

AGENDA - ORDINARY MEETING OF COUNCIL – 5 JULY 2017



8.8	142 CHAPEL STREET, ST KILDA
LOCATION/ADDRESS:	142 CHAPEL STREET, ST KILDA
GENERAL MANAGER:	CLAIRE FERRES MILES, PLACE STRATEGY AND DEVELOPMENT
RESPONSIBLE MANAGER:	GEORGE BORG, MANAGER CITY DEVELOPMENT
AUTHOR:	JESSICA LADLOW, SENIOR URBAN PLANNER
TRIM FILE NO.:	PF16/710245
ATTACHMENTS:	1. Plans 2. Floor plan 3. Objector Map
WARD:	Canal Ward
TRIGGER FOR DETERMINATION BY COUNCIL:	More than 15 objections
APPLICATION NO:	PI151/2016
APPLICANT:	Kim Belfield Consultants Pty. Ltd.
EXISTING USE:	Vacant (previously used for the purpose of trade supplies)
ABUTTING USES:	Commercial and residential
ZONING:	Mixed Use Zone
OVERLAYS:	Design and Development Overlay – Schedule 21 Special Building Overlay – Schedule 1 Environmental Audit Overlay
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

PROPOSAL

To use the land for purposes of a convenience restaurant, a waiver of car and bicycle parking requirements, buildings and works and the installation and display of signage.

I. EXECUTIVE SUMMARY

- 1.1 This application seeks approval to use the existing premises for purposes of a convenience restaurant with an associated waiver of car and bicycle parking requirements, buildings and works and the display of advertising signs.
- 1.2 Nineteen objections have been received. The key concerns relate to the hours of operation, car parking/traffic, pedestrian safety, noise, odours, amenity impacts, rubbish disposal/collection, loading and unloading of vehicles and health impacts.



- 1.3 Following a consultation meeting held on 2 May 2017, the permit applicant agreed to a condition being placed on any permit issued requiring the installation of an ‘Electrostatic Precipitator’ which has a purification efficiency of more than 95% on fumes and odour.
- 1.4 A convenience restaurant is considered acceptable land use given the site is in the Mixed Use Zone in the Carlisle Street Activity Centre. Subject to permit conditions to abate odour and noise emissions, it is considered that the proposed convenience restaurant would not unreasonably impact the amenity of the nearby residentially zoned land.
- 1.5 Given the availability of public car parking in the immediate area, it is considered appropriate to waive seven of the required number of car parking spaces for the proposed use of the existing premises for a convenience restaurant.
- 1.6 The proposed buildings and works are considered minor and do not raise planning concerns although matters relating to Health and Local Laws have been raised. The proposed signs would be installed in locations that would not detract from residential amenity nor contribute to visual clutter and would lead to the removal of an unsightly and large existing above-verandah sign.
- 1.7 The proposal is recommended for approval, subject to conditions.

KEY ISSUES

- 1. Car parking and traffic
- 2. Amenity impacts

2. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
129/2002	Construction of a mixed use development comprising four storeys and an articulated fifth level, including one ground level tenancy, nine apartments (seven x one bedroom and two x two bedroom), and 10 on-site car spaces.	Approved	7 January 2003
48/2011	Minor buildings & works & new signage associated with use for a 34 seat convenience restaurant and shop operating 7am - 6pm daily with associated car parking dispensation	Approved	22 July 2011



732/2011	Use of the building for trade supplies	Approved	28 September 2011
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3. PROPOSAL

- 3.1 A planning permit is sought to use the land for purposes of a convenience restaurant and waiver of car and bicycle parking requirements, buildings and works and the installation and display of associated advertising signs.
- 3.2 A “convenience restaurant” is defined by the Planning Scheme as “*land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises*”. Typically, this land use is similar to a café or restaurant but also provides take away food.
- 3.3 The convenience restaurant would have 24 seats, and the hours of operation would be:
- Sunday – Thursday 11am to 11pm
 - Friday and Saturday 11am to 1am
- 3.4 The leasable floor area of the site has an overall area of approximately 256 square metres and no on-site car parking would be provided as part of the proposal.
- 3.5 The application proposes internal alterations for which no planning permit is required, as the building footprint would not be altered.
- 3.6 A roller door along the northern (side) elevation would be replaced with a partition, with no change to the opening.
- 3.7 A mechanical exhaust would be installed, with two flue shafts projecting one metre above the roofline.
- 3.8 Eight business identification and promotional signs would be installed, detailed as follows:
- Western (front) elevation
- Two internally illuminated business identification signs, one measuring 3.35m in width and 1m in height, installed along the fascia, the other measuring 1.2m by 0.63m installed above the verandah.
 - One internally illuminated promotional sign displayed in the window, measuring 0.94m by 1.04m.
 - One non-internally illuminated business identification sign installed on the entry door, measuring 0.26m by 0.37m.
 - An internally illuminated promotional sign displayed in the window and measuring 1m by 0.35m.



