



**Merri-bek**  
City Council

## **COUNCIL AGENDA**

### **PLANNING AND RELATED MATTERS**

Wednesday 23 July 2025

Commencing 6.30 pm

Bunjil (Council Chamber), Merri-bek Civic Centre,  
90 Bell Street, Coburg

#### **Language Link**

This is the Agenda for the Council meeting.  
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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।  
ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ,  
ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

## **Acknowledgement of the traditional custodians of the City of Merri-bek**

Merri-bek City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Merri-bek, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

- 1. WELCOME**
- 2. APOLOGIES**
- 3. DISCLOSURES OF CONFLICTS OF INTEREST**
- 4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 28 May 2025 be confirmed.

**5. COUNCIL REPORTS**

- 5.1 27 BREESE STREET, BRUNSWICK - APPLICATION  
MPS/2024/648

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**6. URGENT BUSINESS**

## 5. COUNCIL REPORTS

### 5.1 27 BREESE STREET, BRUNSWICK - APPLICATION MPS/2024/648

Director Place and Environment, Pene Winslade

City Development

#### Executive Summary



<b>Property:</b>	27 Breese Street, BRUNSWICK
<b>Proposal:</b>	<p>Buildings and works, reduction of the car parking requirement associated with a restaurant and the erection and display of internally illuminated business identification signage.</p> <p>The proposal description has been updated to remove the sale and consumption of liquor, which from 1 July 2025 no longer requires a planning permit.</p>
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"><li>• Commercial 1 Zone (C1Z)</li><li>• Development Contributions Plan Overlay (DCPO)</li><li>• Design and Development Overlay – Schedule 18 (DDO18)</li><li>• Environmental Audit Overlay (EAO)</li><li>• Parking Overlay – Schedule 1 (PO1)</li></ul>
<b>Objections:</b>	<ul style="list-style-type: none"><li>• Fifteen (15) objections</li><li>• Key issues are summarised as follows:<ul style="list-style-type: none"><li>- Car parking reduction and traffic congestion</li><li>- Noise pollution</li><li>- Patron behaviour and safety</li><li>- Late night trading hours</li><li>- Street interface and lighting</li><li>- Parklet (rear dining area constructed across the Council laneway)</li><li>- Conflict with the adjoining parkland</li></ul></li></ul>
<b>Planning Information and Discussion (PID) Meeting:</b>	<p>A Planning Information and Discussion (PID) meeting was held on 3 June 2025 in an online format. Attendee's included Council Officers, three objectors, and Councillor's Iwasaki and Irvin. The meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report. Prior to the PID meeting, the applicant agreed (in writing) to earlier closing time, removal of the parklet and food truck. This was circulated to all objectors prior to the meeting. While the applicant was agreeable to the above changes being imposed as conditions, should a permit be issued, no agreement was reached between the objectors.</p>

<b>Key reasons for approval:</b>	<ul style="list-style-type: none"> <li>Proposed car parking reduction supported provided adequate bicycle parking is provided.</li> <li>Proposal will not result in unreasonable traffic impacts.</li> <li>Illuminated signs are of a reasonable size.</li> <li>Condition recommendation that the signs be illuminated during business hours only.</li> <li>Condition requiring removal of food truck to minimise amenity impacts.</li> </ul>
<b>Recommendation:</b>	<p><b>Part A:</b> That a Notice of Decision to Grant a Planning Permit be issued.</p> <p><b>Part B:</b> That Council offer no objection to the granting of a future liquor licence by Liquor Control Victoria subject to conditions.</p>

## Officer Recommendation

### Part A:

That a Notice of Decision to Grant a Planning Permit No. MPS/2024/648 be issued for the land at 27 Breese Street, Brunswick.

### **The Permit would allow:**

Buildings and works, reduction of the car parking requirement associated with a restaurant, and the erection and display of internally illuminated business identification signage

<b>Planning Scheme Clause</b>	<b>Matter for which the permit has been granted</b>
34.01-4	Construct a building or construct or carry out works
43.02-2	Construct a building or construct or carry out works
52.05-11	Construct and display an internally illuminated business identification sign
52.06-3	Reduce the number of car parking spaces required

### **The following conditions would apply to the permit:**

#### **Amended plans**

- Before the development commences, 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 drawn to scale with dimensions and must be generally in accordance with advertised plans prepared by 296 Design, advertised on 28 March 2025, but modified to show:
  - Deletion of the food truck and all associated elements.
  - Deletion of the rear Parklet.
  - Any changes as required by the amended Venue and Patron Management Plan in Condition 3.
  - The provision of at least fourteen (14) bicycle parking spaces located within the property's frontage of which five (5) must remain as employee spaces provided within the bicycle enclosure.
  - At least 20 per cent of the bicycle parking devices designed to provide ground level horizontal (ie 1800mm long) bike parking devices in accordance with the Australian Standard for Bicycle Parking (AS2890.3).

- f) Each bicycle parking space to be dimensioned as 500mm wide, 1800mm long for horizontal spaces and 1200mm long for vertical spaces, with every space accessed from a 1500mm wide access aisle.

### **Compliance with Endorsed Plans**

- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.01, 62.02-1 and 62.02-2 of the Merri-bek Planning Scheme unless specifically noted as a permit condition.

### **Venue and Patron Management Plan**

- 3. Prior to the endorsement of plans, an amended Venue and Patron Management Plan must be submitted to and endorsed to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the Venue and Patron Management Plan prepared by Alistair Kennedy dated July 2025, but further modified to show:
  - a) Amended hours of operation between:
    - i. Internal trading (inside the building) – Friday and Saturday 7am until 1am (the next day), and Sunday to Thursday 7am until 11pm.
    - ii. Front onsite outdoor trading – Friday and Saturday until 11pm, and Sunday to Thursday 7am until 9pm.
  - b) Deletion of reference to any other uses other than a food and drink premises.
  - c) Removal of the food truck and all associated elements, and the rear parklet from the plans shown in the Venue and Patron Management Plan.
- 4. The operational arrangement provided within the Venue and Patron Management Plan must be implemented and complied with at any time liquor is being sold or consumed, to the satisfaction of the Responsible Authority.

### **Noise and Acoustics**

- 5. The Acoustic Report prepared by Renzo Tonin and Associates dated 10/02/2025 will be endorsed and form part of this permit. The provisions, recommendations and requirements of the Acoustic Report must remain implemented and complied with unless with the further written approval of the Responsible Authority.

### **Signage**

- 6. The signs must not be animated or contain any flashing or intermittent lights.
- 7. Every sign on the land must be maintained in good condition to the satisfaction of the Responsible Authority.
- 8. Any externally illuminated sign must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse amenity impact on any adjoining property.
- 9. The signs must only be illuminated during the hours of operation of the business.
- 10. The location, dimensions, shape and associated structures of every sign must accord with the endorsed plans and must not be altered, unless with the consent of the Responsible Authority.

### **Development Engineering Conditions**

- 11. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
- 12. Lighting must be designed to not emit light directly onto adjoining property to the satisfaction of the Responsible Authority.

## **Signage Expiry**

13. This permit regarding the signage hereby approved will expire fifteen (15) years from the date of this permit, at which time the signage and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.
14. On expiry of the permit the signage and structures built specifically to support and illuminate the signage must be removed.

