

3.2 115-133 Cotham Road, Kew - VCAT Outcome for Mixed Use Development - PA23/0031

Executive Summary

Purpose

The purpose of this report is to consider the 'in-principle' agreement reached by the parties to the 115-133 Cotham Road Kew Victorian Civil and Administrative Tribunal planning review matter. The in-principle agreement was reached at the compulsory conference on 12 September 2023.

Background

Planning Permit No. PP06/01357 was issued on 4 January 2008 and has subsequently been amended on three (3) occasions. The permit currently allows: *Development and the use of the land for the purposes of office and residential hotel, the sale and consumption of liquor (pursuant to clause 52.27), and a reduction in the standard car parking requirement and of the loading requirements in accordance with endorsed plans.*

On 29 May 2023, Council resolved to refuse an application to amend Planning Permit No. PP06/01357 based on the following grounds:

1. The proposed buildings and works including the relocation of the hotel entry and restaurant/bar outdoor dining terrace area and open bi-fold doors to Ridgeway Avenue results in an increased commercial presence and significant intensification of activity, which will adversely impact the amenity of surrounding and nearby residential properties.
2. The increase in patron numbers, area and hours for sale and consumption of liquor associated with the existing restaurant/bar will adversely impact the amenity of surrounding residential properties, resulting in increased noise and nuisance.

An Application for Review against Council's Refusal to Amend a Permit was lodged with VCAT on 7 June 2023.

There were eleven (11) statements of grounds received by VCAT, including eight (8) objectors who elected to become a party and actively participate in the proceedings.

At the VCAT compulsory conference on 12 September 2023, the parties reached an in-principle agreement to settle the matter via consent and subject to the conditions outlined under the officer recommendation, below.

The in-principle agreement includes a suite of changes which differ from that of the officer recommendation reported to UPDC on 15 May 2023. The changes, included in the agreement as permit conditions, overcome the layout and off-site amenity concerns raised by Council and objectors.

The matter is set down for the following key dates:

- Administrative Mention – 17 October 2023 (to advise VCAT of Council's resolution);
- Hearing – 20-22 November 2023 (3 day hearing) if required.

Should Council resolve to settle the application via consent, a planning permit will be issued and the VCAT hearing dates will be vacated. Alternatively, should Council resolve not to settle, the Application will proceed to a hearing which is currently listed for three (3) days commencing on 20 November 2023. At the hearing, Council would rely upon the grounds contained within the Notice of Refusal dated 29 May 2023, outlined above.

The in-principle agreement is 'without prejudice'. In other words, the agreement and anything said or done in the course of the compulsory conference process is not admissible at a hearing should this matter not resolve.

Proposal

The details of the proposal, as a result of the agreed outcomes by the parties at the compulsory conference on 12 September 2023, can be summarised as follows:

Buildings & Works - Residential Hotel

- The residential hotel entrance will be relocated to the internal porte cochere, which is accessible via the existing double crossover to Ridgeway Avenue.
- The existing landscaping buffer along the western boundary of the subject site, adjacent to the residential hotel entrance, will be reinstated.
- The west-facing doors and outdoor seating area adjacent to the residential hotel lobby will be deleted.

Buildings & Works - Restaurant and Bar

- The western restaurant and bar entrance will be reconfigured. This includes relocating the entry to the premises from a new door in the southern elevation, which is orientated towards Cotham Road.
- A timber batten screen, adjacent to the restaurant and bar entrance will be introduced to prevent patrons from exiting the premises directly onto Ridgeway Avenue.
- The outdoor seating area adjacent to the corner of Cotham Road and Ridgeway Avenue will be reorientated towards Cotham Road, rather than Ridgeway Avenue as previously proposed.
- The bi-folding windows to Ridgeway Avenue will be deleted.
- The existing landscaping along the western boundary of the subject site, adjacent to the restaurant and bar entrance, will be reinstated.

Liquor Licence

- The operating hours of the restaurant and bar will be amended to 7am-11pm - Sunday to Wednesday, 7am-midnight - Thursday and 7am-1am - Friday to Sunday.
- The outdoor seating areas of the restaurant and bar will close at 10pm each day.
- The maximum number of patrons permitted in the restaurant and bar will be 220.
- There will be consequential changes to the layout of the red line plan to facilitate the other modifications of the in-principle agreement.

Officers' recommendation

That the Urban Planning Delegated Committee resolve to advise the Tribunal and Parties that Council formally agrees to the 'in-principle' agreement reached at the Compulsory Conference on 12 September 2023 and that Council request the Tribunal make orders with the consent of the parties to the same effect including the issue of a permit with the following conditions:

Amended Plans Required

1. Prior to the commencement of buildings and works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit, amended plans must be submitted and approved by the Responsible Authority. When approved, they will be endorsed. The plans must be drawn to scale with dimensions and electronic copies provided (unlocked PDF). The Plans must be generally in accordance with the following plans:
 - TP00 - TP12 (Inclusive) Dated 10 October 2022 prepared by JAM Architects; and
 - TP04.0 dated 21 November 2022 prepared by JAM Architects; and
 - Red Line Plan advertised in January 2023

And modified to show:

- (a) The entry and terrace to the residential hotel lobby facing Ridgeway Avenue deleted and the landscaping area to be retained generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (b) An updated Materials Schedule (TP12) to show the clear glazing as GL8 and to show the colour and finish of any new glazing.
- (c) The outdoor bar area reorientated to face Cotham Road generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (d) The outdoor bar area interfacing with Ridgeway Avenue to be screened with a full height treatment that prevents pedestrian access directly to Ridgeway Avenue generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (e) The location of any external lighting.
- (f) An updated Red Line Plan associated with the restaurant/bar that shows the red line area in the context of the proposed buildings and works.
- (g) Deletion of the word 'bar' from the residential hotel lobby.
- (h) An updated waste management/ recycling plan in accordance with Condition 19.

Layout

2. The development and layout of the uses, levels design and location of buildings and works shown on the endorsed plan must not be modified for any reason without the prior written consent of the Responsible Authority.
3. On the proviso that permission and access to erect such lattice is given by the owner of 3 Kent Street Kew, the owner of the subject land must by the end of April 2012 (or at a later date as agreed to by 3 Kent Street and the Responsible Authority) and at its own expense entirely, erect the following self supported lattice extension to the southern and western boundary fences to 3 Kent Street Kew to an overall height of 2.4 metres above natural ground level for fence and lattice extension and to the following specifications (unless otherwise agreed to by 3 Kent Street and the Responsible Authority):
 - (a) a powder-coated steel lattice and powder-coated steel support posts of suitable strength to hold the lattice without sag or bending and to raise the fence height to 2.4 metres above ground level;
 - (b) Colourbond "Rivergum" colour or other colour to the satisfaction of the owner of 3 Kent Street Kew;

- (c) the steel support posts to be set in concrete and located along the western fence, but located outside the fence line on the southern side of 3 Kent Street; and
- (d) the lattice to extend from the south west corner of 3 Kent Street:
 - approximately 5 metres along the west boundary;
 - approximately 20 metres along south boundary, thus providing sight protection for kitchen and bathroom windows.