Northern (side) elevation

- An internally illuminated business sign along the fascia measuring 3.35m by 1m.
 - One internally illuminated promotional sign displayed in the window, measuring 0.94m by 1.04m
 - A non-internally illuminated business sign, measuring 0.09m by approximately 6.9m, applied horizontally to the northern elevation, and extend to be partially applied to the western elevation.
- 3.9 The plans that form the basis for this assessment were prepared by Jason Wright Design, Drawing No's A101, A103 - A106, A114, A115, Revision C and Signcepts Drawing No's 1-6 of 6. All drawings are Council date stamped 7 January 2017.

4. SUBJECT SITE AND SURROUNDS

- 4.1 The site occupies the corner of Chapel and Rosamond Streets with its frontage to Chapel Street.
- 4.2 The site is rectangular in shape, with a frontage of 10.1m and a depth of 30.3m, with an overall site area of approximately 308m². An unnamed Right of Way, with an approximate width of 4.2m abuts the eastern (rear) boundary of the subject site. The Right of Way runs parallel to Chapel Street, between Rosamond Street and Nightingale Street to the south of the subject site and provides rear vehicular access to properties fronting Chapel Street.
- 4.3 The building has a hard edge built form along Chapel Street and is mostly constructed to the title boundary along Rosamond Street and the unnamed Right of Way, with the exception of an access way for an on-site loading zone which is accessed from the rear Right of Way.
- 4.4 The building, which is currently vacant, was previously used for the purposes of trade supplies ("Balaclava Glass"). Signage already exists along the canopies to both frontages and on a large V shaped above the Chapel Street verandah.
- 4.5 The frontage as it presents to Chapel Street comprises clear glazing. Roller doors are installed along the eastern (rear) elevation as well as the northern (side) elevation.
- 4.6 Adjoining the subject site to the south (side) is 144-150 Chapel Street which has been developed with a two storey mixed used development, comprising a retail tenancy, and two leisure and recreation facilities (a gym and a flotation tank centre) at ground floor level. At first floor level are commercial office spaces, including the office for 'Tipple', an online alcohol delivery service.
- 4.7 To the north (side) of the subject site at 128-140 Chapel Street is a five storey mixed use development which occupies the entirety of the block between Marlborough Street and Rosamond Street. At the north-west corner (corner of Chapel Street and



Marlborough Street) of the site is a medical centre (chiropractor) and at the south-west corner (corner of Chapel Street and Rosamond Street) is a shop (hairdresser). Car parking for this building is at grade, and accessed from Marlborough Street and Rosamond Street, with residential apartments above. The building has a hard edge construction to all boundaries.

- 4.8 To the east (rear) of the subject site is an unnamed paved Right of Way with an approximate width of 4.2m. The eastern interface of the subject site is sited opposite the western (side) boundary of the dwelling at No. 1 Rosamond Street, Balaclava which also abuts the unnamed Right of Way. Rosamond Street is a residential street, and No. 1 Rosamond Street has been developed with a detached single storey Victorian-era cottage with a minimal side setback from the western (side) boundary opposite the subject site. There are no windows along the western (side) elevation of No. 1 Rosamond Street which face the subject site.
- 4.9 St Kilda Primary school is located opposite the subject site.
- 4.10 The subject site is located in the Carlisle Street Major Activity Centre (CSMAC) in the Chapel Street Mixed Use and Residential Precinct (Precinct 6). Within the CSMAC is a diverse range of commercial and retail uses and services, community facilities and residential uses.
- 4.11 On street parallel car parking is available along Chapel Street. To the north of the subject site is restricted 1/4 hour on street parking between 8am-9.30am and 2.30pm-4pm Monday to Friday and one hour parking at all other times between 9.30am and 6pm Monday to Saturday and 8am – 6pm Sunday. The south side of Rosamond Street contains restricted (two hours) between 8am and 6pm Monday to Saturday, with the northern side of Rosamond Street permit parking only between 8am and 6pm Monday to Saturday.