## **Preliminary Site Investigation**

15. Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use, a Preliminary Site Investigation must be submitted to and be to the satisfaction of the Responsible Authority. The Responsible Authority may require the applicant to pay the cost of an independent review of the Preliminary Site Investigation by a suitably qualified environmental professional. The Preliminary Site Investigation is to be conducted by a competent professional practitioner with relevant experience in the field. The owner must comply with the findings of the Preliminary Site Investigation to the satisfaction of the Responsible Authority. The Preliminary Site Investigation must:
  - a) Specify the name and qualifications of the person who has conducted the Report;
  - b) State that the assessment has been undertaken in accordance with Schedule B2 of the National Environment Protection (Assessment of Site Contamination Measure) 1999, or any superseding document;
  - c) Not contain a disclaimer limiting the use of the report by the Responsible Authority;
  - d) Undertake an assessment of the site history and potential for contamination, to determine the suitability of the proposed use of the land;
  - e) Provide comment on the potential for offsite contamination to have migrated to the subject land from neighbouring land. Soil sampling and analysis of the subject site may be required where access to definitive information regarding neighbouring land is not obtainable or is inconclusive;
  - f) Make an unequivocal statement that either;
    - i. The site is not likely to be contaminated to a level which would pose a significant risk to the environment or human health having regard to the proposed use and that no further assessment is required, or;
    - ii. The condition of the land is such that a preliminary risk screen assessment or an environmental audit statement should be conducted in accordance with condition 16 of this permit, taking into consideration the proposed use.
16. In accordance with condition 15 of this permit and before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a statement of compliance under the Subdivision Act 1988 (whichever is earlier), the owner(s) must provide:
  - a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or,
  - b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or

- c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied.
- 17. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.
- 18. Where an environmental audit is required and prior any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
- 19. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 16, 17, and 18 are satisfied.
- 20. Where an Environmental Audit is required and prior to commencement of the use, the issue of an Occupancy Permit under the Building Act 1993 or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever occurs first), written confirmation of compliance with all the recommendations of the Environmental Audit Statement must be provided by an environmental auditor appointed under the Environment Protection Act 2017, including confirming that any requirements in the Environmental Audit Statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.
- 21. Where a preliminary risk screen assessment has satisfied Condition 16 (that an Environmental Audit is not required), the development and use must not deviate from the assumptions or limitations contained in the preliminary risk screen assessment, including but not limited to the layout and design of the development and use of the land without the written consent of the Responsible Authority. The development and use must accord with any requirements and recommendations of the preliminary risk screen assessment to the satisfaction of the Responsible Authority.

### **Expiry**

- 22. This permit will expire if one of the following circumstances applies:
  - a) the development is not commenced within two (2) years from the date of issue of this permit;
  - b) the development is not completed within four (4) years from the date of issue of this permit;
  - c) the use is not commenced within four (4) years from the date of issue of this permit.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or;

- d) within six months after the permit expires to extend the commencement date.



- e) within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

**Notes: These notes are for information only and do not constitute part of this permit or conditions of this permit.**

- Note 1:** It may be necessary to obtain a building permit prior to the commencement of any demolition, building works or occupation of the building. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the Victorian Building Authority, Phone 1300 815 127 or [www.vba.vic.gov.au](http://www.vba.vic.gov.au). Council's building services branch can also assist you in the provision of this service and can be contacted on 9240 1111 or <http://www.Merri-bek.vic.gov.au/planning-building/building-renovations-and-extensions/>.
- Note 2:** This permit does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval in writing from the Responsible Authority.
- Note 3:** Further approvals are required from Council's City Infrastructure Department who can be contacted on 9240 1143 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.
- Note 5:** Proposals for kerbside seating or a parklet are subject to a separate permit for footpath trading from Council's Amenity and Compliance Branch.
- Note 6:** Environmental Audit Notes
- i. A copy of the Environmental Audit Statement, including the Environmental Audit Report, must be submitted to the responsible authority within 5 business days of issue, as set out in s 210 of the Environment Protection Act 2017.
  - ii. The person in management or control of the site must also provide a copy of any statement to any person who proposes to become the person in management or control of the site, such as a potential occupier or potential purchaser.
  - iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Environmental Statement including a copy of any cover letter.

## **Part B**

In the event that an application for a restaurant and cafe liquor licence is referred to Council by Liquor Control Victoria, in accordance with Section 40 of the *Liquor Control Reform Act 1998*, Council resolves that it does not object to the issue of the liquor licence, subject to the inclusion of the following conditions:

### **Amenity**

1. The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence.

### **Restaurant and Cafe Conditions**

2. This licence is subject to the following conditions:
  - a) the predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and

- b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75 per cent of the patrons attending the premises at any one time; and
- c) the licensee must not permit –
  - i. the live performance of any musical works; or
  - ii. the playing of any recorded musical works - on the premises at higher than background music level at any time outside ordinary trading hours.

### **Maximum Capacities**

- 3. No more than two hundred and fifty-five (255) patrons are permitted within the property at any time liquor is being sold or consumed.

### **Trading Hours**

- 4. The use of the land for the sale and consumption of liquor must only occur between the hours of:

*Indoor trading:*

- a) Monday to Thursday, and Sunday – 7am to 11pm (the same day).
- b) Friday and Saturday – 7am to 1am (the following day).

*Outdoor trading, including the outdoor terrace and ground floor courtyard:*

- c) Monday to Thursday, and Sunday – 7am to 9pm (the same day).
- d) Friday and Saturday – 7am to 11pm (the same day).

### **Special Conditions**

- 5. The operational arrangement provided within the Venue and Patron Management Plan, as prepared by Alistair Kennedy dated July 2025 (or any later iteration) must be implemented and complied with at any time liquor is being sold or consumed.
- 6. The provisions, recommendations and requirements of the Acoustic Report, prepared by Renzo Tonin and Associates dated 10/02/2025, must be implemented and complied with at any time liquor is being sold or consumed.

<b>REPORT</b>
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## **1. Background**

### **Subject Site**

The subject site (the site) is located on the western side of Breese Street in Brunswick. The site contains a double storey warehouse building which is setback approximately 5 metres from Breese Street. Permit history indicates the land has previously been used as a factory. The building was previously used as a shoe factory outlet, and the front setback was used as a joint car parking and loading bay area. The rear interface of the building connects with an unnamed laneway which separates the rear of the building from Bulleke-bek park. The site has a total area of approximately 269 square metres with a 9.8 metres frontage to Breese Street.

### **Surrounds**

The site and the surrounding area are within the Commercial 1 Zone and contain some residential apartments and some semi-detached residential dwellings. Land to the south of the site includes low scale, detached residential dwellings. Bulleke-bek Park is located to the immediate north of the site. Many of the nearby former industrial buildings are being replaced by midrise apartments up to 9 storeys which have commercial uses on the ground floor.

The area is well serviced by public transport infrastructure including a train line, tram, bus and bicycle infrastructure.

A location plan and a zoning map forms **Attachment 1**.

