

## Report to the Future Melbourne Committee

Agenda item 6.4

**Planning Permit Application: TP-2022-644**  
**Shop 10-11, 129 Canning Street, North Melbourne**

**15 August 2023**

**Presenter:** Nick McLennan, Acting 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 the use of the land to sell and consume liquor associated with a general liquor licence within an existing retail tenancy at Shop 10-11, 129 Canning Street, North Melbourne (refer Attachment 2 – Locality Plan and Attachment 3 – Plans).
2. The applicant is Charman Cellar Pty Ltd as Trustee for Charman Cellar Trust. CBD Development Group North Melbourne Pty Ltd is the owner of the land.
3. The site is located within the Mixed Use Zone (MUZ) and is affected by the Design and Development Overlay (DDO63), Land Subject to Inundation Overlay (LSIO1), Buffer Area Overlay (BAO2), Environmental Audit Overlay (EAO) and Development Contributions Plan Overlay (DCPO2). The proposed use of the tenancy is best described as a 'hotel' which allows consumption of alcohol on the premises, however no permit is required for the use due to the leasable floor area being less than 150 square metres.
4. The application seeks to allow the use of the tenancy to sell and consume liquor for a licence required under the *Liquor Control Reform Act 1998*. The type of licence sought is a general licence.
5. The retail tenancy currently operates as a bottle shop with a packaged liquor licence that restricts sale of packaged liquor for consumption off the premises. This application seeks permission for the sale of liquor for consumption both on and off the premises, associated with the provision of a supplementary bar within the retail tenancy that is to accommodate a maximum of six customers for the purpose of tastings and education.
6. Public notice of the application was given pursuant to section 52 of the *Planning and Environment Act 1987* (Act). A total of 30 submissions were received – 16 objections and 14 letters of support.

### Key issues

7. The key issues in the consideration of this application are the appropriateness of the proposed use of the land to sell and consume liquor with a general licence having regard to Licensed premises policy (Clause 13.07-1L-04), Clause 52.27 (Licensed premises), and matters raised in objections.
8. Subject to conditions, the proposed use is acceptable as it aligns with the purpose and decision guidelines of the Mixed Use Zone and broader planning policy. Having regard to the limited number of patrons and limited hours of on-site consumption, the use can be appropriately managed via planning permit conditions.
9. The proposal positively responds to the decision guidelines of Clause 52.27 (Licensed premises) and complies with policy guidelines for licensed premises at Clause 13.07-1L-04 of the Melbourne Planning Scheme regarding noise, hours, patronage, cumulative impacts and external amenity impacts from liquor consumption on the premises.

### Recommendation from management

10. 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 to Attachment 4 of the report from management).

### Attachments:

1. Supporting Attachment (Page 2 of 27)
2. Locality Plan (Page 3 of 27)
3. Plans (Page 4 of 27)
4. Delegate Report (Page 5 of 27)

## Supporting Attachment

---

### Legal

1. Division 1 of Part 4 of 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 Victorian Civil and Administrative Tribunal (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 waste management and noise attenuation matters, which 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).

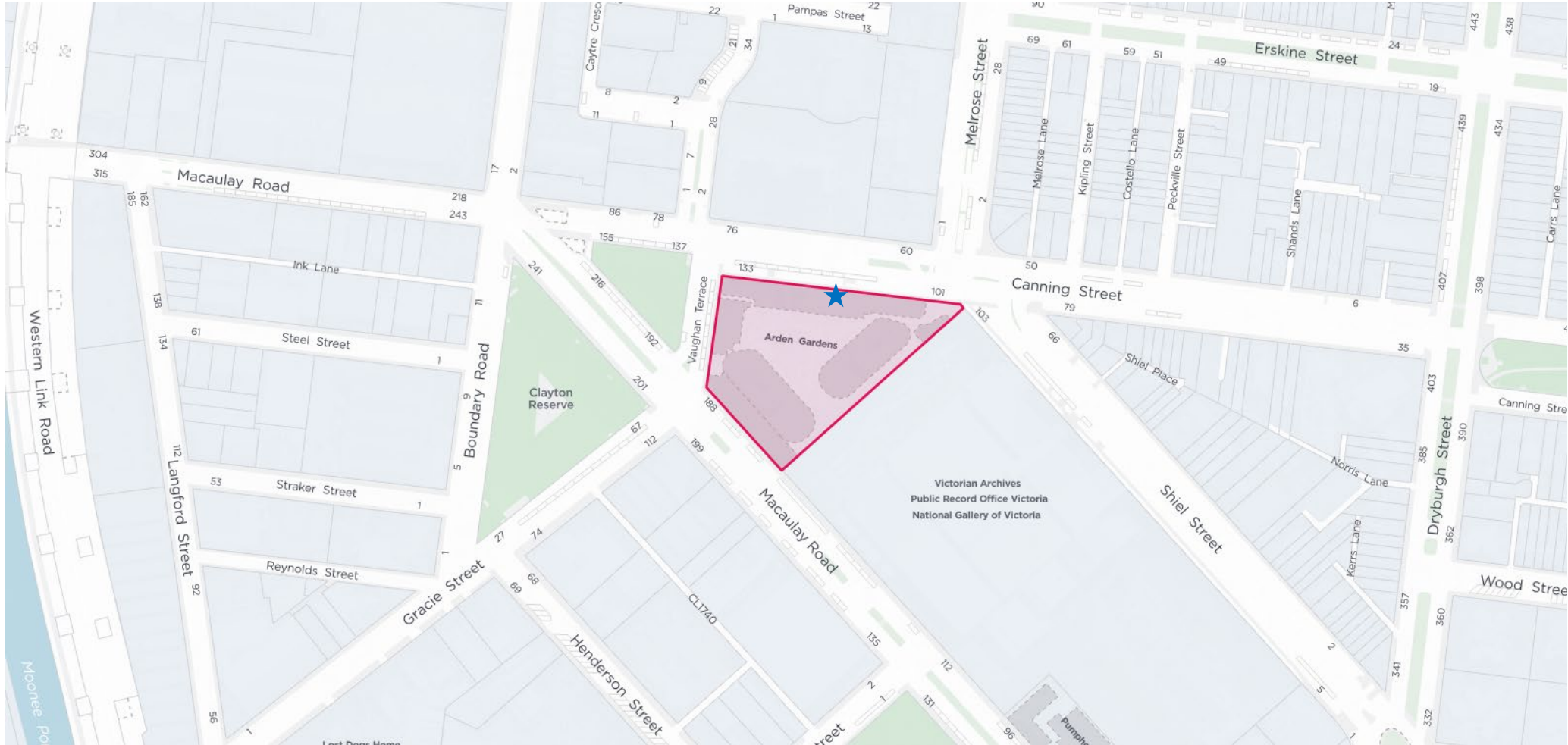
### Environmental sustainability

8. The proposal requires planning permission for the sale and consumption of liquor in an existing retail tenancy and the requirements set out in in Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management) and Clause 53.18 (Stormwater Management in Urban Development) of the Melbourne Planning Scheme do not apply.