5. PERMIT TRIGGERS

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

Zone or Overlay	Why is a permit required?
<p>Clause 32.04 Mixed Use Zone</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 32.04-2, no permit is required for a “food and drink premises” (including convenience restaurant) on the condition that: <ul style="list-style-type: none"> ○ The leasable floor area must not exceed 150 square metres. <p>As the leasable floor area of the site exceeds 150 square metres (256 square metres) a permit is required for the use of the site as a food and drink premises (convenience restaurant) (Section 2 Use).</p> <ul style="list-style-type: none"> ▪ Pursuant to Clause 32.04-14, advertising sign requirements are at Clause 52.05. This zone is Category 3.

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<p>Clause 43.02 Design and Development Overlay Schedule 21</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 43.02-2, a permit is required to construct or carry out works.
<p>Clause 44.05 Special Building Overlay</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 43.02-2, a permit is required to construct or carry out works. This does not apply to an alteration to an existing building where the original building footprint remains the same and floor levels are constructed to at least 300mm above flood level. <p>As there would be no change to the original building footprint or floor levels, no permit is required.</p>
<p>Clause 45.03 Environmental Audit Overlay</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 45.03-1, before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either: <ul style="list-style-type: none"> ○ A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or ○ An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use. <p>As the proposed convenience restaurant use is not defined as one of the sensitive uses, Clause 45.03-1 does not apply.</p>
<p>Clause 52.05 Advertising Signage</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 52.05-9, a permit is required to install a business identification sign, an above-verandah sign, an internally illuminated sign and a promotion sign. The advertisement area of the promotion signage must not exceed 2 square metres.
<p>Clause 52.06 Car Parking</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 52.06-2, before a new use commences, the number of car spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority. ▪ A permit is required to reduce the number of car parking spaces required under Clause 52.06-5. ▪ A convenience restaurant requires 0.3 car parking spaces to each patron permitted <p>A total of eight (7) car parking spaces are required pursuant to Clause 52.06-5 for the proposed use.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<ul style="list-style-type: none"> ▪ Pursuant to Clause 52.34-3, before a new use commences, the number of required bicycle facilities and associated signage must be provided on the land. ▪ A permit is required to vary, reduce or waive the number of bicycle spaces required under Clause 52.34-3 ▪ A convenience restaurant requires 1 bicycle space to each 25 square metres of floor area available to the public and 2 for visitors/shoppers. <p>51 square metres of floor area would be accessed by the public. A total of four (4) bicycle spaces are required pursuant to Clause 52.34-3.</p>



6. PLANNING SCHEME PROVISIONS

6.1 State Planning Policy Framework (SPPF)

The following State Planning Policies are relevant to this application:

- Clause 11: Settlement
- Clause 15: Built Environment and Heritage
- Clause 17: Economic Development

6.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 21.04 Land Use
- Clause 21.05 Built Form
- Clause 21.06 Neighbourhoods, including
- Clause 21.06-6 St Kilda
- Clause 22.08 Outdoor Advertising Policy
- Clause 22.11 Carlisle Street Major Activity Centre Policy

6.3 Other relevant provisions

- Clause 52.05 Advertising Signs
- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

7. REFERRALS

7.1 Internal referrals

The application was referred to the following areas of Council for comment.

Council's Traffic Engineer:

Existing use of the site:

- The site has, up until recently, been utilised as a glazier's shop.

