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102 CANTERBURY ROAD, MIDDLE PARK

Town Planning Application

Prepared for
AUSTRALIAN VENUE CO.
29 November 2021



PORT PHILLIP PLANNING DEPARTMENT
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- Appendix A Certificate of Title**
- Appendix B Architectural Plans**
- Appendix C Waste Management Plan**

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Appendix E Acoustic Report
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Appendix G Cumulative Impact Assessment
Appendix H Noise and Amenity Action Plan
Appendix I Middle Park Hotel Liquor Licence
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1. INTRODUCTION

This report has been prepared on behalf of Australian Venue Co. in support of a planning permit application for proposed buildings and works at 102 Canterbury Road, Middle Park ("subject site").

The proposal seeks to incorporate a rooftop terrace and new lift core to the Middle Park Hotel at 102 Canterbury Road, Middle Park. Consequently, the proposal also seeks to extend the liquor license to encompass this rooftop space.

The subject site is within the Commercial 1 Zone (C1Z) and is affected by the Heritage Overlay (HO445).

The proposal seeks a planning permit for:

- To construct or carry out works under the Commercial 1 Zone (Clause 34.01-4);
- To construct or carry out works and to externally alter a building under the Heritage Overlay (Clause 43.01-1);
- To use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998* (Clause 52.27);
- To waive the car parking spaces required under Clause 52.06-5 (Clause 52.06-3); and
- To waive the bicycle parking spaces required under Clause 52.34-5 (Clause 52.34-2).

This report assesses the planning merits of the proposal and its consistency with the relevant State and Local Planning Policies and controls of the Port Phillip Planning Scheme. The site is well positioned to accommodate a rooftop terrace and licensed premises, being within an existing commercial area that adjoins a Road Zone, Category 1 road and having excellent access to public transport services.

To assist in the assessment of this application, we enclose the following documents:

- Certificate of Title (Appendix A)
- Architectural Plans prepared by DC Group and Newline Design, dated 04 November 2021 (Appendix B)
- Waste Management Plan prepared by One Mile Grid, dated 26 October 2021 (Appendix C)
- Traffic Impact Assessment prepared by One Mile Grid, dated 28 October 2021 (Appendix D)
- Acoustic Report prepared by Octave Acoustics, dated 25 November 2021 (Appendix E)
- Heritage Impact Statement prepared by Bryce Raworth, dated 11 November 2021 (Appendix F)
- Cumulative Impact Assessment prepared by Urbis, dated 29 November 2021 (Appendix G)
- Noise and Amenity Action Management Plan prepared by the Middle Park Hotel, dated November 2021 (Appendix H)
- Middle Park Hotel Liquor Licence (Appendix I)
- MPL Certificate (Appendix J)

2. SUBJECT SITE AND URBAN CONTEXT

2.1. THE SUBJECT SITE

The subject site is located on the south-west side of Canterbury Road and south-east of Armstrong Street (secondary frontage). The site has an irregular shape with a total area of approximately 798 square metres and a primary frontage to Canterbury Road.

The site is within an existing commercial area zoned Commercial 1 Zone. It currently contains a three-storey building constructed to the boundaries and is used as a Hotel. An outdoor courtyard exists towards the rear (south-west) of the property and an organised removable outdoor dining area has been established along a portion of the Armstrong Street footpath.

The site is accessible for pedestrians via both Canterbury Road and Armstrong Street, and no vehicle access or parking is available on site.

A small amount of vegetation is present within the rear courtyard area, though the majority of the site is free from any vegetation.

The existing building on the site is known as the Middle Park Hotel. It was originally established in 1889, then refitted and restored in 2009. The building is celebrated as an iconic hotel and a highly popular venue in Middle Park. Its historically significant values are protected through the application of the Heritage Overlay.

An aerial photograph of the site and surrounding context is provided at Figure 2.

2.1.1. Certificate of Title

The subject site is formally known as Lot 1 on Title Plan 080131V, with a street address of 102 Canterbury Road, Middle Park (refer to Figure 1).

There are no easements, covenants or Section 173 Agreements registered to the Certificate of Title.

A copy of Title is provided at **Appendix A** of this report.

Figure 1 – Excerpt from Title Plan 080131V

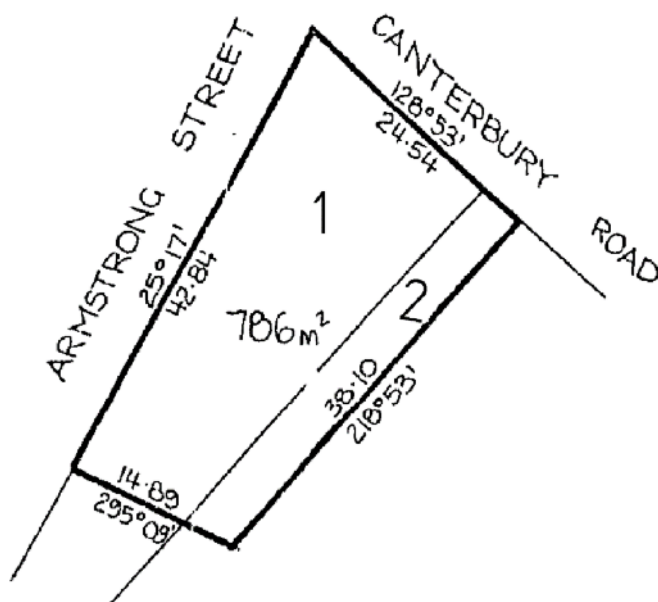


Figure 2 – Aerial Map



102 CANTERBURY ROAD, MIDDLE PARK

SITE LOCATION

2.2. EXISTING PLANNING PERMITS

Urbis has conducted a search of the Council database for planning permits that have been previously issued for the subject site. The search revealed that there are no planning permits pertinent to the proposal, and therefore this application seeks approval for a new planning permit rather than an amendment to an existing permit.

We note the existing hotel has been in operation for over 100 years, pre-dating the current Planning Scheme.

