

2 RESTAURANT AND TAKE AWAY FOOD PREMISES AT 329 BELGRAVE-GEMBROOK ROAD, EMERALD

FILE REFERENCE INT1644478

RESPONSIBLE GENERAL MANAGER Phil Walton

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RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T160008 be issued for the use of the land for a restaurant and take away food premises, sale and consumption of liquor and a reduction in the car parking requirements of Clause 52.06 of the Cardinia Planning Scheme at 329 Belgrave-Gembrook Road, Emerald subject to the conditions attached to this report.

Attachments

1	Locality map	1 Page
2	Development plans	5 Pages
3	Letters of objection circulated to councillors only	1 Page

EXECUTIVE SUMMARY:

APPLICATION NO:	T160008
APPLICANT:	Paul Douglas
LAND:	329 Belgrave-Gembrook Road, Emerald Victoria 3782
PROPOSAL:	Use of the land for a restaurant and take away food premises, sale and consumption of liquor and a reduction in the car parking requirements of Clause 52.06 of the Cardinia Planning Scheme
PLANNING CONTROLS:	Mixed Use Zone Bushfire Management Overlay, Design and Development Overlay Schedule 4, Vegetation Protection Overlay Schedule 3
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers and placing a sign on site. One (1) objection has been received.
KEY PLANNING CONSIDERATIONS:	Appropriateness of Use, Impact of Car Parking Reduction
RECOMMENDATION:	Notice of Decision to Grant a Planning Permit

BACKGROUND:

The subject site has been subject to a number of planning permits including T020602 issued on 21 September 2004 for an office building which has expired. Additionally, Planning Permit T050578 was issued on 13 January 2006 for a three lot subdivision.

A more recent approval was T130195 was issued on 23 May 2014 and was amended on 17 August 2015 for the development of the land for five (5) shops, two (2) offices, alteration of access to a RDZ1, reduction of required of Clause 52.07 (loading and unloading of vehicles), earthworks, creation of easement and removal of vegetation. This approval included a three storey building with undercroft parking and external parking at the rear of the building with access from the rear laneway with shops located at ground floor level and first floor office space.

SUBJECT SITE

The site is located on the north-west side of Belgrave-Gembrook Road approximately 100 metres north east of Kilvington Drive in Emerald. The site consists of two allotments, lot 1 currently contains a split level brick dwelling and gravel car parking area at the rear with lot 2 is currently vacant. The land slopes to the north-west and is steep towards the front section of the site.

The site includes a current approval for a development of the land for five shops and two offices including a three storey building with undercroft parking and additional parking at the rear of the site. The construction of this development has not commenced.

The main characteristics of the surrounding area are:

- | | |
|-------------|---|
| North West: | Madigan's Way (sealed road) defines the north west property boundary of the site. Further to the north single residences on large allotments are located. |
| North East: | The property to the north east is a split level office and car parking area with parking located within the front setback and adjacent to the subject site. |
| South East: | Belgrave-Gembrook Road defines the southern property boundary, this road reserve includes a small nature strip with footpath and above ground powerlines located adjacent to the subject site. The roadway includes parallel street parking and two way road reserve. |
| South West: | A single storey childcare centre is located on the site directly west of the subject site. |

PROPOSAL

The proposal is the use of two previously approved shops noted as shops 4 and 5 with floor areas of 100.43 square metres and 111.02 square metres located at the north eastern end of the approved development as a restaurant and take away food premises.

The restaurant is the relocation of an established business within the Emerald Township that requires floor space to combine both the café/restaurant (The General Food Store) and catering businesses (The Grub Club) within one premises.

The proposal includes 60 patrons during business hours and 75 patrons outside business hours with the total hours of operation 8.00am – 11.00pm seven days a week.

The application includes the sale and consumption of alcohol on the site with red line covering the internal floor area and a kerbside seating area adjacent to the site.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.01 Activity Centres
- Clause 17.01-1 Business
- Clause 17.03 Tourism
- Clause 18.02-5 Car Parking

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04 Economic development
- Clause 21.04-1 Employment
- Clause 21.04-3 Activity Centres
- Clause 21.04-5 Tourism
- Clause 21.07-3 Local Areas - Emerald

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car parking
- Clause 52.27 Licence premises
- Clause 52.29 Land adjacent to a Road Zone Category 1
- Clause 52.47 Planning for bushfire
- Clause 65 Decision guidelines
- Emerald Township Strategy

Zone

The land is subject to the Mixed Use Zone

Overlays

The land is subject to the following overlays:

- Vegetation Protection Overlay – schedule 3.
- Design and Development overlay- schedule 4.
- Bushfire Management Overlay

PLANNING PERMIT TRIGGERS

The proposal for the use of the land for a restaurant and take away food premises, sale and consumption of liquor and a reduction in the car parking requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.04-1 of Mixed Use Zone a permit is required for the use of a food and drink premises (restaurant and takeaway food premises) greater than 150 square metres.
- Pursuant to Clause 52.06 of the car parking provisions a planning permit is required for a reduction in car parking.
- Pursuant to Clause 52.27 of the 'Licensed premises' a permit is required for the sale and consumption of liquor

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site

The notification has been carried out correctly, and Council has received one (1) objection to date with a number of letters of support from surrounding businesses.