Trees and Landscaping

4. Prior to the commencement of Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit (), a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three (3) copies must be provided. The plan must be substantially in accordance with that prepared by CDA Design Group and endorsed by the Responsible Authority on 16 August 2011 but modified to show changes to the ground floor layout depicted on plan 0466_TP06 Revision J prepared by JAM Architects amended to show changes from condition 1.
5. All proposed new street trees must be to the satisfaction of the Responsible Authority.
6. Before the use starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority.
7. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced to the satisfaction of the Responsible Authority.
8. An in-ground sprinkler system must be installed in all landscaped areas, to the satisfaction of the Responsible Authority.

Infrastructure

9. The land must be drained to the satisfaction of the Responsible Authority and all drainage works and ground water management works must be completed prior to the occupation of any building. A drainage contribution may also apply, the cost of which will depend on the method of stormwater discharge adopted. Prior to the commencement of construction under this planning permit, the permit holder must submit a ground water management plan and a drainage management plan to the satisfaction of the Responsible Authority which once approved will be endorsed as forming part of this permit.
10. Prior to the commencement of the approved uses, stormwater drains must be connected to a legal point of discharge approved by the Responsible Authority.
11. Prior to the completion of the development, evidence must be provided to the satisfaction of the Responsible Authority that:

- (a) the existing drainage reserve on the north-eastern part of the site has been removed;
 - (b) the existing MMBW easement on the land has been expunged;
 - (c) all to the satisfaction of the Responsible Authority.
12. All disused and redundant vehicular crossings must be removed at the same time as the construction of any new crossovers and prior to the completion of development works. The cost of removal of the existing crossings and the reinstatement of street assets (i.e. footpath, nature strip and kerb and channel etc.) is to be borne by the applicant and must be in accordance to Council's standards. A Council Supervision Permit is required for this work.
13. All Council assets damaged as a result of building or construction works (such as streets, roads, crossovers, footpaths, nature strip, kerb and channel, drainage assets, etc) must be reinstated in accordance with Council's Standards and to the satisfaction of the Responsible Authority.
14. Reticulated electricity must be provided underground to the satisfaction of the Responsible Authority.
15. No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables without the prior written consent of the relevant authority or company and the Responsible Authority.
16. Before the commencement of the use authorised by this permit:
- (a) a certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
 - (b) an environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with IXD of that Act that the environmental conditions are suitable for residential use.

Any conditions required on a Statement of Environmental Audit must be implemented prior to the occupation of any building or otherwise in accordance with those conditions, to the satisfaction of the Responsible Authority and the Environment Protection Authority.

Amenity

17. The amenity of the area must not be adversely affected by the use or development as a result of:
- (a) Transport of materials, goods or commodities to or from the land;
 - (b) Appearance of any building, works, stored goods or materials;
 - (c) Artificial light, vibration, smell, fumes, smoke, vapour, steam, dust, waste water, waste products, grit or oil; to the satisfaction of the Responsible Authority.
18. All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service.
19. Before the use starts a Waste/Recycling Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. In the preparation of the

waste/recycling management plan, specific attention must be made to the following items (but not limited to):

- (a) How the collection of refuse and recycling material will be managed;
- (b) The type of refuse and recycling bins to be used on the site and where they will be stored including details of screening and ventilation;
- (c) What will be the frequency for the removal of such refuse and recycling materials?
- (d) How it is intended to control the emission of odour caused by such refuse and recycling material when it is being stored within the site.
- (e) That the bin storage areas are sufficient to cater for the amount of waste that will be produced;
- (f) What type of bins will be used on the site;
- (g) The private collection of bins;
- (h) Who will be responsible for taking refuse and recycling bins in and out for collection, where this will occur and how collection of refuse and recycling materials will be managed;
- (i) Hours of bin collection not being outside the hours of: 7am to 8pm Monday to Saturday; and 9am to 8pm Sunday and public holidays.
- (j) Access routes for private waste collection vehicles that do not rely on extensive reversing movements;
- (k) Compaction of refuse and the breaking up of bottles not occurring whilst the collection vehicle is standing stationary at or near the site.

The approved Waste/Recycling Management Plan must be implemented to the satisfaction of the Responsible Authority.

Car Parking

20. Before any new building is occupied, the areas set aside for car parking, access roads and lanes and driveways shown on the endorsed plans must be:
- (a) constructed;
 - (b) formed to such levels and properly drained so that they can be used in accordance with the plans;
 - (c) line marked to indicate each car spaces; and
 - (d) clearly marked to show the direction of traffic along the accessway; to the satisfaction of the Responsible Authority.
21. Prior to the extension of trading hours associated with the restaurant and bar, an updated Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Car Parking Management Plan will be endorsed and will then form part of the permit. The plan must include details of the following:
- (a) allocation of car parking with the minimum number of car parking spaces allocated to each use set out as follows unless otherwise approved in writing by the Responsible Authority:
 - Office — 157 spaces;
 - Medical centre — 20 spaces;
 - Residential Hotel — 67 spaces;
 - Restaurant and Bar — 32 spaces (six of which must be available for restaurant/bar staff).
 - (b) that the lower level car park will be open for vehicles entering the site (i.e. not have access obstructed by any roller door or boom gate or the like, and not have access dependent on any phone or intercom system or other type of security system) for access between the hours of 6.30am and hours of

- closing of the restaurant and bar daily. , and the ability for vehicles to leave the site at any time without restriction
- (c) all tandem car parking allocated to the same tenancy
 - (d) provision of disabled car parking
 - (e) outline of directional signage
 - (f) directional signage to, and available times of, use of the loading bay in the porte cochere for loading purposes
 - (g) signage of available times of use for visitor car parking in the loading bay in the porte cochere
 - (h) outline of car parking and traffic management devices used within the development to comply with the relevant Australian Standard including linemarking, traffic calming devices, mirrors, car parking barriers and other such matters
 - (i) Management of visitor drop off bay.
 - (j) Security measures and
 - (k) Signs to the satisfaction of the Responsible Authority must be provided directing drivers to customer and patient car parking spaces associated with the restaurant/bar and medical centre uses, and directing patrons of the restaurant/bar from the allocated car parking area to available lift access. Such sign must be located and maintained to the satisfaction of the Responsible Authority and must not exceed 0.3sqm in area.
 - (l) The lower basement roller door to be maintained so that noise is managed to the satisfaction of the responsible authority.
 - (m) The drop of and pick up for the residential hotel must occur from the porte cochere.
22. The Car Parking Management Plan must be implemented to the satisfaction of the Responsible Authority.
23. The areas set aside for car parking shown on the endorsed plans must be clearly marked and made available for use by visitors to and staff of the facility at all times and must not be used for any other purpose, to the satisfaction of the Responsible Authority.

Loading and Unloading

24. A Loading and Waste Plan must be provided to the satisfaction of the Responsible Authority prior to the commencement of the use permitted by this permit. This plan must restrict the size of loading vehicles using the porte cochere to no larger than 6.4 metres.

General

25. No plant, equipment, services or architectural features other than those shown on the endorsed plan are permitted above the roof level of the buildings without the prior written consent of the Responsible Authority.
26. Service and storage areas must be kept in a tidy, rubbish-free condition at all times to the satisfaction of the Responsible Authority.
27. All pipes (except down pipes and rain heads), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

28. Any outdoor clotheslines or other clothes drying devices must be positioned so as not to be visible from any land nearby, to the satisfaction of the Responsible Authority.