2.3. SURROUNDING CONTEXT

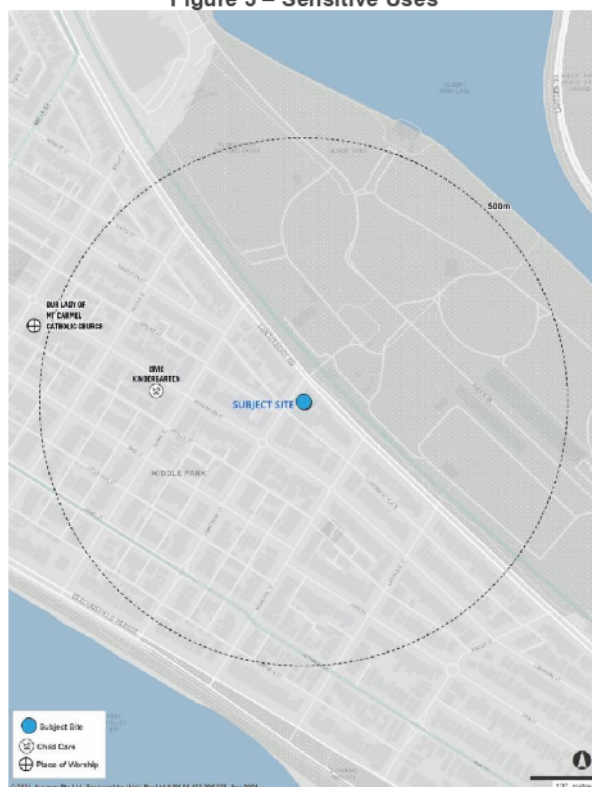
The subject site is situated centrally within Middle Park and the City of Port Phillip, approximately 3.2 kilometres south from the Central Business District. It has excellent accessibility to social and physical infrastructure, being within the Middle Park activity centre, across the road from Albert Park, and within walking distance from numerous public transport routes.

The Middle Park light rail station is positioned directly opposite the subject site across Canterbury Road, being a Road Zone, Category 1 road. A second tram route is located approximately 400 metres south-west from the subject site and local bus routes are also within approximately 100 metres from the site. Additionally, the Principal Bicycle Network runs along Canterbury Road and Armstrong Street, with public bicycle parking available adjacent to the subject site.

The surrounding commercial area is characterised by rows of single and double storey buildings of a late Victorian and Edwardian architectural style. Beyond the commercial area is residential land zoned Neighbourhood Residential Zone.

Other than residential uses, there is one sensitive use within a 500-metre radius of the subject site, which is a kindergarten approximately 280 metres to the west (refer to Figure 3). There is also a church located approximately 530 metres from the subject site.

Figure 3 – Sensitive Uses



2.3.1. North & East

The land immediately to the north-east of the subject site is Canterbury Road, being a Road Zone Category 1 road. Past Canterbury Road is the Middle Park Light Rail station, separated from the road by a linear reserve. The light rail services Tram Route 96, which runs between St Kilda Beach and East Brunswick via the CBD.

Further north and east is Albert Park, which spans approximately 2.8 kilometres between Fitzroy Street (St Kilda) to Albert Road (South Melbourne).

Albert Park is home to a number of popular sporting facilities, including the internationally celebrated Australian Grand Prix Circuit, the Melbourne Sports and Aquatic Centre, the Albert Park Public Golf Course, and numerous sporting ovals. Albert Park is also commonly used for leisure activities, with a scenic walking route and numerous passive open space areas surrounding the Albert Park Lake.

Picture 1 – Middle Park Light Rail Station (viewed from Canterbury Road)



Source: Google Street View

2.3.2. South-east

The land immediately to the south-east of the subject site at 104 Canterbury Road is occupied by a medical centre (Health 104). This allotment is zoned Commercial 1 Zone and has a frontage to Canterbury Road. Built form within the allotment is set back from the common boundary by approximately 1 metre for the majority of its length, with a small length of wall-on-boundary at the rear of the allotment. The building is double storey in height.

Further south-east, approximately 50 metres from the subject site, is a Neighbourhood Residential Zone.

Picture 2 – 104 Canterbury Road (viewed from Canterbury Road)



Source: Google Street View

2.3.3. North-West

Armstrong Street interfaces the north-west boundary of the subject site, which has a 30-metre-wide road reserve with on-street car parking and provides access to Canterbury Road. The Commercial 1 Zone (C1Z) extends approximately 65 metres to the north-west from the subject site and contains various retail commercial businesses. Beyond the C1Z is a Neighbourhood Residential Zone.

Picture 3 – Commercial buildings west from the subject site (viewed from Armstrong Street)



Source: Google Street View

2.3.4. Map of Licensed Venues

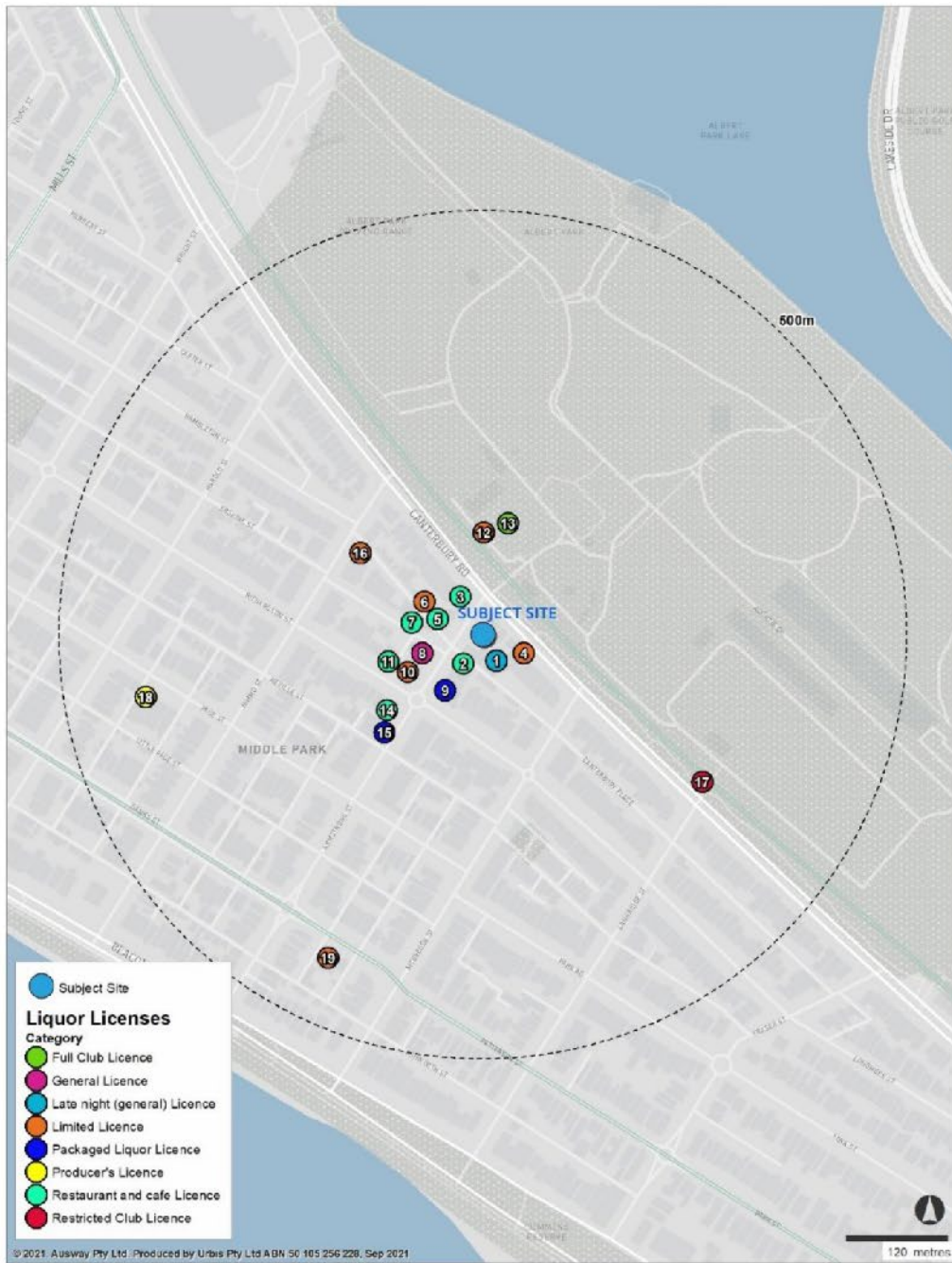
Based on our investigation of the VCGLR database, there are currently 16 premises which are licensed to sell liquor within a 500-metre radius of the subject site. It appears at least three of these venues have multiple licenses thus are recorded twice. These licensed premises (as of September 2021) are as follows:

MAP REF NO.	TRADING AS	ADDRESS	LICENCE CATEGORY	DISTANCE FROM SITE (Approx.)
1	Middle Park Hotel (subject site)	102 Canterbury Road, Middle Park 3206	Late night (general) Licence	0m
2	Little Buddha Thai Cuisine	5 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	41m
3	Jack The Geezer	99 Canterbury Road, Middle Park 3206	Restaurant and cafe Licence	52m
4	Power House Amateur Football Club	Ross Gregory Oval Village Green Drive, Albert Park 3206	Limited Licence	53m
5	Greek Me	14 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	56m
6	The Roti Man	10-12 Armstrong Street, Middle Park 3206	Limited Licence	68m
7	The Roti Man	10-12 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	68m
8	Cbn On Armstrong's Wine Centre	20-22 Armstrong Street, Middle Park 3206	General Licence	75m
9	IGA Liquor	19-21 Armstrong Street, Middle Park 3206	Packaged Liquor Licence	79m
10	Tacco E Tosca	251 Richardson Street, Middle Park 3206	Limited Licence	116m
11	Tacco E Tosca	251 Richardson Street, Middle Park 3206	Restaurant and cafe Licence	116m
12	Middle Park Bowling Club	Albert Park Reserve, Albert Park 3206	Limited Licence	120m
13	Middle Park Bowling Club	Albert Park Reserve, Middle Park 3206	Full Club Licence	135m
14	Hot Honey	40-42 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	144m

MAP REF NO.	TRADING AS	ADDRESS	LICENCE CATEGORY	DISTANCE FROM SITE (Approx.)
15	Gum Tree Good Food	36 Armstrong Street, Middle Park 3206	Packaged Liquor Licence	145m
16	A Glass Of	7 Nimmo Street, Middle Park 3206	Limited Licence	173m
17	Power House Rugby Union Football Club	Mcadam House Lord Somers Camp & Powerhouse Clubhouse, Lakeside Drive, Albert Park 3206	Restricted Club Licence	312m
18	Forty Paces Vineyard	384 Montague Street, Albert Park 3206	Producer's Licence	404m
19	Southern Whisky Trails	372 Danks Street, Middle Park 3206	Limited Licence	422m

Source: VCGLR

Figure 4 – Surrounding Liquor Licence Venues



102 CANTERBURY ROAD, MIDDLE PARK
LIQUOR LICENSES

3. THE PROPOSAL

The proposal seeks to introduce a rooftop bar to the existing three storey commercial building at 102 Canterbury Road, Middle Park. The rooftop bar will be an expansion to the existing use on site, which is a Hotel that enjoys existing use rights.

The rooftop bar will be positioned towards the site's north-east boundary and will have a total floor area of 259 square metres. It will comprise an outdoor seating area with fixed and moveable furniture, as well as an under-cover area containing a bar, amenities, and a storeroom. Access to the rooftop will be provided via a new lift core and a stairwell, through the existing Hotel.

The proposal will retain the existing roof, roof structure and chimneys (though some chimneys will be required to be reduced to the ridge line). The existing roof features will be obscured beneath a new floating rooftop terrace. A minor extent of internal demolition will be required for the creation of a new lift core. New works will be set back from the existing parapet along the Canterbury Road and Armstrong Street frontages by 1.5 metres, and a framed glass balustrade with a height of 1.55 metres will be fixed along the rooftop terrace perimeter.

Food will be available at times that alcohol may be consumed, which will be prepared in the existing kitchen on the ground floor level. The rooftop bar will have capacity to accommodate 200 patrons at any one time.

Other than a minor extent of internal demolition required for the new lift core, no works are proposed at the ground, first or second floor.

Further details of the proposal are provided below:

3.1. PERMIT TRIGGERS

A planning permit is required pursuant to the following provisions of the Port Phillip Planning Scheme:

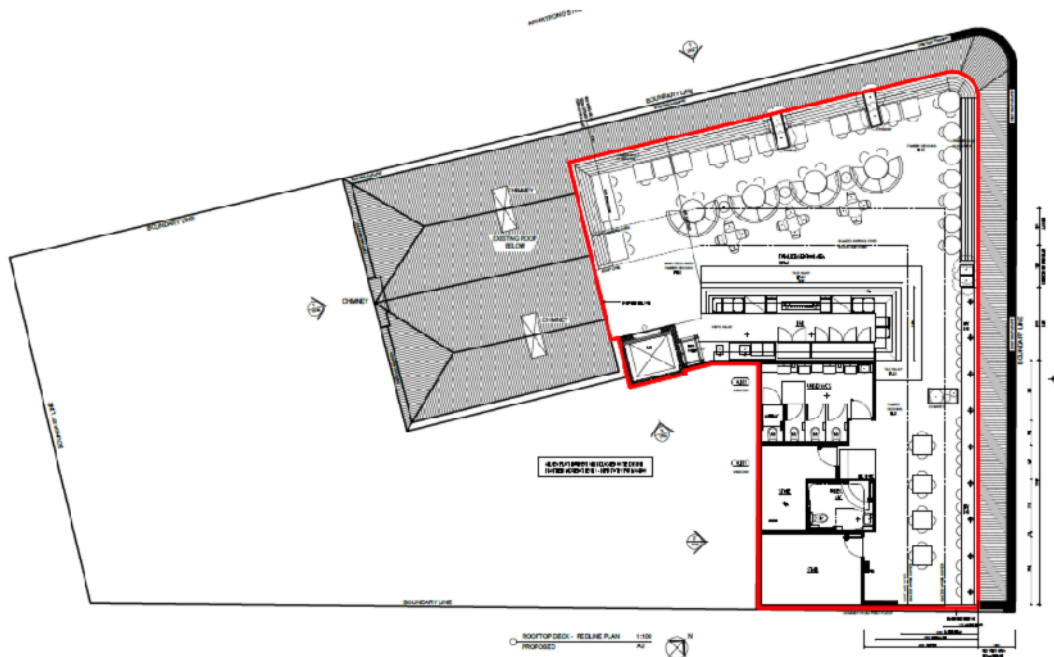
- To construct or carry out works under the Commercial 1 Zone (Clause 34.01-4);
- To construct or carry out works and to externally alter a building under the Heritage Overlay (Clause 43.01-1);
- To use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998* (Clause 52.27). Specifically, the application seeks to increase the area liquor is allowed to be served and increase the number of patrons subject to the existing liquor license
- To waive the car parking spaces required under Clause 52.06-5 (Clause 52.06-3); and
- To waive the bicycle parking spaces required under Clause 52.34-5 (Clause 52.34-2).