### **The proposal**

Details of the proposal are summarised as follows:

- Buildings and works to carry out utility installations i.e. water, plumbing, electrical connections associated with a food truck proposed within the front setback of the site.
- Buildings and works to construct a staff bicycle enclosure associated with the use of the land as a restaurant with no on-site car parking spaces.
- Buildings and works associated with an outdoor dining area (parklet) constructed to the rear of the site on the Council laneway. Given that this parklet is on Council land, this does not form part of the planning application, and a separate permit will be required from Council's Amenity and Compliance Branch. This has been imposed as a note in Part A of the officer's recommendation. The applicant has also agreed to a condition requiring its removal from the planning application which has been recommended as condition 1b in Part A of the officer's recommendation.
- Construct and display an internally illuminated business identification sign which has a maximum display height of 1.5 metres, width of 1 metre and depth of 0.4m with two display areas orientating north and south along Breese Street. The sign is proposed to be located on the north-eastern corner of the property and is supported on a short pole 2.5 metres above the natural ground level.

The development plans form **Attachment 2**.

### **Statutory Controls – Why is a Planning Permit required?**

<b>Control</b>	<b>Permit Requirement</b>
Commercial 1 Zone (C1Z)	Clause 34.01-1 (C1Z): A permit is not required to use the existing building and land for a food and drink premises (restaurant). Clause 34.01-4 (C1Z): A permit is required to construct a building or construct or carry out works associated with a bicycle enclosure.
Design and Development Overlay (Schedule 18)	Clause 43.02-2 (DDO18): A permit is required to construct a building or construct or carry out works.
Particular provisions	Clause 52.06 (Car parking): A permit is required to reduce the number of car parking spaces by 11 spaces in association with a food and drink premises (restaurant) use. Clause 52.05-11 (Advertising signs): A permit is required to construct and display an internally illuminated business identification sign.

#### Other relevant provisions:

- Clause 52.34 (Bicycle Facilities): A permit is not required as 13 bicycle spaces are provided and the clause requires the provision of only 8 bicycle spaces.
- Clause 45.09 (Parking Overlay): This means that the Column B rates in Clause 52.06 (car parking) apply.
- Development Contributions Plan Overlay (DCPO): The collection of levies under the incorporated Development Contributions Plan has ended.

- Clause 62.03-2 (Outdoor dining) exempts *‘the use of a road or other public land for outdoor dining if the use is associated with the use of adjoining land and is authorised under a local law or by the public land manager’*. Therefore the creation of a Parklet on the laneway to the rear of the site would not require a planning permit if approved by Council under the General Local Law, 2018. Condition 1 b) of the recommendation to this report provides for the deletion of the Parklet, from the plans forming part of this planning permit, as agreed by the permit applicant. This provides confirmation that the Parklet does not form part of any planning permit, if the recommendation to issue a Notice of Decision to Grant a Planning Permit is supported by Council.

## 2. Internal and external consultation

### Public notification

Notification of the application was undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby apartments.
- Placing a sign on the Breese Street frontage of the site and a sign in the laneway.

At the time public notice was undertaken, a planning permit was needed for the sale and consumption liquor and the public notice correctly nominated the sale and consumption liquor as a requiring a planning permit.

Council has received fifteen (15) objections to date. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Car parking reduction and traffic congestion
- Noise pollution
- Patron behaviour and safety
- Late night trading hours
- Street interface and lighting
- Parklet (rear dining area constructed on the Council laneway)
- Conflict with the adjoining parkland

### Planning Information and discussion meeting

A Planning Information and Discussion meeting was held on 3 June 2025 and attended by Cr Jay Iwasaki and Cr Irvin, Council Planning Officers, the applicant and three objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Prior to the PID meeting, the permit applicant committed to the following changes to address objector’s concerns:

- Internal trading: Friday and Saturday until 1.00am, and until 11.00pm any other night.
- Front onsite outdoor trading: Friday and Saturday until 11.00pm, and until 9.00pm on any other night.
- Parklet removed from the planning application.
- Food Truck removed from the planning application.

At the PID meeting, the objectors acknowledged the above changes put forward by the applicant however, they reiterated that this did not satisfy their original concerns. The objectors were also informed that the need for a planning permit for the sale and consumption of liquor may be removed as a result of proposed State Government plan from the 1 July 2025.

#### **Internal/external referrals**

The proposal was referred to the following internal unit:

<b>Internal Branch/Business Unit</b>	<b>Comments</b>
Engineering Services Unit	Supports the proposal including the reduction of car parking subject to conditions requiring improved bike parking facilities. Recommended changes are addressed by recommended conditions and are considered further in Section 4 of this report.

### **3. Policy Implications**

#### **Planning Scheme Amendment VC286**

The application sought permission for the sale and consumption of liquor associated with the new restaurant. On 1 July 2025, State Government planning reforms resulted in Planning Scheme Amendment VC286 being gazetted which deleted Clause 52.27 'Licenced Premises' from the Merri-bek Planning Scheme. Through the deletion of this clause, Council can no longer consider the sale and consumption of liquor relating to a new business and therefore, the consideration of the sale and consumption of liquor in this application is now out of scope.

Despite the changes to the planning controls, a liquor licence will still be required from Liquor Control Victoria (LCV).

In assessing a liquor licence application, LCV must consider the amenity impacts, complete a public notice period and provide notification to the local Council. As part of this notification process, Council will be given an opportunity to provide comments on the proposed liquor licence, including recommending conditions to address any concerns.

In accordance with Section 47(3)(c) of the *Liquor Control Reform Act 1998*, when determining a liquor licensing application where an objection has been received, LCV must give the applicant and each objector a reasonable opportunity to be heard. Council can also appeal an LCV decision to the Victorian Civil and Administrative Tribunal.

#### **Planning Policy Framework (PPF)**

The following policies are of most relevance to this application:

- Vision (Clause 2.02)
- Strategic Directions, including:
  - Settlement (Clause 2.03-1)
  - Built Environment and Heritage (Clause 2.03-4)
    - Brunswick Activity Centre
  - Economic Development (Clause 2.03-6)
- Settlement (Clause 11)

- Built Environment (Clause 15.01), including:
  - Urban Design (Clause 15.01-1S, 15.01-1R and 15.01-1L)
  - Building Design (Clause 15.01-2S and 15.01-2L)
  - Building Design in Neighbourhood and Local Centres (Clause 15.01-2L)
  - Neighbourhood Character (Clause 15.01-5S)
- Transport (Clause 18), including:
  - Sustainable Personal Transport (Clause 18.02-1S and 18.08-1R)
  - Sustainable Transport in Merri-bek (Clause 18.02-1L)
  - Car parking (Clause 18.02-4S and 18.02-4L)

### **Human Rights Consideration**

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Merri-bek Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 16: Right to peaceful assembly and freedom of association
- Section 18: Right to take part in public life
- Section 20: Property rights

This application does not limit human rights. The impact of the proposal on the users of the premises, visitors and other associated systems have been considered.

## **4. Issues**

In considering this application, regard has been given to the Planning Policy Framework (PPF), the provisions of the Merri-bek Planning Scheme, objections received and the merits of the application.

Whilst this application will no longer consider amenity impacts associated with the consumption of liquor, Council can provide comments to the Liquor Control Victoria (LCV) liquor licence application which is expected to be lodged following any planning approval. This report, will also consider Council's position on the future LCV application, including whether conditions should be imposed, including the reduced hours of operation offered by the permit applicant prior the PID meeting.