# Locality Plan

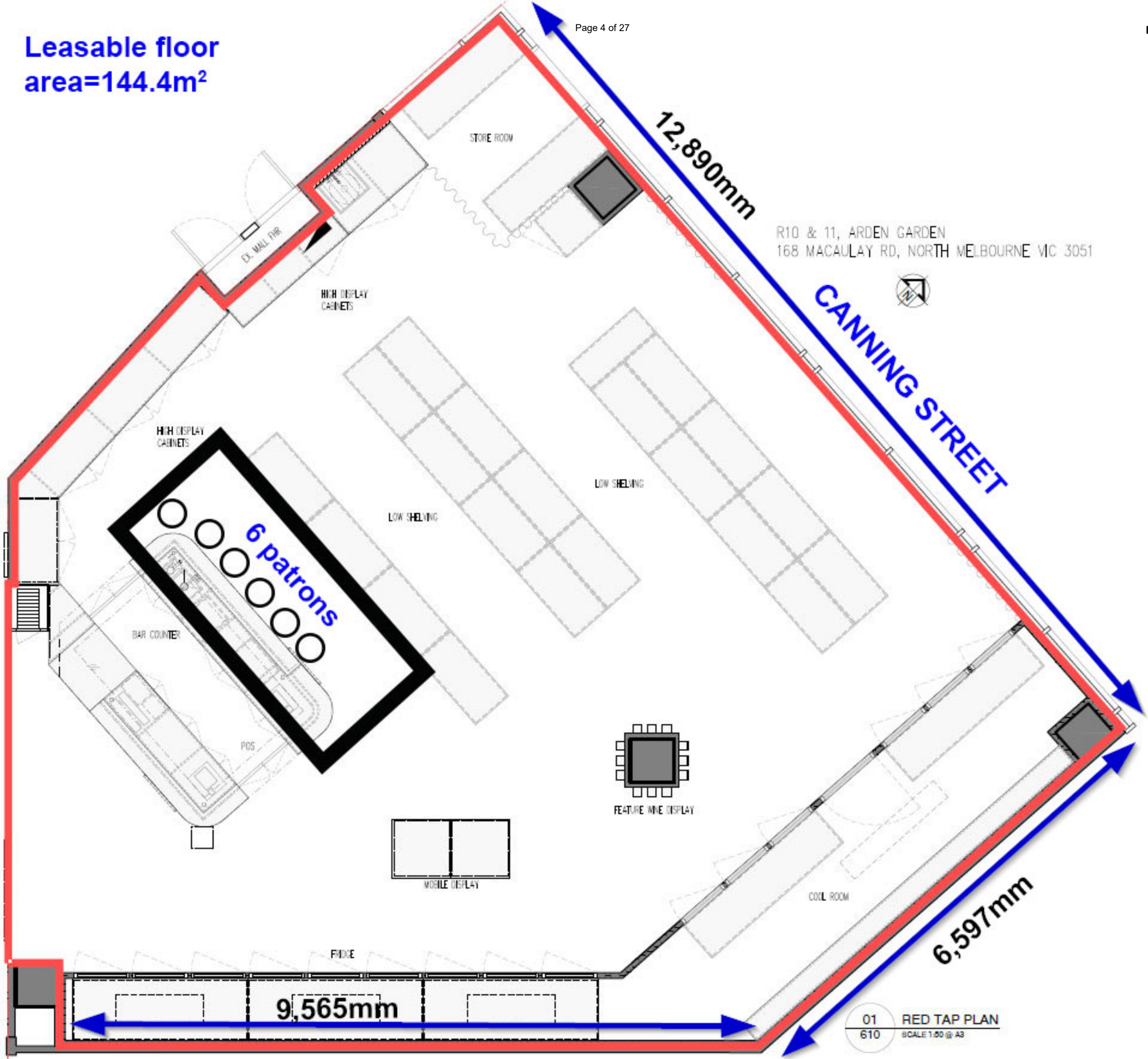
Page 3 of 2

Shop 10-11, 129 Canning Street, North Melbourne



Leasable floor  
area=144.4m<sup>2</sup>

R10 & 11, ARDEN GARDEN  
168 MACAULAY RD, NORTH MELBOURNE VIC 3051



01 RED TAP PLAN  
610 SCALE 1:50 @ A3

## DELEGATE REPORT

### PLANNING PERMIT APPLICATION

<b>Application number:</b>	<b>TP-2022-644</b>
<b>Applicant:</b>	<b>Charman Cellar Pty Ltd as Trustee for Charman Cellar Trust</b>
<b>Address:</b>	Shop 10-11, 129 Canning Street, NORTH MELBOURNE VIC 3051
<b>Proposal:</b>	Use of the land to sell and consume liquor (general license)
<b>Date of application:</b>	1 November 2022
<b>Responsible officer:</b>	Amanda Duong, Urban Planner

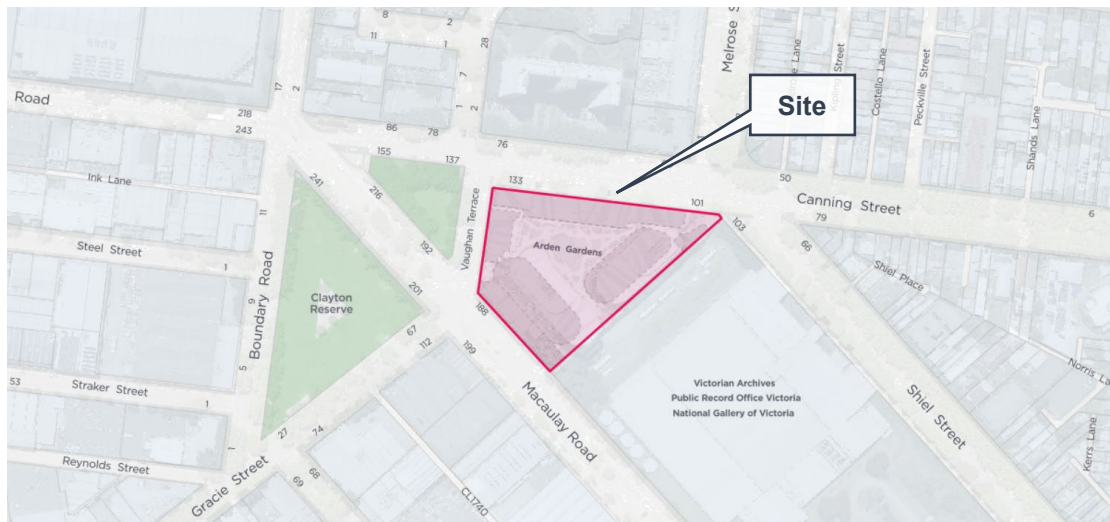
## 1 SUBJECT SITE AND SURROUNDS

### 1.1 The Site

Planning application TP-2022-644 (**Application**) concerns the land known as Shop 10 and 11, 129 Canning Street, North Melbourne (**Site**) which is formally identified as Lot S2 on Plan of Subdivision 801118L.

The Site is contained within a larger development known as 'Arden Gardens', which is 101-133 Canning Street, North Melbourne. Arden Gardens is a mixed use development spanning an area of 8154 square metres, bounded by Canning Street to the north, Macaulay Road to the south-west, and Vaughan Terrace to the west.

The development was authorised by Ministerial Permit 2011/008241-1, and was completed circa 2019.



**Figure 1 – Subject Site and Surrounds.**

Arden Gardens consists of a podium containing retail and commercial tenancies at ground level and residential units at the upper storeys (first to third) with communal facilities. Located above the podium are two residential towers of ten and 16 storeys located on the south-

eastern and western side of the podium, respectively. The development accommodates on-site car parking and bicycle spaces over two basement levels.

Of particular relevance to this Application is the ground level of the development which is anchored by a retail / commercial component, including (but not limited to) a supermarket, bottle shops, pharmacy, take away food premises, and a post office.

The Site itself is located on the Canning Street frontage, with a leasable floor area of 144 square metres. The Site is currently host to a licensed retail premises (bottle-shop) trading as 'Sessions at Arden'.

Access to the Site is from inside the complex, with entrances to the building afforded via the main entrance on Canning Street. Alternative access is afforded via an entrance on Vaughan Terrace, and escalators from the basement car parking accessed from Macaulay Road.

Arden Gardens includes communal waste services for commercial tenancies within the building, which the applicant confirms they have access to (noted as Common Property on the Plan of Subdivision PS801118L).



Figure 2 – Arden Gardens as viewed from the corner of Arden Street and Vaughan Terrace.



Figure 3 – The Site as viewed from Canning Street.

## 1.2 Certificate of Title

The registered search statement for the Site identifies that the land is not burdened by Section 173 Agreements, easements, or restrictive covenants.