We note that the subject site currently enjoys existing use rights for the existing Hotel.

3.2. ROOFTOP BAR – LICENSED AREA

The proposal seeks approval to extend the venue's existing liquor licence to include the proposed rooftop bar. The licensed area will comprise 259 square metres as illustrated at Figure 5.

Figure 5 – Proposed Red Line Plan on the Rooftop



Source: DC Group and Newline Design

3.3. PATRON NUMBERS AND OPERATIONAL DETAILS

The proposal seeks to cater to 200 patrons within the roof terrace area in addition to the existing patron capacity limits for the ground floor dining room and lounge/saloon area. The proposal also includes 10 staff allocated to the rooftop terrace at any one time.

3.3.1. Music

Noise levels will be managed in line with the recommendations of consulting sound engineer Octave Acoustics, which is attached at **Appendix E**. In summary, proposed background and DJ music levels will comply with the Environment Protection Regulations 2021 (EPR2021) during all periods of operation, and live music will be limited to the day/evening period only. Music will be controlled by a noise limiter to ensure noise levels on the rooftop do not exceed the compliant music noise levels as set out in the Octave Acoustics report.

3.3.2. Access

Patron access will be gained via Armstrong Street, with a concierge directing patrons to the terrace from ground level up to the rooftop, via a lift. Stairs are also provided as an alternative to the lift, with an existing stairwell positioned towards the north-east corner of the building.

Refer to the Traffic Impact Assessment prepared by One Mile Grid at **Appendix D** for details.

3.3.3. Hours of Operation

It is proposed that the rooftop terrace will operate 7 days a week in accordance with the existing liquor licence. Specifically, the hours of operation are as follows:

- Sunday Between 10 a.m. and 1 a.m. the following morning.
- Good Friday Between 12 noon and 1 a.m. the following morning.
- Anzac Day (not being a Sunday) Between 12 noon and 1 a.m. the following morning.

- On any other day Between 7 a.m. and 1 a.m. the following morning except for Good Friday morning.

3.3.4. Waste

Garbage bins will continue to be stored within the existing bin storage area, which is on the ground floor next to the courtyard and behind a locked roller door. All waste streams will be transferred from the bin storage room to the Armstrong Street frontage for collection 3 days a week on Monday, Wednesday and Sunday.

It is proposed to continue to utilise a private waste contractor for all waste services associated with the Middle Park Hotel. Based on the total waste generation for the site including the for the proposed rooftop bar, it is proposed to replace the existing waste bins with the following bins:

- General waste: 1 x 660L bin (replacing 2 x 240L bins)
- Recycling: 1 x 660L bin (replacing 1 x 240L bin)
- Organics: 2 x 120L bins (replacing 2 x 64L bins)

Refer to the Waste Management Plan prepared by One Mile Grid at **Appendix C** for details.

4. PLANNING POLICY OVERVIEW

4.1. PLANNING POLICY FRAMEWORK

The State Planning Policy Framework (“SPPF”) seeks to develop objectives for planning in Victoria to foster land use and development planning and policy which integrates relevant environmental, social, and economic factors. The sections of the SPPF and the key direction of these policies relevant to this application are summarised as follows:

- **Clause 11 – Settlement** requires that planning meets the needs of existing and future communities through providing land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. The policy seeks to contribute to, amongst other things, use and development that is well connected to transport, employment, and services.
- **Clause 13.05 – Noise** aims to manage the impact of noise. **Clause 13.05-1S – Noise Abatement** controls the effect of noise on sensitive land uses. Further **Clause 13.07-1S – Land Use Compatibility** aims to facilitate appropriate commercial uses by ensuring the development of land is compatible with adjoining nearby land uses; and **Clause 13.07-3S – Live Music** encourages, creates and protects opportunities for the enjoyment of live music.
- **Clause 15 – Built Environment and Heritage** recognises the role of planning in delivering liveable and sustainable cities, towns and neighbourhoods through good urban design, building design, energy and resource efficiency. Specifically, **Clause 15.01-1S – Urban Design** aims to ensure urban design responds to its site context and needs, and promote good design through facilitating accessibility, safety, and high standard design outcomes. Additionally, **Clause 15.01-2S – Building Design** seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm. It aims to ensure development responds and contributes to the strategic and cultural context of its location with safe access and appropriate landscaping, and minimises any detrimental impacts to the public realm and the natural environment.
- **Clause 15.03-1S – Heritage Conservation** seeks to conserve places of heritage significance by encouraging appropriate development that respects places with identified heritage values.
- **Clause 15.03-2S – Aboriginal Cultural Heritage** aims to ensure the protection and conservation of places of Aboriginal cultural heritage significance.
- **Clause 17 – Economic Development**. This clause encourages planning to provide for a strong and innovative economy. Specifically, **Clause 17.02-1S – Business** encourages development that meets the communities’ needs for retail, entertainment, office and other commercial services in appropriate locations.
- **Clause 18 – Transport** states that ‘planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods and is safe’. **Clause 18.02-2R – Principle Public Transport Network** encourages the increase the diversity and density of development along the Principal Public Transport Network.

4.2. LOCAL PLANNING POLICY FRAMEWORK

4.2.1. Municipal Strategic Statement

The Municipal Strategic Statement (“MSS”) within the Local Planning Policy Framework (“LPPF”) sets out future direction for the municipality and provides a vision and framework for the municipality. The following MSS policies are of relevance to this application:

- **Clause 21.01 – Vision and Approach** defines a vision for the City of Port Phillip, which is to (among other things) create an environmentally sustainable city where all members feel connected through a strong sense of place and can participate in community life to enjoy the benefits of the city.
- **Clause 21.02 – Municipal Context and Profile** recognises the important contribution that Port Phillip makes to the economy prosperity of the state through the support for a strong tourism industry and hosting major sporting and cultural events. This clause acknowledges the strong connection that people

have to their local areas and the importance of each activity centre as economic drivers within the municipality.