Proposed change:

- To use the premises to accommodate a 24-seat Domino's Pizza Convenience Restaurant / Take Away.
- Operation hours: 11am-11pm Sunday to Thursday, 11am-1am Friday and Saturday.
- 1. Car park and accessway



- The site has a carport (approx. 5.7m x 3.2m) at the rear which can be used for loading, waste collection and staff parking.
 - Along the northern side of the premises in Rosamond Street is a 'Loading Zone' (8am-6pm Monday-Friday). This may no longer be required by the pizza shop therefore, can be converted to short term parking which would allow customer parking for the restaurant and reduces impact to other local residents.
 - They must indicate a parking area/method for delivery vehicles / motorbikes.
2. Vehicle crossover
- No change to the existing layout of access to the rear loading area.
 - There is an existing garage door and crossover along the north side of premises in Rosamond Street. As shown on the submitted report, it seems that this garage door is to be sealed off therefore, it is recommended that the crossover be removed and reinstated with nature strip and kerb/channels. This would allow additional on-street parking for the pizza shop customers.
3. Bicycles
- Staff bicycle spaces can be provided on site in the rear storage area.
 - Bicycle racks cannot be installed on Chapel and Rosamond Streets along the restaurant property boundaries due to the widths of footpath.
4. Pedestrians
- Customer access to the restaurant is via Chapel St.
 - The restaurant would have minimal impact on pedestrian movements in Chapel St and Rosamond St.
5. Traffic generation in local area
- The restaurant customers are expected to generate some short-term parking demand in the area however, the impact should be low considering the time required for a pick up or dine in at a pizza shop.
 - The generated traffic flow and parking demand should have minimal impact to the area during the day and peak school hours.
6. Loading and waste collection
- Loading/unloading and waste collection (private contractor) will be made through the rear loading area.
7. SUMMARY



The following items will need to be addressed on traffic engineering grounds:

- *If the restaurant provides delivery service, parking arrangement details must be provided for their delivery vehicles / motorbikes.*
- *Indicate Council if the existing 'Loading Zone' in Rosamond St is still required.*

Planner Comment:

Clarification was sought from the applicant concerning the details of the parking arrangements for the scooters used for delivery purposes and whether the existing Loading Zone is still required.

The applicant advised that the existing loading area on the corner of Rosamond St and the rear Right of Way would be utilised for occasional loading and parking for delivery vehicles/scooters during business hours and then stored indoors out of business hours.

The applicant also advised that the crossover on Rosamond St could be removed and the crossing closed off/footpath reinstated as it would no longer be used for vehicular access, thus providing additional on street parking. The reinstatement of the crossover along Rosamond Street could be required as a condition on any permit issued (refer recommended Condition 1b and Condition 4).

Objectors are concerned about potential noise generated from the activity of delivery (loading and unloading) along the Rosamond Street frontage. It has been suggested that the parking space in front of the subject site could be reallocated for the purposes of loading delivery scooters so as to divert this activity from Rosamond Street.

Council's Traffic Engineers advise that they support this outcome and would undertake the necessary converting of parking signs if and when the use commences.

Accordingly, it is recommended that a condition be included on any permit issued requiring that scooters must only use the dedicated parking space to be created in Chapel Street, with the exception of the purpose of moving scooters to within the premises for storage overnight (refer recommended Condition 9).

Staff bicycle parking can be provided within the building. There is no location for publicly accessible bicycle spaces within the premises. Further, Council's Traffic Engineers advise that it is the footpaths are too narrow to accommodate a bicycle rack on the footpath. Accordingly a waiver of the bicycle parking requirement is recommended.

Council's Health Officer:

The proposal installation of an 'Electrostatic Precipitator' to control fumes and emissions was referred to Council's Health Officer for comment. The following referral comments were received:



The health approval process (prior to registration) is not a mandatory requirement. Essentially a food premises can be constructed without our involvement. However prior to opening the proprietor would need to obtain registration which require a satisfactory inspection to ensure the construction standards have been met.

Having said that, the food regulations – Australian New Zealand Food Standards Codes – only talk about a “premises having sufficient mechanical ventilation to effectively remove fumes” There are explanatory details making reference to Australian Standard 1668.2 for compliance with mechanical exhaust, however this is actually the Building code requirement. AS1668.2 sets out minimal heights to the flue systems, minimal distances from adjacent buildings as well specific flow rates.

However there really isn't any odour control measure with AS1668.2, so if there are objections or concerns with the potential odours then I would suggest permit conditions such as the Electrostatic Precipitator or odour neutralising devices, there are other options like carbon filters. These measures effectively absorb odour prior to be discharged through the flue and require ongoing maintenance.

