurant.
Hours where liquor is to be served	Monday to Wednesday: 10am to 11pm. Thursday to Saturday: 10am to 1am the following day. Sunday: 10am to 11pm. (The use will open at 6am each day and close at the same hours as the service of liquor)
Floor area	502 square metres (approx).
Food	The predominate activity of the use is the service of food. Food will be served from 6am to 10.30pm.
Patronage	500 patrons at any one time. There will be seating provided for 410 patrons (82 per cent of patrons).
Works	None.
Car parking spaces	0 spaces.
Bicycle Parking spaces	0 spaces.
Outdoor areas	There are no outdoor areas proposed to form part of this application. The application documents refer to the use of the Faraday Street footpath. The applicant has been advised that planning does not extend permission to the footpath; a separate street trading permit is required.
Music	Background music only.
Waste	Waste will be stored within an internal waste room.
Access	Main access via existing doors at Faraday Street and a secondary entrance / exit via an existing door at the south boundary that fronts Faraday Lane.

Staff	There will be a maximum of 30 staff at any one time.
Security	Security is not proposed. The restaurant staff will manage patrons and security.

The most appropriate characterisation of the proposed use is a Restaurant, regardless of any ancillary cocktail lounge or bar. Clause 73.03 provides the following definition of a Restaurant:

“Land used to prepare and sell food and drink, for consumption on the premises. It may include:

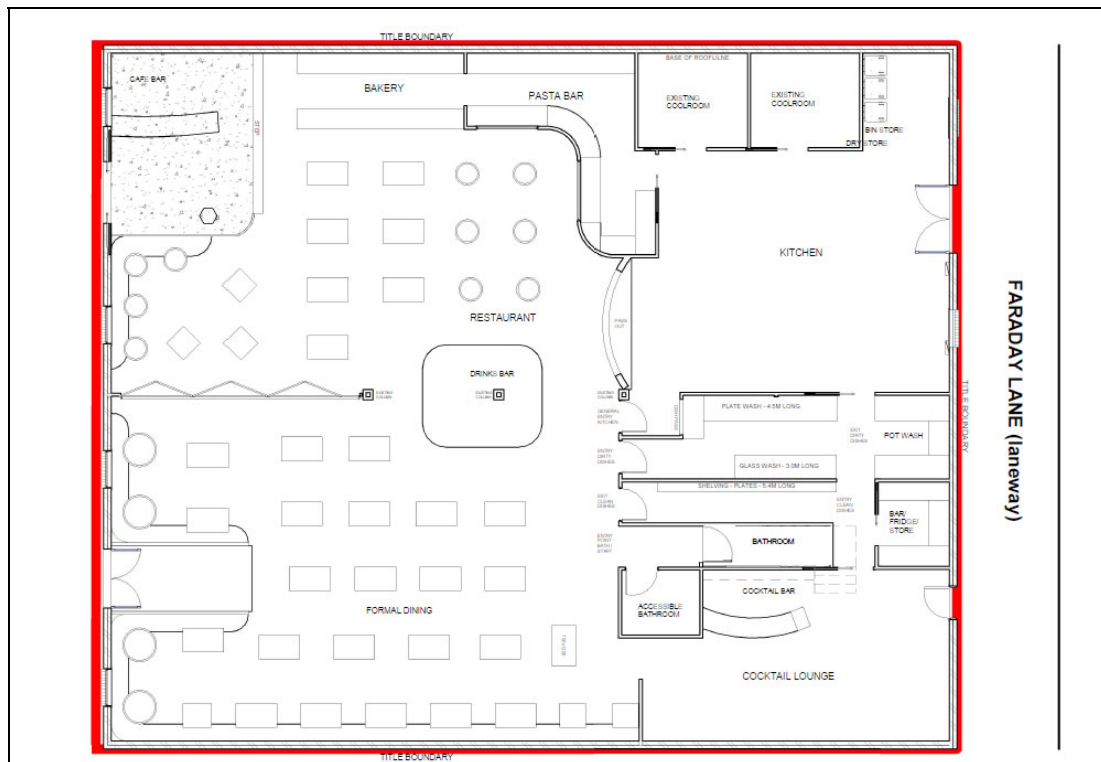
- a) entertainment and dancing; and*
- b) the supply of liquor other than in association with the serving of meals, provided that tables and chairs are set out for at least 75% of patrons present on the premises at any one time.*

It does not include the sale of packaged liquor.”