- **Clause 21.03-1 – Environmentally Sustainable Land Use and Development** seeks to promote sustainable design and development through promoting improved environmental performance and heritage conservation as mutually supportive planning considerations, including through the retention of building fabric and the sensitive installation of sustainable building elements. Additionally, **Clause 21.03-2 – Sustainable Transport** seeks to facilitate the use of sustainable transport modes in preference to private vehicle use by ensuring new use and development supports the prioritisation of walking, cycling and public transport.
- **Clause 21.04-2 – Activity Centres** recognises the need to retain a diverse business mix within Port Phillip’s activity centres and to maximise built form capacity within existing commercially zoned areas in order to accommodate the projected retail demand. This Clause seeks to maintain and enhance a network of sustainable and viable activity centres, and to reinforce the distinctiveness and diversity of individual activity centres.

The Armstrong Street Activity Centre in Middle Park is identified as a Neighbourhood Activity Centre that provides local entertainment within a local catchment.

- **Clause 21.05-1 Heritage** seeks to ensure new development in heritage areas is sympathetically integrated with existing buildings so that it makes a positive contribution to the municipality’s heritage values.
- **Clause 21.05-2 Urban Structure and Character** aims to ensure retail and commercial growth protects and enhances the unique and valued character of each centre. This is to be achieved by (among other things) retaining and enhancing key landmarks and ensuring new development is appropriate in context of the preferred character.
- **Clause 21.05-3 – Urban Design and the Public Realm** aims to ensure new development makes a positive contribution to the overall character and general attractiveness of Port Phillip.
- **Clause 21.06 Neighbourhoods** outlines the key planning challenges, vision and strategies that relate to particular neighbourhood areas within the municipality. **Clause 21.06-3 – Middle Park and Albert Park** supports the local entertainment role of the centre and requires that all new development within the Armstrong Street Neighbourhood Activity Centre respects the existing 1 and 2 storey scale of the Victoria buildings, with higher development setback from the principal street to minimise its visibility.

4.2.2. Local Planning Policies

The local planning policies provides a more detailed direction to inform the assessment of new land use and development. The following local planning policy clauses are of relevance to this application:

- **Clause 22.04 – Heritage Policy** applies to all land within a Heritage Overlay and seeks to ensure all new development of significant and contributory places is respectful and harmoniously integrated with the surrounding character. This Clause promotes design excellence with a contextual design approach to ensure development responds to historic character.
- **Clause 22.06 – Urban Design Policy for Non-Residential Development and Multi Residential Development** provides a local response to Clause 15 (Urban Environment) and applies to new or alterations to non-residential development. This Clause seeks to achieve high quality urban design and architecture that contributes to the amenity and vitality of the area and enhances the valued elements of the municipality. It is policy to encourage the design of new development to be carefully detailed to ensure it is properly integrated with the façade design.
- **Clause 22.12 – Stormwater Management (Water Sensitive Urban Design)** applies to applications for extensions to existing buildings which are 50 square metres or greater in floor area. It seeks to ensure new development achieves the best practice water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines*.
- **Clause 22.13 – Environmentally Sustainable Development** applies to all new residential and non-residential development in the City of Yarra. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

4.3. ZONING

4.3.1. Clause 34.01 – Commercial 1 Zone

The subject site is located within the Commercial 1 Zone (C1Z). The purpose of the zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

In accordance with Clause 34.01-4 of the Commercial 1 Zone, a permit is required to construct or carry out works.

The use of land for a Retail Premises is listed under Section 1 of Clause 34.01-1 (permit not required).

Pursuant to Clause 34.01-6, an application to construct or carry out works must be accompanied by the following information:

- A plan drawn to scale;
- Elevation drawings to scale showing the colour and materials of all buildings and works;
- Construction details of all drainage works; and
- A landscape layout.

4.4. OVERLAYS

4.4.1. Clause 43.01 – Heritage Overlay (HO445)

The subject site is affected by the Heritage Overlay (HO445). The purpose of the overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

In accordance with Clause 43.01-1 of the Heritage Overlay, a permit is required to construct or carry out works, and to externally alter a building.

Pursuant to the Schedule to the Heritage Overlay, HO445 applies to the *Armstrong Street Commercial Precinct* in Middle Park, which applies external paint controls. The subject site is not included in the Victorian Heritage Register.

4.5. PARTICULAR PROVISIONS

4.5.1. Clause 52.06 – Car Parking

Clause 52.06 applies to a new use or to an increase in the floor area of an existing use and seeks to ensure the provision of an appropriate number of car parking spaces. The requirements of this Clause relate to the likely demand anticipated, the function of the land, the local context and associated State and Local Planning Policy Frameworks.

Further, Clause 52.06 seeks to ensure that car parking does not adversely impact upon the amenity of an area and aims to support sustainable transport alternatives.

It is noted that the site falls within the Principal Public Transport Network area (PPTN), meaning Column B rates (Table 1 of Clause 52.06-5) apply. Therefore, the car parking rate applicable for the proposed rooftop bar is 3.5 spaces to each 100 square metres of leasable floor area.

The proposed use with a total floor area of 259 square metres triggers a requirement to provide an additional 9 car parking spaces. Given the site does not provide additional on-site car parking spaces, the application seeks a waiver of the statutory car parking requirements pursuant to Clause 52.06.

4.5.2. Clause 52.27 – Licensed Premises

Clause 52.27 deals specifically with Licensed Premises.

The purpose of this Clause is:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Under this Clause, a permit is required when a liquor licence is required under the *Liquor Control Reform Act 1998*. Specifically in relation to this project, a permit is required for:

- The number of patrons allowed under a licence is to be increased.
- The area that liquor is allowed to be consumed or supplied under a licence is to be increased.

The decision guidelines under Clause 52.27 of the Port Phillip Planning Scheme include:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

4.5.3. Clause 52.34 – Bicycle Facilities

Clause 52.34 Bicycle parking seeks to encourage cycling as a mode of transport and to provide secure and accessible bicycle parking spaces and facilities.

An overview of the Statutory bicycle parking requirement is outlined in the below table.