Lighting

29. Low intensity lighting must be provided to the satisfaction of the Responsible Authority ensuring that carpark areas and pedestrian access ways are adequately illuminated during evening periods without any loss of amenity to occupiers of nearby land.
30. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

Construction

31. All building and works associated with the construction of the development must be limited to the following hours, unless otherwise approved in writing by the Responsible Authority:
 - (a) Monday to Friday: 7.00am to 7.00pm
 - (b) Saturday: 8:00am to 5.00pm
 - (c) Sunday & gazetted Public Holidays: No construction
32. Prior to the commencement of any works, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Construction Management Plan will be endorsed to form part of the approval documents and must be implemented to the satisfaction of the Responsible Authority. The plan must include details of the following:
 - (a) site contamination and disposal of contaminated matter;
 - (b) delivery and unloading points and expected frequency;
 - (c) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (d) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (e) any requirements outlined within this permit as required by the relevant referral authorities;
 - (f) hours for construction activity in accordance with any other condition of this permit;
 - (g) measures to control noise, dust, water and sediment laden runoff;
 - (h) the location and design of a vehicle wash down bay for construction vehicles on the site;
 - (i) the location of parking areas for construction and sub-contractors' vehicles on the site and on nearby land, and nomination of timeframe of which the basement car parking will be available for vehicles associated with the construction activity to minimise disruption to surrounding premises and traffic flows;
 - (j) measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;
 - (k) that all vehicles involved in construction of the development must access and egress Ridgeway Avenue and Kent Street via Cotham Road only;
 - (l) the location of any site sheds;
 - (m) any construction lighting to be baffled to minimise intrusion on adjoining lots.

Noise

33. Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues - Publication 1826.4) or any successive relevant legislation, to the satisfaction of the Responsible Authority.

Medical Centre

34. Except with the further written consent of the Responsible Authority, not more than five (5) practitioners shall operate from the medical centre under this permit at any one time.

Restaurant/Bar

35. The hours of operation for the restaurant/bar may only be 7:00am to 11:00pm Sunday to Wednesday (inclusive), 7.00am to 12 midnight on Thursday and 7.00am to 1.00am (the following day) Friday to Saturday (inclusive).
36. The combined total of patrons allowed in the restaurant/bar at any one time must not exceed two hundred and forty (240) Friday to Sunday and two hundred and ten (210) at any other time.
37. The outdoor bar terrace must be closed at 10pm each day to the satisfaction of the responsible authority.
38. The gym shown on the endorsed plans shall only be used by guests of the Residential Hotel.

Expiry

39. This permit will expire if:
- (a) The development approved under this planning permit does not start within two years of the issue date of this permit; or
 - (b) The development is not completed within five years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or within the three months afterwards.

40. The Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit and completed within four years of this amended planning permit.
41. The extended restaurant and bar operation approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit.

Noise Amenity Action Plan

42. Prior to the extended operation of the restaurant and bar approved under this amended planning permit a Noise Amenity Action Plan must be provided to the satisfaction of the Responsible Authority. The Noise Amenity Action Plan must be in accordance with that dated November 2022, but amended to show:
- (a) Clear reference that no live music will be played on the premises.
 - (b) Methodology of restricting patrons from occupying footpaths adjacent to the premises.
 - (c) The provision of CCTV.
 - (d) A dedicated community hotline for communications available at during the hours of operation specified in Condition 35 and an additional half an hour either side of these times.

Serving of Alcohol

43. Liquor must only be made available for consumption on the premises at such time when food is available to be prepared and served for consumption on the licence premises.
44. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.
45. Sale and consumption of liquor must only occur within the endorsed red line plan area.

Testing of Noise Emissions

46. At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the approved restaurant and bar with readings taken at times and locations specified by the Responsible Authority.

The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with an acoustic engineer, or activities and noise sources on the premises regulated at the direction of and to the satisfaction of the Responsible Authority. The frequency of this request will be at the discretion of the Responsible Authority.

Manager: David Cowan, Manager Planning and Placemaking

Report officer: Daniel Murphy, Planning Appeals Coordinator



STATUTORY PLANNING DELEGATE REPORT

Office and Residential Hotel Development at 115-133 Cotham Road, Kew

Application Number	PA23/0031 (VCAT Reference: P723/2023)
Date Application Received	20 October 2022
Planning Officer	Daniel Murphy
Applicant	Cotham Service Pty Ltd C/- Urbis
Property Address	115-133 Cotham Road, Kew
Existing Permit Preamble	Development and the use of the land for the purposes of office and residential hotel, the sale and consumption of liquor (pursuant to clause 52.27), and a reduction in the standard car parking requirement and of the loading requirements in accordance with endorsed plans.
Existing Permit Number	PP06/01357
Proposal	Amendment to the Permit
Zoning	Commercial 1 Zone
Overlays	Design & Development Overlay - Schedule 16 Parking Overlay - Schedule 1
Area of Cultural Heritage sensitivity?	No
Aboriginal Cultural Heritage	No
Covenant	None indicated on title
Number of Objections Received	Eleven (11) statements of grounds have been received by Council, including eight (8) objectors who have elected to participate as a party to the VCAT proceedings.
Plans Assessed in this Report	The plans before Council continue to be those advertised in December 2022/January 2023. Those plans must be read in conjunction with the 'marked up' plans attached to the in-principle agreement dated 12 September 2023.
Recommendation	Advise the Tribunal and Parties that Council has considered the in-principle agreement reached by the parties at the Compulsory Conference on 12 September 2023 and that Council supports the proposal. That Council request the Tribunal make orders with the consent of the parties to the same effect.

VCAT BACKGROUND

On 29 May 2023, Council resolved to refuse an application to amended Planning Permit No. PP06/01357 based on the following grounds:

1. The proposed buildings and works including the relocation of the hotel entry and restaurant/bar outdoor dining terrace area and open bi-fold doors to Ridgeway Avenue results in an increased commercial presence and significant intensification of activity, which will adversely impact the amenity of surrounding and nearby residential properties.
2. The increase in patron numbers, area and hours for sale and consumption of liquor associated with the existing restaurant/bar will adversely impact the amenity of surrounding residential properties, resulting in increased noise and nuisance.

An Application for Review against Council's Refusal to Amend a Permit was lodged with VCAT on or about 7 June 2023.

There were eleven (11) statements of grounds received by VCAT, including eight (8) objectors who elected to become a party and actively participate in the proceedings.

At the VCAT compulsory conference on 12 September 2023, the parties reached an in-principle agreement to settle the matter via consent and subject to the conditions detailed at Appendix 1 of this report and 'marked up' plans at Appendix 2 of this report. A summary of the agreement is outlined under the 'Proposal' section of this report.

It is important to recognise that the in-principle agreement is not simply a repetition of the Officer Recommendation to UPDC on 15 May 2023. Rather, a suite of positive changes to the proposal have been included as permit conditions within the in-principle agreement to overcome layout and off-site amenity concerns raised by Council and Objectors.

The matter is set down for the following key dates:

- Administrative Mention – 17 October 2023 (to advise VCAT of Council's resolution);
- Hearing – 20-22 November 2023 (3 day hearing).

Should Council resolve to settle the application via consent, a planning permit will be issued and the VCAT hearing dates will be vacated. Alternatively, should Council resolve not to settle, the Application will proceed to a hearing which is currently listed for three (3) days commencing on 20 November 2023. At the hearing, Council would rely upon the grounds contained within the Notice of Refusal dated 29 May 2023, outlined above.

