



6.1 **2 & 6 JACKA BOULEVARD, ST. KILDA**
LOCATION/ADDRESS: **2 & 6 JACKA BOULEVARD, ST. KILDA**
EXECUTIVE MEMBER: **KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT**
PREPARED BY: **PHILLIP BEARD, PRINCIPAL PLANNER**

1. PURPOSE

1.1 To determine an application for the partial demolition of the existing building, construction of buildings and works at second floor level; ground and first floor additions to the south-east side of the building; new café with outdoor seating at ground level, increase of 'red line area' for the sale and consumption of liquor and dispensation of car parking requirements.

2. EXECUTIVE SUMMARY

WARD:	Lake
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	PDPL/01207/2021
APPLICANT:	Hansen Partnership
EXISTING USE:	Restricted Place of Assembly (Royal Melbourne Yacht Squadron)
ABUTTING USES:	Informal Outdoor Recreation
ZONING:	Public Parks and Recreation Zone
OVERLAYS:	Heritage Overlay (HO225, HO348)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The Royal Melbourne Yacht Squadron (RMYS) is an existing two storey building constructed in the 1920s, which is currently used as a club (Restricted Place of Assembly) with a membership of approximately 850. The building features various internal spaces including offices, boat storage space, changing facilities at ground floor, a members bar, multipurpose function room, library and storage facilities at first floor and external deck space with office, observation room, kitchen space and foyer at roof level. The building has some of its internal spaces already licensed via an On Premises Liquor Licence.
- 2.2 The building sits within the Catani Gardens and is accessed from Pier Road at the rear of the site, where boat launching ramps and external storage are also located. Informal (not marked or fenced) gravel car parking for approximately 10 cars exists on the north-west side of the building, the opposite side of the proposed addition.
- 2.3 The building currently has a footprint of approximately 800m² and the roof deck is currently approximately 280m² in area.
- 2.4 This application involves the following key components:

- 2.4.1 Partial demolition of the existing building including the existing roof level structures.
- 2.4.2 The construction of a two-storey addition to the south-east façade.
- 2.4.3 Construction of new enclosed member and bar space at roof level.
- 2.4.4 Use of part of the ground floor as a publicly accessible café with additional outdoor seating to the north west side of the building to accommodate 102 patrons.
- 2.4.5 Increase in redline area in association with the existing on-premises liquor licence.
- 2.4.6 A car parking dispensation of 3 spaces.
- 2.5 Operating hours would be unchanged from those allowed by the existing on-premises and club licences which are as follows:
 - 2.5.1 Sunday, 10am to 1am the following day.
 - 2.5.2 Good Friday/Anzac Day Between 12 noon and 1 a.m. the following day.
 - 2.5.3 On any other day Between 7 a.m. and 1 a.m. the day.
- 2.6 The site is located within the Public Park and Recreation Zone and is not within an activity centre. The edge of the Fitzroy Street Principal Activity Centre is located approximately 85m to the east of the site. The nearest dwellings are located in an apartment building approximately 90m to the north on the opposite side of The Esplanade.
- 2.7 A planning Permit is required for the use of the land as food and drinks premises within the Public Park and Recreation Zone provided the use is associated with the public land use. A permit is also required for buildings and works under the Public Park and Recreation Zone as well as demolition under Heritage Overlay which affects the site.
- 2.8 The site is also affected by a Heritage Overlay that is controlled by Heritage Victoria (H0348). Therefore, the applicants were required to obtain a Heritage Victoria Permit for the provision of the works that extend into the Catani Gardens and comprise an addition to the southern elevation, works to the boatyard (fencing/landscaping) and works to the northern elevation and car park. Heritage Victoria granted a permit on 6 May 2022. These works are consistent with the advertised plans.
- 2.9 A Planning Permit is also required under Clause 52.27 (Licensed Premises) for an increase of the existing red line area for the sale and consumption of liquor.
- 2.10 Following notice of the application, 27 objections and 51 supporting submissions were received. Concerns raised largely relate to scale, bulk and mass of the addition, inappropriate loss of existing club uses, potential amenity impacts and a loss of overall 'cultural' heritage and character through increased commercialisation of the use which should remain more public given its location on public land.
- 2.11 A consultation meeting was held on 20 June 2022 attended by Ward Councillors, the applicants, 23 objectors and Council officers. The meeting did not lead to any formal changes to the proposal and the advertised application material forms the basis of the assessment set out in this report.
- 2.12 The site's location in a Public Parks and Recreation Zone requires a balance to be struck between the establishment of the proposed café and the surrounding public land



uses. The zone and the heritage overlay also require a balance to be struck between the public visibility of the additions and their impacts on the existing host building. The issue of whether existing club uses (most notably the junior sailing programs) would be diminished through the re-allocation of floor space to the new café is not a planning consideration and a matter to be determined by the club.

- 2.13 The existing gravel car park would be replaced with café outdoor seating with the loss of approximately 8-9 spaces as a result.
- 2.14 In summary, it is considered that the proposal is supportable from a use (café) standpoint and generally supportable with regard to the proposed buildings and works/heritage. This is subject to a reduction in the size of the roof level structures and a change in colour of the external cladding of the new two storey addition. The car parking shortfall is considered supportable.
- 2.15 It is recommended that the application be supported subject to conditions included on any permit issued.

3. RECOMMENDATION

- (a) That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Planning Permit.
- (b) That a Notice of Decision to Grant a Planning Permit be issued for partial demolition, buildings and works to the side and roof of the existing RMYS building; part use of the site as a café (food and drinks premises) increase of red line area for sale and consumption of liquor and reduction of car parking requirements at Royal Melbourne Yacht Squadron, Pier Road, St Kilda (2 & 6 Jacka Boulevard, St. Kilda).
- (c) That the decision be issued as follows:

Amended Plans required

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The roof deck structure reduced in size through an increased setback from the south east edge of the existing building by at least 4m with consequential reduction to the floor area to the meeting room/bar/store.
 - b) An increased setback of at least 3.4 metres from the north-west edge of the building with consequential reduction of the pavilion space and any consequent relocations of roof plant.
 - c) External colours and treatment of the building altered as follows:
 - i. The colour of the south-east addition and any new brick elements along the northern and western elevations to be a light colour brick to generally match that of the existing building.
 - ii. Depiction of the south-east addition as including a recess/reveal in its upper section horizontally aligning with the adjacent existing eave.



- iii. Depiction of an increased extent of glass / window to the new south-east facade.
- d) The red line/licence area corrected to include the upper-level internal floor space of the south-east addition and the entire roof top area, aside from the central stair, lift, kitchen and plant areas.
- e) Detailed plans to 1:50 scale of the following:
 - I. materials, dimensions, profiles construction methods and wall fixings/glazing bars for the café awnings and window above the awning.
 - II. materials, dimensions and material profiles / construction methods for the rooftop addition and south-east addition such that achieving the 'folded' roof form and thin side wall and roof character of the addition and brick patterning of the south east addition can be confirmed.
- f) Details as described in the updated Sustainable Management Plan in accordance with Condition 13 of this permit particularly that there is indication of a minimum size (22.8kWp) that matches what was noted in the advertised SMP.

No Layout Change

- 2. The layout of the site and the permitted uses and the size, levels, design and location of buildings and works and uses shown on the endorsed plans must not be modified without the written consent of the Responsible Authority

External colours and Finishes

- 3. All external materials, finishes, and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority.

Equipment and Services Above Roof Level

- 4. No plant, equipment, or services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Plant & equipment noise levels

- 5. Any new/additional air conditioning, refrigeration plant and any other heating plant or similar related to the permitted additions and café must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with Division 1 and 3 of Part 5.3 - Noise, of the *Environment Protection Regulations 2021* to the satisfaction of the Responsible Authority.

Amenity

- 6. The amenity of the area must not be detrimentally affected by the use of the permitted café through the:
 - a) Transport of materials, goods, or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.



Walls facing the Boundary

7. Before the occupation of the development allowed by this permit, all new or extended walls on or facing the surrounding park/roads must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

Café Seating

8. At least 75% of café patrons must be seated at all times the café is operating and the associated outdoor seating area must only be used by café patrons and not by any other component of the building or by the public when the café is not operating.

Operating Hours

9. The café including the sale and consumption of liquor may only operate between the hours of 7am to 9pm on any day.

Patron Numbers

10. No more than an overall total of 80 patrons must occupy the café and the outdoor seating area combined at any one time.

Noise Limits

11. Noise levels from the sale and consumption of alcohol at the rooftop and from the café must not exceed the permissible noise levels stipulated in the Environmental Protection Regulations 2021 and EPA Noise Protocol to the satisfaction of the Responsible Authority.

Storage and Disposal of Garbage

12. Any additional provision for storage and disposal of garbage and waste related to the permitted café must be made to the satisfaction of the Responsible Authority. All new garbage storage areas (if required) must be screened from public view.

Updated Sustainable Management Plan

13. Before plans are endorsed under condition 1 of this permit, an updated Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. The update SMP must be generally in accordance with the SMP submitted with the application but modified to address the following;
 - a) That best practice in sustainable design is demonstrated by achieving the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS Stormwater.
 - b) Commitment to providing ventilation systems that are designed and monitored to allow an increase in outdoor air available to regular use areas and maintain a maximum CO2 concentration as indicated in BESS such that the claiming of the IEQ 2.3 Ventilation - Non-Residential BESS credit is justified.
 - c) Commitment that concrete should be specified to have recycled aggregate and manufactured with recycled water and that steel should be supplied by a steel fabricator/contractor accredited to the Environmental Sustainability Charter of the Australian Steel Institute and minimum of 60% of all reinforcing bar and



mesh is produced using energy-reducing processes in its manufacture.