Figure 6 – Bicycle Parking Requirements

Component	No/Area	Requirement	Total
Hotel	*65 m ² of bar area & 135 m ² of lounge area	1 space per 25m ² of floor area available to the public; plus 1 to each 100m ² of lounge floor area available to the public for employees	3
		1 space per 25m ² of floor area available to the public; plus 1 to each 100m ² of lounge floor area available to the public for visitors	3
Total		Employees	3
		Visitors	3
		Total	6

Source: One Mile Grid

As shown above, the proposal generates a statutory requirement for 6 bicycle parking with the addition of the new rooftop terrace. No new bicycle parking spaces are provided as part of the proposal, which equates to a

shortfall of 6 spaces when compared to the statutory requirements outlined above. Therefore, a planning permit is required to waive the bicycle parking spaces required under Clause 52.34-5 (Clause 52.34-2).

4.6. OTHER CONSIDERATIONS

4.6.1. Aboriginal Cultural Heritage

The subject site is identified as being within an area of Aboriginal Cultural Heritage Sensitivity.

Under the *Aboriginal Heritage Regulations 2018*, development of a 'high impact activity' on land within an area of cultural heritage sensitivity requires preparation of a Cultural Heritage Management Plan (CHMP). However, activities of 'high impact activity' on land that has previously been subject to ground disturbance are not considered to be areas of cultural heritage sensitivity. Therefore, preparation of a CHMP is not required for the purpose of this application.

5. PLANNING CONSIDERATIONS

5.1. RESPONSE TO PLANNING POLICY

The Planning Policy Framework recognises how the entertainment and hospitality industry contributes to the vitality and viability of the City and facilitates appropriate commercial uses by ensuring the development of land is compatible with adjoining nearby land use.

The proposal achieves the broad objectives of these guiding policy documents.

5.1.1. Planning Policy Framework

The State and Local Policy Framework recognises the importance of ensuring that there is enough flexibility within planning policy to achieve design excellence and contribute to the overarching vision for the city. These policies seek to facilitate land use outcomes that support the ongoing vitality of the city as an environmentally sustainable place to live, work, play and visit, as directed within Clause 11 (Settlement). The proposal achieves the broad objectives of these guiding policy documents.

More specifically, the proposal meets the objectives of the SPPF as follows:

- The rooftop bar will contribute to the general operation and vitality of the Armstrong Street Activity Centre. The proposal will take advantage of the surrounding public transport system and bicycle network and will provide local employment within the precinct - **Clause 11 (Settlement)**.
- The proposed background music levels and patron capacity are appropriate to ensure there is no unreasonable impact on the amenity of the surrounding area. The noise levels will comply with relevant State Environmental Protection Policies ('SEPP') standards and will be regulated and monitored as appropriate – **Clause 13 (Noise)**.
- The proposal will deliver a high-quality design that is respectful of its local heritage context and will contribute to the delivery of a liveable and sustainable city – **Clause 15 (Built Environment and Heritage)**.
- The proposed expansion to the rooftop makes use of the otherwise unused space to further contribute to and support the local economy of the Armstrong Street Activity Centre - **Clause 17 (Economic Development)**.
- No additional carparking spaces are proposed for the new rooftop use. Rather, the highly integrated public transport system which delivers late night services will provide adequate access to the site - **Clause 18 (Transport)**.

5.1.2. Local Planning Policy Framework

The proposed development is consistent with the MSS and LPPF within the Port Phillip Planning Scheme, including the relevant objectives and strategies of the policy documents as follows:

- The proposed rooftop venue will contribute to the unique charm of the Armstrong Street Activity Centre and will encourage participation in community life. The venue will welcome all members of the public so that people can feel connected through a strong sense of place – **Clause 21.01 (Vision)**.
- The proposal will strengthen the economic prosperity of the local activity centre through the addition of a vibrant social setting, which will heighten the connection that people have to their local area – **Clause 21.02 (Municipal Context and Profile)**.
- The proposal achieves a high standard of environmental performance, including through the retention of building fabric, incorporation of sustainable design elements and through encouraging patrons to utilise sustainable transport modes – **Clause 21.03-1 (Environmentally Sustainable Land Use and Development)**, **Clause 21.03-2 (Sustainable Transport)**, and **Clause 22.13 (Environmentally Sustainable Development)**. The proposal will also ensure measures are put in place so that treatment of stormwater is appropriately managed – **Clause 22.12 (Stormwater Management)**. Refer to Section 4.5 of this report for further detail.
- The Armstrong Street Activity Centre, being an activity centre that promotes local entertainment, provides an excellent opportunity for a licensed rooftop venue, which will maximise built form capacity in

a sustainable and respectful manner. The addition of the proposed rooftop venue will assist in accommodating the projected retail demand within existing commercially zoned land – **Clause 21.04-2 (Activity Centres)**

- The proposed addition to the existing building has been sensitively designed to ensure the architectural heritage of the site and surrounding heritage area is conserved – **Clause 21.05-1 (Heritage)** and **Clause 22.04 (Heritage Policy)**. It will protect the key elements of Port Phillip’s distinctive character – **Clause 21.05-2 (Urban Structure and Character)** and will make a positive contribution to the general attractiveness of the municipality – **Clause 21.05-3 (Urban Design and the Public Realm)**.
- The proposal will support the local entertainment role of the Armstrong Street Activity Centre by enhancing the vibrancy of the area and ensuring the rooftop addition is sufficiently set back from the streets to minimise visibility – **Clause 21.06-3 (Middle Park and Albert Park)**.
- The proposed rooftop addition to the existing building has been designed to a high standard to contribute to a high quality urban design and enhance the vitality of the area – **Clause 22.06 (Urban Design Policy for Non-Residential Development and Multi Residential Development)**

5.2. HERITAGE

The subject site is located within the Armstrong Street Commercial Precinct, identified as HO445 in the Schedule to the Port Phillip Heritage Overlay. Within the heritage precinct, the subject site is identified as a *significant* building, as are most buildings within the small precinct.

The proposed addition to the built form is considered respectful of the heritage considerations and retains elements of the site that contribute to the building’s significant heritage fabric. The addition accords with the objectives of Clause 22.04 as follows:

- Only a very minor extent of internal demolition is required for the creation of a new lift core. We note that there are no internal alteration heritage controls.
- The proposal involves no works to the external façades of the building.
- A majority of the existing building fabric will be retained, including a majority of the roof fabric and chimneys. External demolition is limited to a small, centrally located portion of the roof as well as reducing one chimney stack down to the ridge line to facilitate the construction of the terrace above. The existing roof and chimney elements of the building will be obscured beneath a new floating rooftop terrace, which can be removed to restore the building to its original condition (if desired).
- The reduction of one chimney stack down to the ridge level is supported by Bryce Raworth given that it will have no, or limited visibility and the resulting minor change will not have an unacceptable impact.
- The 1.55-metre-tall framed glass balustrade will be set back from the existing parapets by 1.5 metres to reduce visibility of the rooftop terrace from the public realm. The glass balustrades will have a lightweight appearance to further reduce any offsite amenity impacts to the heritage fabric of the building.
- The material of the new roof proposed above the terrace area has been carefully designed to minimise visual impact to the site, including the incorporation of a clear overhang roof where the roof may be visible from the public realm. The roofing material is transparent to reduce its prominence.
- The proposed additions are contemporary in nature and distinguishable from the original fabric of the building.

