

**261 Mount Dandenong Tourist Road, Ferny Creek
Development and Use of land for a Food and Drink
Premise and Caretakers House**

Specific Controls Overlay 6

Incorporated Document

May 2024

This document is an incorporated document in the Yarra Ranges Planning Scheme pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*.

INTRODUCTION

This document is an incorporated document in the Schedule to Clause 45.12 Specific Controls Overlay of the Yarra Ranges Planning Scheme.

The land identified in the document may be used and developed in accordance with the specific controls contained in the document.

If there is any inconsistency between the specific controls contained in this incorporated document and any other provision of the Scheme including the provisions under section 2 of the Schedule to Clause 51.03, the specific controls in this incorporated document will prevail.

PURPOSE

The purpose of the specific site control is to facilitate the use and development of the land for the purpose of a food and drink premise and a caretaker's house without the need for a planning permit unless required by the provisions of this document.

ADDRESS OF THE LAND

261 Mount Dandenong Tourist Road, Ferny Creek (the Land).

THIS DOCUMENT ALLOWS

1. The development of the land generally in accordance with the layout in the plans prepared by Taylors Engineers, dated 18 July 2001, Drawing Number 8562E/R1, approved by the responsible authority on 22 December 2003, but modified in accordance with the requirements in this document.

The buildings and works shown on the Approved Plan must not be altered unless with the written consent of the responsible authority.

A planning permit is required for buildings and works not shown on the Approved Plan unless otherwise authorised by this document.

2. The use of the land for the purpose of a food and drink premise and a caretaker's house without the need for a planning permit subject to compliance with the conditions of this document.

THE DEVELOPMENT AND USE OF THE LAND FOR A FOOD AND DRINK PREMISE MUST COMPLY WITH THE FOLLOWING CONDITIONS

Development Plans

1. Before the development and use starts, a development plan must be submitted to, and approved in writing by, the responsible authority. The plan must be generally in accordance with the layout in the plans prepared by Taylors Engineers, dated 18 July 2001, Drawing Number 8562E/R1, approved by the responsible authority on 22 December 2003, but modified to show:
 - Modification to the car park layout to provide appropriate vehicle maneuvering from all car spaces, including cutting back an existing landscape island to achieve adequate access aisle width for the 2 car bays adjacent to car space no. 35, generally in accordance with figure 15 of the evidence of Charmaine Dunstan dated 4 September 2013.
 - Provision of bicycle facilities in accordance with Clause 52.34.
 - Any acoustic attenuation measures required under an approved Noise Management Plan.
 - All drainage from car parking areas directed to a legal point of discharge.
2. Before the development and use starts, a Landscape Plan must be submitted to and approved by the responsible authority. The plan must show landscaping required in response to the works required by the provisions of this incorporated document, and must be prepared with the input of the Country Fire Authority to meet the requirements of Clause 53.02 (Bushfire Planning).

Management Plans

3. Before the use starts, a Traffic Management Plan prepared by a suitably qualified traffic engineer must be submitted to, and approved in writing by, the responsible authority. The Traffic Management Plan must address, but is not limited to:
 - (a) Management of bus drop-off and collection of patrons; and
 - (b) Vehicle egress only from the Mount Dandenong Tourist Road access point after 7.00pm.
4. Before the use starts a Venue Management Plan must be prepared to the satisfaction of the responsible authority. This Venue Management Plan must address:
 - (a) Details of the provision of music, including prohibition of live music;
 - (b) Management of any outdoor areas to minimise impacts on the amenity of nearby properties, including areas for smoking;