When approved, the updated SMP will be endorsed and will then form part of this permit. The ESD initiatives in the endorsed SMP must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Implementation Report for Environmentally Sustainable Design

14. Before occupation of the development approved under this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SDA/SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

Water Sensitive Urban Design Response

15. Before the endorsement of plans under condition 1 of this permit, an updated Water Sensitive Urban Design (Stormwater Management) Response that outlines the stormwater treatment strategy for the site must be submitted to the satisfaction of and approved by the Responsible Authority.

The response must include:

- a) A site layout plan showing all stormwater catchment areas, permeable and impermeable areas in m², location and type of all stormwater management devices and connection notations.
- b) A report to demonstrate how the development meets the water quality performance objectives as set out in the *Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999* (or as amended).
- c) Design details of the stormwater treatment devices, such as cross-sections and connection to legal point of discharge.
- d) When approved, the WSUD Response will be endorsed and will form part of this permit.

The initiatives in the endorsed WSUD Response must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Stormwater Treatment Maintenance Plan

16. Before the endorsement of plans under condition 1 of this permit, a Stormwater Treatment Maintenance Plan detailing the on-going maintenance of the stormwater treatment devices must be submitted to and approved by the Responsible Authority, addressing the following points:
- a) A full list of maintenance tasks for each device.
 - b) The required frequency of each maintenance task (e.g., monthly, annually etc.).
 - c) Person responsible for each maintenance task.

The Stormwater Treatment Maintenance Plan can be part of the Water Sensitive Urban



Design (Stormwater Management) response or can be contained in a stand-alone manual. When approved, the STMP will be endorsed and will form part of this permit.

Construction Management Water Sensitive Urban Design

17. The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit:
- No water containing oil, foam, grease, scum, or litter will be discharged to the stormwater drainage system from the site.
 - All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system.
 - The amount of mud, dirt, sand, soil, clay, or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
 - No mud, dirt, sand, soil, clay, or stones are washed into, or are allowed to enter the stormwater drainage system.
 - The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

Waste Management Plan

18. Before the development starts (other than demolition or works to remediate contaminated land), a modified Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to all currently described matters including the following:
- reference to a smaller/lower collection truck so that the tree at the bend in Pier Road does not need to be trimmed and/or will not be damaged.

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

Landscape Plan

19. Before the endorsement of plans under condition 1 of this permit, a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
- A survey plan, including botanical names, of all existing vegetation/trees to be retained.
 - Buildings and vegetation (including botanical names) within 3m of the walls of the existing building.
 - Significant trees greater than 1.5m in circumference, 1m above ground.
 - A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways with particular reference to the café outdoor seating area and the perimeter of the south-east addition.



(e) Water sensitive urban design.

Time for starting and completion

20. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two (2) years of the date of this permit.
- b) The development is not completed within two (2) years of the commencement of works hereby approved.
- c) The sale and consumption of liquor associated with the café is not started within two (2) years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and within 12 months after the permit expiry date, where the development has commenced lawfully under the permit.

4. RELEVANT BACKGROUND

4.1 There have been many applications and permits issued at this site. It is considered that the most relevant to this current proposal are those listed below.

Application No	Proposal	Decision	Date of Decision
333/1994	Addition to roof deck.	Delegated permit	11/10/94
636/1999	Liquor licence to the internal function room.	Delegated permit	30/6/99
782/2005	Buildings and works between the existing Royal Melbourne Yacht Squadron clubhouse building and Pier Road to provide a 283 sqm sail training academy at ground level to house RYMS junior activities (previously at West Beach Pavilion) including storage of 40 boats and a rooftop terrace area with pergola.	Delegate permit	31/01/2007
782/2005	Buildings and works allowing 283m2 sail training academy housing activities previously at West beach Pavilion including boat storage together with pergola to the roof terrace.	Delegated permit	31/1/07
637/2010	Display of sponsors banners to the roof of the Royal Melbourne Yacht Squadron building.	Delegate refusal	19/07/2010
333/2013	Slipway maintenance and repair of fallen timbers.	Delegated permit	17/09/2013
561/2014	Display of Business identification signage.	Delegated permit	1/10/2014
854/2014	Sale/consumption of liquor under an on-premises licence for the roof terrace generally from 7am to 1am the following day for 200 patrons.	Delegated permit	1/12/14

- 4.2 In addition, it is noted by way of background that Heritage Victoria permit P36403 has been issued on 6 May 2022 and allows the following:

Redevelopment works to the Royal Melbourne Yacht Squadron building, where these extend into the Catani Gardens extent of registration, and comprising an addition to the southern elevation, works to the boatyard (fencing, landscaping) and works to the northern elevation and car park area.

Refer to attachment 3 and 4 which outlines the Heritage Victoria Permit and endorsed plans. The endorsed plans are consistent with the advertised plans which are subject to this report.

5. PROPOSAL

Demolition works

- 5.1 Ground floor demolition consists of the front portico, the rear platform and staircase, a platform to north west side and the single storey workshop to the south-east of the building. The remainder of proposed demolition would be internal. It is noted that Schedule 225 to the Heritage Overlay does not trigger a planning permit for internal alterations.
- 5.2 First floor level, external demolition consists of the glass doors above the existing portico balcony a number of windows from the rear elevation and the rear staircase. Some balustrading and the rear shade structure from the rear elevation are also proposed to be demolished. All other first floor demolition would be internal.
- 5.3 Demolition at second floor / roof level would consist of the existing office, observation room, kitchen and adjacent foyer together with the existing balustrading and small portion of the raised deck itself. Three of the brick upstands to the rear elevation are also proposed to be demolished.

Buildings and works

- 5.4 Proposed buildings and works would be largely contained to the roof level and south east elevation of the existing building. The new roof level structure would consist of a 45m² meeting room with bar and a 95m² bar pavilion along with new stair/lift access facilities. The enclosed meeting and bar areas would be centrally located at roof level with separate members, raised and pavilion decks surrounding. The new roof structure would have a floor area of approximately 220m², replacing the existing 100m² roof level structures.
- 5.5 The proposed roof level structure would be setback approximately 7m from the north-west edge of the building, 9m from the south-east edge (approximately 13m from the edge of the proposed addition), approximately 3.5m from the ground level wall, 1m from the roof level frontage and approximately 7m from the south west rear elevation. The proposed roof level structure would reach an overall height of approximately 13m above ground level and approximately 4m above the existing deck level.
- 5.6 The proposed south-east addition would extend out by 3.8m at a length of 20m at ground and first floor level. The addition would reach a height of between 9 and 9.4m. Material finishes would consist of red-brown face brick arranged in a vertical and heavily fluted form, interspersed with clear glass windows at ground and first levels.
- 5.7 The addition would accommodate equipment storage and workshop space and an externally accessible bin cupboard at ground level. First floor level would accommodate additional floor space from the extended members bar/ restaurant.

- 5.8 The proposed café would be located to the north-west of the building at ground level. The café would have an internal floor area of 100m² and an internal capacity of 62 patrons. An external seating area is also proposed with capacity for a further 44 patrons. The external area would replace the existing gravel car parking spaces to the north west of the building. Beyond the proposed brick paving to the external seating area, no external buildings and works are proposed to this space with all proposed tables and chairs being movable.
- 5.9 No hours of operation for the proposed café use have been proposed. The area is however proposed to be used for the sale and consumption of liquor.
- 5.10 No additional car parking is proposed. The existing use of the building falls under the category of (Restricted) Place of Assembly, the car parking rate of which is not included with Clause 52.06. Car parking is therefore to the satisfaction of the Responsible Authority) based on patron numbers, no car parking requirement is triggered for the additional rooftop and south-east addition floor space.
- 5.11 No car parking is proposed for the new café use with a shortfall of three spaces generated by the 100m² of additional floorspace. As noted in the executive summary, the existing (approximately) 8-9 spaces would be lost resulting in a net shortfall of approximately 10-11 spaces.