Planner Comment:

Refer recommended condition 11 which would require an Electrostatic Precipitator be installed

Council's Waste Management Officer:

I have reviewed the Waste Management Plan for 142 Chapel Street and all the requirements have been met.

External referrals

The application was not required to be externally referred.

8. PUBLIC NOTIFICATION/OBJECTIONS

8.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (73 letters) and directed that the applicant give notice of the proposal by posting two notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

8.2 The application has received 19 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 9):

- Health impacts of having a 'Domino's' fast food chain opposite a primary school

The interpretation of what constitutes 'healthy' food is not a relevant consideration within the Planning Scheme. The proposed convenience restaurant use is discretionary within the Mixed Use Zone, and the health impacts of having such a use opposite a primary school is not a matter that can be considered under the planning provisions.



- Odour emission and air pollution

The emission of odour or fumes is a matter which is controlled by Council's Health Department under separate legislation and is not a planning matter. Nonetheless, the applicant has suggested a permit condition requiring the installation of an 'Electrostatic Precipitator' which has a purification efficiency of more than 95% on fumes and odours. The offer is accepted (refer recommended Condition 12 and Condition 13).

- Waste Management

Council's Waste Management department have approved the proposed Waste Management Plan. Conditions stipulating the hours, location and collection of rubbish would be required as conditions on any permit issued (refer recommended Condition 7).

- Loading and unloading of vehicles
- Car parking and traffic
- Neighbourhood character
- Amenity impacts to residential street
- Noise
- Hours of operation

8.3 A consultation meeting was held on 2 May 2017 which was attended by a Councillor, a Council Officer, the permit applicant, the client of the permit applicant and five objectors. This helped to clarify the issues, and resulted in the agreement to include a condition requiring an air purifying system (refer recommended Condition 12 and Condition 13), to the satisfaction of Council's Health Officer, but did not lead to the withdrawal of any objections or any other modifications to the proposal.

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

9. OFFICER'S ASSESSMENT

9.1 Policy considerations:

The site is situated within a Mixed Use Zone where the use of the land for purposes of a convenience restaurant is a Section 1 Use (no permit required) if the leasable floor area does not exceed 150m². The leasable floor area of the site is 256m². A planning permit for the use therefore required. The purpose of the Mixed Use Zone, as relevant to the proposed use, is:

- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*

The following decision guidelines are included at Clause 32.04-13, where Council must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*



From a policy perspective, the proposed convenience restaurant is consistent with the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF). The subject site is located in the Carlisle Street Major Activity Centre, and the SPPF, in particular Clause 11.03-2, encourages a broad mix of uses in activity centres to include a range of services over longer hours appropriate to the type of centre and needs of the population served.

Clause 21.04 (Land Use) of the Municipal Strategic Statement outlines that Port Phillip's Mixed Use Zones provide for a range of residential, commercial, industrial and other uses that complement the mixed use function of the locality. As specified at Clause 21.04-3, the Chapel Street, Balaclava Mixed Use Area has a designated primary strategic role and function for the intensification of housing, and secondary/supporting functions in commercial/office roles and for active ground floor uses.

The site is within Precinct 6 - Chapel Street Mixed Use and Residential Precinct, of the Carlisle Street Major Activity Centre Policy (Clause 22.11). Relevant objectives of Precinct 6 are to:

- *Encourage the use and development which contributes to residential growth within the activity centre.*
- *Discourage licensed premises (bars/taverns, restaurant and nightclubs).*

The proposal does not include an application for a liquor licence. The subject site is located within a row of mixed use tenancies fronting Chapel Street (144-154 Chapel Street), comprising a shop and two restricted recreation facilities at ground floor level, and office space at first floor level. The site is in the Mixed Use Zone of the Carlisle Street Major Activity Centre and the residentially zoned land of Rosamond Street to the east (rear) of the site.

It is important that the range of uses is managed appropriately to ensure that residential amenity is protected and at the same time ensuring that commercial opportunities are not unreasonably constrained. The amenity impacts are considered below.

9.2 General amenity:

The proposed convenience restaurant is considered appropriate from a general amenity perspective for the following reasons:

- The convenience restaurant use would have a publically accessible area of 64m² (approximately 25% of the overall floor area). The remainder of the site would be used for purposes of storage (99m²) and the kitchen area (93m²) of the convenience restaurant.
- The convenience restaurant would have a maximum of 24 patrons which is a relatively small number within a Mixed Use Zone. The patrons would enter and exit the premises by the Chapel Street frontage, with no public entrances or exits proposed along the Rosamond Street frontage.