### 1.3 Surrounds

The Site is located within the Macaulay precinct, northwest of the central city, marked for transition into a mixed use, mid-rise neighbourhood with a distinct inner urban character as per the *Macaulay Structure Plan 2021*.

The surrounding neighbourhood is currently characterised by a mix of building typologies, predominantly including heritage buildings (dwellings) to the east and north-west of Melrose and Shiel Streets, with some older building stock (of no heritage significance) north of Canning Street in a mixed use context.

Land uses within the immediate area currently include a mix of commercial and residential uses.

The immediate surrounds feature the following:

- **North** of the Site (across Canning Street) is a 21 storey residential building managed by the Department of Human Services (**DHS**), which is setback from Canning Street behind an at grade car parking lot. Smaller scale residential buildings are located to the east of this on the corner of Canning and Melrose Streets, also managed by DHS.

Land to the north east of this, includes the Melrose Street shopping strip at 11-41 Melrose Street, which contains retail premises at ground level (some of which are licensed) and residential units above. Beyond this (north and north-east) are established low scale residential properties that extend along the north-eastern side of Shiel Street and beyond.

Melrose and Shiel Streets define the border of the Macaulay Structure Plan Area.

- **East** of the Site is the Victorian Archives Centre (**VAC**). The site contains a combination of one and two storey buildings, bus depot (immediately abutting the Site), an at-grade car park, and residential development of four storeys further east of the lot.
- **South** of the Site (across Macaulay Road) are a number of warehouses currently used for a variety of purposes including a panel beater, hardware store and pet store.
- **West** of the Site, adjacent to Vaughan Terrace, is a small pocket park. The park provides a buffer between the intersections of Canning Street, Macaulay Road and Boundary Road.

Land to the south and south-western side of Macaulay Road is delineated as being within the Arden Urban Renewal Precinct.

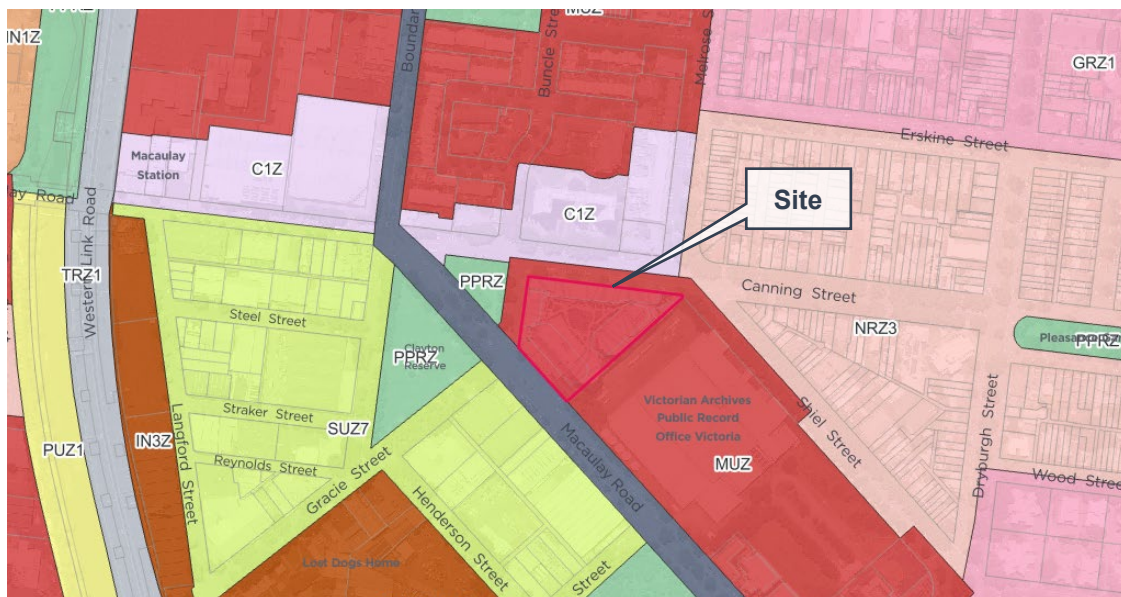


Figure 4 – Zoning Map



**Figure 5** – Built form and surrounding land uses.

#### 1.4 Liquor Licence History for the Site / Surrounding Properties

The Site currently holds a Packaged Liquor licence associated with the current operations as a bottle-shop. Arden Gardens itself contains a number of licensed retail premises at ground level.

The Victorian Gambling and Casino Control Commission mapping and records show that there are a number of other licensed premises within the surrounding locality, operating under various licences. See **Figure 6** below.

These licences are in the Mixed Use Zone (a residential zone) and Commercial Zone.

Table 1 below provides a summary of the surrounding licences.

<b>Table 1: Summary of Surrounding Liquor Licences</b>	
<b>Site</b>	<b>Summary</b>
<b>The Site</b> (bottle-shop) Shop 10&11, 129 Canning Street	<ul style="list-style-type: none"> <li>• Packaged Liquor licence</li> <li>• Trading hours:                Monday to Saturday: Between 9am and 11pm                Sunday: Between 10am and 11pm                ANZAC Day: Between 12noon and 11pm                Good Friday and Christmas Day: No Trade</li> </ul>
<b>BWS</b> (bottle-shop) Shop G1, 129 Canning Street (within Arden Gardens)	<ul style="list-style-type: none"> <li>• Packaged Liquor licence</li> <li>• Trading hours:                Any other day than Sunday, Good Friday, ANZAC/Christmas                Day: Between 9am and 11pm                Sunday: Between 10am and 11pm</li> <li>• ANZAC Day: Between 12noon and 11pm</li> </ul>
<b>Mr Tucker</b> (café) 17 Melrose Street (80 m)	<ul style="list-style-type: none"> <li>• Restaurant / Cafe licence</li> <li>• 130 patrons</li> <li>• Trading hours (internal):                Good Friday &amp; ANZAC: Between 12noon and 10pm                Any other day: Between 7am and 10pm</li> <li>• Renewable Limited licence</li> </ul>



	<ul style="list-style-type: none"> <li>Trading hours: Monday to Sunday: Between 7am and 11pm ANZAC Day: Between 12noon and 11pm</li> </ul>
<p><b>Melrose IGA</b> (supermarket) (113 m)</p>	<ul style="list-style-type: none"> <li>Packaged Liquor licence</li> <li>Trading hours: Any other day than Sunday, Good Friday, ANZAC/ Christmas Day: Between 9am and 11pm Sunday: Between 10am and 11pm ANZAC Day: Between 12noon and 11pm</li> </ul>
<p><b>Twang Brewing (Bar)</b> 21 Melrose Street (90 m)</p>	<ul style="list-style-type: none"> <li>Producer's licence</li> <li>Trading hours: Monday to Sunday: Between 12noon and 10pm</li> </ul>
<p><b>EZI Kitchens (retail)</b> 275 Macaulay Road (295 m)</p>	<ul style="list-style-type: none"> <li>General licence</li> <li>75 patrons</li> <li>Trading hours: Consumption off the premises Sunday: Between 10am and 11pm Good Friday &amp; ANZAC: Between 12noon and 11pm On any other day: Between 7am and 11pm  Consumption on the premises Sunday: Between 10am and 1am Good Friday &amp; ANZAC: Between 12noon and 1am the following morning On any other day: Between 7am and 1am the following morning</li> </ul>



Figure 6 – Surrounding licenced premises with 100 m buffer shown (Source: VGCCC).

## 2 BACKGROUND AND HISTORY

### 2.1 Relevant Permit History

Ministerial Permit 2011/008241-1 (**Ministerial Permit**, Council reference TPM-2011-18/B) authorises the use and development of Arden Gardens, and is considered relevant to this Application.

The Ministerial Permit, which was granted on 22 May 2013, allows for *'the construction of buildings and works for a mixed use development, use of the land for **retail (excluding hotel, tavern and adult sex book shops)** and office, a reduction in the standard car parking requirement, alteration of the access to a Road Zone Category 1, **sale of packaged liquor**, display of signage and removal of the restriction on title to land at Lot 4 on Plan of Subdivision 304533Q in accordance with the endorsed plans'*.