### **Does the proposal have strategic policy support?**

The site is located in the Commercial 1 Zone. The purpose of the Commercial 1 Zone is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The proposed use as a food and drink premises (restaurant) meets this purpose noting that in the Commercial 1 Zone a permit is not required to use the site for a restaurant.

The key considerations of the proposal relate to the appropriateness of the proposed buildings and works including the sign having regards to the character of the area, and whether the car parking reduction will have any unreasonable impacts on the amenity of the surrounding area.

### **Do the buildings and works, positively contribute to the local context and enhance the public space?**

With the conditional removal of the food truck (as recommended under condition 1.a as offered by the permit applicant) the remaining works proposed within the property's frontage will have a low impact on the character and appearance of the surrounding area given they are limited to building services and the bicycle parking enclosures. These works align with strategies and objectives of Clause 15.01-2s (Building Design) and the decision guidelines of the Commercial 1 Zone and Design and Development Overlay which seeks to achieve building design which is attractive when viewed from public spaces.

The proposed works do not unreasonably impact the off-site amenity of surrounding residential land uses – particularly under the conditional arrangement the food truck is removed which might have otherwise enhanced the sites external noise pollution.

With regards to the buildings and works associated with the rear parklet, the applicant has confirmed this will be removed from the planning application which is reflected in the recommendation. Any area for outdoor dining that is outside the title boundaries of the property will require separate permission from Council through a footpath trading permit.

### **Is the signage appropriate?**

The advertising sign policy at Clause 52.05-11 of the Planning Scheme seeks to facilitate signage that provides for business identification and that contributes to the vitality and colour of a commercial area. A balance must be struck between amenity considerations and providing an adequate opportunity for the business signs in a Commercial 1 Zone and activity centre location.

The proposed internally illuminated sign is acceptable in scale (1.5m high x 1m width) when compared to the double storey height of the building. Only one sign is proposed, alongside the retention of a smaller illuminated sign already located on the front facade of the building, which avoids visual clutter. The existing sign contains an insignificant profile being approximately 0.5m in width and 0.7m in height and therefore the new supplementary sign is appropriate in improving the businesses identification. Breese Street is largely absent of a defined signage character. A smaller quantity of signage is appropriate within the greater streetscape.

The recommendation requires the signs be turned off outside of the business operating hours and to not contain any flashing lighting therefore avoiding an outcome where the sign detracts from the sensitive park interface adjoining the property or affects the neighbouring residential dwelling. The policy at Clause 15.01-1L specifically relating to 'signs' seeks to ensure that a pole sign to have a maximum height of 6 metres. The proposed pole sign has a maximum height of 4.5 metres which does not exceed this threshold. The sign can therefore be supported.

### **Is the proposal acceptable having regards to off-site amenity impacts?**

The site is in the Commercial 1 Zone where a planning permit is not required for the use of the site as a restaurant. Additionally, recent planning reform removes the requirement for Council to consider the sale and consumption of liquor. Despite this, to address objector's concerns, the applicant has agreed for conditions to be imposed, should a permit be issued, requiring the endorsement of the Venue and Patron Management Plan and Acoustic Report which commits to the venue's compliance with the relevant noise regulations. This is reflected in the recommendation. The endorsement of these documents goes above and beyond the scope of the Planning Scheme requirements and safeguards the amenity of the surrounds through regulating patron behaviour and movements, and the venues noise emissions.

Importantly, the acoustic report recommends conditional support for the original hours of operation (being a daily 1am closure and 10pm closure where outdoors) following noise testing and a review of the buildings acoustic profile. Recommended changes include additional and improved ceiling treatments, such as insulation and ceiling tiles, locating the bicycle racks between the southern property and the outdoor seating area, and placing fans within ceiling cavities as far north as possible. The recommendation of this report includes conditions for these acoustic measures.

The service of liquor associated with a restaurant use, is appropriate within an Activity Centre, which encourages entertainment uses which add to the vibrancy and activation of centre. The development plans at Attachment 2 show tables and chairs indicating the predominate activity is the service of food with alcohol. When the predominate activity is the service of food, anti-social behaviour is lessened, as is the amenity impact on the environment. The Part B, recommendation is therefore that Council offer no objection to any future LCV application provided a restaurant and cafe licence is sought and subject to conditions that ensure that predominate activity is the service of food and that seek to address potential off-site amenity impacts through restricted hours of operation, patron management and acoustic assessment.

### **Has adequate car and bicycle parking been provided?**

The Merri-bek Planning Scheme sets a car parking requirement of 11 spaces for a 319 sqm restaurant. The proposal does not provide any car parking provision meaning a reduction of 11 spaces is sought. In respect to this the car parking policy at Clause 18.02-4L supports reduced car parking rates in developments:

- Within and close to activity centres.
- With excellent access based on frequency and location to a range of public transport options.
- With increased provision of bicycle parking above the rates specified in Clause 52.34.

A reduction in car parking is considered acceptable for the following reasons:

- The site is located within the Brunswick Activity Centre and is highly serviced by public transport options including the Sydney Road tram line and the Upfield train line.
- The site is approximately 54 metres east of the Upfield shared path providing excellent north-south bicycle connectivity to and from the property.
- The proposal provides for 13 bicycle spaces on site which exceeds the requirements of 8 spaces in Clause 52.34 (Bicycle facilities) therefore, catering to the alternative transport users. Removal of the front informal car parking space gives an opportunity for the partial removal of the 8 metre wide (approx.) vehicle crossover, creating a potential for a new shared on-street car parking space which is of greater community benefit. This is required by condition 11 of the Part A recommendation.
- Whilst the existing front setback area would allow for some private on-site parking, this is outweighed by the potential for the creation an additional on-street public car parking and the better activation of this space with tables and chairs associated with the restaurant, which is encouraged within the activity centre. In addition, the space currently provided for on-site car parking doesn't meet the Australian Standards and if used as a car park, vehicles may partially block the pedestrian path along Breese Street.
- Removal of part of the existing vehicle crossover allows the creation of a new footpath which improves walkability, and the pedestrian amenity in the activity centre.



- Council's Engineering Services Unit have supported the proposed reduction on the condition fourteen bicycle spaces are provided, which has been included as a condition in the recommendation.

**What impact does the proposal have on car congestion and traffic in the local area?**

Council's Engineering Services Unit have reviewed the changed traffic conditions and anticipated approximately 11 additional vehicles movements per day which is within the street capacity of Breese Street.

The site's location within a highly developed inner-city street is likely to mostly capture a local customer demographic who can easily access the business by alternative transport means. Where patrons may use private motor vehicles to attend the business, Breese Street is capable of absorbing the additional traffic movements given its north-south connectivity between Albion and Hope Streets.

**Does the proposal incorporate adequate Environmentally Sustainable Design (ESD) features?**

Clause 15.01-2L (Environmentally sustainable development) requires the submission of a Sustainable Design Assessment (SDA) for a development proposing an increase in gross floor area between 100 and 1000 square metres. As the proposed development makes use of an existing building and does not seek an increase to the gross floor area of the building, an SDA report is not required as part of this application.