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- (c) Waste management, including;
 - i. Demonstration that provision for storage is adequate and well screened.
 - ii. Demonstration that deliveries from waste generation areas to waste storage areas are workable in operation.
 - iii. Requirement that bottles must be bagged inside the premises during operational hours and must not be emptied into any external refuse bins after 9.00pm or before 7.00am Monday to Saturdays and after 9.00pm or before 10.00am on Sundays, to the satisfaction of the responsible authority.
 - iv. Restriction of waste collection to the hours of 9.00am and 8.00pm.
 - v. Prohibition of bottle crushing from being carried out on the subject land.
 - (d) A complaint management process which provides for the logging of complaints, contact details, responses to verified complaints, consultation with the local community and access to data by officers authorised by the responsible authority, the Director of Liquor Licensing, the Environment Protection Authority and Victoria Police;
 - (e) Venue safety, including on days of high fire danger. This must include a bushfire emergency plan to the satisfaction of the CFA; and
 - (f) Limitation of liquor consumption to occurring only inside the premise and on the outdoor terrace.
5. Before the use starts, a Noise Management Plan prepared by a suitably qualified acoustic consultant must be submitted to, and approved in writing by, the responsible authority. The Noise Management Plan should be generally in accordance with the methodology, criteria and mitigation measures as set out in the report prepared by Marshall Day Acoustics dated 4 September 2013. The Noise Management Plan must address but is not limited to:
- (a) Measures to ensure noise limits specified in this document are not exceeded;
 - (b) Management of the use of outdoor terrace areas including:
 - I. Consideration of the number of patrons that may be present at any one time; and
 - II. That the areas may not be used after 10.00pm other than as a smoking area.
 - (c) Measures to limit music noise, including a tamper proof music noise limiting system in the house sound system which must be used for all amplified music played in the premise to ensure compliance with limits set under SEPP N-2;

- (d) Measures to control noise from deliveries and waste disposal;
- (e) Attenuation of the mechanical services equipment to comply with limits set under SEPP N-1. This includes assessment and attenuation, if necessary, of noise from the operation of the sewerage treatment plant pump;
- (f) The extent and design of noise barriers along the north-west and south-west boundaries and installation of a 1.8 metre high glass or Perspex screen to mitigate noise from the outdoor terrace;
- (g) Consideration of the impact of the premise doors opening and closing and the need for mitigating measures; and
- (h) Verification by a suitably qualified acoustic practitioner that the actual noise levels experienced when the food and drink premise is operating in the evening and night time periods comply with relevant criteria. The verification should relate the noise levels at 72 Hilton Road, 259 Mount Dandenong Tourist Road and 8 and 10 Breen Terrace.

Any measures identified in the approved Noise Management Plan must be implemented to the satisfaction of the responsible authority.

The approved Noise Management Plan must be complied with at all times to the satisfaction of the responsible authority.

Amenity and Noise Emission

- 6. The use hereby permitted shall not cause nuisance to persons on adjoining land or prejudicially affect the amenity of the neighbourhood, to the satisfaction of the responsible authority.
- 7. Noise emitted from the premises must not result in noise levels at the dwellings on adjoining properties that exceeds:
 - (a) the permissible noise level in respect of mechanical equipment as determined in accordance with EPA Guideline Noise in Regional Victoria (NIRV) (or the applicable policy at the time); and
 - (b) the permissible noise level for entertainment noise as specified in State Environment Protection Policy N-2 Control of Music Noise from Public premises (or the applicable policy at the time).
- 8. Noise from patrons and vehicles on the land must not result in noise levels at the dwellings on adjoining properties that exceeds:
 - (a) Day and evening (6.00am-10.00pm): the higher of 45 dBLAeq or L90+10 dB; and
 - (b) Night (10.00pm- 7.00am): the higher of 40 dBLAeq or the measured LA90+5dB.
- 9. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.

10. No external sound amplification equipment, loud speaker, alarm or siren or other audible signalling device shall be installed on the land.

Number of patrons

11. No more than 100 patrons may be present on the premises at any one time without the written consent of the responsible authority.

The responsible authority may agree to the presence of more than 100 patrons on the site on no more than twelve (12) days per year, and only between the months of October and March (inclusive) and under no circumstances beyond 125 patrons.

Hours

12. The premises may be open to patrons between the following hours:

- (a) Monday – 7.00am to 10.00pm
- (b) Tuesday – 7.00am to 10.00pm
- (c) Wednesday – 7.00am to 10.00pm
- (d) Thursday – 7.00am – 10.00pm
- (e) Friday – 7.00am – 11.00pm
- (f) Saturday 7.00am – 11.00pm
- (g) Sunday 7.00am – 10.00pm
- (h) Public Holidays 7.00am – 10.00pm

The responsible authority may agree to extend the time the premises may be open to patrons on no more than twelve (12) days per year, and only between the months of October and March (inclusive) and under no circumstances beyond 11.00pm.

BUILDINGS AND WORKS DECISION GUIDELINES

In determining a permit application for buildings and works, the responsible authority shall consider, as appropriate:

- The need to protect the amenity of existing residents.
- The need to minimise adverse impacts on the character and appearance of the area.
- The need to minimise adverse impacts of the siting, design, height, bulk, colours and materials to be used on major roads, landscape features and vistas.

END OF DOCUMENT