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URBIS

# MIDDLE PARK HOTEL 102 CANTERBURY ROAD, MIDDLE PARK

Cumulative Impact Assessment

Prepared for  
**AUSTRALIAN VENUE CO.**  
29 November 2021

PORT PHILLIP PLANNING DEPARTMENT  
Date Received: 13/12/2021

**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Phil Gleeson
Senior Consultant	Kathleen Akers
Project Code	P0033578
Report Number	01

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# 1. INTRODUCTION

This Cumulative Impact Assessment has been prepared on behalf of Australian Venue CO. in support of an application to allow the sale and consumption of liquor associated with a proposed rooftop bar at 102 Canterbury Road, Middle Park.

The Middle Park Hotel currently operates under a Late Night (General) Licence.

The use of the site as a Hotel (retail premises) is a Section 1 – no permit required use.

A town planning application has prepared to support the construction of a rooftop bar, an increase in patron numbers and an increase in the licensed area. This report deals with the use of the land as a licensed premise and the liquor licence planning permit triggers alone, matters relating to buildings and works and car parking will be separately addressed in the town planning report prepared by Urbis.

This document provides a detailed written assessment of the proposal against Clause 52.27 of the Port Phillip Planning Scheme and additional matters considered to be of importance when assessing applications for licensed premises.

The analysis concludes that in respect to the decision guidelines of Clause 52.27 of the Port Phillip Planning Scheme and the assessment criteria detailed in Practice Note 61: Licensed Premises: Addressing Cumulative Impact the increase in licensed area and patron numbers will not unreasonably impact the surrounding area.

The proposed licensing of the rooftop bar also requires approval under the Liquor Control Reform Act (1998), regulated by the VCGLR. There are a range of more specific community harm considerations specifically required to be considered under the Objects of that Act.

## 1.1. THE LICENSED PREMISES

### 1.1.1. The Subject Site

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

The subject site is formally known as Lot 1 on Title Plan 080131V, with a street address of 102 Canterbury Road, Middle Park. There are no easements, covenants or Section 173 Agreements registered to the Certificate of Title.

The site comprises a three-storey building constructed to the boundaries. An outdoor courtyard exists towards the rear (south-west) of the property and an organised removable outdoor dining area has been established along a portion of the Armstrong Street footpath.

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

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

### 1.1.2. The Middle Park Hotel

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

The Middle Park Hotel is best described as a *boutique hotel and gastropub* offering a public bar, restaurant, private dining room and outdoor courtyard (including back of house and amenities) at ground level and a boutique residential hotel comprising 25 rooms on levels 1 and 2.

The Middle Park Hotel includes a commercial kitchen that offers traditional 'pub classics' along with seasonal menus that seek to champion the best of Victorian produce. The Middle Park Hotel is open for both lunch and dinner and includes a kid's menu.

Trading hours are generally Sunday to Thursday 12.00pm to 10.00pm and Friday to Saturday 12.00pm to 12.00am. It is noted that the liquor licence allows trading outside of these 'typical' hours.

### 1.1.3. Site Interfaces

- North and East – the subject site has an immediate interface to Canterbury Road, being a Road Zone, Category 1 road. To the north east of Canterbury Road is the Middle Park Light Rail station, separated from the road by a linear reserve. The light rail services Tram Route 96, which runs between St Kilda Beach and East Brunswick via the CBD. Further north and east is Albert Park, which spans approximately 2.8 kilometres between Fitzroy Street (St Kilda) to Albert Road (South Melbourne).

Kerbside parking is located along the Canterbury Road frontage after 6.00pm, prior to 6.00pm it is a loading zone.

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

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

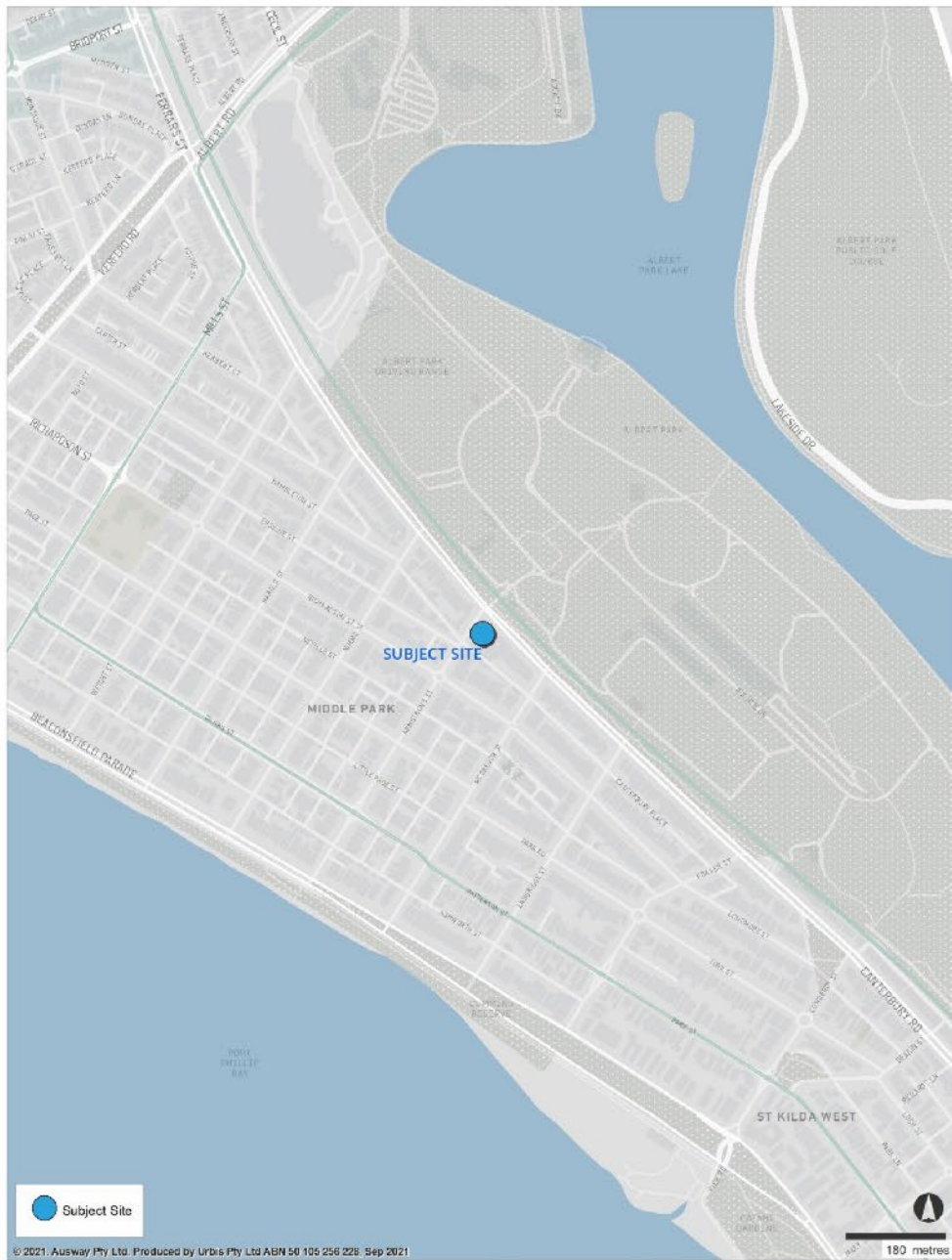
- North West – Armstrong Street interfaces the north-west boundary of the subject site, which has a 30-metre-wide road reserve with kerbside parking and provides access to Canterbury Road. The Commercial 1 Zone (C1Z) extends approximately 65 metres to the north-west from the subject site and contains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