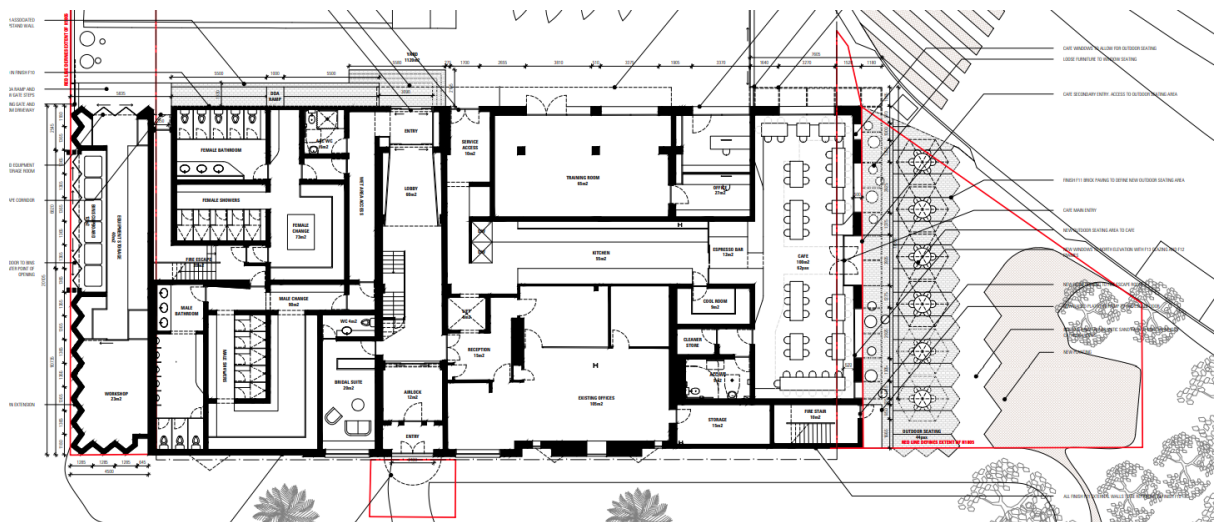


Figure 1 : Proposed Ground level

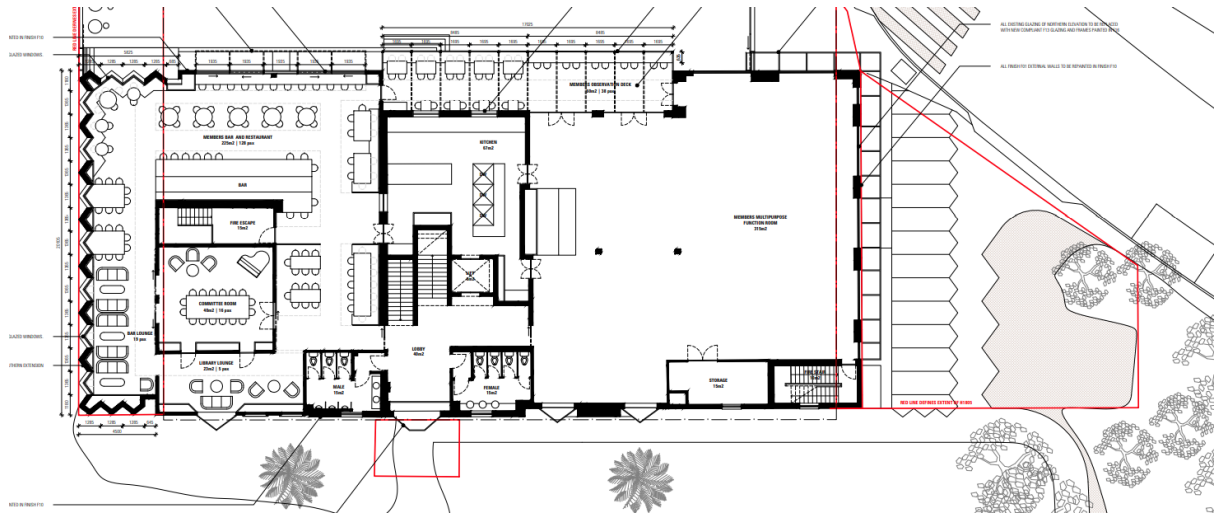


Figure 2 : Proposed first level

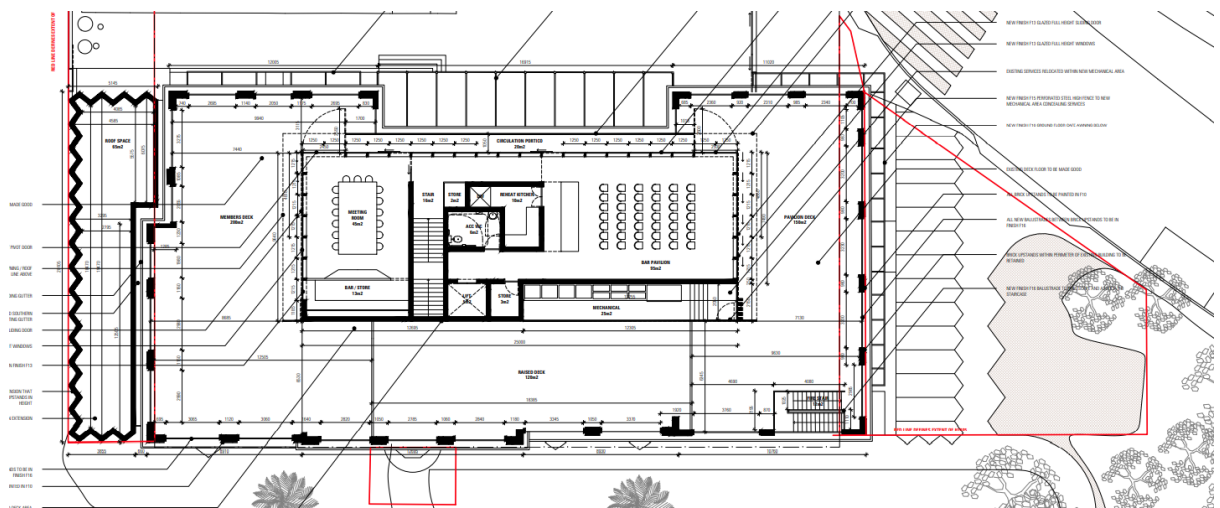


Figure 3 Proposed second/roof level

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Figure 4 Proposed 3D images

6. SUBJECT SITE & SURROUNDS

Width, length and site area	<p>The site sits within the Catani Gardens, to the south east corner. The land occupied by the RMYS building and ancillary areas forms a 'battle axe' shape, with a section of Pier Road approximately 55m long along the western boundary. To the rear of the building is the concrete apron and slipways and external boat storage areas.</p>
Existing building and uses	<p>The RMYS building is a simple, rectangular two storey building constructed in the 1920s. It features a central section and two flanking 'wings' between 8.5m and 7.5m high with parapet and railings above those heights. The building features an existing enclosed, roof top level structure with a maximum height of approximately 13m.</p> <p>The building presents simply with mostly rendered surfaces, a flat top and small windows.</p> <p>The existing building façade features a front portico and detailed window surrounds.</p>
Immediate interfaces	<p>As described above, the site is surrounded by public open space (Catani Gardens) which features open spaces, pathways and well-established trees.</p> <p>To the west is the Bay, with St. Kilda Pier approximately 115m from the subject building. Further along is the Sea Baths and associated public car park.</p> <p>Development to the east comprises residential buildings between mostly 2-3 storeys but also up to 10 and 15 storeys.</p>



	<p>The Jacka Boulevard roadway is approximately 25m from the south-east corner of the building. The-nearest dwellings are approximately 90m to the east.</p> <p>The Esplanade Hotel is approximately 100m also to the east.</p>
Proximity to Public Transport, PPTN and any relevant parking controls	Trams/light rail exist to the east of the site on The Esplanade (routes 16 and 96).

7. PERMIT TRIGGERS

7.1 The following zone and overlay controls apply to the site, with planning permission required as described.

NOTE: No permit is required for any aspect of the proposal under DDO 10. A planning permit is only required under this in the absence of consent from DELWP under the Marine and Coastal Act. Marine and Coastal Act Consent has been issued for the proposed development.

Additionally, no heritage assessment under HO 348 is undertaken as that overlay is administered by Heritage Victoria. However, as described in the table below, heritage assessment under HO 225 (administered by Council) is undertaken.

Also, there is no permit trigger for the additional first and second/roof level floor space as those areas would continue to be used for 'Place of Assembly' whose parking rate is based on patron numbers, which are not proposed to increase in this case.

Zone or Overlay	Permit trigger
Clause 36.02 Public Parks and Recreation zone	<p>Under Clause 36.02-1 a planning permit is required to use the land for the purpose of 'Retail Premises' (which includes food and drink premises being the café) provided that the use is associated with the public use of land.</p> <p>Under Clause 36.02-2 a planning permit is required for buildings and works where they are not carried out by or on behalf of the public land manager.</p> <p>There are no mandatory height controls in the zone or the schedule to the zone.</p>
Clause 43.01 Heritage Overlay (HO 225 only)	A planning permit is required to <i>Demolish or remove a building; and construct a building or construct or carry out works</i> , pursuant to Clause 43.01-1 of the Port Phillip Planning Scheme. No internal alterations controls apply to the site. External paint controls apply to the site. A permit is required under this overlay for the demolition and new works to the existing building as covered by HO225.
Clause 52.06 Car parking.	Pursuant to Clause 52.06-3 and 52.06-5, a permit is required to waive the car parking requirements. In this instance, three car spaces are required



Zone or Overlay	Permit trigger
	to be waived based on a rate of 3.5 car spaces per 100m ² of café floor area. (Note that the proposal results in the loss of the existing approximately 8-9 car spaces).
Clause 52.27 Licensed Premises	Pursuant to Clause 52.27, a permit is required to increase the size of the area within which liquor is to be served.

8. PLANNING SCHEME PROVISIONS

The following provisions apply to the site.

8.1 Planning Policy Frameworks

The application needs to be assessed against the state provisions of the PPF, including:

Clause 15: Built Environment and Heritage

Clause 21.03 Ecologically Sustainable Development

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.03-2 Sustainable Transport

Clause 21.04 Land Use

Clause 21.04-5 Public Open Space and Foreshore

Clause 21.05 Built Form

Clause 21.05-1 Heritage

Clause 21.05-3 Urban Design and the Public Realm

Clause 21.06 Neighbourhoods

Clause 21.06-6 St. Kilda neighbourhood

The application also needs to be assessed against the following clauses of the LPPF:

Clause 22.04 Heritage Policy

Clause 22.09 St. Kilda Foreshore Area Policy

8.2 Other Relevant General or Particular Provisions

Clause 52.06 Car Parking

Clause 52.27 Licensed Premises

Clause 71 Operation of the Planning Scheme

8.3 Relevant Planning Scheme Amendment(s)

There are no planning scheme amendments relevant to this application.