This would direct foot traffic away from the residential precinct to the east of the site. Furthermore, the publically accessible section of the convenience restaurant would be contained within the front of the building, away from the residential interface.

- As defined in Clause 74 of the Port Phillip Planning Scheme, a ‘Convenience Restaurant’ is ‘land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises’. The applicant has provided statistics for the Domino’s Pizza in St Kilda (1/12 Fitzroy Street, St Kilda) which shows that pizza deliveries account for an approximate average of 46% of the sales transactions at the St Kilda Domino’s Pizza over the course of a week, resulting in nearly half of the food and drink prepared and sold by the premises being consumed off-site. The remainder of the average sales transactions (approximately 54%) were for pick-up orders.

9.3 Deliveries:

Scooters

The applicant has advised that deliveries will predominantly be undertaken by scooters. These scooters are electric and the applicant supports a condition of permit that would require that electric scooters be used (refer recommended Condition 8). The objective is that electric scooters would be quieter than motorcycles.

To further reduce amenity impacts, it is recommended that a car space be provided for scooter parking on Chapel Street. At the end of each day the scooters may be parked in the on-site storage area to the west (rear) of the building but during operating hours and loading/unloading the vehicles must be parking in the dedicated space. (Refer recommended Conditions 8 & 9).

Bicycles may be used for delivery purposes at any time.

Delivery Vehicles

Delivery is less frequently made by cars. To address amenity impacts, the loading and unloading of delivery cars can only occur along the Rosamond Street Right of Way during daylight hours (recommended condition 9), and the delivery car is to be parked in the on-site loading space during this time.

Restricted car parking within the vicinity of the subject site ceases at 6pm and after this time, the loading and unloading of delivery cars could occur within the available on-street car parking spaces.

9.4 Noise:

The proposed hours of 11am-11pm Sunday to Thursday and 11am-1am Friday and Saturday would broaden the mix of uses to include a range of services over longer hours appropriate to the zone, within an Activity Centre and the needs of the population served.



However, to manage any resultant noise concerns from trading later in the day and into night, conditions on any permit issued should require:

- Collection of rubbish only occur between 7am and 8pm Monday to Saturday and 10am to 8pm public holidays and Sundays (refer recommended Condition 7).
- The installation of a new door to the loading zone that is baffled and/or acoustically insulated to minimise noise and vibration (refer recommended Condition 1c)
- Where motorcycles are used for delivery, they must be electric scooters (refer recommended Condition 8).
- Restrict the loading and unloading of vehicles from Rosamond Street or the abutting Right of Way to daylight hours (refer recommended Condition 9).

9.5 Fumes:

Whilst fumes is typically a matter to be considered under separate legislation in conjunction with registration by Council's Health Services Unit, the applicant has agreed to a permit condition requiring the installation of an 'Electrostatic Precipitator' which has a purification efficiency of more than 95% on fumes and odour, to abate odour emissions from the premises (refer recommended Condition 12 and Condition 13).

9.6 Advertising Signs:

Internally illuminated and non-internally illuminated business identification and promotional signage is proposed to be installed and displayed. The proposed signage would not be excessive, and a high degree of visibility into the building would be maintained.

Pursuant to Clause 52.05 (Advertising Signs) the area of promotional signs must not exceed 2m². The proposed area of the promotional signs would be 2.29m², and a condition on any permit issued should require that the area of promotional signs does not exceed the permitted level (refer recommended Condition 1a).

The proposed signage is otherwise considered appropriate as the signs are adequately separated from the residentially zoned section of Rosamond Street, and would not impact upon the residential amenity of the area.

9.7 Car Parking and Traffic

The proposal requires a reduction to the standard car parking requirements of Clause 52.06. A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5. The rate prescribed for a convenience restaurant is 0.3 car parking spaces to each patron permitted (24). A total of seven car parking spaces are required. No on-site car parking spaces would be provided.