**Is the land potentially contaminated and suitable for the proposed land use?**

The land contains an existing warehouse building which had been historically permitted as a factory. The site is not captured within the Environmental Audit Overlay and the proposed use is not a defined sensitive use (residential land use, child care centre, pre-school centre). The Victorian Governments potential contaminated land map (Vic Unearthed) does not identify the site's history and therefore it is unclear whether the land has been previously used by a potentially contaminating use. Notwithstanding this, the practise note for potentially contaminated land (July 2021) recommends a preliminary site investigation should be undertaken to inform whether an audit is required. Part A of the officer recommendation require further investigation prior to the commencement of the use.

## **5. Response to objections**

The following issues raised by objectors have been addressed in section 4 of this report:

- Car parking reduction and traffic congestion.
- Parklet (rear dining area constructed across the Council laneway).

Other issues raised by objectors are addressed below:

**Noise pollution, patron behaviour and safety, late night trading hours**

Planning Scheme Amendment VC286 removed Council's ability to assess a planning permit application to sell and consume liquor and therefore concerns relating to the use of the land can only be given limited weight as part of this planning application.

A similar public notice and objection opportunity will be given during the future liquor licence application process which the business owner will need to undergo after this planning permit application is decided.

Part B of the recommendation includes conditions for any future LCV liquor licence application to protect the amenity of the surrounding through restricted patron numbers and hours of operation.

Irrespective of this, the applicant has agreed to the imposing of conditions of a planning permit requiring the submission and endorsement of a venue and patron management plan, which restricts the hours of operation and an acoustic report which goes above and beyond the Planning Scheme assessment and are reflected in Part A of the recommendation.

### **Street interface and lighting**

The front setback shows the seating arrangement as entirely within the confines of the property and should further seating be intended on the Breese Street footpath, this would need to be approved via a footpath trading permit. In relation to future lighting, particularly within the property's frontage, a condition 12 in the recommendation requires lighting to be designed not to emit light into an adjoining property.

### **Conflict with the adjoining parkland**

The application proposes no change to the existing building which may otherwise impact the root zones or permeable area dedicated for park vegetation. Concerns in relation to potential plant theft from the venue's patrons are outside the scope of the Merri-bek Planning Scheme. Condition 1b of the officer recommendation in Part A seeks to remove the parklet from the planning application.

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There are no financial or resource implications.

## **8. Conclusion**

It is considered that the proposed buildings and works, car parking reduction and the erection of an illuminated sign is an acceptable planning outcome when balancing the Planning Scheme objectives including those seeking:

- To support economic development and commercial trade within the Commercial 1 Zone and within the greater context of the Brunswick Activity Centre.
- Maintain and uphold an identified signage character with consideration to the surrounding amenity in the Activity Centre.
- Car parking reductions within activity centres and within the Principal Public Transport Network.

Following recent State Government planning reforms, the sale and consumption of liquor, now falls outside Council's scope of assessment for a planning permit. However, the amenity concerns raised in objections may be addressed through conditions outlined in Part B of the recommendation, which Council would recommend Liquor Control Victoria include in any future liquor licence to be issued.

On the balance of policies and controls within the Merri-bek Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit MPS/2024/648 should be issued, subject to the conditions included in the (Part A) recommendation of this report.

## **Attachment/s**

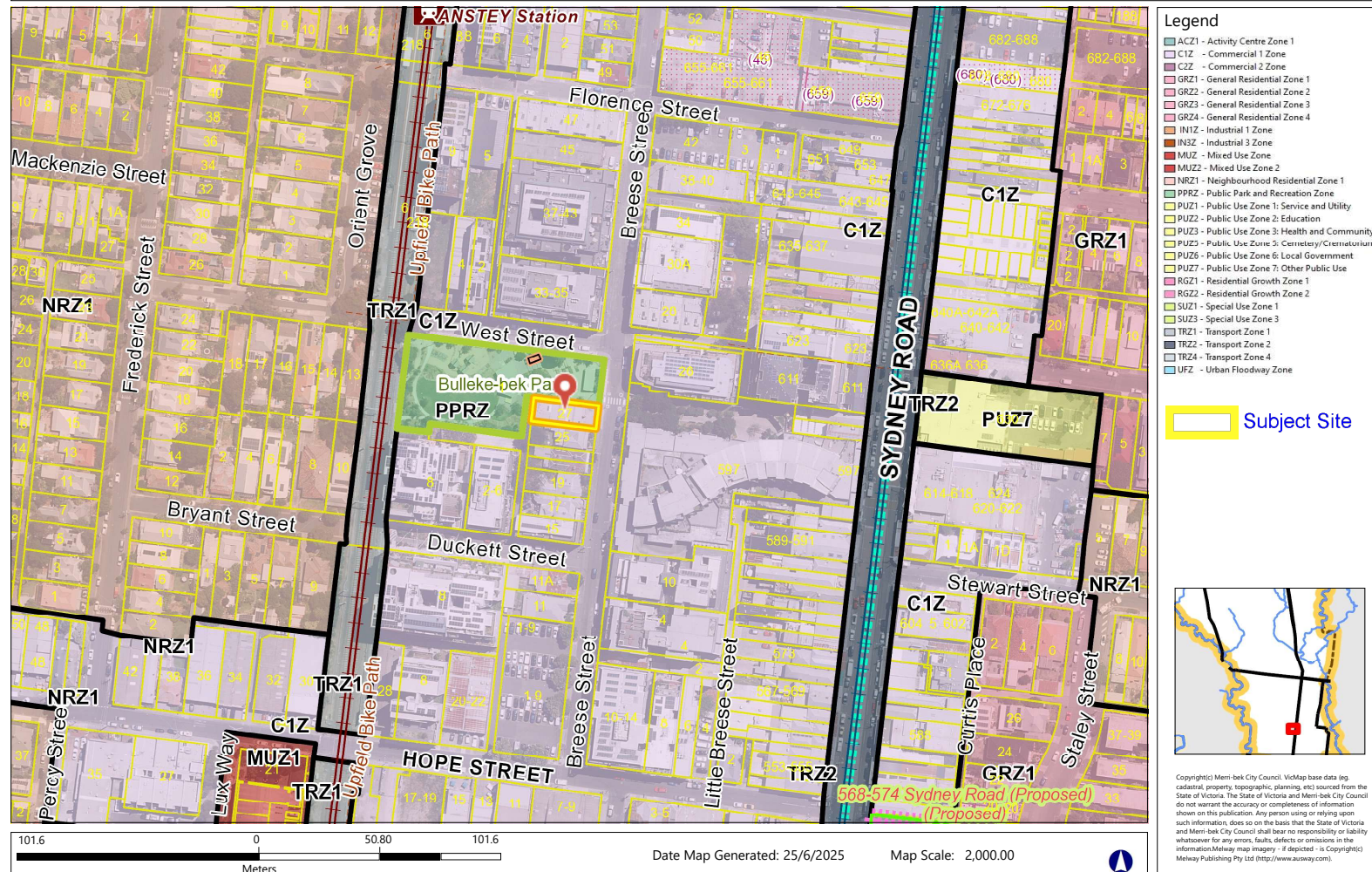
- |   |                         |            |
|---|-------------------------|------------|
| 1 | Zoning and location map | D25/324236 |
| 2 | Development plans       | D25/324247 |
| 3 | Objector location map   | D25/324271 |