We also note that there are various examples of rooftop terraces to hotels, pubs and other business types around Melbourne and inner-city suburbs, including a recently constructed rooftop area to the adjacent building at 104 Canterbury Road which includes a visible glazed balustrade.

The proposal is supported by the Heritage Impact Statement prepared by Bryce Raworth, as the addition will support the ongoing use of the building for its intended function as a hotel, and the treatment of the interface is considered appropriate.

Please refer to the Heritage Impact Statement at **Appendix F** for details.

5.3. AMENITY IMPACT

5.3.1. Cumulative Impact

There are a number of licensed premises in the vicinity of the subject site, given positioning within the Armstrong Street Activity Centre. The proposed rooftop bar will expand the entertainment offering of the Middle Park Hotel and enhance the economic viability and vibrancy of the activity centre. The licensed premises will deliver positive cumulative impacts to the area by providing a new rooftop that achieves a high level of consistency with the requirements of the Port Phillip Planning Scheme, including Clause 52.27.

The premises will be well-managed and will not increase the risk of anti-social behaviour. Rather, it will increase the offering of the well managed restaurant premises which are complementary to the role of the activity centre. Importantly, there is no evidence the proposal will result in the saturation of the area from a licensed premises perspective.

Clause 52.27 of the Port Phillip Planning Scheme provides guidance for the establishment of a new licensed premises. A summary of the assessment against the decision guidelines of Clause 52.27 is provided below.

Clause 52.27 Decision Criteria	Assessment
State and Local Planning Policy Frameworks	<p>The Port Phillip Planning scheme identifies that the site forms part of a neighbourhood activity centre. Port Phillip’s Municipal Strategic Statement recognises the important role activity centres play in supporting and hosting visitation, including <i>local and regional entertainment uses</i>.</p> <p>The rooftop bar will support the role of the activity centre by providing an entertainment use in an appropriately located area (Clause 21.04-4 and Clause 21.06-3).</p> <p>In line with the requirement of Clause 21.04-6, a Noise and Amenity Action Plan (NAAP) is submitted for entertainment uses operating after 10:00pm. It ensures appropriate management of the rooftop bar, particularly in relation to the responsible service of alcohol, minimising risk of alcohol misuse and abuse and minimising adverse impacts on the amenity of the surrounding area including to nearby residents and businesses.</p> <p><i>(Refer to the Noise and Amenity Action Plan prepared by Australian Venue Co. at Appendix H)</i></p>
Impact of the sale or consumption of liquor on the amenity of the surrounding area	<p>The subject site is within a zoned economic activity area (Commercial 1 Zone) where a range of uses are envisaged to create vibrant mixed use centres. The site is also located in the Armstrong Street Neighbourhood Activity Centre where licensed premises and entertainment uses are supported.</p> <p>The Middle Park Hotel is an established venue having operated as a licensed premise for many years. The new rooftop bar will expand the existing offering of the Hotel and will not negatively impact on the amenity of the surrounding area, to the extent that a new licensed premise is proposed. The new rooftop bar is unlikely to exacerbate the existing levels of amenity in the neighbourhood activity centre and will have negligible impact on the amenity of the surrounding area.</p>

Clause 52.27 Decision Criteria	Assessment
Impact of the hours of operation on the amenity of the surrounding area	<p>The rooftop bar will generally operate in accordance with the trading hours specified in the existing liquor licence, with the exception of the hours of operation specified for New Year's Eve, Grand Final Eve, Melbourne Cup and the Grand Prix.</p> <p>The proposed hours of operation are:</p> <ul style="list-style-type: none"> ▪ Sunday Between 10 a.m. and 1 a.m. the following morning. ▪ Good Friday Between 12 noon and 1 a.m. the following morning. ▪ Anzac Day (not being a Sunday) Between 12 noon and 1 a.m. the following morning. ▪ On any other day Between 7 a.m. and 1 a.m. the following morning except for Good Friday morning. <p>The hours of operation for New Year's Eve, Grand Final Eve, Melbourne Cup & the race days of the 'Race Period' as determined under the Grand Prix Act 1994 - Between 7 a.m. and 1 a.m. the following morning (excluding 7 a.m. to 10 a.m. on Sunday morning).</p> <p>The Acoustic assessment prepared by Octave Acoustics demonstrates that the proposed rooftop venue complies with the Environmental Protection Regulations 2021 at all hours of operation, and noise levels present a low risk of impact to residential receivers during all periods of the day. Noise levels will be monitored by a noise limiter and live music will not occur during the night period.</p> <p>The hours of operation are consistent with a Late Night (General) Licence and generally consistent with the expected trading hours for an entertainment use in an activity centre.</p>
Impact of the number of patrons on the amenity of the surrounding area	<p>The rooftop bar will have a maximum capacity of 200 patrons. Patrons will queue (if required) in the guest lounge and along Armstrong Street to ensure there is no impact or impediment to pedestrians. During peak times, the queue will be monitored by staff and controlled by a licensed crowd controller.</p> <p>No new patrons will be permitted to access the rooftop bar from 11.30pm (on nights when trading is until 1.00am) to help ensure there is a natural reduction of patrons. This also assists in controlling patron dispersal from the Hotel at closing time.</p> <p>The subject site is accessible to transport options, including the Middle Park Light Rail station which is located directly opposite the site. Kerbside car parking is located along Armstrong Street which after 6pm there are no time restrictions.</p>
Cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area	<p>The proposed licensed venue is located within an area with a defined cluster of licensed premises. A cluster of licensed premises is to be expected as part of an activity centre context. Within 100 metres of the site, there are 7 premises which are licensed to sell liquor, 4 of which area associated with restaurants/cafes, two packaged liquor and one with the Power House Amateur Football Club. It is therefore observed that this area is not categorised by large, late night licensed premises, that are typically associated with alcohol related harm.</p>

Clause 52.27 Decision Criteria	Assessment
	<p>The rooftop bar introduces a new entertainment space at an established licensed venue. In this context, the proposal does not add a new licensed premise in the area.</p> <p>The licensed premise will contribute to positive cumulative impact in the area by providing a new type of entertainment space (rooftop bar).</p> <p>The enclosed Noise and Amenity Action Plan will ensure the appropriate operational conditions are implemented to limit unreasonable impacts from the licensed venue.</p>

Please refer to the Cumulative Impact Assessment at **Appendix G** for details.