The in-principle agreement is 'without prejudice'. In other words, the agreement and anything said or done in the course of the compulsory conference process is not admissible at a hearing should this matter not resolve.

PROPOSAL

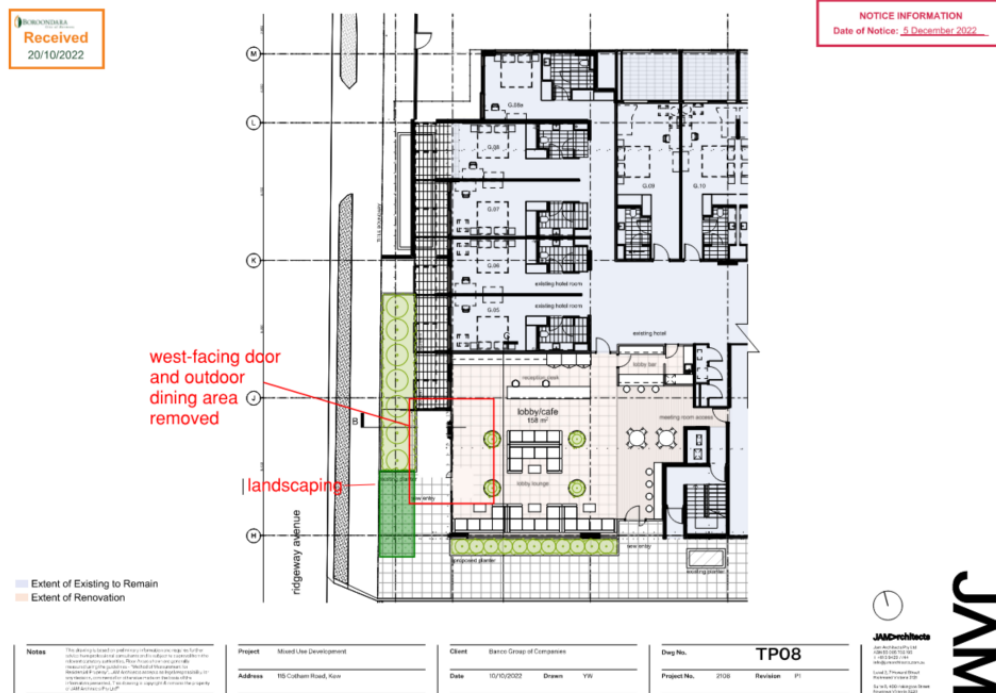
The details of the proposal, as a result of the agreed outcomes by the parties at the compulsory conference on 12 September 2023, can be summarised as follows:

Buildings & Works - Residential Hotel

- The residential hotel entrance will be relocated to the internal porte cochere, which is accessible via the existing double crossover to Ridgeway Avenue.
- The existing landscaping buffer along the western boundary of the subject site,

adjacent to the residential hotel entrance, will be reinstated.

- The west-facing doors and outdoor seating area adjacent to the residential hotel lobby will be deleted.
- The internal layout of the residential hotel lobby, including a lobby lounge, reception desk and seating area will remain as previously proposed.
- It remains the case that four (4) residential hotel rooms at ground floor level will be deleted to facilitate new residential hotel entry, as previously proposed.

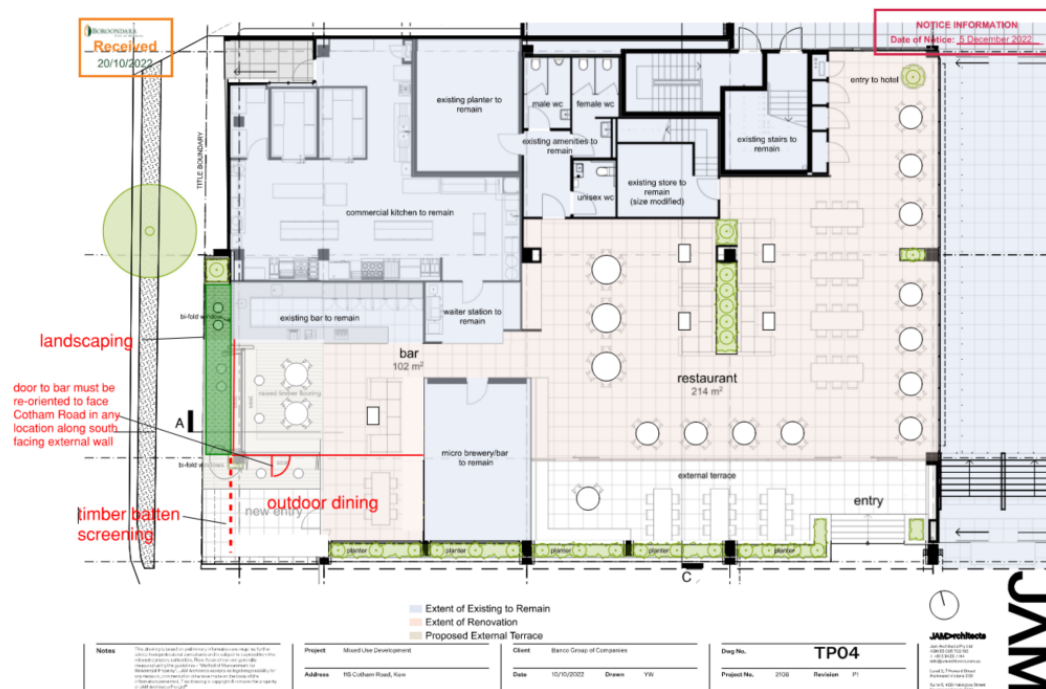


VCAT Discussion Lobby/Cafe Plan 12 September

Marked-up plan detailing the agreed layout changes to the residential hotel entrance.

Buildings & Works - Restaurant and Bar

- The western restaurant and bar entrance will be reconfigured. This includes relocating the entry to the premises from a new door in the southern elevation, which is orientated towards Cotham Road.
- A timber batten screen, adjacent to restaurant and bar entrance will be introduced to prevent patrons from exiting the premises directly onto Ridgeway Avenue.
- The outdoor seating area adjacent to the corner of Cotham Road and Ridgeway Avenue will be reorientated towards Cotham Road, rather than Ridgeway Avenue as previously proposed.
- The bi-folding windows to Ridgeway Avenue will be deleted.
- The existing landscaping along the western boundary of the subject site, adjacent to the restaurant and bar entrance, will be reinstated.



VCAT Discussion Restaurant Plan 12 September

Marked-up plan detailing the agreed layout changes to the restaurant and bar entrance.

Liquor Licence

- The operating hours of the restaurant and bar will be amended to 7am-11pm - Sunday to Wednesday, 7am-midnight - Thursday and 7am-1am - Friday to Sunday.
- The outdoor seating areas of the restaurant and bar will close at 10pm each day.
- The maximum number of patrons permitted in the restaurant and bar will be 220.
- There will be consequential changes to the layout of the red line plan to facilitate the other modifications of the in-principle agreement.

Agreed Permit Conditions (where not already discussed above)

- Condition 1(b) will require that an updated materials schedule be provided to show clear glazing in lieu of reflective glazing identified as material GL8.
- Condition 1(e) will require the provision of external lighting to be shown on the plans.
- Condition 1(g) will require references to the 'bar' in the residential hotel lobby to be removed from the plans.
- Condition 21 will require modifications to the Car parking Management Plan to specify that vehicular drop-off and pick-up must occur from within the internal porte cochere and that maintenance of the basement car park roller door will occur such that noise impacts are managed.
- Condition 42 will require modification to the Noise and Amenity Action Plan to outline the location of CCTV cameras around the perimeter of the restaurant and bar and a dedicated community hotline for communications with the premises during operating hours.