## Zoning and Location Plan

27 Breese Street, Brunswick



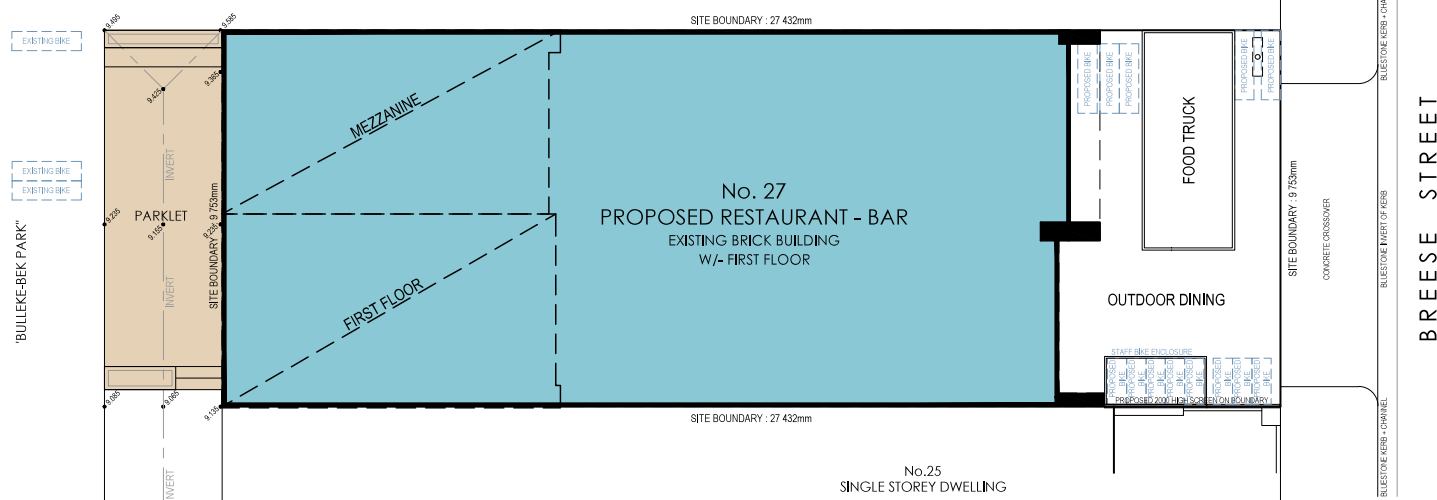
**Merri-bek**  
City Council



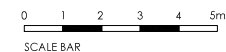
AREAS :			
NETT AREA (GROUND FLOOR)	190.10 SQ.M.	GROUND FLOOR	215.10 SQ.M.
NETT AREA (FIRST FLOOR)	43.50 SQ.M.	FIRST FLOOR	43.50 SQ.M.
NETT AREA (MEZZANINE)	40.45 SQ.M.	MEZZANINE	40.47 SQ.M.
NETT AREA (OUTDOOR FRONT)	45.70 SQ.M.		
<u>TOTAL NETT AREA</u>	<u>319.75 SQ.M.</u>	<u>TOTAL BUILDING AREA</u>	<u>298.10 SQ.M.</u>
PARKLET (OFFSITE)	28.40 SQ.M.	SITE AREA	267.54 SQ.M.

WEST S PLANNING ENVIRONMENT ACT 1987  
MERRIBEK PLANNING SCHEME

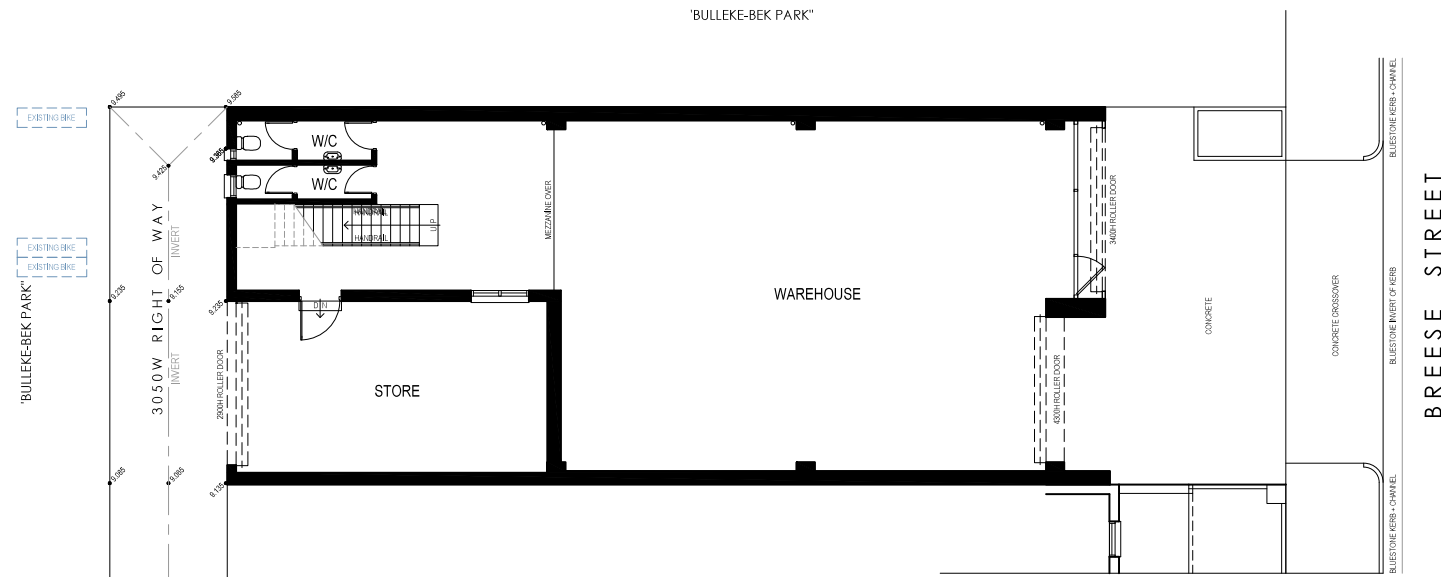
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Advertised Plan Sheet: 1 of 7  
Application No: MPS/2024/648  
Date : 28/03/2025