The proposal seeks to provide seating for 82 per cent of patrons for a use which centres on food; meeting the definition of a Restaurant.

The red line plan for the proposed licenced premises is shown below at Figure 5.

Figure 5 – Proposed layout and red line plan.



4 STATUTORY CONTROLS

The relevant statutory controls are at Table 6.

Table 6 – Permit Requirements	
Clause	Permit Trigger
Clause 34.01 Commercial 1 Zone	Pursuant to Clause 34.01-1, a restaurant is a Section 1 use and does not require a permit. Regardless of being ancillary to the restaurant, a bar is a Section 1 use and does not require a permit.
Clause 43.01 Heritage Overlay Schedule 1 – Carlton Precinct.	Clause 43.01 does not require a permit for land use; therefore; a permit is not required.
Clause 43.02 Design and Development Overlay Schedule 48 – Central Carlton North.	Clause 43.02, Schedule 48 does not relate to land use. As such, a permit is not required.
Clause 45.09 Parking Overlay Schedule 12 (PO1).	Pursuant to Clause 45.09, Schedule 12, a permit is required to provide car parking for a dwelling in excess of one space per dwelling. This application does not relate to a dwelling and as such a permit is not required.
Clause 52.05 Car parking	Planning permit TP-2020-481 has been approved and allows the reduction of car parking required for the restaurant use. As such a permit is not required.
Clause 52.34 Bicycle Facilities	Planning permit TP-2020-481 has been approved and allows the reduction of bicycle facilities required for the restaurant use. As such a permit is not required.
Clause 52.27 Licensed Premises	Pursuant to Clause 52.27, a permit is required to use land to sell or consume liquor if a licence is required under the Liquor Control Reform Act 1998. This does not apply if the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence. None of the exemptions provided at Clause 52.27 apply; therefore, a permit is required .

5 STRATEGIC FRAMEWORK

5.1 Planning Policy Framework (PPF)

- Clause 17 - Economic Development.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

- Clause 21 - Municipal Strategic Statement
- Clause 21.02 - Municipal Profile
- Clause 21.08 - Economic Development
- Clause 21.16 - Other Local Areas
- Clause 21.16-3 - Carlton.

5.2.2 Local Policies

- Clause 22.15 - Lygon and Elgin Street Shopping Centre
- Clause 22.22 - Policy for Licenced Premises that require a Planning Permit.

6 PARTICULAR PROVISIONS

- Clause 52.27 - Licensed Premises

7 GENERAL PROVISIONS

- Clause 65 - Decision Guidelines.

8 OPERATIONAL PROVISIONS

- Clause 73.03 – Land Use Terms.

9 PUBLIC NOTIFICATION

Clause 52.27 (Licenced Premises) does not exempt the proposed land use from public notice.

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

10 OBJECTIONS

A total of 24 objections were received, and raised the following concerns with the proposal:

- The use of the rear door to Faraday Lane raises concerns relating to:
 - Amenity impacts relating to noise and drunken behaviour from people existing the premises.
 - Access to Faraday Lane will be restricted by the new door.
 - Congestion of the rear lane.
 - Pedestrian safety.
- The patronage is too high.
- The use will promote more traffic and parking demand.
- The hours should be limited to 11pm.

- There are too many licenced premises in Carlton.
- The proposal will reduce the value of the surrounding property.
- Amenity impacts from noise:
 - Noise from the kitchen rear door.
 - Lack of noise limiters.
 - Noise from garbage collection.

The above matters will be addressed at Section 13 of this report.

11 CONSULTATION

The objections were forwarded to the applicant for their consideration.

Upon review of the objections, it was noted that many of the objectors took specific issue with the use of the rear (south) door to Faraday Lane. The applicant was advised that the rear door to Faraday Lane adjoins the General Residential Zone and the use of the door for patrons would not be appropriate.