9. REFERRALS

9.1 Internal Referrals

The application was referred to the following areas of Council for comment. The responses received are summarised below:

Internal Department	Referral comments (summarised)
<p>Waste Management</p>	<p>Various comments were received principally relating to the methods of waste volume calculations and the types of bins being provided for. Following submission of clarifying information from the applicant, it was confirmed that the waste management arrangements would be satisfactory.</p> <p>Planning Officer response:</p> <p>The submitted Waste Management Plan (WMP) based on the information submitted over time by the applicant and the various internal responses is suitable for endorsement.</p> <p>However, regarding the potential of the collection truck-damaging nearby trees, the submitted WMP shows the collection truck proposing to use a path to access to relocated bin room on the south-east side of the building. There is one tree at the intersection of this path and Pier Road. Council's Parks Officer has verbally indicated that smaller collection trucks would have to be used as Council would not support trimming of this tree.</p> <p>Officers also queried use of the nominated path for truck access and the applicants have confirmed that this path is gated and that the club has a key to the gate and that the club has been operating the gate for their own vehicle access purposes for several years. Use of that path would therefore continue to be for club-only vehicles. Even so, the WMP should be modified to include reference to a lower truck so that the tree is not damaged. (refer recommend condition 18).</p>
<p>Traffic Engineer</p>	<p>The on-street parking surrounding the site is generally long-term ticketed parking and staff would not be eligible for parking permits and would need to abide by on-street parking restrictions. It was also confirmed that no parking requirement is triggered in relation to the expanded club uses/floor space and only the café would trigger a parking requirement.</p> <p>It was commented that the submitted parking surveys of the surrounding area (carried out on Saturday and Sunday 21 and 22 March, 2021 between 5pm and midnight) revealed that the peak occupancy on the Saturday was 48% (276 spaces occupied out of 573 spaces) and peak occupancy on the Sunday was 28% (162 spaces occupied out of 573 spaces). Some concerns were raised in relation to these figures as they were carried out between lockdown restrictions and may not accurately reflect normal circumstances and that the surveys did not capture weekday or morning occupancies.</p> <p>A review of historical data by Council's Traffic Engineer revealed that nearby parking can be very highly used during Saturday afternoons. Even so, it was commented that the additional three parking spaces generated by the café could be accommodated in the area and that commercial type uses are generally the easiest uses that can deal with modal change away</p>



Internal Department	Referral comments (summarised)
	<p>from cars and that such change would be supported by nearby cycle paths, walking paths and public transport.</p> <p>Planning Officer response:</p> <p>It is agreed that the above comments – whilst questioning the figures in the survey – do not raise substantial concerns with the proposed café parking shortfall. It is noted, however, that these comments were based on the three-space shortfall rather than the approximate 10-11 space shortfall factoring in the loss of the current informal parking area.</p> <p>On balance, it is still considered that the overall shortfall can be supported. Various aerial photos dating back approximately 10 years have been sighted by Planning officers and they rarely show all 10 spaces occupied. They do, however, often show seven to eight spaces occupied, meaning that the actual/practical shortfall factoring in the café floor space is more likely to be 10 to 11 spaces.</p> <p>Based on the excellent access to public transport, it is considered that café patrons and to a lesser extent, club members would be able to find alternative parking means and that considering the entire nearby area – encompassing Pier Road, The Esplanade, Sea Baths parking and Fitzroy Street, it is considered that 10-11 cars could be accommodated in that area.</p>
<p>Urban Design/ Heritage Advisor</p>	<p>Urban Design Comments:</p> <p>The proposal is supportable subject to the following issues being fully resolved:</p> <ul style="list-style-type: none"> (i) that the path from the café to Catani Gardens be straightened and shown on any landscape plans. (ii) that details of the types of bricks and construction methods to be used for the addition be shown so that the actual techniques of achieving the corner angles can be determined. (iii) that the wall and roof materials of the terrace addition are more clearly depicted such that the ‘folding’ as shown on the renders can be determined. (iv) the materials and construction of the café awnings be shown such that the somewhat ‘thin’ nature of these can be confirmed. <p>It was also commented that the altered rear fence alignment would increase publicly accessible space on the western side between the boatyard and seawall and supports safer pedestrian, cyclist, boat, trailer and vehicle movement.</p> <p>It was further commented that the café would support activation of Catani Gardens but that the walls of the café should as far as possible, be open and interactive with the outdoor space through windows, doors and openings. In summary, it was the greater level of activation through the café and expanded club use would be a positive urban design outcome.</p> <p>Heritage Comments (summarised).</p>



Internal Department	Referral comments (summarised)
	<p>It was acknowledged that the new additions to the side elevation (which are within the Heritage Victoria overlay (HO 348) would be added to a secondary elevation of what is a later and less significant elevation of the building. It was further commented that greater detail of the canopy should be submitted.</p> <p>The works in the Heritage Victoria Overlay – including landscaping works – are supportable.</p> <p>Again, whilst the responsibility of Heritage Victoria, it was stated that the demolition of the portico is supported as it is a non-original addition that detracts from the presentation of the façade. The proposed replacement with simple thin awning is acceptable, as a means of providing weather protection.</p> <p>It was commented in relation to the works proposed within HO 225 that greater detail at 1:50 scale or similar should be provided showing actual dimensions/profile, materials, wall fixings, etc. Plans should also show the precise dimensions, profiles and thicknesses of the glazing bars, etc. for the awning and the new window above.</p> <p>Again, whilst the demolition works to the south-east side would be located within the Heritage Victoria area, the demolition of the non-original addition on the south side was considered acceptable.</p> <p>It was noted that the brick cladding of the south-east addition was intended as a reference to the materiality of the original building, which includes a section of brick to dado height on either side of, and as detail surrounding, the main entry. These bricks appear (from the example image) to be similar to (or are) clinker bricks in colour (reddish through to dark blue/browns). This was questioned as it appeared to add to the feeling of solidity as opposed to that of lightness. It was also questioned whether the use of brick could achieve the ‘trickly’ geometries at the corners, especially if recycled brick (with potentially worn corners) as opposed to new brick were to be used.</p> <p>Detail about the precise approach (including materiality and method of construction) for this addition would be needed as being critical to its success. It was stated that additional detail should also be shown regarding the portico window in terms of how key matters (the intersection with the original building, the wall corners, etc.) will be handled are required, perhaps supplemented by coloured renders. It was concluded – subject to the above – that the height and form of these additions would be appropriate.</p> <p>With regard to the rooftop, the demolition of the existing stairwell, did not raise heritage concerns, whilst removal of some of the existing balustrading was also appropriate.</p> <p>It was noted that the new rooftop additions would be highly visible but that such visibility would be mitigated by:</p> <ul style="list-style-type: none"> • The 6.3m setback from the east (front) façade. • The simple treatment of the eastern elevation in standing seam zincaluminum material (or perforated steel) with no openings that will



Internal Department	Referral comments (summarised)
	<p>provide a neutral backdrop to the original balustrade and won't distract from the façade of the original building.</p> <ul style="list-style-type: none"> • The rationalisation and concealment of all rooftop plant within the pavilion structure, leaving the deck area unencumbered. • The treatment of the other elevations is almost fully glazed to take advantage of the bay views and includes a feature metal screen that refers to the historic balustrades. This creates a lightweight appearance and is an appropriate treatment. <p>The rooftop addition would therefore be acceptable in heritage terms with additional detail provided covering:</p> <ul style="list-style-type: none"> • The reflectivity of the proposed zincaluminum cladding. • Confirmation of the thickness and construction method of the proposed roof structure. • Confirmation that no other roof plant would be required. (Solar panels would be supported provided they would be flush with the roof). <p>The re-painting of the existing building was considered to be acceptable.</p> <p>Planning Officer response:</p> <p>It is considered that the additional detail requested is reasonable and can be dealt with by way of condition. (Refer recommended condition 1 (e)). Such detail would cover both the heritage and urban design comments in relation to materials, fixings, dimensions, construction methods and the type of bricks to be used and the like.</p> <p>The request that the new café path be straight is not clear and not considered something that is part of the subject site and is therefore not included.</p> <p>As will be outlined later in this report however, it is considered that some aspects of the south-east addition and the roof top additions require change. These changes are required by recommended conditions 1 (a), 1(b), 1(c).</p>
<p>Environmentally Sustainable Development</p>	<p>Some concerns were raised, but essentially, none that could not be addressed by way of condition. Specifically, it was recommended that an SDA should be submitted that outlines the sustainable design initiatives and the endorsed plans should show all relevant details.</p> <p>Best practice in sustainable design should be demonstrated by achieving the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS, the building should be made to achieve best practice stormwater quality objectives.</p> <p>Comment was additionally made that to claim IEQ 2.3 Ventilation - Non-Residential BESS credit there needs to be a commitment in the SMP to providing ventilation systems that are designed and monitored to allow an increase in outdoor air available to regular use areas and maintain a maximum CO2 concentration as indicated in BESS.</p>