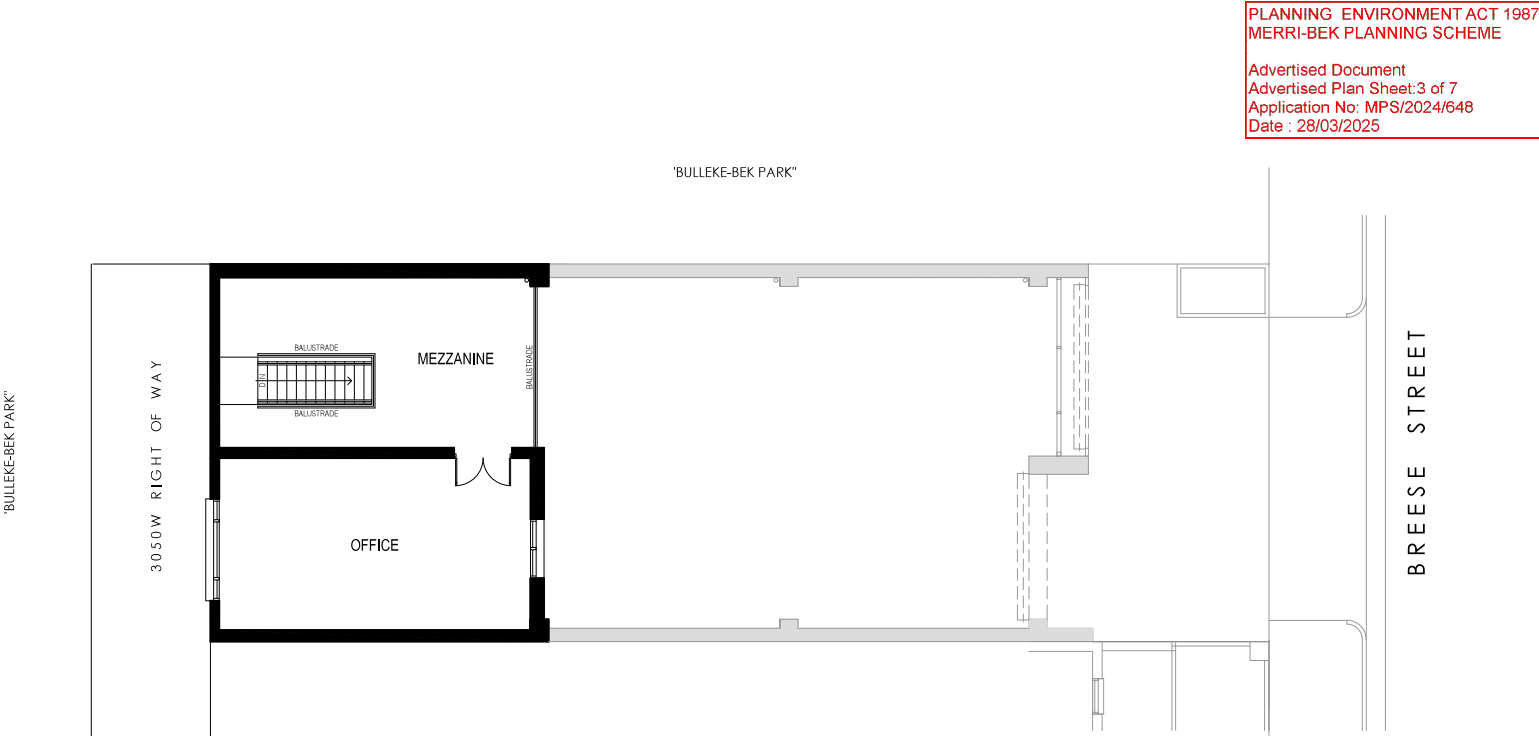
site plan : proposed

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Advertised Document  
Advertised Plan Sheet:2 of 7  
Application No: MPS/2024/648  
Date : 28/03/2025



 <p>drawn by</p> <p>0421 707 454 : mobile j.shannon@296design.com.au : email 2/296 mariondah hwy : address croydon victoria 35489277697 : abn.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>rev</th><th>date</th><th>description</th></tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	rev	date	description																															<p>february 2025 : date      1:100 : scale</p> <p>j.t.s. : drawn      25-006 : project no.</p> <p>j.t.s. : checked      dp-ad 2052 : rtp no.</p>	<p>alterations to commercial building : project no.</p> <p>27 breeze street : address</p> <p>brunswick : project location</p> <p>big crowd catering pty ltd : for</p> <p>2 of 8 : sheet no.</p>
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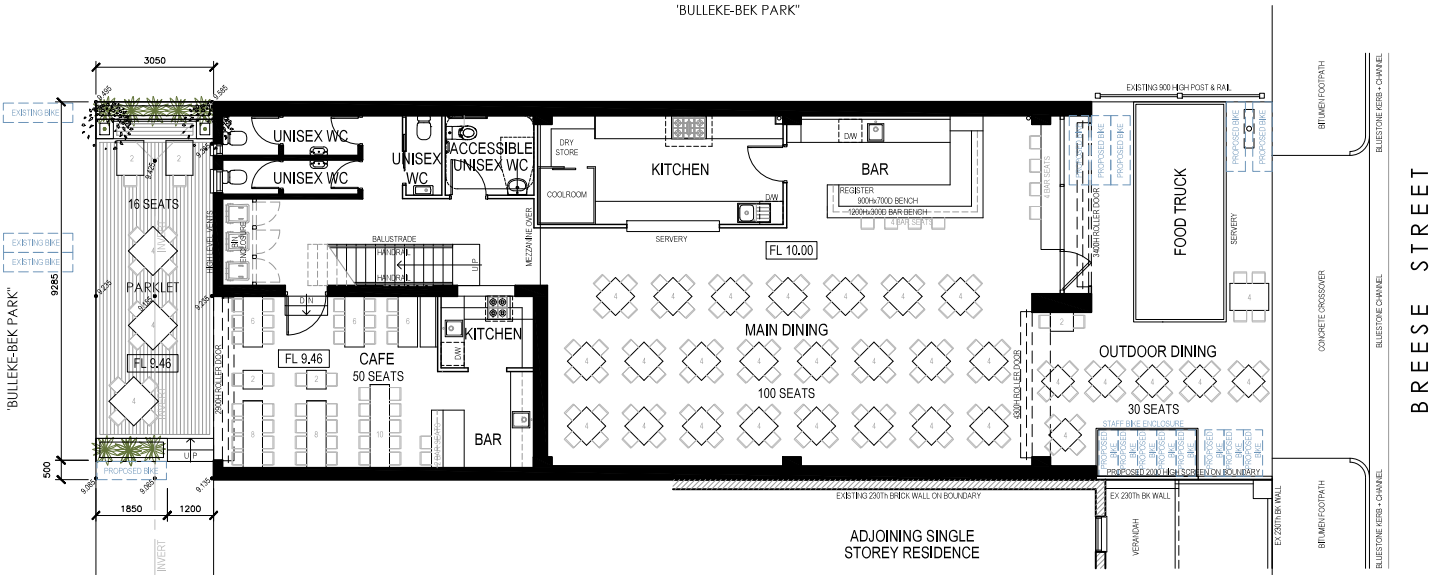
existing mezzanine floor plan :

<div><div>@296 design</div><div>0421 707 454 : mobile j.shannon@296design.com.au : email 2/29a maroonah hwy : address craydon victoria 45489277697 : a.b.n.</div></div>	: drawn by			february 2025 : date	1:100 : scale	alterations to commercial building : project
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						3 of 8 : sheet no.