The applicant accepted this and were agreeable to a permit condition restricting the use of the door.

The objectors were contacted and informed that the applicant has accepted the rear door is not suitable for patron use due to the context and understands that if a permit is issued, it will contain a permit condition to restrict the use of the south door. The objectors were asked if this would address their concern and if they would be willing to withdraw their objection.

One objection was withdrawn.

In addition, the applicant confirmed they were agreeable to reducing the number of patrons to 350 provided they could retain a patronage of 500 people for special events up to six times a calendar year. This is addressed at Section 13 of this report.

12 INTERNAL REFERRALS

Clause 52.27, Clause 66.03, and Clause 66.05 only trigger the requirement for an external referral to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) and the Chief Commissioner of Victoria Police for a Bar operating after 1am when a permit is required under Clause 52.27.

The proposed hours do not exceed 1am and the application was not required to be referred internally or externally.

13 ASSESSMENT

The application seeks planning approval to use the land to sell and consume liquor. The key items for consideration include:

- The policies relating to licenced premises.
- The objections received.

13.1 Licenced Premises

The proposal is an acceptable response to Clause 52.27 (Licenced Premises) and Clause 22.22 (Policy for licenced premises) for the following reasons:

- The proposal reasonably limits the opportunity for adverse amenity impacts resulting from the sale and consumption of liquor. The licence is proposed to

relate to a restaurant where the presence of food will ensure liquor is responsibly consumed.

- The Site does not have any openings or outdoor areas that have a direct interface with a sensitive use. The lack of windows and outdoor areas at the south, east, and west boundaries of the Site will mitigate unreasonable noise travelling to the residential windows to the south of the Site.

The applicant has been advised that the use of the rear doors by patrons to Faraday Lane is not supported as this may create potential amenity impacts relating to noise that would impact the residential uses to the south.

- It is recommended that a permit condition requiring the door not to be used be applied to any permit issued to preserve the amenity of the surrounds.
- The proposal relates to a restaurant which is a lower risk venue when considering cumulative impacts from liquor consumption.

The most common liquor licences within the immediate surrounds are Restaurant and Café (52 per cent), Limited (17 per cent), and On Premises Licences (15 per cent).

While there are several licenced premises within 100 metres of the Site, many of these licences relate to restaurants. The addition of one more licence for a restaurant use is not likely to introduce a negative cumulative impact as the primary land use relates to the consumption of food.

- The proposal responds to the purpose of the Commercial 1 Zone which seeks to provide a vibrant mix of uses. The lack of outdoor areas and low risk use (restaurant) ensure that this can be achieved without compromising the amenity of the nearby residential uses.
- The Site is well serviced by public transport and easily accessed by taxis / ride share options which ensures that people can safely leave the premises.
- The proposal reasonably responds to the policy requirements of Clause 22.22 relating to noise, hours, and patronage. These are individually addressed below.

The performance standards at Clause 22.22-3 are individually assessed below:

13.1.1 Noise

Clause 22.22 states 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 (SEPP).
- Are regulated and monitored, making use of noise limiters where appropriate.

The proposal is acceptable for the following reasons:

- The use will have background music only and does not seek to include amplified live music. Noise limiters are not required in this instance as the proposal is for a food based use rather than a nightclub.
- The Site does not have any openings or outdoor areas that have a direct interface with a sensitive use. The lack of windows and outdoor areas at the south, east, and west boundaries of the Site will mitigate unreasonable noise travelling to the residential windows near the Site. The applicant has been

advised that the use of the rear doors by patrons to Faraday Lane is not supported as this may create potential amenity impacts relating to noise that would impact the residential uses to the south.

- It is recommended that standard noise conditions be applied to any permit issued. This will include a condition that will require an acoustic report if the City of Melbourne determines one is required. The Environmental Protection Authority's (EPA) SEPP N-2 explanatory notes identify that noise from patrons entering and exiting a premises are not controlled by the regulation.

In general, the regulation relates to noise from patrons associated with live music and entertainment venue noise. Noting there is no SEPP requirement under the EPA for patron noise, the recommended conditions are appropriate. Requiring an acoustic assessment would not yield any significant findings as the proposal does not seek to contain amplified live music or entertainment; only background music is proposed.