Internal Department	Referral comments (summarised)
	<p>It was commented that plans need to be updated to indicate minimum size (22.8kWp) that matches what has been proposed in the SMP.</p> <p>Detailed comments were made in relation to achieving the 100% stormwater score but these comments related to achieving that score for the whole building. This is discussed later in this section.</p> <p>Comments was also made that concrete should be specified to have recycled aggregate and manufactured with recycled water and that steel should be supplied by a steel fabricator/contractor accredited to the Environmental Sustainability Charter of the Australian Steel Institute and minimum of 60% of all reinforcing bar and mesh is produced using energy-reducing processes in its manufacture.</p> <p>It was finally suggested that Green Factor should be employed.</p> <p>Planner Comments:</p> <p>Firstly, it is noted that any planning application can only include conditions related to what is being proposed. That is, conditions cannot relate to an existing situation that is not proposed to change. From that, it is not possible to make the entire building meet current stormwater quality objectives. The existing building would remain connected to the stormwater system as it currently is. Only the new additions can be made to comply with any current standards and objectives.</p> <p>The meeting of the various BESS categories is required by recommended condition 13 (a). Similarly, claiming the IEQ credit via an updated ventilation commitment in the SMP is required by recommended condition 13 (b).</p> <p>The requirement for updated plans to show all relevant ESD matters including the minimum size (22.8kWp) that matches what has been proposed in the SMP is required by recommended condition 1 (f).</p> <p>The need for materials to be specified in line with the ESD comments is required by recommended condition 13 (c)</p> <p>Standard ESD conditions are required through recommended conditions 14 to 17 inclusive.</p>

9.2 External referrals

None were required.

10. PUBLIC NOTIFICATION/OBJECTIONS

It was determined that the proposal may result in material detriment; therefore, Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding and nearby properties (268 notices posted and sent) in accordance with Section 52 of the *Planning and Environment Act 1987*.

The application has received 27 objections and 51 supporting submissions. The key concerns raised in the objections are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 11):



Not foreshore dependant, core use of site shifting to commercial (profit driven) poor use of public land at expense of club uses (eg loss of junior sailing activities)

It has been long established that uses such as cafes are appropriate on public land, such as the foreshore, as they would mainly attract foreshore/public users and would increase activation and public use of the foreshore. The proposal is not for a function centre or other exclusive use to specific age groups but would be a mid-sized café offering food and drink. Whilst the applicants have not stated specific operating hours, Planning officers consider that 7am to 9pm on any day would appropriately reflect a moderate licensed café type use that would be appropriate for the foreshore. The applicants have accepted these operating hours. (Refer recommended condition 9). The café would be very similar to others found in Port Phillip on public land, including the foreshore and Albert Park reserve.

The proposed seating capacity at 104 is, however, considered excessive and therefore, recommended conditions 8 and 10 require 75% of patrons to be seated and an overall maximum patron capacity of 80. This overall maximum of 80 patrons is considered to better reflect a café type use and when coupled with the operating hours, it is considered that the use would be appropriate for the foreshore and for public land more broadly. The applicants have also accepted the seating capacity requirement.

It is not considered that such a use would fundamentally shift the RMYS activities away from being a sailing club. The café would add some increased commercial use but it is not considered that this would be a fundamental shift away from club uses. The majority of the building would continue to be used for RMYS uses.

The applicants maintain that the junior sailing activities would be maintained. Whether these activities would be maintained or not, is not considered to be a planning matter but rather, either one for the club (board) to decide or one that Council through any lease arrangements could influence. But there is no real scope through the planning process and relevant controls to stipulate that certain club activities must be maintained. In a policy sense, the only mention of the RMYS activities is in Clause 22.09 (St. Kilda Foreshore Policy) that will be outlined later in this report. That clause simply states that sailing activities should be consolidated at the RMYS. It is a broad policy outcome and does not (and cannot) control the actual mix of club or sailing activities that the RMYS should carry out.

On balance, it is considered that the proposal in this public/foreshore location, would be an appropriate use that would activate the foreshore.

Visually dominating new buildings, view lines interrupted to and from the foreshore/Catani Gardens, poor visual and heritage built form/character response. Insufficient nautical and/or Mediterranean response, poor response to 'ship' form. Overdevelopment (too high) and excessive.

As noted in section 8 of this report, there were no fundamental heritage or urban design concerns with the nature and/or character of the new buildings including their height, dominance, mass, interaction (in a physical sense) with the foreshore and overall heritage response to the host building. Whilst such referral comments are in some sense only advisory, it is nonetheless considered difficult to argue at officer level that the new additions to either the roof or the south-east side of the building would be inappropriate to the extent that they should be rejected completely.

It is acknowledged that the south-west addition would cover that existing façade and to some extent, the building is viewed 'in the round'. However, there is no aspect of policy preventing any additions to this (or other) buildings that are (i) on public land and (ii) that have all four facades openly visible. Broadly, all that must be achieved is that new building (or additions) are appropriate for their public

setting, as is outlined in more detail later in this report through the policy and zone provision control assessment.

The proposed south-west addition would totally obscure that façade, but it is considered that both 'side' facades of the building are the least important of the four facades. That is, it would not be possible to build a two-storey addition to this building without obscuring some of the existing fabric. So, whilst it is acknowledged that the side addition would be very clearly visible from some vantage points, it is not considered that its height, massing and form would be completely inappropriate in character or heritage terms. It would be an interesting and clearly distinguishable addition to a heritage building. Whilst occupying the full width of the south-west façade at just over 20m, it would only add 4.5m of length to the existing (approximately) 40m long north-east façade. It is therefore considered appropriate and acceptable.

However, despite the internal referral comments, it is considered that the south-east addition should be made to sit more comfortably with its host building and integrate better with the existing building. It is considered that the brick cladding, whilst an appropriate material, is currently not depicted in a suitable colour. The proposed colour would draw attention to the addition and make it very clearly appear as such. Whilst the distinguishing of additions to their host building should be achieved in a heritage sense, it is considered that the extent of distinguishing for the south-east addition in this instance would be excessive especially noting how visible that addition would be from some vantage points.

Recommended condition 1 (c) therefore requires the external bricks to be a light grey colour as similar as can readily be achieved to the external colour of the RMYS building. This condition also requires that some form or reveal or horizontal accent line be included at the upper portion of this addition that continues the horizontal line of the adjacent existing eave/parapet line. It is considered that this would (without reducing the addition's height) create one additional visual break and would visually tie the addition more strongly to the existing building.

It is also considered that the extent of glass should be increased in what would become the south-east façade and recommended condition 1 (c) also requires this. The additional glass would create a lighter and less solid building.

With the contemporary and fluted brick form of the addition being maintained, but in a lighter colour along with one additional horizontal reference, it is considered that the addition would still be clearly distinguishable but would at the same time, better integrate with its host building.

It is agreed, however, that the rooftop addition would be visually excessive and could interrupt some viewlines. Its height, materials and overall 'fine' treatment are all considered supportable, but its width across the building occupying most of the building's central section, is considered excessive. Therefore, recommended conditions 1 (a) and 1 (b) require the width to be reduced through increased side setbacks of at least 4m to the south-east and 3.4m to the north-west.

The heritage citation for the building identifies certain aspects of the building as contributing to its significance most notably its form and 'boxy' proportions which, according to the citation, seem to have been dictated by its internal uses. There is some nautical reference that according to the citation, is almost coincidental through the prow windows and their supporting chains.

There is an assertion that the existing building has substantial and long-standing nautical references. It is agreed that it has some, but overall, the building is considered to somewhat utilitarian considering its public location and RMYS activities. The heritage citation is considered to support this noting that nautical references appear to be almost coincidental. It is considered that the more important aspect identified in the citation is the boxy form of the building. It is considered that the south-east addition would not overlay diminish that form, but that the rooftop addition would as currently depicted.

It is also asserted that the proposal would not suitably reference the building's nautical character. Noting the proposed changes through conditions and the absence of any heritage referral comments



in this regard, this assertion is not agreed with. Similarly, it is acknowledged that the simple form with its Arts and Crafts references has some Mediterranean character, but it is again not considered that this would be ignored by the proposal. The additions would appropriately contrast with that character and let that character continue to speak for itself. It is considered that the side addition is not of a size and overall footprint so as to dominate or diminish the existing building's character to a flawed extent, even if one façade would be totally occupied by that addition. The required reduced extent of the rooftop addition would also serve to allow the existing nautical and/or Mediterranean character to be adequately maintained.

It is not, again noting the internal heritage comments and heritage citation, considered that the existing building can reasonably be described as having nautical character beyond what is described in the citation. The assertion that the building could be interpreted as some form of ship with a hull and deck is not agreed with. It is a simple two storey flat roofed masonry building.

On balance, it is considered that all of the recommended changes would achieve a suitable and acceptable visual character, heritage and public visibility outcome with all aspects of the addition (roof and side) adequately maintaining the character of the host building.

Possible increased activity noise from the rooftop, possible off site poor patron behaviour.

The building already has a roof terrace that has for several years been used for club activities and functions. The proposal would result in the extent of the rooftop being increased in size, but it would continue not to be publicly accessible, and it would not involve any change in the club's operating hours or require any new patron/club member number restrictions. That is, it would operate largely as it currently does but with some greater focus on some internalised uses, noting that the meeting room, bar and portion of the pavilion would need to be significantly modified to comply with recommended conditions 1 (a) and 1 (b). In any case, the new roof structure would be largely enclosed.