PLANNING ENVIRONMENT ACT 1987  
MERRI-BEK PLANNING SCHEME

Advised Document  
Advised Plan Sheet: 4 of 7  
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Date : 28/03/2025



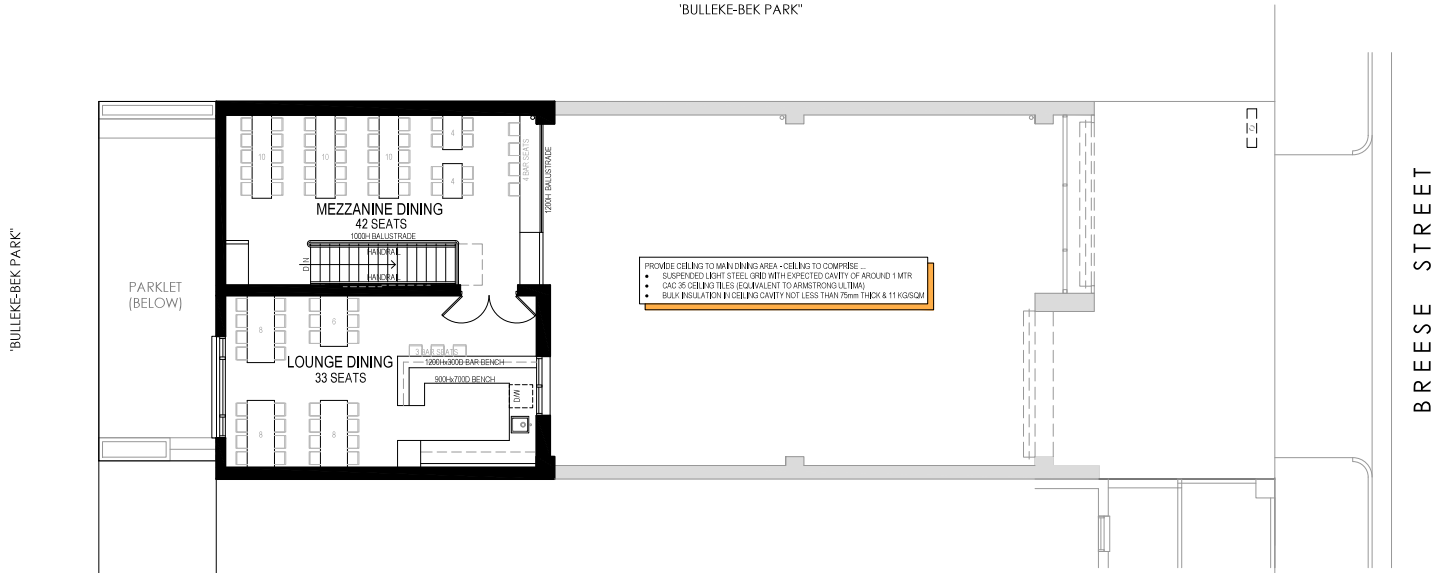
proposed ground floor plan :



<div>@296 design</div> <div>0421 707 454 : mobile j.shannon@296design.com.au : email 2/24 maroonah hwy : address craydon victoria 45489277697 : a.b.n.</div>	: drawn by		rev	date	description		february 2025 :	date	1:100 :	scale	alterations to commercial building : project	
											27 breese street : address	
							j.l.s. :	drawn	25-006 :	project no.	big crowd catering pty ltd : for	
							j.l.s. :	checked	dp-ad 2052 :	rbp no.	4 of 8 : sheet no.	

PLANNING ENVIRONMENT ACT 1987  
MERRI-BEK PLANNING SCHEME

Advised Document  
Advised Plan Sheet: 5 of 7  
Application No: MPS/2024/648  
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proposed mezzanine floor plan :



: drawn by

0421 707 454 : mobile  
j.shannon@296design.com.au : email  
2/29a maroonah hwy : address  
craydon victoria : address  
45489277697 : a.b.n.

rev	date	description

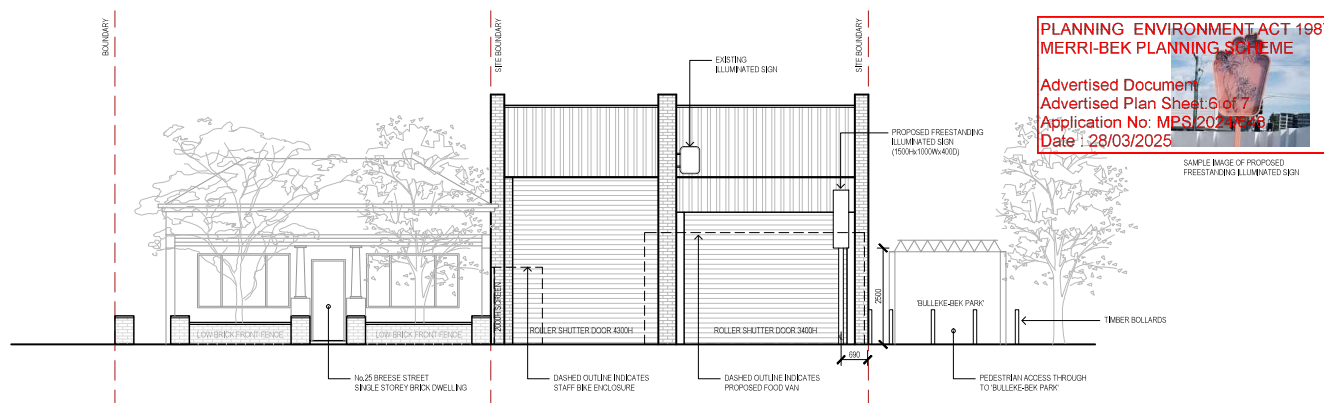
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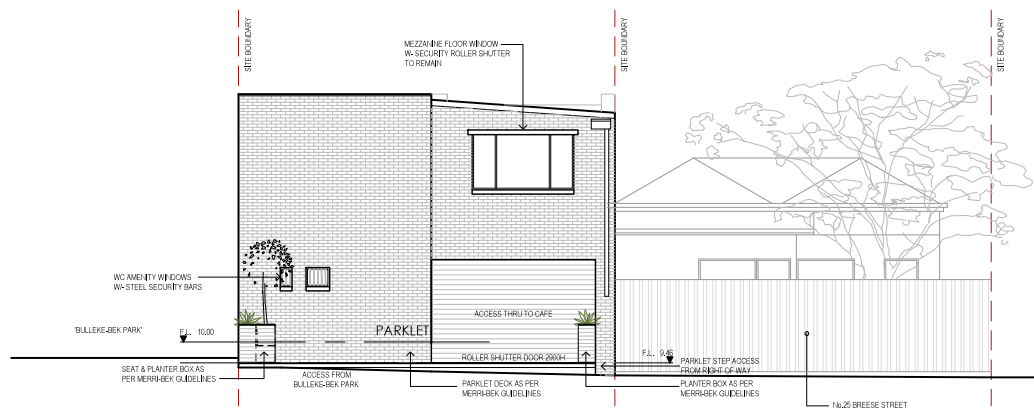
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alterations to commercial building : project  
27 breese street : address  
brunswick : address  
big crowd catering pty ltd : for  
5 of 8 : sheet no.





front facade elevation : breese street



rear facade elevation : right of way

@296

design

0421 707 454 : mobile

j.shannon@296design.com.au : email

2/26 mariondale hwy : address

craydon victoria

45489277697 : a.b.n.

rev

date

description

PLANNING ENVIRONMENT ACT 1987  
MERRI-BEK PLANNING SCHEME

Advised Document  
Advised Plan Sheet 6 of 7  
Application No: MPS/2024/1118  
Date: 28/03/2025

SAMPLE IMAGE OF PROPOSED  
FREESTANDING ILLUMINATED SIGN





## Objector map

27 Breese Street, Brunswick



Subject Site



Objector Location



**Merri-bek**  
City Council