INTERNAL REFERRALS

The in-principle agreement was not referred internally.

EXTERNAL REFERRALS

The in-principle agreement was not required to be referred externally.

GOVERNANCE ISSUES

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

BOROONDARA PLANNING SCHEME**ZONING & OVERLAYS****Commercial 1 Zone**

Pursuant to Clause 34.01 of the Boroondara Planning Scheme, a permit is required to construct a building or construct or carry out works.

Design and Development Overlay - Schedule 16

Pursuant to Schedule 16 of the Design and Development Overlay, and permit is required to construct a building or construct or carry out works.

Parking Overlay - Precinct 1

A permit is not required by the Parking Overlay.

PARTICULAR PROVISIONS**Clause 52.06 - Car Parking**

The consideration of car parking and traffic is under Clause 52.06 of the Boroondara Planning Scheme.

Clause 52.06 requires a rate of 3.5 car parking spaces per 100sqm of leasable floor area for a Restaurant. Based on the overall leasable floor area of 530sqm for the restaurant, 18.5 car parking spaces are required. As the endorsed Car Parking Management Plan specifies 32 car parking spaces for the Restaurant, no reduction from the car parking rate is required.

Based on the above, there is no requirement for additional car parking spaces to be provided, nor a reduction from the standard car parking rate sought.

Clause 52.27 - Licensed Premises

Pursuant to Clause 52.27 of the Boroondara Planning Scheme, a permit is required to a permit is required to use land to sell or consume liquor if any of the following apply:

- A licence is required under the Liquor Control Reform Act 1998.
- A different licence or category of licence is required from that which is in force.

- The hours of trading allowed under a licence are to be extended.
- 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.

OFFICER ASSESSMENT

The purpose of this report is to consider the in-principle agreement reached by the parties at the compulsory conference on 12 September 2023.

The compulsory conference, convened by VCAT, required all parties to confidentially discuss their respective concerns with this application and to explore possible solutions to those concerns. This has ultimately resulted in an outcome which is accepted (in-principle) by all parties involved. The Tribunal is able to make orders directing that a planning permit is issued, thus giving effect to the terms of the agreement reached by the parties.

It is important to remember that the discussions in the course of the compulsory conference process occur on a 'without prejudice' basis. If the compulsory conference is unsuccessful, a Tribunal Member will not be bound by the terms of this in-principle agreement as part of their future decision making, nor is the agreement admissible at a future merits hearing. If Council declines to settle this matter, there is no guarantee that the conditions agreed to by the parties at compulsory conference will reflect those imposed by a Tribunal Member in the future. This is because the parties may have elected to agree to changes which are above the threshold test of 'acceptability' which will be applied by a Tribunal Member hearing the merits of this application at a hearing.

Having opposed the application on the ground set out above, the task before Council is to decide whether the in-principle agreement addresses Council's ground of refusal.

Each ground of refusal is discussed in turn below:

Buildings and works

In respect of the proposed building and works, Council's grounds of refusal raise concerns about the relocation of the residential hotel entry and restaurant and bar outdoor terrace and openable bi-fold doors, which are said to increase the commercial presence and intensification of activity to Ridgeway Avenue and which will adversely impact the amenity of surrounding and nearby residential properties.

The in-principle agreement will address these concerns by relocating the access of the residential hotel lobby from its proposed location on the western side of the building on Ridgeway Avenue to the internal porte cochere. The west-facing doors and outdoor seating area will be removed and the landscaped street edge to Ridgeway Avenue will be reinstated. These agreed changes will result in a reduced commercial presence along Ridgeway Avenue by directing the main residential hotel entrance internally in the subject site.

The in-principle agreement also amends the layout of the restaurant and bar entrance, adjacent to the corner of Cotham Road and Ridgeway Avenue. These modifications to the entrance will include the removal of openable bi-fold windows, reorientate the entrance to the southern elevation and provide timber batten panels adjacent to the entry, which run parallel with the western boundary of the site. The effect of these layout changes will be a redesigned restaurant and bar entrance which funnels patrons onto Cotham Road when exiting the venue, rather than more sensitive areas on Ridgeway Avenue, as previously proposed.

The entirety of the subject site is located in the Commercial 1 Zone which, through the decision guidelines, seeks to preserve “active frontages to pedestrian areas”. On one view, it is arguable that this provision does not distinguish between primary (i.e. Cotham Road) and secondary (i.e. Ridgeway Avenue) street frontages. Given that an argument could be made that the Ridgeway Avenue frontage should also be ‘active’, the amendments secured by the in-principle agreement represent an example of where Council and the Objectors will benefit from a settlement agreement and where receiving an identical outcome at a hearing is unlikely.

Sale and consumption of liquor

Council’s refusal raises concern with the sale and consumption of liquor, particularly in respect of increase in patron numbers, red line area, hours for sale and consumption of liquor of the existing restaurant and bar. These amendments result in a proposal which will have adverse impacts upon the amenity of surrounding residential properties and result in increased noise and nuisance.

As a starting point, when the application was reported to UPDC on 15 May 2023, it proposed the following in respect of the restaurant and bar operation:

- Operating hours: 7:00am - 1:00am the following day, 7 days a week; and,
- Maximum number of patrons permitted: 250 patrons, including 150 seated.

By contrast, the in-principle agreement proposes:

- Operating hours: 7am-11pm - Sunday to Wednesday, 7am-midnight - Thursday and 7am-1am - Friday to Sunday;
- Closure of all outdoor terrace areas at 10pm, 7 days a week;
- Maximum number of patrons permitted: 220.

The in-principle agreement has addressed the concerns raised in the refusal by reducing the proposed operating hours and proposed patron numbers. It will provide for the closure of outdoor seating areas at 10pm daily, which did not form part of the application at the time it was determined by Council.

Compared with the application refused by Council previously, the in-principle agreement will also improve the amenity of adjoining property owners through conditions which will ensure adequate external lighting around the perimeter of the premises as well as further details of the operation of the premises in an amended Noise and Amenity Action Plan.

The proposed reduction in operating hours and patron numbers, along with other additional measures secured by permit condition, will discourage anti-social behaviour of patrons attending the restaurant and bar and will ensure that the amenity of nearby properties, particularly those immediately to the north of the site on Ridgeway Avenue, will not be unreasonably impacted upon by this proposal.