- Noise impacts relating to the collection of waste have been considered and will be required to occur within the hours set out by the EPA as well as the recommended hours at Clause 22.22 (not to occur before 7am or after 9pm). This will ensure noise from waste will not be unreasonable.
 - It is recommended these times be conditioned on any permit issued for the proposal.

13.1.2 Patron numbers

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 applicant has stated they are willing to accept a reduction in patron numbers which would reduce the patronage from 500 to 350. This reduction is on the proviso that a maximum number of 500 patrons is permitted up to six times a year to allow for special events such as weddings.

This is a reasonable suggestion to reduce the likelihood of the proposal resulting in adverse amenity impacts relating to patron noise.

While the proposed licence is for a restaurant, the proposed patronage reduction will reduce the likelihood of noise from patrons and is supported. It is recommended a permit condition be applied to any permit issued restricting the use to 350 patrons with the exception of up to six special events per calendar year.

13.1.3 Hours of operation

Clause 22.22 states that application to extend beyond the hours specified for indoor and outdoor area will only be supported where the extended hours will not unreasonably impact on the amenity of the surrounding area.

Clause 22.22 provides the following guidance for commercial zones:

- Hours of operation of licensed premises should be limited to:
 - 11pm if the licensed premise is within 30 metres of a residential zone.
 - 1am elsewhere.

- Outdoor areas, including smoking areas, rooftops and open courtyards, should not be occupied past 1am and in noise sensitive areas alcohol should not be consumed in those areas after 11pm.

The Site is within 30 metres of a residential zone and the application seeks to vary the recommended hours of Clause 22.22 by operating until 1am from Thursday to Saturday; the application seeks to operate until 11pm on all other days.

In this instance the proposed variation is supported for the following reasons:

- The Site does not contain outdoor areas or openings that share an interface with a residential zone. The applicant has been advised that the use of the rear doors by patrons to Faraday Lane is not supported as this may create potential amenity impacts relating to noise that may impact the residential uses to the south. The restriction of the use of this door will mean that patrons can only exit onto Faraday Street, directing people away from the residential uses to the south.
- The proposed licenced premises relates to a restaurant which does not contain the same risk of noise or disturbance associated with a bar or nightclub. The primary function of the use is to consume food.
- The proposal seeks only to allow background level music and will not contain live music or entertainment.

13.2 Objections

The matters raised by objectors are individually addressed below (Table 7):

Table 7 – Objections	
Issue	Assessment
<p>The use of the rear door to Faraday Lane:</p> <ul style="list-style-type: none"> ○ Amenity impacts relating to noise and drunken behaviour from people exiting the premises. ○ Access to Faraday Lane will be restricted by the new door. ○ Congestion of the rear lane. ○ Pedestrian safety. 	<p>It is agreed that the use of the door to Faraday Lane should not be used by patrons to avoid disturbance to the nearby residential use.</p> <p>It is recommended a permit condition resolves this by restricting the use of the door at all times to patrons.</p> <p>Given the door is recommended to be restricted, the issues relating to congestion or safety are now irrelevant.</p>
<p>The patronage is too high.</p>	<p>The applicant has agreed to reduce the patronage to 350 patrons with the exception of special events where 500 patrons are permitted up to six times a year.</p> <p>This is a reasonable outcome considering the use is a restaurant and the reduction will reduce the occurrence of patron impacts.</p>
<p>The use will promote more traffic and parking demand.</p>	<p>The Site already has a planning permit for a car parking reduction for the restaurant land use.</p> <p>Traffic is not a consideration for this application for a liquor licence.</p>
<p>The hours should be limited to 11pm.</p>	<p>The hours are assessed at Section 13.1 of this</p>