[Council **emphasis** added].

As identified above, the Site currently benefits from the Ministerial Permit, operating as a 'Bottle shop' (included in 'Retail') involving the sale of packaged liquor.

Condition 3 of the Ministerial Permit has bearing on the operation of the retail premises, limiting retail tenancies within Arden Gardens to the sale of packaged liquor only. Condition 3 states:

*'3. The retail tenancies, including **sale of packaged liquor**, and offices must not operate outside the hours of 7am and 11pm daily unless otherwise agreed in writing by the Responsible Authority.'*

This Application seeks a variation to the type of licence to allow for the service and consumption of liquor on the premises (General Licence). This matter is discussed further at Section 2.2.2 of the Report.

## 2.2 Planning Permit Application History

### 2.2.1 Pre-application Meeting

No pre-application meeting was held prior to the lodgement of the Application.

### 2.2.2 Consultation with the Department of Transport and Planning

Having considered the relevance of the Ministerial Permit in authorising the Site for both use as a retail premises and use as a licensed premises associated with the sale of packaged liquor, Council recommended the applicant consult with the Department of Planning and Transport (DTP), being the responsible authority who issued the original permit, to ascertain if the proposed changes should form an Amendment to Planning Permit 2011/008241-1 under S.72 of the *Planning and Environment Act 1987*.

On 30 November 2022, the applicant provided written confirmation from DTP (dated 19 October 2022) confirming that they would not facilitate an amendment to the permit. The response concluded it was appropriate an application be made to Council for the proposal.

Based on the written confirmation, Council deemed it appropriate to proceed with the Application with Council being the Responsible Authority.

## 2.3 S.57A Amendment

In response to feedback from Council and objectors, the applicant amended the Application pursuant to Section 57a of *the Act* on 19 May 2023, to reduce the proposed operation hours where alcohol is to be served for consumption on the premises (originally to 11pm).

A summary of the proposed amended hours are detailed below (changes shown in red):

Service of liquor for <b>consumption on</b> the licensed premises	Sunday: Between 10am and <b>9.30pm</b> Good Friday & ANZAC Day: Between 12pm and <b>9.30pm</b> Any other day: Between 9am and <b>9.30pm</b>
Sale of liquor for <b>consumption off</b> the licensed premises	Sunday: Between 10am and 11pm Good Friday & ANZAC Day: Between 12pm and 11pm Any other day: Between 9am and 11pm

### 3 PROPOSAL

#### 3.1 Documents considered in assessment

The documents which have been considered in this assessment are identified in Table 2 below:

Table 2: Documents Considered in Assessment		
Document	Author	Date
Certificate of Title	Land data	27 October 2022
Written Summary	Sessions at Arden	No date
Plans (redline plan)	N/A	No date

#### 3.2 Summary of the Proposal

The application seeks planning approval to use the land for a licensed premises.

This Application has come about as a result of a request to vary the type of licence required under the *Liquor Control Reform Act 1998*; that being a General Licence to allow for the service and consumption of liquor on the premises. The retail premises currently holds a Packaged Liquor Licence (Licence No. 32070603).

A summary of the proposal, as submitted by the applicant, is provided below:

*'We would like to vary our Packaged Liquor License to a General Liquor License to allow the supply of liquor for on-premise and off-premise consumption.*

*Our mission is to educate customers to appreciate liquor responsibly by exploring the differences and expanding their boundaries ... Having a General License will allow customers to consume different types of liquor in a comfortable and safe setting allowing us to educate them about the about the origins, production, and how to appreciate them.*

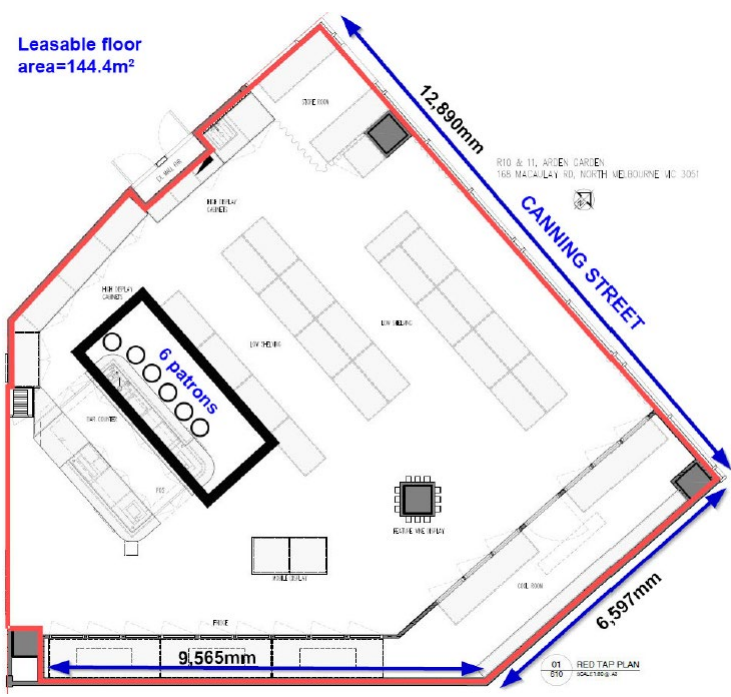
*Since opening, there have been large number of enquiries from our customers asking whether it's possible to have a drink at the premise so they can learn more about the liquor they're interested in. This is strongly in line with our goals.'*

The proposed land use details are identified in Table 3 below:

Table 3: Proposed Land Use Details	
Floor area	144.4 square metres
Use	A food and drink premises (hotel) providing for the service and sale of liquor for consumption on and off the premises.
Liquor Licence	General liquor licence
Operating Hours	<p>Service of liquor for <b>consumption on</b> the licensed premises:</p> <ul style="list-style-type: none"> <li>• Sunday: Between 10am and 9.30pm</li> <li>• Good Friday &amp; ANZAC Day: Between 12noon and 9.30pm</li> <li>• Any other day: Between 9am and 9.30pm</li> </ul> <p>Sale of liquor for <b>consumption off</b> the licensed premises:</p> <ul style="list-style-type: none"> <li>• Sunday: Between 10am and 11pm</li> </ul>

	<ul style="list-style-type: none"> <li>• Good Friday &amp; ANZAC Day: Between 12noon and 11pm</li> <li>• Any other day: Between 9am and 11pm</li> </ul>
Patronage	Six (6) customers to the bar / counter for consumption of alcohol on the premises.
Music	Background music only. No live music. As per the relevant EPA guidelines noise generated by the premises must at all times comply with the requirements of the EPA Publication 1826.4: <i>Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues</i> , or a subsequently updated publication.
Outdoor areas	No outdoor areas to be used in association with the premises.
Waste	Managed on site and collected as per the Waste Management Plan endorsed under Ministerial Permit 2011/008241-1.
Access	Tenancy is located within Arden Gardens and only accessible from inside complex. Access for patrons to ground level of Arden Gardens via entrances on Canning Street, Vaughan Terrace, and escalators from basement car park accessed from Macaulay Road.
Security	Security is not proposed nor required for the type of proposal.
Works	N/A – no building and works proposed.
Car Parking	Zero spaces.

An extract of the redline plan submitted with the application is provided below (**Figure 7**):



**Figure 7** – Proposed floor plans and Red line plan.

For clarity, the tenancy currently operates as a *'Bottle shop'*, which by definition of *Clause 73.03 – Land use terms* of the Melbourne Planning Scheme (**Scheme**), only permits the sale of packaged liquor for consumption off the premises. As permission is being sought for the sale of liquor for consumption on and off the premises, the corrected land use afforded within the Scheme is now a *'Hotel'*.