The key issues that were raised in the objections are:

- Impact on surrounding business given surrounding parking areas are at capacity during most times during the day
- Use will add to traffic congestion and is located at dangerous section of road
- No objection to the use as long as ample on-site parking is provided, this type of business should meet the requirements of Clause 52.06
- Impact on pedestrian safety

REFERRALS

Victoria Police

The application was referred to Victoria Police for comment no response has been received.

DISCUSSION

State and Local Planning Policy Framework

The proposal is for the relocation of a well-established business in the Emerald Township that provides economic development within the township that supports tourism which is encouraged by both the State and Local Planning Policy Frameworks. The Emerald township strategy (2009) highlights this area of Emerald as being ideal for restaurants and cafes as a way to attract visitors to Emerald.

Additionally, the strategy identifies this area covered in the design and development overlay as an area to promote active uses that promote evening and weekend activity. The Design and Development Overlay Schedule 4 (DDO4) was gazetted and approved on July 23 2015 and has been derived from elements of the Emerald township strategy.

The subject site is located within the Central mixed use precinct. As noted the proposed development has been previously approved on the site and the application is for the use which is strongly supported through the State and Local Planning Policy and particularly Emerald Township Strategy. The issues with regard to car parking for the proposed use has been appropriately managed through the control of patron numbers to ensure that on-site parking can adequately accommodate the use that is consistent with the strategic direction of the township.

Use

The proposal includes the use of two previously approved shops for a restaurant and takeaway food premises. The use requires a permit as the proposed floor area exceeds 150 square metres which is an 'as of right' no permit required use in this zone. The location of the site is appropriate for the restaurant use with a number of restaurants located within the central mixed use area and the township. The use has strong support from the Planning Policy Framework of the Planning Scheme as such it is considered that the use of restaurant and takeaway food premises is appropriate for the site.

Car parking

The provision of car parking for the development is assessed against the provisions of the Cardinia Planning Scheme in accordance with Clause 52.06-5 in the following table:

Land Use	Floor area	Car parking ratio	Total patrons	Requirement	Available onsite and shortfall
Restaurant (Business Hours)	211.45m ²	0.4 spaces per patron	60	24	8 for the premises previously approved shop plus 6 additional spaces (14 spaces)
Restaurant (Outside Business Hours)	211.45m ²	0.4 spaces per patron	75	30	8 for the premises previously approved shop plus 6 additional spaces (14 spaces)
TOTAL				37 (permit requirement)	43 spaces (endorsed plans) Shortfall: 10 spaces during business hours 16 spaces outside business hours

In considering a parking reduction, Council must consider the availability of alternative parking in the locality, availability of public transport, impact on adjoining uses, previous uses and impact on the local traffic management of the area.

The overall development that has been approved on the site under Clause 52.06 includes the requirement of thirty-seven (37) on site spaces with the endorsed plans noting forty-three (43) spaces as such an additional six (6) spaces will be provided on the site that can be allocated to the proposed use. Additionally, the approved use of shops the site has eight (8) allocated spaces for

the proposed floor area that will be occupied by the restaurant has such it could be considered that the use will include fourteen (14) on site spaces.

The traffic report prepared by Ratio, highlights the State Governments Practice Note 22 (June 2015) specifies that the provisions for reducing the car parking requirement draw a distinction between the assessment of likely demand for parking spaces (the Car Parking Demand Assessment), and whether it is appropriate to allow the supply of fewer spaces than assessed by the Car Parking Demand Assessment.

The Traffic Engineering Assessment included a survey on Friday 6 November 2015 with the area observed accommodating 233 car parking spaces with parking occupancy rates varied during business hours with 61% at 12:00noon and 2:00pm with outside business hours generally 34%. During the surveyed day of Saturday 21 November 2015 within the space car parking spaces the occupancy rates were 73% with a noted 64 spaces available during the survey period. The report noted that the demand is high during business hours and weekends with outside these times the parking demand declines. The survey demonstrates that car parking is typically subject to parking controls and relatively high on street car parking turnover.

The Traffic Engineering Assessment which, using evidence of the occupancy of other car parking in the area and availability of these spaces throughout the day/week as detailed above, determines that the car parking already existing in the vicinity of the site will be adequate to provide for the shortfall of ten (10) car spaces that will not be provided for onsite during business hours.

The application was referred to Council's Traffic Engineering Department, who expressed concerns in relation to the potential overflow of car parking from the future businesses. However, the traffic engineering assessment as detailed above, provides evidence that there are sufficient car parking spaces available during business hours to cover the shortfall of ten (10) spaces and can be accommodated on site during out of business hours through the use of the on-site parking spaces associated with 'office' use of the site.