At the time of approval, the previous use of the site as a 'trade supplies' was not a defined use in the table at Clause 52.06-5, therefore number of car spaces was to be provided to the satisfaction of the responsible authority. No car parking spaces were provided on the site for the previous use as a 'trade supplies'. Under the current planning scheme, the rate of car parking required for a 'trade supplies' is 10 per cent of the floor area, therefore 25 car parking spaces would have been required for the previous use of the site as a 'trade supplies' which far exceeds the seven car parking spaces generated for the proposed 'convenience restaurant use'.

A reduction to the standard requirements of Clause 52.06 is considered acceptable given the site is located in the Carlisle Street Major Activity Centre and taking into consideration the credit from the previous land use. It is a long standing principle accepted by the Tribunal that car parking commercial centres should not be required in a case by case manner. Rather, a holistic, area-wide approach needs to be taken with provision of car parking provided in a collective precinct-wide basis. This is because few premises in commercial centres have the capacity to provide car parking on site, and this should not prevent the evolution and economic development of these centres.

Much of the business relates to the delivery of pizzas (up to 50%). For consumption on the premises, given that the convenience restaurant would serve the local community, it is highly likely that many patrons would use active transport methods such as cycling and walking.

For vehicle trips to the convenience restaurant, there is the availability of restricted 1/4 hour on street parking located along the west side of Chapel Street between 8am and 9.30am and between 2.30pm and 4pm Monday to Friday and one hour parking at all other times between 9.30am and 6pm Monday to Saturday and 8am – 6pm Sunday. On the south side of Rosamond Street there is restricted two hour car parking between 8am and 6pm Monday to Saturday, with the northern side of Rosamond Street restricted to permit parking only between 8am and 6pm Monday to Saturday. After 6pm, there are no parking restrictions in place.

The applicant has provided a traffic and parking survey conducted by O'Brien Traffic Engineers. The traffic and parking survey found that there is sufficient car parking available within the survey area to accommodate parking demand associated with the proposed convenience restaurant. More specifically, the parking survey indicates there is typically sufficient availability of parking in the locality with a minimum of 41 spaces during weekday evenings, a minimum of 15 spaces during a Saturday midday and a minimum of 27 spaces during a Saturday evening.

As submitted in the traffic and parking survey, given the peak hour for a convenience restaurant does not typically coincide with the on-road commuter peak hour, the proposed convenience restaurant is anticipated to have little, if any, impact on the surrounding road network.

A reduction to the standard requirements of Clause 52.06 is considered acceptable given the small scale of the proposal (24 patrons), the focus on home delivery, the location of the site in the Carlisle Street Major Activity Centre, the likely low demand for on-street car parking, the high turnover of patrons and the parking credit from the previous land use, and the availability of restricted one and two hour parking within the vicinity of the subject site.



10. COVENANTS

The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 on Title Plan I30711B [Parent Title Volume 07788 Folio 016].

11. OFFICER DIRECT OR INDIRECT INTEREST

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

12. OPTIONS

- 12.1 Approve as recommended
- 12.2 Approve with changed or additional conditions
- 12.3 Refuse - on key issues

13. CONCLUSION

- 13.1 It is considered that the proposed convenience restaurant is acceptable and subject to the recommended conditions would not result in unreasonable amenity impacts to the adjoining neighbourhood subject to conditions as outlined below.
- 13.2 The location and use of the premises as a convenience restaurant would be consistent with the relevant considerations outlined in the State Planning Policy Framework (SPPF), Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF).
- 13.3 The proposed use would be appropriately located in a Mixed Use Zone in the Carlisle Street Major Activity Centre, and would replace a “trade supplies” use.
- 13.4 The proposed waiver of car and bicycle parking requirements is considered acceptable given the availability of restricted one and two hour on-street parking in the area, and the likely low demand of car parking generated from the proposed use.



14. RECOMMENDATION - NOTICE OF DECISION

- 14.1** That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- 14.2** That a Notice of Decision to Grant a Permit be issued to use the land for purposes of a convenience restaurant and waiver of car and bicycle parking requirements, buildings and works and installation and display of internally illuminated and non-internally illuminated business identification, an above verandah sign and promotional signage at 142 Chapel Street, St Kilda.
- 14.3** That the decision be issued as follows:

1 Amended Plans required

Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (identified as) but modified to show:

- a) The area of the promotional signage not to exceed 2 square metres.
- b) Reinstatement of the crossover along the Rosamond Street frontage to the north (side) of the subject site.
- c) The removal of the roller door along the eastern (rear) elevation adjacent to the loading area along the Right of Way and its replacement with a new door to the loading zone that is baffled and/or acoustically insulated to minimise noise and vibration.