APPENDIX A

THE PERMIT ALLOWS:

Development and the use of the land for the purposes of office and residential hotel, the sale and consumption of liquor (pursuant to clause 52.27), and a reduction in the standard car parking requirement and of the loading requirements in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 1 Prior to the commencement of buildings and works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit, amended plans must be submitted and approved by the Responsible Authority. When approved, they will be endorsed. The plans must be drawn to scale with dimensions and electronic copies provided (unlocked PDF). The Plans must be generally in accordance with the following plans:

- TP00 - TP12 (Inclusive) Dated 10 October 2022 prepared by JAM Architects; and
- TP04.0 dated 21 November 2022 prepared by JAM Architects; and
- Red Line Plan advertised in January 2023

And modified to show:

- (a) The entry and terrace to the residential hotel lobby facing Ridgeway Avenue deleted and the landscaping area to be retained generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (b) An updated Materials Schedule (TP12) to show the clear glazing as GL8 and to show the colour and finish of any new glazing.
- (c) The outdoor bar area reorientated to face Cotham Road generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (d) The outdoor bar area interfacing with Ridgeway Avenue to be screened with a full height treatment that prevents pedestrian access directly to Ridgeway Avenue generally in accordance with the Sketch Plan VCAT 12 September 2023.
- (e) The location of any external lighting.
- (f) An updated Red Line Plan associated with the restaurant/bar that shows the red line area in the context of the proposed buildings and works.
- (g) Deletion of the word 'bar' from the residential hotel lobby.
- (h) An updated waste management/ recycling plan in accordance with Condition 19.

Layout

- 2 The development and layout of the uses, levels design and location of buildings and works shown on the endorsed plan must not be modified for any reason without the prior written consent of the Responsible Authority.

- 3 On the proviso that permission and access to erect such lattice is given by the owner of 3 Kent Street Kew, the owner of the subject land must by the end of April 2012 (or at a later date as agreed to by 3 Kent Street and the Responsible Authority) and at its own expense entirely, erect the following self supported lattice extension to the southern and western boundary fences to 3 Kent Street Kew to an overall height of 2.4 metres above natural ground level for fence and lattice extension and to the following specifications (unless otherwise agreed to by 3 Kent Street and the Responsible Authority):
- (a) a powder-coated steel lattice and powder-coated steel support posts of suitable strength to hold the lattice without sag or bending and to raise the fence height to 2.4 metres above ground level;
 - (b) Colourbond "Rivergum" colour or other colour to the satisfaction of the owner of 3 Kent Street Kew;
 - (c) the steel support posts to be set in concrete and located along the western fence, but located outside the fence line on the southern side of 3 Kent Street; and
 - (d) the lattice to extend from the south west corner of 3 Kent Street:
 - approximately 5 metres along the west boundary;
 - approximately 20 metres along south boundary, thus providing sight protection for kitchen and bathroom windows.

Trees and Landscaping

- 4 Prior to the commencement of Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit (), a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three (3) copies must be provided. The plan must be substantially in accordance with that prepared by CDA Design Group and endorsed by the Responsible Authority on 16 August 2011 but modified to show changes to the ground floor layout depicted on plan 0466_TP06 Revision J prepared by JAM Architects amended to show changes from condition 1.
- 5 All proposed new street trees must be to the satisfaction of the Responsible Authority.
- 6 Before the use starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority.
- 7 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced to the satisfaction of the Responsible Authority.
- 8 An in-ground sprinkler system must be installed in all landscaped areas, to the satisfaction of the Responsible Authority.

Infrastructure

- 9 The land must be drained to the satisfaction of the Responsible Authority and all drainage works and ground water management works must be completed prior to the occupation of any building. A drainage contribution may also apply, the cost of which will depend on the method of stormwater discharge adopted. Prior to the commencement of construction under this planning permit, the permit holder must submit a ground water management plan and a drainage management plan to the satisfaction of the Responsible Authority which once approved will be endorsed as forming part of this permit.
- 10 Prior to the commencement of the approved uses, stormwater drains must be connected to a legal point of discharge approved by the Responsible Authority.
- 11 Prior to the completion of the development, evidence must be provided to the satisfaction of the Responsible Authority that:
 - (a) the existing drainage reserve on the north-eastern part of the site has been removed;
 - (b) the existing MMBW easement on the land has been expunged;
 - (c) all to the satisfaction of the Responsible Authority.
- 12 All disused and redundant vehicular crossings must be removed at the same time as the construction of any new crossovers and prior to the completion of development works. The cost of removal of the existing crossings and the reinstatement of street assets (i.e. footpath, nature strip and kerb and channel etc.) is to be borne by the applicant and must be in accordance to Council's standards. A Council Supervision Permit is required for this work.
- 13 All Council assets damaged as a result of building or construction works (such as streets, roads, crossovers, footpaths, nature strip, kerb and channel, drainage assets, etc) must be reinstated in accordance with Council's Standards and to the satisfaction of the Responsible Authority.
- 14 Reticulated electricity must be provided underground to the satisfaction of the Responsible Authority.
- 15 No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables without the prior written consent of the relevant authority or company and the Responsible Authority.
- 16 Before the commencement of the use authorised by this permit:
 - (a) a certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
 - (b) an environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with IXD of that Act that the environmental conditions are suitable for residential use.

Any conditions required on a Statement of Environmental Audit must be implemented prior to the occupation of any building or otherwise in accordance with those conditions, to the satisfaction of the Responsible Authority and the Environment Protection Authority.

Amenity

- 17 The amenity of the area must not be adversely affected by the use or development as a result of:

- (a) Transport of materials, goods or commodities to or from the land;
- (b) Appearance of any building, works, stored goods or materials;
- (c) Artificial light, vibration, smell, fumes, smoke, vapour, steam, dust, waste water, waste products, grit or oil;

to the satisfaction of the Responsible Authority.

- 18 All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service.

- 19 Before the use starts a Waste/Recycling Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. In the preparation of the waste/recycling management plan, specific attention must be made to the following items (but not limited to):

- (a) How the collection of refuse and recycling material will be managed;
- (b) The type of refuse and recycling bins to be used on the site and where they will be stored including details of screening and ventilation;
- (c) What will be the frequency for the removal of such refuse and recycling materials?
- (d) How it is intended to control the emission of odour caused by such refuse and recycling material when it is being stored within the site.
- (e) That the bin storage areas are sufficient to cater for the amount of waste that will be produced;
- (f) What type of bins will be used on the site;
- (g) The private collection of bins;
- (h) Who will be responsible for taking refuse and recycling bins in and out for collection, where this will occur and how collection of refuse and recycling materials will be managed;
- (i) Hours of bin collection not being outside the hours of: 7am to 8pm Monday to Saturday; and
9am to 8pm Sunday and public holidays.
- (j) Access routes for private waste collection vehicles that do not rely on extensive reversing movements;
- (k) Compaction of refuse and the breaking up of bottles not occurring whilst the collection vehicle is standing stationary at or near the site.

The approved Waste/Recycling Management Plan must be implemented to the satisfaction of the Responsible Authority.

Car Parking

- 20 Before any new building is occupied, the areas set aside for car parking, access roads and lanes and driveways shown on the endorsed plans must be:
- (a) constructed;
 - (b) formed to such levels and properly drained so that they can be used in accordance with the plans;
 - (c) line marked to indicate each car spaces; and
 - (d) clearly marked to show the direction of traffic along the accessway; to the satisfaction of the Responsible Authority.
- 21 Prior to the extension of trading hours associated with the restaurant and bar, an updated Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Car Parking Management Plan will be endorsed and will then form part of the permit. The plan must include details of the following:
- (a) allocation of car parking with the minimum number of car parking spaces allocated to each use set out as follows unless otherwise approved in writing by the Responsible Authority:
 - Office — 157 spaces;
 - Medical centre — 20 spaces;
 - Residential Hotel — 67 spaces;
 - Restaurant and Bar — 32 spaces (six of which must be available for restaurant/bar staff).
 - (b) that the lower level car park will be open for vehicles entering the site (i.e. not have access obstructed by any roller door or boom gate or the like, and not have access dependent on any phone or intercom system or other type of security system) for access between the hours of 6.30am and hours of closing of the restaurant and bar daily. , and the ability for vehicles to leave the site at any time without restriction
 - (c) all tandem car parking allocated to the same tenancy
 - (d) provision of disabled car parking
 - (e) outline of directional signage
 - (f) directional signage to, and available times of, use of the loading bay in the porte cochere for loading purposes
 - (g) signage of available times of use for visitor car parking in the loading bay in the porte cochere
 - (h) outline of car parking and traffic management devices used within the development to comply with the relevant Australian Standard including linemarking, traffic calming devices, mirrors, car parking barriers and other such matters
 - (i) Management of visitor drop off bay.