*Clause 73.03 – Land use terms* of the Planning Scheme defines *'Hotel'* as follows:

*'Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling'. It is included in 'Food and drink premises'.*

[Council **emphasis** added]

## 4 STATUTORY CONTROLS

Table 4 summarises the planning controls and requirements of the Scheme applying to the Site and proposed development:

Table 4: Planning Controls	
Clause	Permit Trigger
<b>Zone</b>	
Clause 32.04 Mixed Use Zone ( <b>MUZ</b> )	<b>No permit required</b>  Pursuant to Clause 32.04-2, a planning permit is not required to use the land for a 'Food and drink premises', on the condition that the leasable floor area must not exceed 150 square metres.  The leasable floor area associated with the 'Hotel', which is included in 'Food and drink premises', is confirmed to be 144.4 square metres. To this end, <b>a permit is not required.</b>
<b>Overlays</b>	
Clause 43.02 Design and Development Overlay Schedule 63 – Macaulay Urban Renewal Area 8 ( <b>DDO63-A8</b> )	<b>No permit required</b>  There are no permit requirements for land use in Clause 43.02.  Accordingly, a permit is not required for the proposed land use under this overlay.
Clause 44.04 Land Subject to Inundation Overlay Schedule 1 ( <b>LSIO1</b> )	<b>Not applicable</b>  The extent of the LSIO1 does not cover the site for which the proposal applies, as such does not apply.
Clause 44.08 Buffer Area Overlay Schedule 2 – Asphalt Plant – Outer Buffer Area ( <b>BAO2</b> )	<b>Not applicable</b>  The extent of the BAO does not cover the site for which the proposal applies, as such does not apply.
Clause 45.03	<b>Not applicable</b>

Environmental Audit Overlay ( <b>EAO</b> )	<p>The requirements of Clause 45.03-1 applies before a sensitive use, children's playground or secondary school commences or before the construction or carrying out of buildings and works in association with these uses commences.</p> <p>The proposal is for a licensed premises, which is not one of the identified uses above. As such, these provisions do not apply.</p>															
<p>Clause 45.06 Development Contributions Plan Overlay Schedule 2 – Macaulay Urban Renewal Area Development Contributions Plan (<b>DCPO2</b>)</p>	<p><b>No permit required</b></p> <p>There are no permit requirements for land use in Clause 45.06. Accordingly, a permit is not required for the proposed land use under this overlay.</p>															
<b>Particular Provisions</b>																
<p>Clause 52.06 Car Parking</p>	<p><b>No permit required</b></p> <p>Pursuant to Clause 52.06-3, a permit is not required to reduce the number of car parking spaces required for a new use of the land if the following requirements are met:</p> <ul style="list-style-type: none"> <li><i>The number of car parking spaces required under Clause 52.06-5 ... for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5 ... for the existing use of the land.</i></li> <li><i>The number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences.</i></li> </ul> <p>Table 1 of Clause 52.06 sets out the car parking requirement that applies to a use listed in the Table. Column B applies where the land located within the Principal Public Transport Network Area.</p> <p>'Bottle shop' does not appear in Table 1 of Clause 52.06, therefore deferred to 'Shop' which it is included under. The following rates apply:</p> <table border="1" data-bbox="555 1525 1337 1809"> <thead> <tr> <th>Use</th> <th>Rate Column A</th> <th>Rate Column B</th> <th>Car Parking Measure Column C</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Hotel</td> <td>0.4</td> <td></td> <td>To each patron permitted</td> </tr> <tr> <td></td> <td>3.5</td> <td>To each 100 sq m of leasable floor area</td> </tr> <tr> <td>Shop other than listed in this table</td> <td>4</td> <td>3.5</td> <td>To each 100 sq m of leasable floor area</td> </tr> </tbody> </table> <p>As seen above, the same rate applies for the new and existing use. Furthermore, the Application does not seek to reduce the number of car parking spaces provided onsite. As such, <b>a permit is not required.</b></p>	Use	Rate Column A	Rate Column B	Car Parking Measure Column C	Hotel	0.4		To each patron permitted		3.5	To each 100 sq m of leasable floor area	Shop other than listed in this table	4	3.5	To each 100 sq m of leasable floor area
Use	Rate Column A	Rate Column B	Car Parking Measure Column C													
Hotel	0.4		To each patron permitted													
		3.5	To each 100 sq m of leasable floor area													
Shop other than listed in this table	4	3.5	To each 100 sq m of leasable floor area													
Clause 52.27	<b><u>Permit Required – Licensed Premises</u></b>															

Licensed Premises	<p>Pursuant to Clause 52.27, a planning permit is required to use land to sell or consume liquor if 'a licence is required under the <i>Liquor Control Reform Act 1998</i>'.</p> <p>A liquor licence is required under the <i>Liquor Control Reform Act 1998</i>. To this end, a <b>planning permit is required</b>.</p>						
<p>Clause 52.34 Bicycle Facilities</p>	<p><b>No permit required.</b></p> <p>Pursuant to Clause 52.34-1, a new use must not commence ... until the required bicycle facilities and associated signage have been provided on the land.</p> <p>The below rate is applicable to 'hotel':</p> <table border="1" data-bbox="555 595 1337 757"> <thead> <tr> <th data-bbox="555 595 751 651">Use</th> <th data-bbox="751 595 1031 651">Employee/Resident</th> <th data-bbox="1031 595 1337 651">Visitor/Shopper/Student</th> </tr> </thead> <tbody> <tr> <td data-bbox="555 651 751 757">Hotel</td> <td data-bbox="751 651 1031 757">1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public</td> <td data-bbox="1031 651 1337 757">1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public</td> </tr> </tbody> </table> <p>The proposal provides bar with a floor area of 9 square metres available to the public. As such, no bicycle spaces are required.</p>	Use	Employee/Resident	Visitor/Shopper/Student	Hotel	1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public	1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public
Use	Employee/Resident	Visitor/Shopper/Student					
Hotel	1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public	1 to each 25 sq m of bar floor area available to the public, plus 1 to each 100 sq m of lounge floor area available to the public					

## 5 STRATEGIC FRAMEWORK

### 5.1 Municipal Planning Strategy (MPS)

The relevant provisions of the MPS are summarised as follows:

- Clause 02.01 – Context
- Clause 02.03 – Strategic Direction
  - Clause 02.03-6 – Economic Development
- Clause 02.04 – Strategic Framework Plans
  - Clause 02.04-2 – Local Areas Plan

### 5.2 Planning Policy Framework (PPF)

The relevant provisions of the PPF are summarised as follows:

- Clause 11 – Settlement
  - Clause 11.03 – Planning for Places
    - Clause 11.03-1R – Activity centres – Metropolitan Melbourne
    - Clause 11.03-6L-10 – North Melbourne
- Clause 13 – Environmental Risks and Amenity, including
  - Clause 13.05-1S – Noise management
  - Clause 13.07 – Amenity, Human Health and Safety
    - Clause 13.07-1S – Land Use Compatibility
    - Clause 13.07-1L-03 – Land Use Compatibility
    - Clause 13.07-1L-04 – Licensed Premises
- Clause 17 – Economic Development
  - Clause 17.02 – Employment
    - Clause 17.01-1S – Diversified Economy
  - Clause 17.01 – Commercial

- Clause 17.02-1S – Business

## 6 GENERAL PROVISIONS

The following general provisions apply to the Application:

- Clause 65 – Decision Guidelines, which includes the matters set out in.

## 7 OPERATIONAL PROVISIONS

The following operational provisions are relevant to the assessment of the Application:

- Clause 73.03 – (Land Use Terms) defines the following relevant land use terms:
  - Bottle shop:
    - *'Land used to sell packaged liquor for consumption off the premises.'*
  - Hotel:
    - *'Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.'*

## 8 PUBLIC NOTICE

### 8.1 Notice of Lodged Application

It was determined that the proposal may result in material detriment.