### 1.1.4. Broader Area

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

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

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



**URBIS** **102 CANTERBURY ROAD, MIDDLE PARK**  
**SITE LOCATION**

Figure 1 – Site location plan



**URBIS** **102 CANTERBURY ROAD, MIDDLE PARK**  
SITE LOCATION

Figure 2 – Aerial plan



## 1.2. EXISTING LIQUOR LICENCE

The Middle Park Hotel is benefitted by an existing Victorian Commission of Gambling and Liquor Regulation ('VCGLR') Liquor Licence (Licence No. 31908900) for a Late Night (General) Licence.

The existing licence allows for a maximum of 60 persons in the dining room and 300 persons in the lounge/saloon. It is noted that the licensed area includes the first and second levels of the Hotel (hotel rooms). The licence is restricted by standard conditions in relation to amenity. The licence also requires that a surveillance recording system is installed for when live or recorded amplified music other than background music is provided.

The licence permits the following in relation to trading hours:

- For consumption off the licensed premises -
  - Sunday Between 10 a.m. and 11 p.m.
  - Good Friday & Anzac Day Between 12 noon and 11 p.m.
  - On any other day Between 7 a.m. and 11 p.m.
- For consumption on the licensed premises -
  - Sunday Between 10 a.m. and 1 a.m. the following morning.
  - Good Friday Between 12 noon and 1 a.m. the following morning.
  - Anzac Day (not being a Sunday) Between 12 noon and 1 a.m. the following morning.
  - On any other day Between 7 a.m. and 1 a.m. the following morning except for Good Friday morning.
- New Year's Eve, Grand Final Eve, Melb. Cup Eve & the race days of the "Race Period" as determined under the Grand Prix Act 1994 - Between 7 a.m. and 3 a.m. the following morning (excluding 7 a.m. to 10 a.m. on Sunday morning).

It is noted that the Middle Park Hotel currently has a five-star rating with the VCGLR under this existing licence, shown in the below Figure. As per the VCGLR 'Liquor Licensing Fact Sheet - Star rating system', the Middle Park Hotel has been operating with no non-compliance incidents within the previous 36 months, this includes no incidents of intoxicated patrons or supply of liquor to underage persons.

### 31908900 MIDDLE PARK HOTEL, MIDDLE PARK 3206

**Licence Type:** Late night (general)  
**Licensee:** AVC OPERATIONS PTY LTD  
**Nominee:** COSSELL, JAMES  
**Star Rating:** ★★★★★ (5 Stars)  
**Demerit Points:** 0 Points

Source: VCGLR Current Liquor Licence Search (October 2021)

Figure 3 – VCGLR Permanent Licence Results for the Middle Park Hotel

## 2. PLANNING CONTROLS

### 2.1. ZONING

The site is located in a Commercial 1 Zone (C1Z) under the Port Phillip Planning Scheme. The purposes of the C1Z are:

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

The use of the site as a Hotel (retail premises) is a Section 1 – no permit required use.

### 2.2. OVERLAYS

The subject site is impacted by the following overlay:

#### **Heritage Overlay (HO445)**

The subject site is in the *Armstrong Street Commercial Precinct*. The use of the land for the sale and consumption of liquor will not impact the relevant provisions of the Heritage Overlay.



**URBIS** **102 CANTERBURY ROAD, MIDDLE PARK**  
**PLANNING ZONES**

Figure 4 – Zoning map



**URBIS** **102 CANTERBURY ROAD, MIDDLE PARK**  
**HERITAGE OVERLAY (HO445)**

Figure 5 – Heritage Overlay map

## 2.3. PLANNING POLICY CONTEXT

### 2.3.1. Planning Policy Framework

The Planning Policy Framework (PPF) seeks to develop the objectives for planning in Victoria to foster appropriate land-use and practices that encompass relevant environmental, social and economic factors.

The PPF is silent on the issue of liquor/alcohol. Of most relevance are clauses 11 and 17 which are outlined below:

- **Clause 11 – Settlement**

This clause encourages planning to meet the needs of existing and future communities through, amongst other things, health, wellbeing and safety, diversity of choice, economic viability and land use and transport integration.

- **Clause 17 – Economic Development**

This clause encourages planning to provide for a strong and innovative economy including the encouragement of development to meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

### 2.3.2. Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) is comprised of the Municipal Strategic Statement and local planning policies. It is structured in a manner to address key areas of natural environment, built environment, housing, retail and activity centres, industry, transport and infrastructure, community facilities and strategic redevelopment sites.

Port Phillip is recognised as a city of distinct neighbourhoods where an understanding of local character and heritage is an important element of a sustainable future. The Municipal Strategic Statement (MSS) seeks to facilitate the clustering and co-location of relevant community facilities and services in accessible community hubs across the city.

The clauses relevant to the proposal within these policies can be summarised as follows:

- **Clause 21.04-2 – Activity Centres**

Clause 21.04-2 identifies that the subject site forms part of the Armstrong Street, Middle Park Neighbourhood Activity Centre. The strategic role and function – future direction of the neighbourhood activity centre is to provide daily/weekly retail goods and services and local entertainment (including restaurants and cafes).

This Clause recognises that *Port Phillip's activity centres play an important role in supporting and hosting visitation, including local and regional entertainment uses, which have local links and celebrate the creativity and diversity of the local community.*

Drawing on the key objectives and strategies for activity centres, it is recognised that land uses are supported which contribute to the viability of neighbourhood activity centres. New uses are encouraged to support the future strategic role and function of activity centres and local entertainment uses are supported in neighbourhood activity centres, where they do not adversely affect residential amenity.