- (j) Security measures and
 - (k) Signs to the satisfaction of the Responsible Authority must be provided directing drivers to customer and patient car parking spaces associated with the restaurant/bar and medical centre uses, and directing patrons of the restaurant/bar from the allocated car parking area to available lift access. Such sign must be located and maintained to the satisfaction of the Responsible Authority and must not exceed 0.3sqm in area.
 - (l) The lower basement roller door to be maintained so that noise is managed to the satisfaction of the responsible authority.
 - (m) The drop of and pick up for the residential hotel must occur from the porte cochere.
- 22 The Car Parking Management Plan must be implemented to the satisfaction of the Responsible Authority
- 23 The areas set aside for car parking shown on the endorsed plans must be clearly marked and made available for use by visitors to and staff of the facility at all times and must not be used for any other purpose, to the satisfaction of the Responsible Authority.

Loading and Unloading

- 24 A Loading and Waste Plan must be provided to the satisfaction of the Responsible Authority prior to the commencement of the use permitted by this permit. This plan must restrict the size of loading vehicles using the porte cochere to no larger than 6.4 metres.

General

- 25 No plant, equipment, services or architectural features other than those shown on the endorsed plan are permitted above the roof level of the buildings without the prior written consent of the Responsible Authority.
- 26 Service and storage areas must be kept in a tidy, rubbish-free condition at all times to the satisfaction of the Responsible Authority.
- 27 All pipes (except down pipes and rain heads), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 28 Any outdoor clotheslines or other clothes drying devices must be positioned so as not to be visible from any land nearby, to the satisfaction of the Responsible Authority.

Lighting

- 29 Low intensity lighting must be provided to the satisfaction of the Responsible Authority ensuring that carpark areas and pedestrian access ways are adequately illuminated during evening periods without any loss of amenity to occupiers of nearby land.
- 30 External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

Construction

- 31 All building and works associated with the construction of the development must be limited to the following hours, unless otherwise approved in writing by the Responsible Authority:
- (a) Monday to Friday: 7.00am to 7.00pm
 - (b) Saturday: 8:00am to 5.00pm
 - (c) Sunday & gazetted Public Holidays: No construction
- 32 Prior to the commencement of any works, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Construction Management Plan will be endorsed to form part of the approval documents and must be implemented to the satisfaction of the Responsible Authority. The plan must include details of the following:
- (a) site contamination and disposal of contaminated matter;
 - (b) delivery and unloading points and expected frequency;
 - (c) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (d) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (e) any requirements outlined within this permit as required by the relevant referral authorities;
 - (f) hours for construction activity in accordance with any other condition of this permit;
 - (g) measures to control noise, dust, water and sediment laden runoff;
 - (h) the location and design of a vehicle wash down bay for construction vehicles on the site;
 - (i) the location of parking areas for construction and sub-contractors' vehicles on the site and on nearby land, and nomination of timeframe of which the basement car parking will be available for vehicles associated with the construction activity to minimise disruption to surrounding premises and traffic flows;
 - (j) measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;
 - (k) that all vehicles involved in construction of the development must access and egress Ridgeway Avenue and Kent Street via Cotham Road only;
 - (l) the location of any site sheds;
 - (m) any construction lighting to be baffled to minimise intrusion on adjoining lots.

Noise

- 33 Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and

entertainment venues - Publication 1826.4) or any successive relevant legislation, to the satisfaction of the Responsible Authority.

Medical Centre

- 34 Except with the further written consent of the Responsible Authority, not more than five (5) practitioners shall operate from the medical centre under this permit at any one time.

Restaurant/Bar

- 35 The hours of operation for the restaurant/bar may only be 7:00am to 11:00pm Sunday to Wednesday (inclusive), 7.00am to 12 midnight on Thursday and 7.00am to 1.00am (the following day) Friday to Saturday (inclusive).
- 36 The combined total of patrons allowed in the restaurant/bar at any one time must not exceed two hundred and forty (240) Friday to Sunday and two hundred and ten (210) at any other time .
- 37 The outdoor bar terrace must be closed at 10pm each day to the satisfaction of the responsible authority.
- 38 The gym shown on the endorsed plans shall only be used by guests of the Residential Hotel.

Expiry

- 39 This permit will expire if:
- (a) The development approved under this planning permit does not start within two years of the issue date of this permit; or
 - (b) The development is not completed within five years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or within the three months afterwards.

- 40 The Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit and completed within four years of this amended planning permit.
- 41 The extended restaurant and bar operation approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit.

Noise Amenity Action Plan

- 42 Prior to the extended operation of the restaurant and bar approved under this amended planning permit a Noise Amenity Action Plan must be provided to the satisfaction of the Responsible Authority. The Noise Amenity Action Plan must be in accordance with that dated November 2022, but amended to show:
- (a) Clear reference that no live music will be played on the premises.
 - (b) Methodology of restricting patrons from occupying footpaths adjacent to the premises.

- (c) The provision of CCTV.
- (d) A dedicated community hotline for communications available at during the hours of operation specified in Condition 35 and an additional half an hour either side of these times.