2 No Alterations to buildings and work

The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

3 Layout of Use Not to be Altered

The layout and description of the use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

4 Vehicle Crossings – Removal

Before the use commences, the disused or redundant vehicle crossings must be removed along Rosamond Street to the north (side) of the site, and the area reinstated with footpath, nature strip and kerb and channel and a bicycle parking space at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.



5 SEPP N-1 and N-2

Noise levels must not exceed the permissible noise levels stipulated in State and Environment Protection Policy N-1 (Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area) and State Environment Protection Policy N-2 (Control of Music Noise from Public Premises) to the satisfaction of the Responsible Authority.

6 Storage and Disposal of Garbage/Waste Management

Before the use commences, provision must be made for the storage and disposal of garbage to the satisfaction of the Responsible Authority. All garbage storage areas must be screened from public view and an adequate waste management arrangement must be provided for the premises, in accordance with Council's Local Law No. 1 (Community Amenity) 2013 to the satisfaction of the Responsible Authority.

7 Regulation of Deliveries and Rubbish Collection

Without the further written consent of the Responsible Authority deliveries to and from the site, including rubbish collection, must only take place between:

Rubbish collection from 7am to 8pm Monday to Saturday and 10am to 8pm public holidays and Sundays

Deliveries to the site, once the use commences must only occur via the Chapel Street entrance.

8 Electric Scooters for delivery

Motorcycles used for deliveries must be electric scooters, to the satisfaction of the Responsible Authority.

9 Loading and Unloading of Delivery Vehicles and Scooters

During operating hours, delivery scooters must only be parked and loaded/unloaded only in a dedicated parking space provided in Chapel Street to the satisfaction of the Responsible Authority.

10 Mechanical Exhaust

Before the use starts the kitchen(s) mechanical exhaust system must be constructed in accordance with the Australian Standard number 1668 and/or to the satisfaction of the Responsible Authority.

11 Treatment of Fumes

Fumes from any convenience restaurant must be treated within the mechanical exhaust system to ensure that any discharge does not create a nuisance (as defined under the Public Health and Wellbeing Act 2008). Options available include carbon filters, ultra violet ozone producing lamps, electrostatic precipitation, odour neutralising system or other suitable method. The method of treatment must be designed, installed, operated and maintained to the satisfaction of the Responsible Authority.



12 Installation of an ‘Electrostatic Precipitator’

Before the use commences, the Permit Operator must install and maintain an ‘Electrostatic Precipitator’ filtration system, to abate the emission of fumes and odours from the premises, to the satisfaction of the Responsible Authority.

13 Signs not Altered

The location of the signs (including the size, nature, panels, position and construction) shown on the endorsed plan must not be altered without the prior written consent of the Responsible Authority.

14 Hours of Operation

Without the further written consent of the Responsible Authority the operation of the use is permitted only between the hours of:

- Sunday - Thursday 11am to 11pm
- Friday and Saturday 11am – 1am

15 Number of patrons

Without the further written consent of the Responsible Authority no more than 24 patrons must occupy the premises during operating hours.

16 Time for starting and completion

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

- a) The use is not commenced within two (2) years of the completion of the development.
- b) The use is not commenced within two (2) years of the date of the permit (where permit is for use only).

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires

17 Time for starting (signage)

This Permit will expire if the advertising sign(s) is/are not displayed within two (2) years from the date of this Permit.

The Responsible Authority may extend the time referred to if a request is made in writing before the Permit expires or within the three (3) months after the expiry date.



Permit Notes:

- **Approval Required for Signs**

Unless no permit is required under the planning scheme, other signs must not be constructed or displayed without a planning permit.

- **Waste Collection**

The applicant must consult with Council's Waste Management Department regarding the location of waste bins and collection options.

- **Building Approval Required**

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

- **Other Approvals May be Required**

This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of the City of Port Phillip or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

- **Environmental Health**

The premises must comply with the Food Act 1984 and the Food Standards Code and must be registered with Council's Health Services Unit before the use starts.