On 28 December 2023, notice of the Application was given by sending letters to the owners and occupiers of adjoining and surrounding properties (undertaken by Council) and by instructing the permit applicant to erect one public notice to the Canning Street frontage for a 28 day period, in accordance with Section 52 of *the Act*.

**NB:** The above duration of 28 days for notice aligned with the Christmas and New Year's period where Council determined it was necessary to provide extended notice of the application.

### 8.2 Notice of the S.57A Amended Application

Public notice of the s.57A application was not given under s.57B of *the Act*, as the changes made:

- Directly responded to comments made by Council's Planning Officers; and
- The amended proposal was informally circulated to the objectors for consideration.

## 9 COMMUNITY RESPONSE

A total of sixteen (16) objections and fourteen (14) submissions of support have been received as of the date of this Report. The matters raised are summarised below. Issues raised have informed consideration of the Application in the assessment chapter of this report.

### 9.1 Objector concerns

#### 9.1.1 Use

- Operation of a commercial / licensed premises within a residential area.
- Operating hours, including trading on Good Friday and Christmas.
- Compatibility of a licenced premises with other retailers in Arden Gardens.
- Proximity of a licenced premises to social housing.
- Cumulative impacts from clustering of licensed premises in the area.



- Gradual conversion to a night club / bar.
- Liquor licencing

#### **9.1.2 Amenity**

- Noise (in relation to proximity to residential properties, and general street noise).
- Inappropriate behaviour of patrons from intoxication.
- Increased rate of crime to the area and surrounds.
- Concerns in regard to security and personal safety of surrounding residents and personnel.
- Undesirable congregation and queuing outside the premises.
- Loss to visual aesthetics of the area from increased littering (including general street litter).

#### **9.1.3 Other matters**

- Discrimination against religions and cultures, and to persons that cannot consume alcohol or benefit from a licenced premises.
- Promotion of drinking culture and increased rates of alcoholism.
- Negative influence on children from increased exposure to licenced premises and consumption of alcohol on premises.
- Encourages under-age drinking.
- Adverse impacts on small and local businesses in the area.
- Increased fatalities from intoxication and proximity to vehicular traffic, operating a motor vehicle under the influence.

### **9.2 Support**

- Benefits of a new licensed premises offering in the area.
- Adds value to local services and activity within the surrounding area.
- Increases amenity of the neighbourhood and positive outcomes for local community.
- Increases amenity and diversity of retail offerings at Arden Gardens.
- Proposal is consistent with the vision for Arden Macaulay urban renewal area.

## **10 CONSULTATION**

Following public notification, Council contacted objectors who had provided contact details by phone to clarify the nature of the permit application. The permit applicant was also provided with copies of the objections received.

Of the eighteen (18) objections originally received against the Application, two (2) were formally withdrawn following community consultation and the s.57A amendment to the Application.

## **11 REFERRALS**

### **11.1 Internal**

No internal referrals were required as it is considered there is relevant guidance within the Scheme to inform a decision.

### **11.2 External**

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) (now the

Victorian Liquor Commission) and the Chief Commissioner of Victoria Police for a Hotel 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.

## 12 ASSESSMENT

The Application seeks planning permission for the use of the land for a licensed premises.

A permit is required under *Clause 52.27 – Licenced premises*.

The key issues for consideration in the assessment of this application include:

- Planning Policy Framework
- Liquor Licence
- Matters raised by the Objectors.

### 12.1 Land Use

The Application seeks permission for a General Licence, which will allow for the supply of liquor for consumption both on and off the premises in conjunction with an existing retail premises, *'Sessions at Arden'*. The retail premises, currently operates as a *'Bottle-shop'* with a Packaged Liquor licence.

The reason for the variation is to allow for the alcohol to be consumed on the premises that is to accommodate a maximum of six (6) customers. The applicant emphasised that the primary operation of the premises will remain as a bottle-shop (now defined as a *'Hotel'* in accordance with the land use definition in the Scheme), noting the purpose for service and consumption of alcohol on-premises is for tastings and educational purposes.

The proposed licensed premises is acceptable for the following reasons:

- The use aligns with the purpose of the MUZ and planning policy; and
- The use can be appropriately managed through conditions on any permit granted.

#### 12.1.1 Planning Policy Framework / Zone

The most relevant sections of the PPF are Clauses 11.03-6L-10 13.07-1S, Clause 13.07-1L-03, 17.01-S, and 17.02-1S which have a general thrust to control off-site amenity impacts, encourage businesses that meet the needs of the community, and encourage the ongoing cultural and entertainment role of North Melbourne (Macaulay Precinct).

The purpose of the Mixed Use Zone is (as relevant) *'to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality'*, and *'to encourage development that responds to the existing or preferred neighbourhood character of the area.'*

The proposal is consistent with the PPF and the MUZ, noting the following:

- The proposal seeks a minor expansion to services provided by the existing retail premises, which will have no unreasonable adverse amenity impacts on the community by way of off-site amenity impacts.
- The proposal caters for the appropriate continuation of the retail function intended at the ground level of Arden Gardens, particularly where Arden Gardens is identified as the *'full size supermarket that services a wider catchment'*, within the *Macaulay Structure Plan 2021*.
- The proposal will continue to have a positive contribution to the area, providing employment and activity in a highly accessible location.
- The proposal is consistent with and will support the mixed use precinct.
- The proposal is for a change to the type of licence held by an existing small retail operation to allow the consumption of alcohol on the premises for a limited number of

patrons, where conditions can be included to appropriately manage potential amenity issues arising from the expanded services (discussed further below).

As such, the proposal is consistent with the PPF.

### **12.1.2 Licenced Premises**

Pursuant to Clause 52.27 (Licensed Premises) of the Scheme, a planning permit is required for a licence required under the *Liquor Control Reform Act 1998* within the MUZ.

The decision guidelines at Clause 52.27 are relevant to this assessment, and the considerations of these guidelines are expanded within the relevant local policy at Clause 13.07-1L-04 (Licensed Premises).

The proposal is an acceptable response to Clause 13.07-1L-04 for the following reasons:

- The additional services to be provided onsite is the provision of consumption of alcohol which is to serve a maximum capacity of six (6) customers for tastings and education. This type of offering and amount of seating is considered to be a low risk venue when considering cumulative impacts and adverse external amenity impacts from liquor consumption.
- It is not uncommon for this type of retail premises to offer tastings. This application merely seeks permission to allow for the consumption of alcohol on the premises, in addition to the current primary operation for sale of packaged liquor. The proposal is therefore not considered a major intensification of the use.
- The potential for new opportunities from the existing retail premises to pose amenity impacts to surrounding sensitive uses is limited to the provision of background music on-site and consumption of alcohol on the premises. Given the limited intensity of the use (on-site consumption to cease by 9.30pm, patron numbers limited to a maximum of six, provision of background music only), the proposal will not unreasonably disrupt the amenity of residents.
- The proposal reasonably responds to the policy requirements of Clause 13.07-1L-04 relating to noise, hours and patronage. These are individually assessed below.

#### **12.1.2.1 Noise**

Clause 13.07-1L-04 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.*
- *Are regulated and monitored, making use of noise limiters where appropriate.*

The proposal is acceptable for the following reasons:

- The use will provide background music only, no amplified live music is proposed.  
It is recommended the standard conditions relevant to noise and that limiting music to background levels are included on any permit granted.
- No outdoor / external areas are to be utilised in association with licensed premises.
- While Council cannot control the hours of operation for the hotel (as-of-right in the MUZ), it can assess the reasonableness of the proposed hours for the sale and consumption of liquor. The service, sale and consumption of liquor on and off the premises is to cease by 9.30pm for consumption on site and 11pm for consumption off-site; this achieves full compliance with the policy for residential areas as per 13.07-1L-04 which seeks to limit the hours of operation in a Mixed Use Zone to 11pm.

It is recommended a condition be included on any permit granted limiting the hours in which the service and consumption of liquor can occur on-site.