- **Clause 21.-04-6 – Tourism and the Arts**

Clause 21.04-6 recognises that *Port Phillip is a major metropolitan, regional and national tourist destination with a range of entertainment uses, facilities and festivals. They are an important part of the local economy and contribute to the municipality's strong cultural identity.* It is identified that the social and cultural benefits of entertainment uses need to be balanced with the potential amenity impacts. It is also recognised that *tourism and entertainment uses evolve over time. It is important to recognise the changing nature of these uses in order to plan for their appropriate management.*

▪ **Clause 21.06-3 – Middle Park and Albert Park**

The City of Port Phillip is recognised as a remarkably varied municipality serving diverse communities of residents, workers and visitors. People who live in Port Phillip tend to experience the city as a series of neighbourhoods and relate strongly to their local area.

The subject site is located in the Middle Park and Albert Park neighbourhood as identified in Clause 21.06. This Clause identifies local strategies for the Armstrong Street Neighbourhood Activity Centre which seeks to support the daily / weekly retail goods and services role, and local entertainment role of the centre.

## 2.4. PARTICULAR PROVISIONS

### 2.4.1. Clause 52.27 – Licensed Premises

Under Clause 52.27 of the Port Phillip Planning Scheme the decision guidelines that an application must be assessed against are:

- *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.*

In considering this application it is relevant to consider to the comments of the Victorian Civil and Administrative Tribunal (VCAT) in previous decisions regarding liquor licences and the role of Clause 52.27.

The views of Member Code in *Coles Group Property Developments Ltd v Mornington Peninsula SC (Correction)* [2012] VCAT 600 are considered relevant wherein commentary was made as to the scope of Clause 52.27 concluding:

27. *The purposes of clause 52.27 (the clause) relate to ensuring licensed premises are in an 'appropriate location' and to considering the impact on 'the amenity of the surrounding area'. The focus on 'amenity of the surrounding area' is repeated in decision guidelines relating to sale or consumption of liquor, hours of operation and numbers of patrons.*
28. *The clause therefore does not authorise a scope of inquiry into all possible impacts of the sale of liquor on the community, including public health or crime impacts, unless an impact manifests itself into an amenity impact on the surrounding area. This is contrasted to the wider inquiry permitted under the LCR Act to which I have referred, and which specifically relate to the harm minimisation purposes of that Act.*
29. *The clause directs consideration of three matters. First, policy context. Second, impact of sale or consumption, hours and patron numbers on amenity. Third, cumulative impact of existing licensed premises and the bottle shop on amenity.*

Subsequent to the decision referred to above, *Hunt Club Commercial Pty Ltd v Casey CC (includes Summary)* (Red Dot) [2013] VCAT 725, Deputy President Dwyer gave additional points of clarification on the role of Clause 52.27:

14. *Although I have stated above that the reasoning in the Coles Group and Millwood decisions perhaps over-simplify the legal position, I am sympathetic to the underlying sentiment in those decisions, and I do not necessarily disagree with the ultimate merits decision reached in each case. Although the significant social effects of a planning decision may conceivably be a relevant consideration in a given case, as a matter of general principle, a broad concern about the social harm caused by alcohol, the accessibility of alcohol in the community generally, or the potential for the abuse or misuse of alcohol, will rarely (if ever) be a relevant consideration in the exercise of discretion for a particular licensed premises under clause 52.27. These matters are more commonly relevant to the complementary regulatory framework under the*

*Liquor Control Reform Act 1998, albeit that there is some overlap between the liquor licensing and town planning frameworks.*

15. *Town planning is not a panacea for all perceived social ills, nor is planning decision-making a forum for addressing all issues of social or community concern. At its heart, planning is about the use, development and protection of land. It has a spatial context that is primarily concerned with the fair, orderly, economic and sustainable use and development of land. Town planning does not involve itself in moral judgements nor, subject to this locational or spatial perspective, in the operation of a competitive market economy in which certain goods and services are lawfully made, sold or consumed. Whilst town planning seeks to secure a pleasant, efficient and safe working, living and recreational environment, it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the health and wellbeing of a society.*

Separate to this planning approval, and noted above, the application will also require approval under the Liquor Control Reform Act (1998), regulated by the VCGLR. There are a range of more specific community harm considerations specifically required to be considered under the Objects of that Act.

## 2.4.2. Clause 53.06 – Live Music Entertainment Venues

The purpose of this clause is:

- *To recognise that live music is an important part of the State's culture and economy.*
- *To encourage the retention of existing and the development of new live music entertainment venues.*
- *To protect live music entertainment venues from the encroachment of noise sensitive residential uses.*
- *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
- *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*

Clause 53.06-2 identifies that a live music venue means (as relevant) *a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment.*

Under Clause 53.06 of the planning scheme the following are the decision guidelines that an application must be assessed against, as appropriate:

- *The extent to which the siting, layout, design and construction minimise the potential for noise impacts.*
- *Whether existing or proposed noise sensitive residential uses will be satisfactorily protected from unreasonable live music and entertainment noise.*
- *Whether the proposal adversely affects any existing uses.*
- *The social and economic significance of an existing live music entertainment venue.*
- *The impact of the proposal on the functioning of live music venues.*

## 2.5. PLANNING PRACTICE NOTE 61

In addition to the decision guidelines of the planning scheme Practice Note 61: Licenced Premises: Assessing Cumulative Impact (June 2015) provides a detailed framework for the assessment noting that the extent of assessment should be proportional to the likely impact of the proposal.

We note that the guidelines may be used for any application to address the extent to which a proposal for a new or modified licensed premises will contribute to an overall cumulative impact within an area.

It is considered appropriate to address the potential cumulative impact given that the Guidelines are proposed to be used where a licensed premise:

- Will be licensed and open after 11pm; and
- Is in an area where there is a cluster of licensed premises.

We confirm that the venue is proposed to be licensed and open after 11.00pm on seven days of the week.

We agree that the subject site is within an area that can be considered a cluster:

- Three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or
- 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.

The Practice Note defines a cumulative impact as being:

“...both positive and negative impacts that can result from a clustering of a particular land use or type of land uses. Potential cumulative impact from a cluster of licenced premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of venues present, the way they are managed and the capacity of the local area to accommodate those venues.”



### 3. THE PROPOSAL

It is proposed to construct a new rooftop bar at the Middle Park Hotel. Under Clause 52.27 of the Port Phillip Planning scheme a permit is required to use land to sell or consume liquor as follows:

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

The rooftop bar will operate under a Late Night (General) licence in accordance with existing Liquor Licence No. 31908900.

#### 3.1. THE LICENSED VENUE

The rooftop bar is intended to expand the offerings of the Middle Park Hotel to provide a premium space for outdoor dining and entertainment. The rooftop bar will capitalise on its locational aspects to capture views across to Albert Park Lake.

The rooftop bar largely occupies space to north east of the building and will be setback 1.5m from the Canterbury Road and Armstrong Street facades of the building. A solid roof and glazed awning will partly extend over the licensed area.

The rooftop bar is intended to offer a relaxed setting for patrons and will provide a high proportion of seating. The venue will be supported by the serving of meals and snacks throughout the day and evening.