5.3.2. Noise

The enclosed acoustic assessment prepared by Octave Acoustics has identified the existing residential properties at 92-98 and 109 Canterbury Road to be the most sensitive.

The assessment concludes that the proposed rooftop bar is expected to comply with *Environmental Protection Regulations 2021* (EPR 2021) and the best practice/precedent for patron noise at all hours of operation.

An overview of the music and patron noise assessment is outlined below, and the Acoustic report is attached at **Appendix E**.

Music

Pre-recorded background music will be generally played on the rooftop terrace, with also the possibility of a Live or DJ performances. Live and DJ music will be limited to the day/evening period only (will not be played after 11:00pm on Saturday or 10:00pm on Sunday or public holiday).

The enclosed Acoustic assessment demonstrates that proposed background and DJ music levels will comply with EPR 2021 during all periods of operation. It also recognises that music noise emissions associated with live music will also comply with the EPR 2021 limits during the day/evening period and recommends that live music is not played during the night period.

Music operation on the proposed rooftop bar will comply with the recommendations of the Acoustic assessment and will be controlled by a noise limiter to ensure music noise levels on the rooftop do not exceed the compliant music noise levels.

Patrons

The Acoustic assessment demonstrates that patron noise levels associated with the operation of the rooftop bar will not exceed the trigger levels for the day and evening period, and during the night period is likely to be immaterial. As such, it is predicted that the noise levels present a low risk of impact to residential receivers during all periods of the day.

5.3.3. Proximity to Sensitive Uses

The subject site is centrally located within the Armstrong Street Activity Centre (Commercial 1 Zone) and is set back from residentially zoned land by approximately 50 metres.

The proposed licensed area is located within the northern corner of the building where the site interfaces Canterbury Road and Armstrong Street. Screening balustrades to the perimeters of the rooftop terrace and a partial roof covering will provide partial enclosure and screening of noise during sensitive operating hours (e.g. night time) to ensure an appropriate buffer is provided to the nearby residential uses, the closest being at 92-98 and 109 Canterbury Road. It is considered that compliance with noise criteria at these locations is expected to result in compliance at all other potentially affected residential receivers. As demonstrated within the Acoustic assessment report prepared by Octave, the proposal will not result in any unreasonable impacts to the surrounding area, including the nearby residential uses.

Further, every effort will be made by management to avoid interference with the amenity of neighbouring properties by way of noise, vibration, smell, fumes, wastewater, and other disturbances.

5.4. CAR PARKING, BICYCLE PARKING AND WASTE

Car Parking

A total of 9 car parking spaces are required for the proposed rooftop bar pursuant to Clause 52.06. As the application does not propose to provide additional car parking spaces on-site, it seeks a waiver of the statutory car parking requirements.

The Car Parking Demand Assessment prepared by One Mile Grid established that parking demand in the surrounding area peaks around the middle of the day and then eases into the afternoon and evening. It was therefore determined that at the time when the rooftop bar may be operating at its peak, car parking in the surrounding area is far reduced.

One Mile Grid concludes that there is sufficient car parking available in the vicinity of the site to accommodate the demands projected as a result of the proposed rooftop terrace bar and increase in patronage at the venue. In addition, it is recognised that public transport services including late night services will provide patrons with numerous alternative modes of travel to and from the site.

Please refer to the Traffic Impact Assessment and Car Parking Demand Assessment prepared by One Mile Grid (**Appendix D**) for details.

Bicycle Parking

No new bicycle parking spaces are provided as part of the proposal, which equates to a shortfall of 6 spaces when compared to the statutory requirements outlined at Clause 52.34. However, four existing bicycle parking hoops, catering for 8 bicycle parking spaces, are positioned along Canterbury Road at the frontage of the site and a number of other bicycle parking hoops exist along Armstrong Street.

The Traffic Impact Assessment prepared by One Mile Grid therefore concludes that there is adequate existing on-street bicycle parking in the immediate vicinity of the subject site to cater for the potential additional bicycle parking demand. Given this, it is acceptable to provide no additional bicycle parking as part of the proposal.

Please refer to the Traffic Impact Assessment prepared by One Mile Grid (**Appendix D**) for details.

Waste

Given that the proposed rooftop bar is expected to increase the total amount of waste generated on site, it is proposed to replace the existing waste bins with larger bins to increase capacity. It is considered that the existing bin storage area is sufficient in size to accommodate the new bins, which will continue to be collected by a private waste contractor 3 days a week.

Please refer to the Waste Management Plan prepared by One Mile Grid (**Appendix C**) for details.

5.5. ENERGY AND SUSTAINABILITY

The proposal achieves the objectives of Clauses 19.03-3S and 22.13 (Environmentally Sustainable Development) of the Port Phillip Planning Scheme. The overarching objective of Clause 22.13 is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

The proposal achieves a high standard of environmental performance through provision of adequate shading, encouraging the use of active and public transport modes, and utilising existing kitchen facilities on the site to maximise energy efficiency and minimise waste production.

Noting that Clause 22.13 requires preparation of a Sustainable Management Plan (SMP), we request that this requirement is addressed as a condition on permit.

6. CONCLUSION

The proposed rooftop venue represents an appropriate planning outcome which aligns with Council's vision for a city with vibrant community life and the various policies and objectives which apply under the Port Phillip Planning Scheme. The proposal presents a high-quality design response that is appropriate within the site's context whilst also conserving the heritage fabric of the site. Various measures have been taken to ensure the rooftop bar will not unreasonably impact the amenity of surrounding sensitive uses.

Based on the assessment contained within this report, we submit the proposal warrants favourable consideration based on:

- The proposal to provide an addition to the existing Armstrong Street Activity Centre is supported by State and Local policy, as it will support economic growth, improve the vibrancy of the commercial area, and overall make a positive contribution to the hospitality portfolio of Middle Park.
- The proposal is respectful of the heritage elements of the existing building, ensuring the external facades are not altered and the rooftop addition is not visually obtrusive when viewed from surrounding land.
- The proposed rooftop addition has been carefully designed to provide a high-quality response that is respectful of the existing neighbourhood character and heritage elements of the area.
- Off-site amenity impacts will be minimal and there will be no unreasonable impacts to nearby sensitive uses, as demonstrated in the accompanying Acoustic assessment.
- The proposal presents a sustainable outcome for the site through encouraging the use of active and public transport modes and providing adequate shading on the rooftop.

We trust that this planning report and the accompanying documents provided enables the consideration of the planning permit application and we look forward to Council's consideration of this proposal.

7. DISCLAIMER

This report is dated 29 October 2021 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of AUSTRALIAN VENUE CO. (**Instructing Party**) for the purpose of Planning Permit Application (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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