- In general, the EPA noise regulations relate to noise from patrons associated with live music and entertainment venue noise. That is, there is no EPA noise regulations on patron noise. Instead, amenity will be controlled with limits to patrons and operating hours of the bar component, which are discussed further below.

Requiring an acoustic assessment would not yield any significant findings as the proposal does not seek to provide amplified live music or entertainment; only background music is proposed. Regardless, to ensure potential amenity impacts are controlled, it is recommended a condition be included allowing the responsible authority to require the permit holder to provide an acoustic report with just cause.

- Noise impacts relating to the collection of waste have not been assessed in the consideration of this Application, noting the premises forms part of Arden Gardens where waste storage and collection arrangements are to be in accordance with the endorsed WMP under the Ministerial Permit.

A number of objectors raised concerns in regard to impacts on the amenity of surrounding sensitive uses by virtue of noise emission from the premises. As mentioned above, music provisioned on-site is to be to background levels only with a maximum of six patrons able to consume liquor onsite at the bar area; all of which are to occur within the premises. Together with the conclusion of on-premises consumption to no later than 9.30pm (assessed below) and recommended conditions to give effect to these arrangements, it is determined the proposal will not unreasonably disrupt the amenity of residents.

#### 12.1.2.2 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.

The applicant proposes a maximum of six (6) patrons associated with the consumption of liquor onsite at the bar, with the additional flow of customers in and out of the premises associated with the sale of packaged liquor.

Given the limited intensity of the proposed use and nature of the retail premises itself; that is the maintenance of the primary bottle-shop function with a minor / supplementary on-premises consumption component (tastings) for a maximum of six patrons, the proposal will not unreasonably disrupt the amenity of surrounding sensitive uses by virtue of noise emission or liquor consumption.

It is recommended a condition be included on any permit granted limiting the area where alcohol can be consumed on the premises and patron numbers to the bar.

#### 12.1.2.3 Hours of Operation

Clause 13.07-1L-04 provides the following guidance for the Mixed Use Zone:

- *Discouraging licensed premises in the Mixed Use Zone where the predominant surrounding land use is residential.*
- *Hours of operation of licensed premises in the Mixed Use Zone should be limited to 11pm.*

While the policy discourages licensed premises in the Mixed Use Zone where the predominant surrounding land use is residential, in this instance, this application is associated with an existing licensed premises at Arden Gardens which is fully commercial at ground level. As such, the proposal for a licensed premises is not an entirely new proposition, noting this application has come about as result of a variation to the type of licence and Arden Gardens authorised as a mixed use development. The proposed hours of operation are also consistent with the above.

Land use compatibility was a primary concern amongst objectors, with many questioning the appropriateness of a licensed premises within a residential area.

As discussed at Chapter 12.1.1 and above, the use is considered compatible with the intent of Arden Gardens as a mixed use development and its setting in a mixed use locality.

Furthermore, there are a number of other licensed premises within the area; being within Arden Gardens itself and along the Melrose shopping strip (refer to **Table 1**). Given the nature of the on-premises consumption offering which is to conclude by 9.30pm and the overall sale of liquor to conclude by 11pm, which is consistent with the policy above, the proposal is deemed acceptable.

#### 12.1.2.4 Cumulative Impacts

Based on the above discussion and assessment of surrounding liquor licences, the proposal is not considered to have any detrimental cumulative impact on the area. The proposal is consistent with Clause 13.07-1L-04.

A number of objections raised concerns regarding amenity impacts from clustering of licensed premises within the area. *Practice Note 61 – Licensed premises: Assessing cumulative impact* include a set of guidelines to assist Council in identifying the extent to which a modified licensed premises is likely to contribute to cumulative impacts within the area.

The threshold for seeking such assessment are applicable for premises seeking to operate after 11pm and where there is a cluster of licensed premises (three or more within a radius of 100 m of the subject land). As identified above, the premises does not seek to operate past 11pm, as such, the submission of such assessment is not required.

#### 12.1.2.5 Management Plan

A Venue Management Plan is usually required for applications for a bar, hotel and / or nightclub.

As described above, the proposal falls within the definition of a hotel due to the on-site consumption of alcohol which does not require a planning permit. Moreover, the proposed nature of the on-premises offering is limited in terms of its intensity, as such a Management Plan is not considered to be required.

The control of the premises can be adequately achieved through recommended conditions on any permit issued by Council and the VLC. Staff would also be obliged under s73 of the *Liquor Act* to ensure the responsible service of alcohol.

A concern raised by an objector suggested additional security guards would be required should the proposal be supported. As mentioned above, the nature of the offering and amount of seating (maximum of six customers) is considered to be a low risk venue when considering adverse external amenity impacts from liquor consumption. Therefore, additional security is not deemed necessary, noting the recommended conditions will provide adequate restrictions to the operation of the licensed premises.

## 12.2 Waste

As discussed above, the applicant confirms that waste generated by the premises will be managed in accord with the approved arrangements for the Arden Gardens development (under the Ministerial Permit). Therefore, submission of a Waste Management Plan was not required.

Given the nature of additional offering on-site (tastings), it is not envisioned additional waste generated by the new opportunity would be considerably higher than the existing rates associated with the current operation of the retail premises.

## 12.3 Objections

Where concerns raised in an objection have not been addressed in the above assessment, these matters have been separately considered below.

Table 5: Objector Concerns	
Objection	Response
<b>Use</b>	
Operation of a commercial / licensed premises within a residential area	<p>Use of the land for '<i>Retail premises</i>' which includes '<i>Hotel</i>' where the leasable floor area is less than 150 square metres is an 'as-of-right' (Section 1 – no permit required) use within the Mixed Use Zone.</p> <p>This Application is limited to the assessment of the licensed premises, where its acceptability is addressed at Chapter 12.1.1 and Chapter 12.1.2.3 of this report.</p>
Operating hours, including trading on Good Friday and Christmas	<p>The <i>Liquor Control Reform Act 1998</i> regulates the supply and consumption of liquor in Victoria.</p> <p>Section 3 of the <i>Liquor Control Reform Act 1998</i>, provides:</p> <p><b>"ordinary trading hours"</b> means –</p> <p>(a) <i>in relation to a general licence, late night (general) licence, on-premises licence, late night (on-premises) licence or restaurant and cafe licence—</i></p> <p>(i) <i>the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or ANZAC Day; and</i></p> <p>(ii) <i>the hours between 10 a.m. and 11 p.m. on Sunday; and</i></p> <p>(iii) <i>the hours between 12 noon and 11 p.m. on Good Friday and ANZAC Day;</i></p> <p>[emphasis added]</p> <p>As seen above, operation of a licensed premises is not prohibited on Good Friday and / or Christmas. Furthermore, Council cannot control the hours of operation of the retail premises being as-of right in the MUZ, although can regulate the hours in which liquor is sold / served. This is addressed at Chapter 12.1.2.1 of this report.</p> <p>The licensed premises will be required to trade in accord with conditions placed on any liquor licence (granted by VLC) and planning permit (granted by Council), whichever is more restrictive (includes trading hours).</p>
Compatibility of a licenced premises with other retailers in Arden Gardens	Assessed at Section 12.2 and Section 12.3 of this report.
Proximity of a licenced premises to public housing	<p>There are no mechanisms or decision guidelines under the planning control for which the proposal requires a permit that requires the responsible authority to consider the proximity of a licensed premises from a specific 'type' of housing, such as that based on income or ownership.</p> <p>Decision Guidelines at <i>Clause 52.27 – Licensed premises</i> requires the Responsible Authority to consider the impact the sale or consumption of liquor on the amenity of the surrounding area,</p>