The red line plan shows the extent of the rooftop bar proposed to be licensed in Figure 6 overleaf.

#### 3.2. LICENCE PARTICULARS

The key particulars of the proposal are as follows:

- Proposed licence – Late Night (General) Licence
- Licensed area – 259sqm
- Hours of operation
  - Hours of operation for consumption on the licensed premise will be consistent with the Liquor Licence, with the exception of New Year's Eve, Grand Final Eve, Melbourne Cup & the race days of the 'Race Period'.
  - The hours of operation are as follows:
    - Sunday Between 10 a.m. and 1 a.m. the following morning.
    - Good Friday Between 12 noon and 1 a.m. the following morning.
    - Anzac Day (not being a Sunday) Between 12 noon and 1 a.m. the following morning.
    - On any other day Between 7 a.m. and 1 a.m. the following morning except for Good Friday morning.
  - The hours of operation for New Year's Eve, Grand Final Eve, Melbourne Cup & the race days of the 'Race Period' as determined under the Grand Prix Act 1994 - Between 7 a.m. and 1 a.m. the following morning (excluding 7 a.m. to 10 a.m. on Sunday morning).
  - Actual trading hours – to afford flexibility for the Licensee the venue will maintain the ability to be licensed seven days a week in accordance with the existing Liquor Licence. However, we have been advised that actual trading hours are generally Sunday to Thursday 12pm-10pm and Friday to Saturday 12pm-12am.
- Maximum number of patrons – 200

- Seating – 130
- Employees – 10
- Food offering
  - A full dining facility will be provided to the rooftop bar with a complete menu available to 10pm. Light snacks will then be available for purchase until close.
  - The menu will incorporate main meals, grazing dishes and snacks
  - Menus will be placed on all tables and at the bar
  - Food will be prepared in the ground floor kitchen and transported via a 'dumb waiter' lift located adjacent to the bar.
- Music
  - The ability to play live music in the form of a solo or acoustic duo or DJ playing music is proposed seven days a week. At all other times music will be played at background level.
- Access
  - Venue staff will be positioned at a host station in the ground floor guest lounge adjacent to the lift to direct and monitor patrons.
  - Any queuing associated with the venue will be in the ground floor guest lounge and along Armstrong Street, if required. During peak times, the queue will be monitored by staff and controlled by a licensed crowd controller.

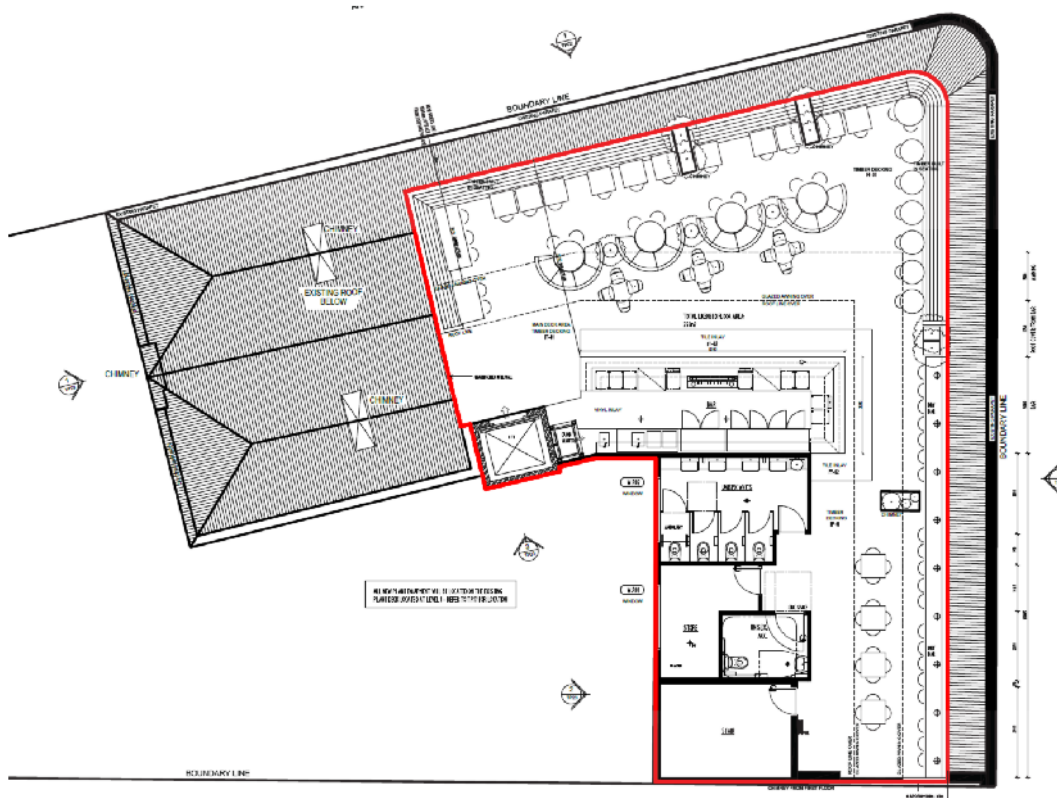


Figure 6 – Red Line plan

## 4. MIX OF LICENSED PREMISES

Based on our interrogation of the VCGLR database, there are currently 16 premises, (linked to 19 liquor licenses) licensed to sell liquor within 500m of the site (refer to Table 1 and Figure 6).

A further breakdown of the data identified the following:

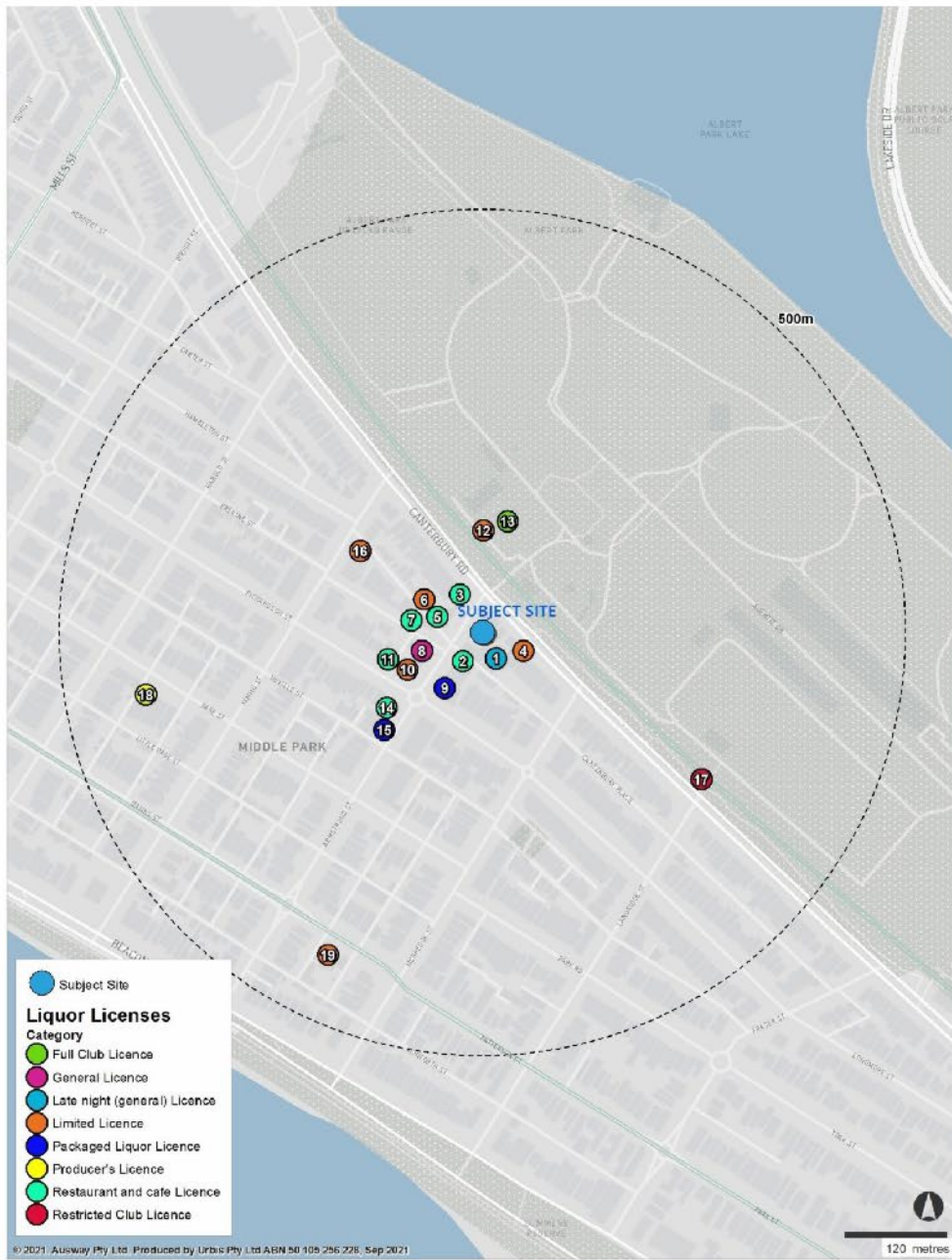
- There are seven licensed premises within 100m of the subject site
- The licensed premises within 100m of the site include:
  - Restaurant and Café licence – 4 (2 premises operate in conjunction with a Limited licence)
  - Limited licence – 1
  - General licence – 1
  - Packaged Liquor licence – 1
- Within 100m of the subject site there are two premises that are open after 11.00pm (not necessarily everyday), including The Roti Man (restaurant and café) and the Power House Amateur Football Club (limited licence).
- The assessment of the surrounding land use mix and mix of other licensed premises concludes that the proposed licensed venue is in an existing cluster of licensed premises. In considering the mix of licensed premises, it is evident that there is a variety of licensed premises, with a large proportion being restaurants. The licensed premises are generally located in or within close proximity to the Armstrong Street neighbourhood activity centre.

The licensed premises (as at October 2021) are as follows:

Table 1 – Liquor licenses within 500m of the subject site

MAP REF NO.	TRADING AS	ADDRESS	LICENCE CATEGORY	DISTANCE FROM SITE (Approx.)
1	Middle Park Hotel	102 Canterbury Road, Middle Park 3206	Late night (general) Licence	0m
2	Little Buddha Thai Cuisine	5 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	41m
3	Jack The Geezer	99 Canterbury Road, Middle Park 3206	Restaurant and cafe Licence	52m
4	Power House Amateur Football Club	Ross Gregory Oval Village Green Drive, Albert Park 3206	Limited Licence	53m
5	Greek Me	14 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	56m
6	The Roti Man	10-12 Armstrong Street, Middle Park 3206	Limited Licence	68m
7	The Roti Man	10-12 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	68m
8	Cellarbrations on Armstrong's Wine Centre	20-22 Armstrong Street, Middle Park 3206	General Licence	75m
9	IGA	19-21 Armstrong Street, Middle Park 3206	Packaged Liquor Licence	79m

MAP REF NO.	TRADING AS	ADDRESS	LICENCE CATEGORY	DISTANCE FROM SITE (Approx.)
10	Tacco E Tosca	251 Richardson Street, Middle Park 3206	Limited Licence	116m
11	Tacco E Tosca	251 Richardson Street, Middle Park 3206	Restaurant and cafe Licence	116m
12	Middle Park Bowling Club	Albert Park Reserve, Albert Park 3206	Limited Licence	120m
13	Middle Park Bowling Club	Albert Park Reserve, Middle Park 3206	Full Club Licence	135m
14	Hot Honey	40-42 Armstrong Street, Middle Park 3206	Restaurant and cafe Licence	144m
15	Gum Tree Good Food	36 Armstrong Street, Middle Park 3206	Packaged Liquor Licence	145m
16	A Glass Of	7 Nimmo Street, Middle Park 3206	Limited Licence	173m
17	Power House Rugby Union Football Club	McAdam House Lord Somers Camp & Powerhouse Clubhouse, Lakeside Drive, Albert Park 3206	Restricted Club Licence	312m
18	Forty Paces Vineyard	384 Montague Street, Albert Park 3206	Producer's Licence	404m
19	Southern Whisky Trails	372 Danks Street, Middle Park 3206	Limited Licence	422m



**URBIS** 102 CANTERBURY ROAD, MIDDLE PARK  
LIQUOR LICENSES

Figure 7 – Liquor licenses

## 5. ASSESSING THE CUMULATIVE IMPACT

PPN61 identifies that the guidelines can be used to address the extent to which a licensed premise could contribute to a cumulative impact within an area and an assessment should be proportional to the likely impact of the proposal.

PPN61 outlines that the following matters should be considered when assessing the cumulative impact of licensed premises:

- Planning policy context
- Surrounding land use mix and amenity
- The mix of licensed premises
- Transport and dispersal
- Impact mitigation.

### 5.1. PLANNING POLICY CONTEXT

Having regard to the broader policy directives within the Planning Policy Framework and the site's surrounding physical context, the proposed licensed venue (rooftop bar) is considered appropriate for the following reasons:

- The proposed licensed premise will add a new entertainment space at an existing venue that will support an entertainment use in the neighbourhood activity centre.
- The proposed licensed premise supports the strategy for the Armstrong Street Neighbourhood Activity Centre which seeks to *support the daily / weekly retail goods and services role, and local entertainment role of the centre.*
- The proposed rooftop bar will create a new entertainment space in Middle Park that will support the important role of an activity centre by providing a local and regional entertainment use which can celebrate *the creativity and diversity of the local community.*
- The proposed licensed premise is considered appropriate due to the absence of sensitive interfaces and the absence of residential premises within close proximity of the site.
- The licensed premise is consistent with the intent of the Commercial 1 Zone, which seeks to *create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- The proposed licensed premise supports the role of Port Phillip's entertainment uses, recognising that they are an important part of the local economy and contribute to the municipality's strong cultural identity. (Clause 21.04-6).