Mostly due to the fact that the rooftop would operate in a similar way to what it currently does, it is not considered that club member noise or overall activity level would increase detrimentally.

Poor off site patron behaviour and amenity impacts in general are discussed later in this report.

Insufficient parking, pier road perhaps not suitable for access.

This is discussed in section 11.6 of this report.

Oversupply of cafes in the area, Council should not give an unfair advantage (through low rates) to a new commercial use

The density/need/supply of cafes in a given area is not a planning matter to assess.

The fact that the RMYS may pay lower Council rates than other cafes in Fitzroy Street and may consequently gain some form of financial advantage is also not considered to be a planning matter. All that can be assessed is whether or not the café would be appropriate in planning terms (nature of the use, possible amenity impacts, policy support and the like). Financial implications cannot be assessed through the planning process.

Poor ESD response (no solar panels, limited internal light access to new side addition)

Council's ESD referral comments raise certain issues that need to be improved via an updated Sustainable Management Plan. Once updated and endorsed, it is considered that a suitable ESD response and design would be achieved.



A consultation meeting was held. The meeting was attended by Ward Councillors, applicants, objectors and Planning Officers. The meeting did not result in any changes to the proposal.

It is considered that the objections do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

11. Officers ASSESSMENT

11.1 Strategic Justification

Is the proposal consistent with the relevant Planning Policy Framework?

Victorian planning policy generally seeks to locate commercial and entertainment uses, including the sale and consumption of liquor, within activity centres. It is acknowledged that the site is adjacent to but not within an activity centre. The site is within an area of public open space.

The following sections of this report outline the relevant sections of policy and provide strategic justification in each instance. Not all strategies within each objective are considered to be relevant. Those that are relevant are noted with officer comments given in each case.

Clauses 13.05-1S and 13.07-1S require the safeguarding of community amenity from off-site effects, such as noise, using techniques such as building design and land use separation. In this instance, the use of the new roof addition would be similar to what it is now, its patron numbers would be the same and the recommended conditions require a reduction in its footprint. As far as the café is concerned, it is considered that it would (subject to conditions) not operate in a detrimental way even in the context of its public open space location.

Clause 17.02-1S has one objective to encourage development that meets the community's retail, entertainment, office and commercial service needs. As previously expressed, the extent of development (once the rooftop addition is reduced in size) in this application is considered reasonable and the nature of the building's use would not fundamentally alter. The café represents the only new use and therefore, it is considered that the proposal would to a reasonable extent meet some additional entertainment and commercial needs.

Clause 17.04-1S encourages tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination and Clause 17.04-1R seeks to maintain and develop Metropolitan Melbourne as a desirable tourist destination. At a broad level, it is considered that the proposal would align with these State policy outcomes, but only very moderately as once again, it is only the café that would represent any form of new use that could attract 'tourist' activity.

A more detailed assessment under the relevant local policies follows. Again, not all objectives and strategies are considered relevant.

Clause 21.04-5 Public Open Space and Foreshore

In summary, this clause seeks to ensure that public open space areas generally:

- Offer a diverse range of functions including tourism and recreation.
- That there is no overall loss of public land, except if the land in question currently offers poor amenity, safety and has little chance of being improved.



- That there is community gain and benefit.
- That new uses are within existing buildings and/or any new buildings are sympathetic in terms of height and character of nearby/surrounding form.
- That heritage features – including parks and gardens – are protected.
- That competing demands are considered and balanced.
- Does not increase parking or traffic congestion.

It is considered that these overall outcomes would be met. The only new function or use would be the café and it is considered that this would add to the range of uses and available functions in the area and whilst modest, (once its patron numbers are reduced as required) it is considered that it would increase activation of this immediate area and as such, would add to the range of leisure, tourist and recreational features whilst maintaining the core club uses. That is, the new café would not notably diminish the existing cultural uses and functions of the club.

The only additional footprint would be the proposed south-east addition. This would be located on what is technically public open space but that is currently occupied by an existing garage/store and external club storage. It is not used for public open space purposes despite its zoning. The café and rooftop additions would not result in loss of public open space in a practical sense as (i) the café would be within the existing building and (ii) the outdoor seating area would replace a gravel car park, again, portion of the site that is not used in a practical sense for public open space purposes. It is therefore considered that the land to be occupied by both the side addition and the outdoor seating area meet the requirement of currently offering poor amenity. The external seating for the café would not be within the existing RMYs building and nor would the south-east addition, but both would be within the RMYs lease area and are currently poor amenity area with no day-to-day public space access.

The proposal's effects on nearby Catani Gardens would be moderate noting that Heritage Victoria – the body charged with ensuring appropriate relationship to those gardens – has already issued its permit. However, the change of external colour of the south-east addition and the reduction of the rooftop footprint would ensure an even lesser effect on Catani Gardens.

Clause 21.05-1 Heritage

In summary, this clause seeks to ensure the following key outcomes and results.

- That identified heritage features are conserved and enhanced, including parks and gardens.
- That new buildings display high quality design and that new buildings respect the scale, form and setbacks of nearby heritage buildings and streetscapes.

There is no streetscape as such that needs to be protected but, in this instance, the open space/park environment (in a visual sense) does need protecting. It is considered that the rooftop and south-east additions would (subject to various conditions) achieve suitable visual protection or at least, acceptable visual integration.

The host building is a significant graded structure, and it too needs to be adequately protected and conserved. Again, it is considered that the rooftop and side additions would not adequately achieve that as submitted but could be made to achieve that through the recommended conditions. Specifically, the rooftop addition would replace



some existing structures in that location and the very 'light' design of the new addition coupled with the fact that it would (i) be no higher than the existing highest point on the roof (the stair access) and (ii) would be reduced in size as recommended would lead to the host building remaining the key visual element and not being dominated by those additions.

Similarly, the visual impact on the host building of the south-east addition – or its integration with that building – could be improved through the recommended change in colour and better reference to the existing adjacent eave and additional glass. Subject to these changes, it is considered that the significant heritage grading, and value of the existing building would be maintained.

It is considered that both the rooftop addition and the south-east addition would be suitably 'high quality' once altered through the recommended conditions. The proposed materials of the additions are all considered to be good and high quality leading to likely and consequent longevity.

The identified heritage characteristics of Catani Gardens is considered to have been appropriately responded to through again the existence of a Heritage Victoria permit and also through the recommended changes to the additions. These changes would further reduce visual and heritage impact of the additions on the surrounding public open space areas.

Clause 21.05-3 Urban Design and The Public Realm

In summary, this clause seeks to achieve the following outcomes.

- That new development is high quality and would enhance the public realm through safety, comfort and overall amenity with maintaining a safe and attractive public environment.
- That a positive public realm contribution is made.
- Protect the public realm from overshadowing, even in winter.

It is considered that the ground level café and its associated outdoor seating would improve the safety of that area both through increased surveillance and through removal of possible pedestrian conflict with the existing (to be removed) car park. The removal of the car park and its replacement with outdoor seating would also substantially improve the attractiveness of that area.

The rooftop and south-east additions once altered as recommended, would be suitably attractive in this setting and would not have safety implications.

Neither the rooftop addition nor the south-east addition would substantially increase overshadowing of the adjacent park/foreshore area. The shadows would fall over the existing (and to be retained) boat yard in the morning, but from approximately 1pm onwards, shadows would fall across the area of park and associated paths to the south-east of the building. These shadows would be greater than they currently are in mid-winter but not significant. That is, the area immediately to the south east of the building is currently shaded by the existing building in mid-winter and the additions would only moderately increase that shadowing. The majority of mid-winter shadow would be caused by the existing building.

Clause 21.06-6 Neighbourhoods (St. Kilda) *St Kilda Foreshore Area*



In summary, this clause seeks to achieve the following:

- Support the foreshore's cultural and recreational roles partly through having cultural heritage complemented by new uses and development that enhance existing iconic buildings.
- That potential tourism links to Acland and Fitzroy Streets are noted.

As previously assessed, it is considered that these would be met. The club based cultural use would be maintained and through that, some tourist links to Fitzroy Street would be maintained. Whilst the new café is not considered a cultural use, it would, however, improve and most likely increase tourist links to Fitzroy Street at some modest level.

Clause 22.09 St. Kilda Foreshore Area Policy

Cultural Heritage and Activity Mix

In summary, this clause seeks to achieve the following outcomes:

- Encourage a diverse character building upon the foreshore's leisure and entertainment role.
- Ensure new development improves the attractiveness and viability of existing buildings.
- Balance the provision of visitor attractions against local services, facilities and spaces.
- Consolidate yacht support services at the Royal Melbourne Yacht Squadron.

It is considered that all these outcomes would be met, as previously assessed. The new works would add to the diversity of built form in the area and the café would add to the diversity of uses and consequent level of activation in this immediate setting within the Catani gardens and would build upon the foreshore's leisure and entertainment role.

The proposed rooftop addition and the south-east extension would, once modified by way of the recommended conditions, improve the attractiveness of the RMYS building.

It is considered that the 'spaces' referred to above available to the public would be enhanced particularly through the replacement of the existing informal carpark with outdoor seating.