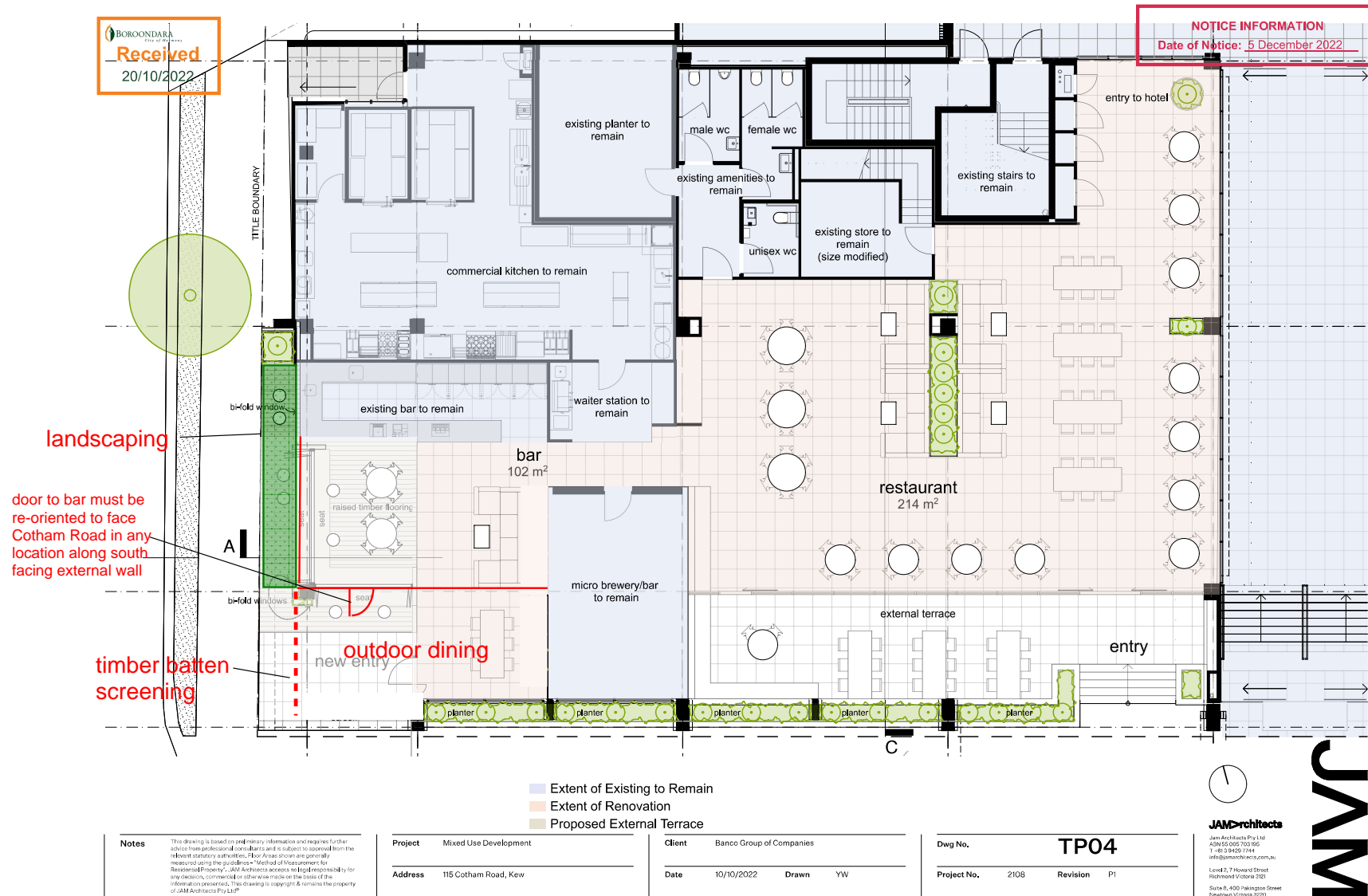
Serving of Alcohol

- 43 Liquor must only be made available for consumption on the premises at such time when food is available to be prepared and served for consumption on the licence premises.
- 44 Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.
- 45 Sale and consumption of liquor must only occur within the endorsed red line plan area.

Testing of Noise Emissions

- 46 At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the approved restaurant and bar with readings taken at times and locations specified by the Responsible Authority.

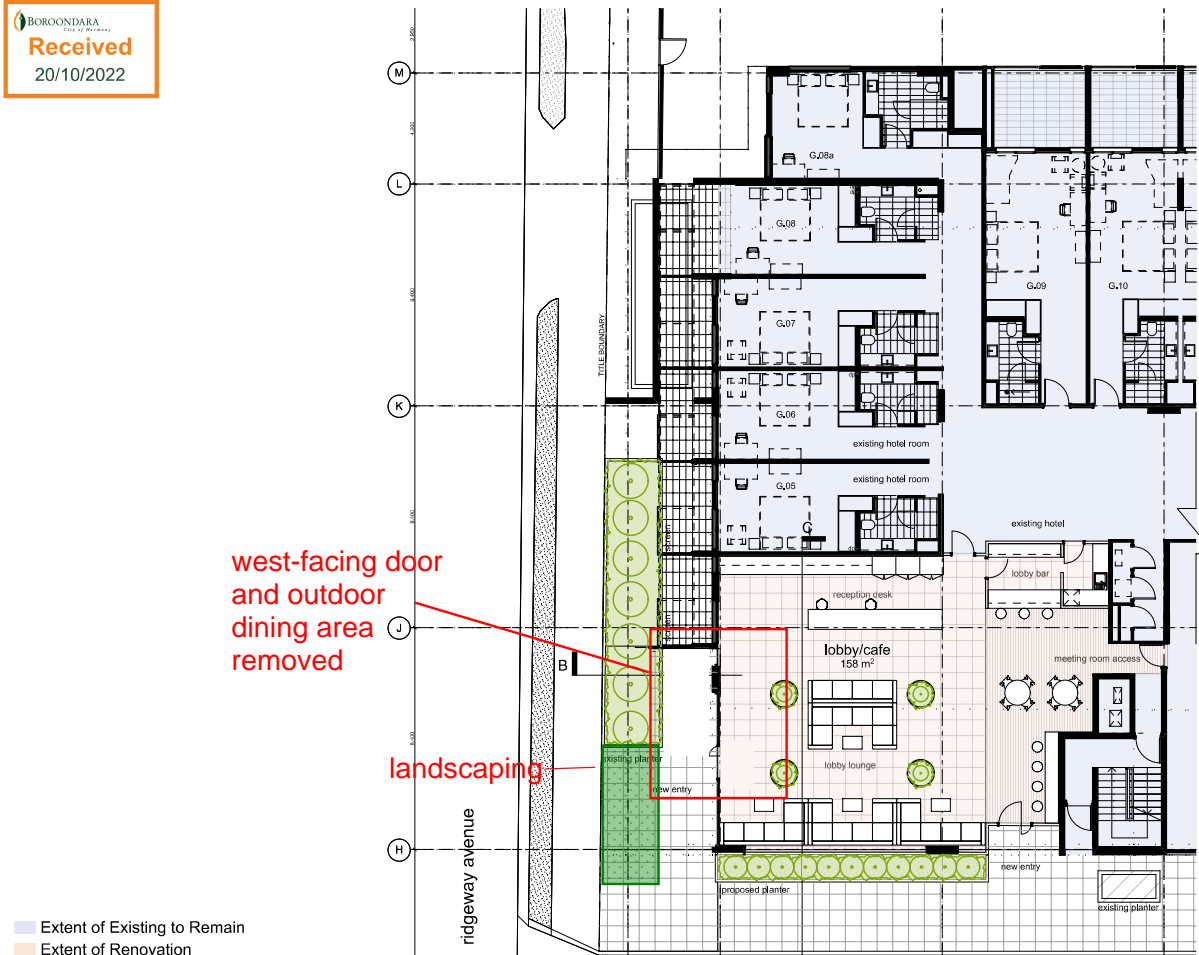
The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with an acoustic engineer, or activities and noise sources on the premises regulated at the direction of and to the satisfaction of the Responsible Authority. The frequency of this request will be at the discretion of the Responsible Authority.



VCAT Discussion Restaurant Plan 12 September



NOTICE INFORMATION
Date of Notice: 5 December 2022



Notes This drawing is based on preliminary information and requires further advice from professional consultants and is subject to approval from the relevant statutory authorities. Floor Areas shown are generally measured using the guidelines "Method of Measurement for Residential Property". JAM Architects accepts no legal responsibility for any decisions, comments or observations made on the basis of the information presented. This drawing is copyright & remains the property of JAM Architects Pty Ltd.

Project Mixed Use Development
Address 115 Cotham Road, Kew

Client Banco Group of Companies
Date 10/10/2022 **Drawn** YW

Dwg No. TP08
Project No. 2108 **Revision** P1

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VCAT Discussion Lobby/Cafe Plan 12 September