#### 5.1.1. Clause 52.27 – Licensed Premises

A summary of the assessment against each of the decision guidelines of Clause 52.27 is provided below.

Table 2 – Clause 52.27 Assessment

Clause 52.27 Decision Criteria	Assessment
State and Local Planning Policy Frameworks	<p>The Port Phillip Planning scheme identifies that the site forms part of a neighbourhood activity centre. Port Phillip's Municipal Strategic Statement recognises the important role activity centres play in supporting and hosting visitation, including <i>local and regional entertainment uses.</i></p> <p>The rooftop bar will provide an entertainment use (Clause 21.04-4) and contribute to the diversity of the area. The subject site is appropriately located for a rooftop bar that will support the entertainment role of the activity centre (Clause 21.06-3).</p>

Clause 52.27 Decision Criteria	Assessment
	<p>Clause 21.04-6 (Tourism and the Arts) recognises that tourism and entertainment uses <i>evolve over time</i>. The proposed rooftop bar provides a new entertainment space at an established licensed venue.</p> <p>Clause 21.04-6, 3.3 requires that <i>Late night entertainment uses must not be concentrated to the extent that there are significant adverse cumulative impacts on the amenity of the surrounding area</i>. Matters in relation to noise and patron management will be addressed in further detail below. A Transport Impact Assessment prepared by OneMileGrid addresses matters in relation to car parking.</p> <p>Clause 21.04-6 requires that a Noise and Amenity Action Plan (NAAP) is submitted for entertainment uses operating after 10pm. A NAAP has been prepared by Australian Venue Co. to ensure appropriate management of the rooftop bar particularly in relation to the responsible service of alcohol, minimising the risk of alcohol misuse and abuse and to minimise any adverse impact on the amenity of the surrounding area or any disturbance or disruption to the nearby residents and businesses.</p> <p><i>(Refer to the Noise and Amenity Action Plan prepared by Australian Venue Co.)</i></p>
<p>Impact of the sale or consumption of liquor on the amenity of the surrounding area</p>	<p>The subject site is within a zoned economic activity area (Commercial 1 Zone) where a range of uses are envisaged to create vibrant mixed use centres. The site is also located in the Armstrong Street Neighbourhood Activity Centre where licensed premises and entertainment uses are supported.</p> <p>The Middle Park Hotel is an established venue having operated as a licensed premise for many years. The new rooftop bar will expand the existing offering of the Hotel and will not negatively impact on the amenity of the surrounding area, to the extent that a new licensed premise is proposed. The new rooftop bar is unlikely to exacerbate the existing levels of amenity in the neighbourhood activity centre.</p> <p>The licensed premise is located in an area that meets the definition of a cluster of licensed premises. As discussed in Section 4.0 of this report, there are 7 premises which are licensed to sell liquor within 100m of the site. Of these licensed premises, four are associated with restaurants/cafes, two with packaged liquor and one with the Power House Amateur Football Club. In this context, the surrounding licensed premises are generally categorised as low-risk venues.</p> <p>The proposed rooftop bar will have negligible impact on the amenity of the surrounding area given the small number of licensed premises and the activity centre context in which the site is located.</p>
<p>Impact of the hours of operation on the amenity of the surrounding area</p>	<p>The rooftop bar will generally operate in accordance with the trading hours specified in the existing liquor licence, with the exception of the hours of operation specified for New Year's Eve, Grand Final Eve, Melbourne Cup and the Grand Prix.</p> <p>The hours of operation are:</p> <ul style="list-style-type: none"> <li>▪ Sunday Between 10 a.m. and 1 a.m. the following morning.</li> <li>▪ Good Friday Between 12 noon and 1 a.m. the following morning.</li> <li>▪ Anzac Day (not being a Sunday) Between 12 noon and 1 a.m. the following morning.</li> </ul>

Clause 52.27 Decision Criteria	Assessment
	<ul style="list-style-type: none"> <li>▪ On any other day Between 7 a.m. and 1 a.m. the following morning except for Good Friday morning.</li> </ul> <p>The hours of operation for New Year's Eve, Grand Final Eve, Melbourne Cup &amp; the race days of the 'Race Period' as determined under the Grand Prix Act 1994 - Between 7 a.m. and 1 a.m. the following morning (excluding 7 a.m. to 10 a.m. on Sunday morning).</p> <p>Whilst the rooftop bar will have the ability to operate at these times, we have been advised that the actual trading hours are generally Sunday to Thursday 12pm to 10pm and Friday to Saturday 12pm to 12am.</p> <p>The existing liquor licence affords the Middle Park Hotel to operate at the above-mentioned trading hours.</p> <p>The ability to play live music in the form of a solo or acoustic duo or DJ playing music is proposed seven days a week. At all other times music will be played at background level.</p> <p>The Acoustic Assessment (prepared by Octave Acoustics) has also recommended mitigation and management measures with regards to controlling music and patron noise. Noise levels will be monitored by a noise limiter. Noise associated with the licensed premise will be governed by Environment Protection Regulations 2021 Part 5.3 (EPR 2021) and EPA Victoria Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues Publication 1826.4 (Publication 1826.4). (Previously known as SEPP N-1 and SEPP N-2).</p> <p>Patron dispersal will be monitored by staff to ensure that patrons leave the premises in an orderly manner to not create any unreasonable impacts.</p> <p>The hours of operation are consistent with a Late Night (General) Licence and generally consistent with the expected trading hours for an entertainment use in an activity centre. The identified sensitive land uses are not expected to be unreasonably impacted by the licensed venue due to their distance from the venue and that noise will be mitigated through compliance with the relevant regulations.</p>
Impact of the number of patrons on the amenity of the surrounding area	<p>The rooftop bar will have a maximum capacity of 200 patrons.</p> <p>Venue staff will be positioned at a host station in the ground floor guest lounge adjacent to the lift to direct and monitor patrons. Patrons will queue (if required) in the guest lounge and along Armstrong Street to ensure there is no impact or impediment to pedestrians. During peak times, the queue will be monitored by staff and controlled by a licensed crowd controller.</p> <p>The rooftop bar will operate in a similar manner to the existing Hotel by providing a food offering and a high proportion of seating for patrons.</p> <p>The licensed premise is supported by a fully functioning kitchen and food will be available during hours of operation.</p> <p>The "Comer Hotel" decision (Swancom Pty Ltd T/as Comer Hotel v Yarra City Council &amp; Ors) acknowledges that <i>Licensed premises</i>,</p>