The 'built form' section of this clause seeks to achieve outcomes very similar to those previously assessed in terms of the size, height (along with character and overall visibility of any new buildings) and impacts on the foreshore environment. Once altered as recommended, it is considered that all the built form outcomes of this clause would be met.

It is important to note – in relation to height – that one of the built form strategies specifically contemplates some potential for additional height at the RMYS site to create a stronger termination point for the Fitzroy Street vista. This would also be met.

11.2 Built Form and Heritage (HO 225 and HO 348 and Local policies)

As previously noted in the section of this report assessing the objections, it is considered unusual that the subject site is covered by two heritage overlays, with one of those being administered by Heritage Victoria. The south-east addition in particular – and the new front canopy – both fall within the overlay controlled by Heritage Victoria.



However, it is considered that the visual effect of that addition on the host building can be assessed under HO 225, being the one administered by Council and the one that covers the existing RMYS building. This conclusion is reached in that the south-east addition would directly abut and be added to the RMYS building and therefore, any addition to a heritage building whether in the same overlay or not, can be assessed.

Clause 22.04 provides the principal policy guidance in assessing an application within the heritage overlay and builds on the objectives at Clauses 15.03 and 21.05-1.

Much of the proposal's alignment or otherwise with the overall heritage policy provisions has been assessed previously in this report when it was noted that the proposal would generally be acceptable subject to the changes contained in the recommended conditions. It is also considered that some aspects of the Council's Heritage Policy – Clause 22.04 – are not overly relevant to this assessment, especially the 'sight line' outcome. That aspect of policy relates to intact residential streetscapes, which is not the case in this instance noting the somewhat 'island' location of the RMYS building.

As outlined in section 9 of this report, the advertised plan was assessed by Council's Heritage Advisor as being satisfactory. Even so, Planning officers are separately recommending changes to some aspects of built form for both the rooftop and the south-east addition mainly to achieve heritage outcomes in relation to minimising any perceived dominance of those additions to the host building. These go beyond what the Heritage Advisor commented but they are considered justified in this sensitive public open space setting, especially given the long views from the lower and upper Esplanade where the roof top addition is significantly noticeable, to the detriment of the host building.

Again, it is also noted that Council's Heritage Policy at Clause 22.04 directs exercising discretion regarding new building and alterations and additions. However, in relation to the latter, this policy again is relevant almost entirely to (and within) residential settings whereby additions should be sited, located and massed such that their visual impacts on an intact run of adjacent heritage buildings should be minimised, or preferably be reduced to complete invisibility.

The proposal here does not involve additions to part of a 'run' of intact heritage dwellings and therefore, the applicability of the 'alterations and additions' portion of Clause 22.04 is not overly relevant in this case. Again, the changes being recommended mainly relate to minimising both public open space impacts and heritage impacts on the host RMYS building.

In summary, noting that HO 225 (the overlay covering the existing building and administered by Council) allows assessment of the visual and heritage impacts of additions to the RMYS building, it is considered that all the suite of proposed additions would be acceptable, but only once altered as recommended.

11.3 Built Form and Neighbourhood Character

Sections 3 and 4 of the report describe the existing character of the area, providing context for the development.

Built form and neighbourhood character responses are guided by a number of policy instruments including Clauses 15, 21.05, 21.06 and 22.06 which generally promote high quality design which is respectful and responsive to its context, and that improves the public realm.



Clause 22.06 is Council's Urban Design Policy for Non-Residential Development. This clause contains many objectives and strategies all related to achieving building that should essentially be a 'good fit' for their surroundings. Much of this policy, in a similar fashion to Council's Heritage Policy, relates to ensuring that the good fit referred to above is achieved in relation to streetscapes and (generally) groups of buildings. It has less relevance in relation to public open space settings such as this.

It is considered that Clause 22.06 does not raise any new built form matters that require additional assessment and as recommended, it is considered that the proposal would be suitable in this specific context by way of height, mass, public realm impacts and overall 'fit' with this section of the foreshore.

11.4 Zone and Overlay Provisions

Is the proposal consistent with the Public Parks and Recreation zone provisions?

The purposes of the zone are:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To recognise areas for public recreation and open space.*
- *To protect and conserve areas of significance where appropriate.*
- *To provide for commercial uses where appropriate.*

It is considered that the proposal, subject to conditions, would meet these purposes. It would recognise the site's location as being within a public park by way of not reducing the amount of public open space and in its reduced and altered form, by minimising visual impacts on the surrounding open space. It is relevant in relation to this point, that Heritage Victoria has issued its permit and therefore, that this body considered the heritage effects of the proposal on Catani Gardens as being acceptable.

From a use standpoint, it is considered that the café would not only recognise the open space location but also enhance and improve the RMYS' relationship with the open space through greater pedestrian activation. The new café use would also be consistent with the outcome of allowing some commercial uses, where appropriate.

The Decision Guidelines for the zone are as follows:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The comments of any public land manager or other relevant land manager having responsibility for the care or management of the land or adjacent land.*
- *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.*

It is considered that the proposal would not be at odds with any of these guidelines. Most notably, the last guideline makes specific reference to use, design and siting guidelines. Whilst there are none specific to this individual building, there are broader guidelines contained in the previously assessed policies and therefore, it is considered that not only are the recommended changes justified, but they would assist the proposal in meeting this decision guideline.

In summary, all the above guidelines have been adequately considered in reaching the conclusion to support the proposal subject to the recommended changes.



Sale and Consumption of Liquor Clause 52.27

An assessment of the cafe, its outdoor seating and the expanded 'red line' for the rooftop is required under this clause. In relation to the latter, it is initially pointed out that the only change on the rooftop is the proposed increase to the extent of the liquor licence area. There is no proposal to change patron numbers and/or operating hours on the rooftop.

The Decision Guidelines that must be taken account of are as follows:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- *The impact of the hours of operation on the amenity of the surrounding area.*
- *The impact of the number of patrons on the amenity of the surrounding area.*
- *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

It is noted that some concerns are raised by a number of objectors regarding potential off site noise and amenity impacts from patrons having left the site, however, given the building is in isolation and surrounded by the gardens and foreshore, Planning officers do not consider this to be a fundamental concern.

Ordinarily, applications for licensed premises raise noise issues falling under two broad categories being 'people' or 'patron noise' and music noise both from within the premises. In this instance, the expanded rooftop would be reduced significantly from what is currently proposed. The rooftop would continue to operate under the current licence hours which generally permit 1am closing time. There could be some potential for increased patron and music noise from this source but given that there would be no change in operating hours, it is considered that recommended conditions 5 and 11 which require all relevant noise requirements to be met would be sufficient. The reduction of the bar, meeting room and pavilion would further reinforce the conclusion that the rooftop would operate largely as it does now.

The rooftop is open to club members only and whilst its size would increase, the application does not include any specific aspects that would lead to any conclusion that the rooftop would change into a much more intensely used space, especially with the deletions of some uses noted above. Music is currently played on the rooftop from time to time and it is anticipated that this would continue. But it is considered prudent to include a condition that all music noise emission requirements are formally met.

There are no regulatory controls over patron noise and as such, no conditions covering this can be applied to either the rooftop or the cafe.

In regard to the café, it is noted that it would not be a late-night venue and under recommended condition 9, it would close at 9pm on any night. However, recommended condition 11 as referred to above would also ensure, even when operating before 9pm, that the café's noise would also meet relevant requirements.

Music Noise

The proposal does not include any specific elements or items that lead to the conclusion that music noise would be excessive. The rooftop would operate in much the same way that it currently does, especially with the significant reduction of the roof

top extension (reduction of bar and meeting room and the pavilion reduced in size). Likely increases in music activity and noise are considered to be low. In any case, recommended condition 11 would ensure that all relevant noise requirements be met and in the context of a likely limited change in the way the rooftop operates, this is considered sufficient.

Patron noise outside the site

This matter is very difficult to control through the planning process if it occurs. But in any case, whilst the new roof addition and the new ground level café would both be licensed, it is not considered that poor off site behaviour is likely to increase. The café would be restricted to an overall/total patron maximum of 80 and restricted to a 9pm closing time. These are considered to further reduce the likelihood of any detrimental increase in poor patron behaviour.

Noise conclusion.

On balance, it is not considered that there would be a substantial expansion of the site's activities in the context of likely noise increases whether from the operations of the site itself or from patrons having left the site. Recommended condition 11 and the restriction of the café to 80 patrons and a closing time of 9pm would lead to a well-balanced outcome.

11.5 Cumulative impacts

The overall concept of cumulative impacts and the relevant Practice Note assessing such impacts both essentially relate to new uses (or increased operating hours) that would approach 1am closing. Whilst the rooftop operates to that time, it is existing and its hours of operation would not change under this application and the bar/meeting room significantly modified via condition 1 (a), which would also result in the pavilion being reduced in size. Noting these changes, it is not considered that the rooftop would operate noticeably differently from what it currently does and as a result, it is not considered likely to increase cumulative impacts on the area. The only change to the rooftop once it is reduced as recommended would be the increased red line area, but in and of itself, this would not lead to greater cumulative impacts if operating hours and patron numbers were not to change as is the case in this instance.

The cafe would not operate beyond 9pm on any night. Late night premises are those that would operate beyond 11pm and it is those such premises that require assessment of cumulative impacts. Therefore, it is not considered that any negative cumulative impacts would result from the café.

Based on all the above, it is not considered that there would be any negative cumulative impacts from the entire proposal.