	<p>which includes sensitive uses (i.e. those that have an element of residential accommodation, nested under 'Accommodation' in the Scheme). This has been assessed at Chapter 12.1.2.1 and 12.1.2.3 of this report.</p> <p>The Application at hand is associated with an existing licensed retail premises that has not received any infringements to date.</p>
Cumulative impacts from clustering of licensed premises in the area	Addressed at Chapter 12.1.1 and 12.1.2.4 of this report.
Gradual conversion to a night club / bar	<p>The conditions recommended at Chapter 12.1.2 of this report seek to regulate the operation of the licensed premises relating to noise, patron numbers, area where alcohol can be consumed on-site, and hours for the service and sale of liquor.</p> <p>A permit holder is required to operate in line with the conditions on any permit granted and associated endorsed plans.</p> <p>Any changes to the endorsed plans or conditions on a permit, such as that to intensify the use associated with operation of a 'Bar', will require an amendment under Section 72 of the <i>Planning and Environment Act 1987</i>, where its merits would be individually assessed under the relevant requirements of the Scheme.</p> <p>The use of the land for a 'Nightclub' requires a permit under the Scheme. An application would need to be lodged with Council's Planning team for consideration.</p>
Liquor licencing	<p>This Application is limited to assessing the appropriateness of the licensed premises, which is addressed at Chapter 12.1.2 of this report.</p> <p>Liquor licencing, including granting of the General Liquor licence, is the responsibility of the Victorian Liquor Commission (VLC) – a separate process to this Application.</p>
<b>Amenity</b>	
Noise (in relation to proximity to residential properties, and general street noise)	<p>Impacts of noise emissions from the operation of the licensed premises are addressed at Chapter 12.1.2.1 of this Report.</p> <p>Street noise, such as those from vehicular traffic, do not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application.</p>
Inappropriate behaviour of patrons from intoxication	<p>As mentioned at Chapter 12.1.2 of this report, the proposal is considered to be a low risk venue when considering the cumulative impacts and adverse external amenity impacts from liquor consumption, noting the amount of seating and type of offering.</p> <p>Staff would be obliged under s73 of the <i>Liquor Act</i> to ensure the responsible service of alcohol, to prevent such situations.</p>

Increased rate of crime to the area and surrounds	<p>Commitment of felony or offences associated with the planning permit application do not fall within the remit of discretion when assessing a planning application in accordance with the <i>Planning and Environment Act 1987</i>. It is noted this should be relied separately on other authorities, such as Victoria Police.</p> <p>Notwithstanding, the proposal is considered to be a low risk venue, where the additional on-premises service is to be supplementary to the primary operations of the existing premises for the sale of packaged liquor (bottle shop). Any crime related matters are the responsibility of Victoria Police.</p>
Decrease to security and personal safety of surrounding residents and personnel	<p>The application at hand is limited to assessing the appropriateness of the proposed licensed premises, which as mentioned at Chapter 12.1.2 and 12.1.2.4 of this report, is deemed to be a low risk venue when considering the cumulative impacts and adverse external amenity impacts from liquor consumption.</p> <p>Perceived sense of security does not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application and will be required as necessary via the VLC.</p>
Undesirable congregation and queuing outside the premises	<p>It is not envisioned the nature and operation of the retail premises, through the inclusion of an on-premises consumption, will lead to congregation or queues outside the premises. The intent is for the consumption of liquor on the premises for the purposes of tastings that is supplementary to the primary operations of the premises for the sale of packaged liquor.</p> <p>Based on the limited nature of the use, both in regard to number of patrons and on the hours proposed, those attending the premises are likely to be existing customers already attending the subject tenancy, as opposed to attendance for social gatherings.</p>
Loss to visual aesthetics of the area from increased littering (including general street litter)	<p>Public littering associated with a planning permit application, and issues relevant to general street litter, do not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application.</p> <p>Notwithstanding, it is unlikely the proposal will result in any littering noting the nature of the on-premises consumption (i.e. tastings) is to be limited to the service counter (bar) on-site, and not on the street (externally).</p> <p>Environment and public health matters are additionally regulated by the EPA, which is separate from planning.</p>
<b>Other Matters</b>	
Consumption of alcohol and discrimination against religions, cultures, and persons who cannot	<p>Culture and religion do not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore not a matter that can be considered as part of the planning process.</p>



benefit from a licenced premises	
Promotion of drinking culture and increased rates of alcoholism	Marketing of a business and alcoholism associated with the planning permit application do not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application.
Negative influence on children from increased exposure to licenced premises and consumption of alcohol on premises	The visual location and operation of a licensed retail premises' influence on children do not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application. Notwithstanding it is noted the premises is an existing bottle-shop.
Encourages under-age drinking	Behaviour of children does not fall within the remit of Council's discretion when assessing the application in accordance with the <i>Planning and Environment Act 1987</i> and therefore, cannot be addressed through this planning application.  Staff are required under law to ensure the responsible service of alcohol within the premises. It is illegal for a licensee to supply alcohol to an underage person on a licensed premises with rights to reduce service if the customer is suspected to be a minor.
Adverse impacts on small and local businesses in the area	Competition in marketing and business do not fall within the remit of discretion when assessing a planning application in accordance with the <i>Planning and Environment Act 1987</i> , and therefore, cannot be addressed through this planning application.  The Site already accommodates a licensed retail premises, which while a planning permit is required to allow consumption of liquor on the premises (associated with tastings supplementary to existing retail operation), remains a distinctly different business from those along Melrose Street and Macaulay Road (food and drink premises / bar); therefore, will be unlikely to adversely impact on their operation.
Increased fatalities from intoxication and proximity to vehicular traffic, operating a motor vehicle under the influence	The subsequent choices, behaviour and action of individuals do not fall within the remit of discretion when assessing a planning application in accordance with the <i>Planning and Environment Act 1987</i> , and therefore, cannot be addressed through this planning application. It is noted this should be relied separately on other authorities, such as Victoria Police.  Given the nature of the on-premises offering (tastings), it is not envisioned such matters would substantiate, however, in such event, the Site is well serviced by public transport and easily accessed by taxi / ride share options which ensures that customers can safely leave the premises.

## 12.4 Conclusion

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, and that a Notice of Decision to Grant a Permit be issued for the proposal subject to the following conditions:

## 13 OFFICER RECOMMENDATION

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

### 13.1 Permit Preamble

Use of the land to sell and consume liquor (general licence) under Clause 52.27.

### 13.2 Permit Conditions

#### Red Line Plan

1. The layout of the licensed premises as shown on the endorsed red line plan must not be altered without the prior written consent of the responsible authority.

#### Hours of Operation

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

	Consumption on the premises	Sales for consumption off the premises
Monday – Saturday	9am – 9.30pm	9am – 11pm
Sunday	10am – 9.30pm	10am – 11pm
Good Friday & ANZAC	12pm (midday) – 9.30pm	12pm (midday) – 11pm

#### Patrons

3. The maximum number of patrons at the bar area must be no more than six (6) at any one time unless with the prior written consent of the Responsible Authority.

#### Operation

4. Unless with the written consent of the responsible authority, the consumption of liquor on the premises must only occur within the bar area as shown on the endorsed plan.
5. At all times the premises is open for business, a designated manager must be in charge of the premises.

#### Noise

6. Music shall only be played at background levels to the satisfaction of the Responsible Authority.
7. No amplified live music or entertainment is permitted on the premises without the prior written consent of the Responsible Authority.
8. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.
9. Noise levels emanating from the premises must not exceed noise levels as determined by the EPA Victoria Publication Noise Limit and Assessment Protocol 1826.4, or result in unreasonable and aggravated noise as defined by Part 5.3 of the Environment Protection Regulation 2021, or other equivalent policy to the satisfaction of the Responsible Authority.
10. The use must not detrimentally affect the amenity of the area or the amenity of persons living in proximity of the site by reason of the emission of noise.

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 as determined by the EPA Victoria Publication Noise Limit and Assessment Protocol 1826.4, or result in unreasonable and aggravated noise as defined by Part 5.3 of the Environment Protection Regulation 2021, or other equivalent policy. State Environmental Protection Policy N1 and N2. The recommendations of the

report must be implemented by the applicant to the satisfaction of the Responsible Authority.

**Expiry**

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

**NOTES**

This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.