	<p>report.</p> <p>In this instance the hours are acceptable as the site and venue context ensures the amenity of the surrounds will not be unreasonably reduced.</p>
There are too many licenced premise in Carlton.	<p>This application for a liquor licence is for a restaurant which is not likely to create a negative cumulative impact relating to the consumption of liquor.</p> <p>The presence of food will ensure liquor is responsibly consumed.</p>
The proposal will reduce the value of the surrounding property.	The Melbourne Planning Scheme does not provide for impacts to property value in this instance
<p>Amenity impacts from noise:</p> <ul style="list-style-type: none"> ○ Noise from the kitchen rear door. ○ Lack of noise limiters. ○ Noise from garbage collection. 	<p>Noise from the rear kitchen door is not likely to be unreasonable as this door will likely be used by a limited number of employees. The City of Melbourne's standard permit conditions relating to noise will ensure the venue can be reasonably controlled. Hours for removing waste are limited.</p> <p>The proposal is for a restaurant not a live music venue. Noise limiters are not a requirement.</p> <p>The City of Melbourne's standard noise conditions and the on-site bottle crusher will ensure that noise is reasonably mitigated.</p>

14 RECOMMENDATION

It is recommended that a Notice of Decision to grant a Permit be issued subject to conditions.

15 WHAT WILL THE PERMIT ALLOW?

The preamble for the recommended amended permit should read:

Use of the land to sell and consume liquor in accordance with the endorsed plans.

16 CONDITIONS

The following conditions are recommended to be included on the permit:

Compliance with Endorsed Plans

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

Patronage

2. The maximum number of patrons on the premises must be no more than 350 at any one time with the exception of special events where 500 patrons are permitted up to six times per calendar year or with the prior written consent of the Responsible Authority.

Access

3. The southern door(s) to Faraday Lane must not be used by patrons on any day to the satisfaction of the Responsible Authority. This does not apply in the event of an emergency.

Hours of Operation

4. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor must only occur between the following hours:

Monday – Wednesday	10am – 11pm.
Thursday to Saturday	10am – 1am the following day.
Sunday	10am – 11pm.

Venue Management

5. Prior to the commencement of the use, the applicant must submit an updated venue management plan (VMP) generally in accordance with the VMP prepared titled “Restaurant and ancillary bar – 221-229 Faraday Street, Carlton”, dated February 2021. The updated VMP must be updated to reference a reduction of patron numbers to 350 patrons with the exception of special events where 500 patrons are permitted up to six times a year.

The updated VMP must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the VMP 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 VMP unless with the prior written consent of the Responsible Authority.

6. Tables and chairs must be placed in position so as to be available for at least 75 per cent of patrons attending the premises at any time.
7. At all times when the premises is open for business, a designated manager must be in charge of the premises.
8. The predominant activity carried on at the premises during all trading hours must be the preparation and serving of meals for consumption on the premises at all times.

Waste Management

9. No garbage bin or waste materials generated by the permitted use may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of the Responsible Authority.

Noise

10. The noise generated by the premises must at all times comply with the requirements of the State Environment Protection Policy, (Control of Noise from Commerce, Industry and Trade) No. N-1, and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
11. The Responsible Authority, with just cause, may at any time request lodgement of an acoustic report, prepared by a suitably qualified acoustic consultant. The report must be to the satisfaction of the Responsible Authority and identify all potential noise sources and sound attenuation work required to address any noise issues and to comply with State Environment Protection

Policy, (Control of Noise from Commerce, Industry and Trade), No. N-1, and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. The recommendations of the report must be implemented by the applicant to the satisfaction of the Responsible Authority.

12. A sign must be attached to an internal wall in a prominent position adjacent to the entry / exit point to advise patrons to leave the premises in a quiet and orderly fashion. The sign must be to the satisfaction of the Responsible Authority.
13. No bottles or other waste material may be removed from the site between the hours of 9pm and 7am the following morning, seven days a week.
14. Empty bottles from the operation of the premises must be deposited into recycling bins quietly so as not to cause disturbance to adjoining and nearby residents, to the satisfaction of the Responsible Authority.
15. No amplified live music or entertainment is permitted on the premises without the prior written consent of the Responsible Authority.

Permit Expiry

16. This permit will expire if the use is not started within two years of the date of this permit.

The Responsible Authority may extend the permit if an application is made in accordance with Section 69 of the Planning and Environment Act 1987.

Notes

- The use of the footpath may require an Outdoor Cafe Permit under the City of Melbourne's Activities Local Law 2009.