11.6 Traffic and Carparking - Clause 52.06

The parking shortfall assessed in relation to the additional café floor space equates to three car spaces. The 'practical' difference in parking – adding this new three space shortfall to the loss of generally 7-8 existing spaces – is likely to give a shortfall of 11 car spaces. Even factoring in that the applicant's parking survey may have not identified the busiest times for nearby parking use, it is considered that the excellent access to public transport and the fact that the likely shortfall (in the context of the Fitzroy Street Activity Centre and nearby Sea Baths complex parking) would be somewhat low leads to the conclusion that any additional parking pressures in the area would be moderate at worst.



In terms of Pier Road not being suitable for any new access, it is pointed out that the use of Pier Road would remain much as it currently is. Some extra deliveries and the like would be needed for the café, but likely delivery vehicles would not be of a size that they could not use Pier Road. The absence of any referral concerns from Council's Traffic Engineer is noted in this regard.

Clause 52.06 requires parking to be provided at a rate of 3.5 spaces per 100m² of additional floor area with approximately 100m² of new café floor area being proposed, a waiver of three car spaces is being requested. It is noted (i) that no car parking is required for the proposed rooftop changes as they do not increase floor area and (ii) as previously noted, the café shortfall whilst only technically three spaces would in a practical sense be closer to 10 or 11 noting the loss of the existing gravel car park.

As per section 8 of this report, Council's Traffic Engineer has reviewed the application and they consider that the waiver is supportable, but the referral comments did note that the submitted parking survey may have underestimated nearby kerbside parking demand. But the lack of concerns was expressed even on that basis.

Clause 52.06-7 outlines the considerations the Responsible Authority must have regard to in determining the appropriateness of a car parking reduction or waiver. The following table provides an assessment of the proposal against these considerations.

Clause 52.06-7 Consideration	Assessment
The Car Parking Demand Assessment.	<p>Councils Traffic Engineers have raised some concerns with the applicant's traffic study by way of it potentially underestimating existing nearby kerbside parking use but still concluded that nearby parking could cater for the shortfall. It was also noted that café type uses are the most easily able to switch to non car based transport.</p> <p>Given that the site is not within an activity centre but very close to one with very good access to public transport, it is considered that the waiver can be catered for, certainly assessing just the café shortfall in isolation, but also noting the club member parking, which could be absorbed in other parking areas nearby.</p>
Any relevant local planning policy or incorporated plan.	<p>In terms of car parking, within Clause 21.03-2 (Sustainable Transport) it is acknowledged that relevant outcomes are to reduce carbon emissions, create a more sustainable transport network and reduce dependency on private cars. It is further acknowledged that the site is well located in terms of occupants' ability to walk, or use public transport in various combinations.</p> <p>Again, whilst not directly in an activity centre, the proposed parking arrangement would reduce reliance on private cars whether café occupants or RMYS club members.</p>
The availability of alternative car parking in the locality of the land.	<p>There is no specific site where additional parking could be provided, but the Sea Baths complex often has spare parking capacity. It is acknowledged that this is paid parking, but it does offer some alternative parking</p>



Clause 52.06-7 Consideration	Assessment
	provision. Nearby kerbside parking is, for the most part, also paid and is well utilised but the current club parking generally involves 8-9 cars, a relatively low number for this location.
On street parking in residential zones in the locality of the land that is intended to be for residential use.	The closest kerbside parking is not in a residential zone.
The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.	The subject site is largely occupied by the existing RMYS building and is surrounded by public open space. There is no ability to provide extra parking. There is only the ability to retain the existing car park, but for all the reasons previously expressed, it is considered that overall public benefit would notably increase if its current poor appearance and somewhat conflicting use with the surrounding land and pedestrians were replaced with a properly paved outdoor seating area.
Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.	The proposed parking waiver will not have an unreasonable economic impact on nearby Fitzroy Street centre due mainly to the waiver being low and it being related specifically to increasing activation at the site. It could be argued that the waiver would actually have economic benefit in Fitzroy Street.
The future growth and development of any nearby activity centre.	The proposal would not in any affect the potential for future growth of nearby Fitzroy Street.
Any car parking deficiency associated with the existing use of the land.	<p>The existing building has a floor area of approximately 1,350m² (including some of the existing roof deck) and as 'restricted place of assembly' there is no formal planning scheme rate upon which any credit can be assessed.</p> <p>By way of information, the existing club is licensed for 300 patrons. Using the "place of Assembly" rate of 0.3 spaces per patron, the current use has a credit of 90 spaces. Therefore, it is considered – using this as a guide – that an addition 10-11 space shortfall would have no discernible impact effect on parking conditions in the area.</p>
Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.	As above.



Clause 52.06-7 Consideration	Assessment
Local traffic management in the locality of the land.	Roads in the immediate area, at least in terms of car parking restrictions, are heavily controlled and managed. The proposal would not require any changes to the current level and nature of nearby parking restrictions.
The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.	As previously assessed, it is considered that the proposed parking arrangement and its consequent shortfall, would actually improve pedestrian amenity of the surrounding land.
The need to create safe, functional and attractive parking areas.	The existing gravel car park functions in a somewhat informal way and is not considered to be attractive. The proposal to change it to outdoor seating would clearly improve its attractiveness and the overall safety of the area by removing an area of possible vehicle/pedestrian conflict.
Access to or provision of alternative transport modes to and from the land	The site is located within close proximity to light rail and tram in addition to some dedicated cycling infrastructure and car share facilities.
The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.	None are known of.
The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.	As previously assessed. The proposed parking arrangement would result in a clear urban design improvement.

The applicant's traffic and parking report and surveys in summary, whilst taken between lockdowns and perhaps not being fully representative of parking activity in the area, still provide useful information to support the parking arrangement even assuming a much higher nearby parking use. In the context of Fitzroy Street, The Esplanade and the nearby foreshore area, the overall conclusion that the parking shortfall can be accommodated nearby is reached, balanced by the increased activation that the proposal would result in along with the greatly improved visual appearance of what is currently the site's car park. The availability of other transport methods adds further weight to the parking arrangement and its subsequent shortfall being supportable and acceptable with respect to the considerations of Clause 52.06-7.

12. INTEGRATED DECISION MAKING

12.1 Clause 71.02 of the Planning Scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and



negative environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key, the interests of present and future Victorians must be balanced and the test is one of acceptability.

The proposal would result in several positive, neutral and negative impacts, which are outlined below:

Positive

- The proposal is considered to have relatively strong strategic support from the Planning Scheme.
- The proposal would support an existing local and long standing club-based activity and would provide greater pedestrian activation of the existing site which would help link the site's uses to those in nearby Fitzroy Street.
- The zone contemplates some commercial use increases.
- Subject to some required changes to the proposed built form and operating hours through permit conditions, the proposed rooftop addition and café would provide a high-quality architectural response that would not detrimentally diminish the existing heritage features of the building, the surrounding area or wider public open space character.
- There would be very minimal off-site amenity impacts, subject to the recommended conditions.
- The application received over 50 supporting submissions.

Neutral

- The additional generation of waste at the site as a result of the proposed development would be adequately managed through implementation of the submitted Waste Management Plan.
- The proposed reduction of the car parking requirement is considered to be acceptable within this public open space location and when coupled to the visual improvements being proposed at ground level, an acceptable overall outcome would be achieved.

Negative

- The application has received over 20 objections.

13. COVENANTS

13.1 There are no restrictive covenants on the relevant titles (Crown Allotments 19, 20, 20A volume 11753, folios 039, 040, 052) that would prevent assessment of this application.

14. OFFICER DIRECT OR INDIRECT INTEREST

14.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

15. OPTIONS

15.1 Approve as recommended

15.2 Approve with changed or additional conditions









15.3 Refuse - on key issues

16. CONCLUSION

- 16.1 The site is in an area of public open space but is also relatively close to an activity centre. In that context, the only new use being proposed is a café which subject to conditions, would be limited to a maximum of 80 patrons and would operate no later than 9pm on any day. This new use would add an aspect of commercialisation to the existing building, but not at the expense of the established RMYS club uses, the mix and extent of which, is not controlled through the planning process.
- 16.2 The site does not have close residential interfaces and in any event, the café would be a modest addition to the existing suite of uses found in the wider area. The fact that the café would be located in a building located within public open space is not considered a flaw as café type uses are quite common in such locations and the café would also improve activation of the building and its surrounds.
- 16.3 The rooftop additions would not change any aspect of the club's use, but as proposed, the built form of that addition is considered slightly too large, and it is recommended to be reduced. The south-east side addition is considered to be of a modest size, but its colour is considered to be too much of a contrast to the host building and a lighter colour that would better tie it to the host building is recommended, together with a greater extent of glass. Subject to all these changes, it is considered that both additions would be appropriate in terms of heritage, their public park setting and in terms of overall character.
- 16.4 The proposed car parking shortfall – even when acknowledging the loss of the existing RMYS car park – is considered supportable and would not discernibly add to parking pressures in the area. The appearance, safety, and urban design benefits of the proposed conversion of the car parking to outdoor seating are considered relevant.
- 16.5 Subject to the assessment in this report, the proposal is recommended for approval subject to any conditions.

ATTACHMENTS

1. Advertised Plans - Floor and Elevation Plans  
2. Advertised Plan - Ground Floor Red Line Plan (Proposed Cafe)  
3. Heritage Victoria Approval - Endorsed Plans  
4. Heritage Victoria Permt 