Clause 52.27 Decision Criteria	Assessment
	<p><i>including restaurants and cafes, which have a substantial food focus and a high proportion of seating have a lower risk of adverse amenity impacts.</i></p> <p>No new patrons will be permitted to access the rooftop bar from 11.30pm (on nights when trading is until 1.00am) to help ensure there is a natural reduction of patrons. This also assists in controlling patron dispersal from the Hotel at closing time.</p> <p>The subject site is accessible to transport options, including the Middle Park Light Rail station which is located directly opposite the site. Kerbside car parking is located along Armstrong Street which after 6pm there are no time restrictions.</p>
<p>Cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area</p>	<p>The proposed licensed venue is located within an area with a defined cluster of licensed premises. A cluster of licensed premises is to be expected as part of an activity centre context. It is however noted that there are a limited number of licensed premises within 500m of the site.</p> <p>In assessing potential cumulative impact, the type and number of venues is considered. As previously addressed, a large majority of the licensed premises within 100m of the site operate under a restaurant and café licence, there are two premises allowing the sale of packaged liquor and one Football Club. It is therefore observed that this area is not categorised by large, late night licensed premises, that are typically associated with alcohol related harm.</p> <p>The rooftop bar introduces a new entertainment space at an established licensed venue. In this context, the proposal does not add a new licensed premise in the area. The Hotel whilst serving the needs of the local community is often regarded as a destination location for special events, particularly around Grand Prix time.</p> <p>The licensed premise can contribute to positive cumulative impact in the area by providing a new type of entertainment space (rooftop bar). It is our understanding that there are no rooftop bars within proximity of the site. The proposed rooftop bar will be established at an iconic venue in Middle Park that can capture unique views across to Albert Park Lake and the surrounding area.</p> <p>The licensed venue is not unlike the characteristics of a restaurant by providing food throughout the hours of operation and a high proportion of seating for patrons. The rooftop bar is envisaged to provide for a relaxed environment. It can be therefore contrasted with other licensed premises that do not provide food, are larger venues and provide limited seating.</p> <p>The Noise and Amenity Action Plan will ensure the appropriate operational conditions are implemented to limit unreasonable impacts from the licensed venue.</p> <p>The limited number of the licensed venues in the immediate surrounding area and the associated characteristics of the venue will increase the offering of consumer choice and complement the role of the activity centre.</p>

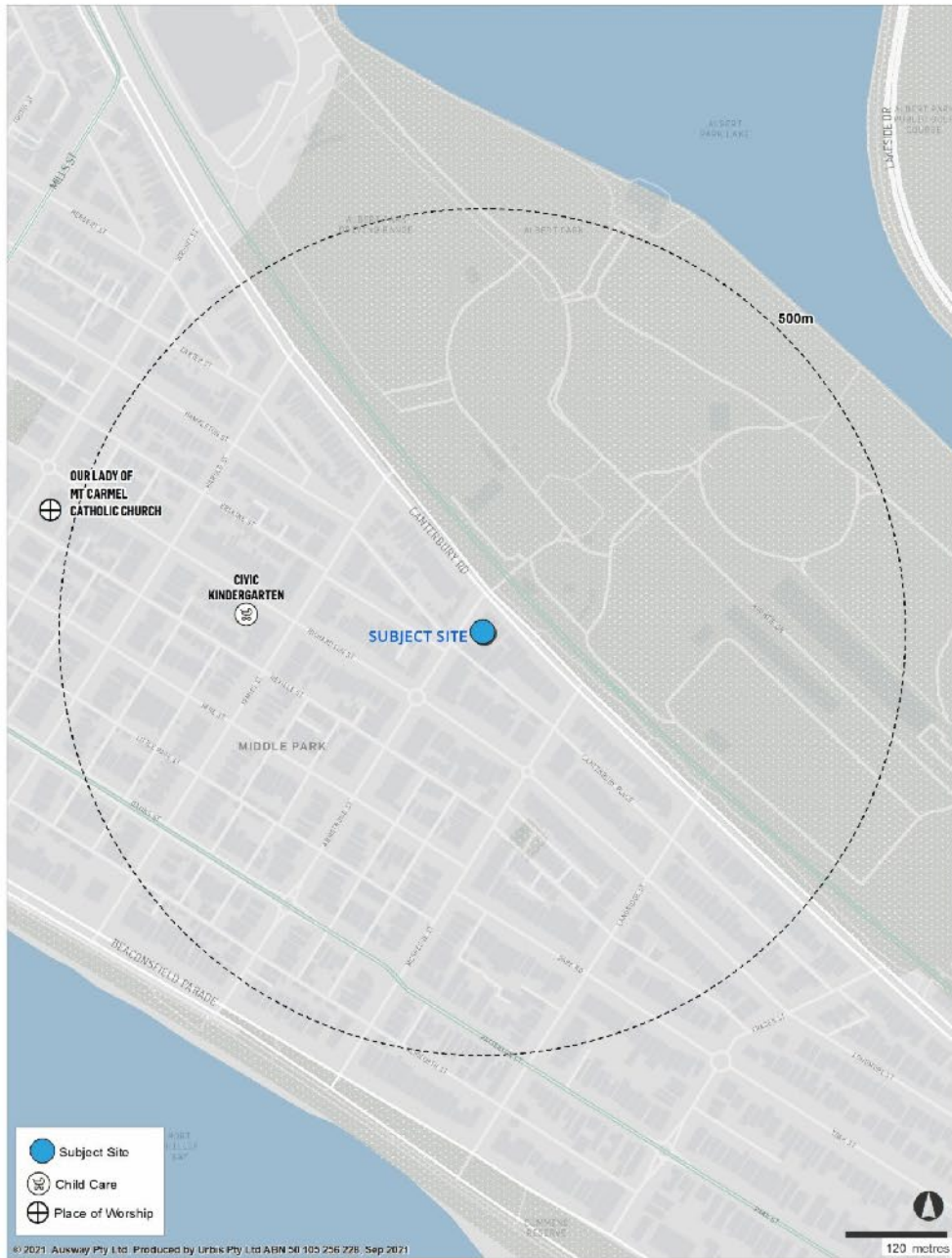
## 5.2. SURROUNDING LAND USE MIX AND AMENITY

PPN61 acknowledges that a diversity of uses and activities can add to the vibrancy of an area. It is therefore important to consider the existing level of amenity in the area and what are the reasonable amenity expectations. In this context, considering the site's locational characteristics and the location of other licensed premises and sensitive uses can assist in determining the amenity level of the area.

The Middle Park Hotel is located in the Armstrong Street neighbourhood activity centre. The activity centre is characterised by a range of uses to support the local community including retail, medical, office and entertainment. The Hotel is located opposite the Middle Park Light Rail station and within proximity to Albert Park. Residential land uses within close proximity of the site are generally located to the north west along Canterbury Road and to the south east along Canterbury Road and Richardson Street.

As per the Practice Note, sensitive uses are considered to be any sites that facilitate children's services, primary and secondary school education, and organised gatherings of communities. The purpose of this overview of surrounding land uses is to assess the impact of the application on amenity as well as respond to possible concerns about harm minimisation. That is to say, there may be specific circumstances where there is a clear sensitivity between a land use and a venue that sells liquor.

There is only one identified sensitive land use within a 500m radius of the subject site, being Civic Kindergarten located 279m from the site.



**URBIS** **102 CANTERBURY ROAD, MIDDLE PARK**  
**SENSITIVE USES**

Figure 8 – Sensitive land uses

### 5.3. THE MIX OF LICENSED PREMISES

The mix of licensed premises has been addressed in Section 4.0 of this report.

The rooftop bar will be the only one of its kind within proximity of the site.

It is observed that whilst the site is located in a cluster of licensed premises, many of the existing licensed premises are associated with restaurants/cafes or packaged liquor. The Power House Amateur Football Club is also distinguished from a typical bar or hotel given it generally caters for members/guests or private functions.

PPN61 identifies that an *area with mix of restaurants, cinemas and small bars may have fewer impacts than an area with primarily large bars and nightclubs*. In this context, the rooftop bar is not located in an area categorised with large bars or nightclubs and the general mix of licensed premises are not considered high-risk venues.

The licensed premises in the surrounding area are not high-capacity venues catering for more than 200 patrons. The Power House Amateur Football Club (53m) and the Middle Park Bowling Club (135m) are likely to have capacity for more than 200 patrons, however as addressed above sporting club venues generally cater for members/guests or private functions and can be distinguished from other large, licensed venues.

The proposed rooftop bar will contribute to the diversity and vibrancy of the Armstrong Street neighbourhood activity centre. The venue provides a high proportion of seating and will make food available throughout trading hours which are characteristics known to reduce excessive alcohol consumption.

### 5.4. TRANSPORT AND DISPERSAL

This section examines the transport accessibility of the site by private and public transport modes and discusses the implications for patron access and dispersal.

Patron dispersal will be managed in accordance with the Noise and Amenity Action Plan to ensure appropriate management of patrons at all times. As addressed above, no new patrons will be permitted access to the rooftop bar from 11.30pm (when the venue trades to 1.00am) to assist in a natural reduction in patron numbers and to assist in patron dispersal.

Venue staff and security at The Middle Park Hotel Rooftop will ensure that all patrons leave quietly and in an orderly fashion. In this regard, staff and security will use their best endeavours to request that patrons 'move on' and disperse quietly from the area. Further, staff will patrol the perimeter of the Hotel and give particular attention to Armstrong Street and Canterbury Road to ensure that the amenity of residents in the area is protected.

Middle Park Light Rail Station is located directly opposite the site along Canterbury Road. The Station provides access to Albert Park, South Melbourne, Southbank and the CBD to the north and St Kilda to the south east via the Tram route no.96. Tram route no.112 also operates to the south of the site along Patterson Street/Danks Street. A bus service operates along Armstrong Street.

There is provision for kerbside parking along Armstrong Street and Canterbury Street where limited restrictions apply after 6pm.

The site is accessible to both an on-road bike lane (Canterbury Street) and informal bike routes within proximity of the site.

The site is located in the Principal Public Transport Network (PPTN), which recognises that the site is highly accessible to public transport services.

In addition to these public transport options, patrons increasingly utilise ride-booking services, such as Uber, for transport. Ride booking services are typically a quick and safe transport option that will assist in dispersing patrons from the area in a timely manner.

*(Refer to the Noise and Amenity Action Plan prepared by Australian Venue Co.)*

## 5.5. IMPACT MITIGATION

### 5.5.1. Overview

Mitigation measures have been included in the proposal as a means of limiting its cumulative impact, including:

- The rooftop bar will be managed in accordance with the Noise and Amenity Action Plan.
- Music will be controlled by a noise limiter and will comply with the applicable EPR 2021 music noise limits.
- Venue staff will patrol the perimeter of the Hotel and give particular attention to Armstrong Street and Canterbury Road to ensure that the amenity of residents in the area is protected.
- Providing a high proportion of seating which is known to reduce the risk of vertical drinking
- Making food available throughout the hours of operation.

### 5.5.2. Local Law

In relation to liquor, the City of Port Phillip's Community Amenity Local Law 2013 (No 1) allows that:

*54. Consumption of liquor*

*Offence to consume or possess liquor in an unsealed container*

*(1) A person must not:*

*(a) in or at a public place; or*

*(b) in or on a vehicle which is on or at a public place consume any liquor or have in his or her possession or control any liquor other than liquor in a sealed container in that part of the municipal district designated by Council.*

*Penalty: 10 penalty units*

*Offence to possess liquor in a sealed container*

*(2) Without limiting sub-clause (1), a person must not:*

*(a) in or at a public place; or*

*(b) in or on a vehicle which is on or at a public place*

*possess liquor in a sealed container in that part of the municipal district designated by Council, except where the possession is for the transport of liquor to premises referred to in sub-clause (3).*

*Penalty: 10 penalty units*

*Exceptions*

*(3) Sub-clause (1) does not apply to a person:*

*(a) taking part in a special event in respect of which the Council has granted a permit for persons to consume liquor or to have in their possession or control any liquor other than liquor in a sealed container;*

*(b) within authorised premises or licensed premises under the Liquor Control Reform Act 1998 or any subsequent legislation relating to the serving and consumption of liquor; or*

*(c) who has been granted a permit to take liquor into an area designated by Council.*

*Authorised officer may issue directions*

*(4) Where an authorised officer believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the authorised officer may direct the person to seal any container or dispose of the contents of any unsealed container.*

*Offence to fail to comply with a direction*

*(5) A person to whom a direction is given under sub-clause (4) must comply with that direction.*

*Penalty: 10 penalty units*

It is considered that the Council's local law is a relevant and suitable mitigation tool to limit the potential for on street liquor consumption.

## 6. CONCLUSION

The proposed rooftop bar will expand the entertainment offering of the Middle Park Hotel. The Hotel is located in the Armstrong Street neighbourhood activity centre, where a wide range of uses, including entertainment uses, are envisaged in order create vibrancy and economic viability. The licensed premise will deliver positive cumulative impacts to the area by providing a new rooftop that will provide views across to Albert Park Lake.

The proposed rooftop bar demonstrates a high level of consistency with the requirements of the Port Phillip Planning Scheme, including Clause 52.27. The proposed rooftop bar performs well against the requirements of PPN61 to ensure cumulative impact is limited.

It is for these reasons we find the proposal to be highly appropriate.

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