Pursuant to Clause 52.06-6 which includes decision guidelines for the reduction in car parking, the following is highlighted in support of the reduction in car parking:

- A number of patrons of the currently established business within the township provide shared car trips reducing the car parking demand for the site.
- It is reasonable to assume that the out of office hours' office parking spaces associated with the overall development could be utilised by patrons. The office spaces include a total of eighteen (18) on site spaces which will cover the shortfall associated with the restaurant use.
- It is likely that patrons will be visiting the township for a number of purposes, either locals visiting the township for multiple purposes (i.e. shopping, banking etc.) or tourists generally visiting a number of businesses within the township. As such some of the car parking demand for the site will shared in the wider site context can be accommodated within the established township.
- The site is located within close proximity of public transport including the bus stop located to the south west of the site.
- It is expected that a large proportion of customers to the development will be generally short stay customers with length of stay not generally greater than 2 hours.

- Empirical evidence has been provided by the applicant to shows restaurant uses within a number of locations generally include parking demand of 0.28 spaces per seat during the day and 0.4 spaces in the evening noting that parking demand will generally be less than the requirement during daytime hours under Clause 52.06.
- The development of the overall site will result in the removal of crossovers on the Belgrave-Gembrook Road frontage given the location of the parking at the rear of the site as such will increase on street parking adjacent to the site.
- The reduction in car parking will not impact on the economic viability of the established activity centre, rather the use will accommodate a well-established business within the Emerald Township.

Whilst the development has a shortfall in car parking, the proposed development will provide for economic growth in relation to business development and job opportunities within Emerald and supports a currently established business in Emerald. As such, a balanced approach to ensuring business, business growth, business retention and job opportunities are created, against the potential impact of the car parking reduction must occur. For the above reasons, it is officer's view that this proposal achieves this balance.

Licensed premises

As discussed previously, it is considered the location of the business proposed meets the purpose of the zone and the Emerald Township Strategy. Council officers support the development of a licenced premise on this site although the proposed redline plan, which indicates the location of the sale and consumption of liquor, will require some adjustment to remove the takeaway area and be restricted to the liquor storage areas and serving areas. This can be achieved through permit conditions.

Objectors concerns

The objector is from the operator of another restaurant located to the north on Belgrave Gembrook Road. The objection relates to the reduction in car parking requirements, impacts on the traffic congestion, traffic safety and pedestrian safety. The following is a response to each of the objectors concerns:

Reduction in car parking

As detailed above the reduction in car parking can be managed on the site and provides an appropriate balance between nurturing local businesses that contribute to the economy and tourism in the area with the potential impacts of overflow parking as detailed above. The applicant has reduced the patron numbers during business hours reducing the potential impact with the on-site parking proposed that will not generally be utilised by other shop and office uses outside business hours can be used for additional parking for the restaurant use.

Further it is reasonable to expect that the location of the property within the Emerald Township will result in a number of patrons will have multiple use trips (i.e. trips to other businesses within the township) which provides some justification for the reduction in car parking. It is noted that the objector's business of a restaurant has had previous planning approval for the reduction in car parking similar to the proposed use.

Impacts on traffic congestion and safety

The objector noted concerns with regard to the use increasing traffic congestion which will impact on traffic safety due to the location of the site. The proposed development layout will improve the existing traffic safety through the removal of crossovers and creation of a car parking area at the rear of the site improving traffic safety in this area. As detailed above the proposed use is a relocated established business within the Emerald township and it is not envisaged that it will significantly increase traffic congestion for the township.

Impact on pedestrian safety

The objector expressed concerns with the pedestrian safety. This is noted and the submitted plans indicate the location of external seating area adjacent to the site. The current approved development includes a covered verandah over the existing footpath with an extension to the sealed areas adjacent to the subject site which will extend from the site frontage to the roadway. It is acknowledged that this area is narrow and the applicant must clearly show that the external dining areas allow for appropriate disabled access, this can be achieved through amended plan conditions.

CONCLUSION

There is in principle support for the use of a restaurant is consistent Emerald Township Strategy and will allow business investment and employment in Emerald and on balance the parking reduction will not result in detrimental impacts to surrounding properties as the use will be tailored to have reduced patron numbers during business hours and high peak parking demand can be accommodated on-site. As such the application should be supported.

CONDITIONS

1. The development must not be commenced until three (3) copies of amended plans have been submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned in metric. The plans must be generally in accordance with the submitted plans but modified to show:
 - a) Red line plan must only include the serving and restaurant area.
 - b) Kerbside seating in accordance with disability access requirements to the satisfaction of the Responsible Authority.
2. The use including the licenced premises as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The premises will operate only between the following days/times with the maximum patron numbers:
 - Monday to Friday 8.00am – 5.00pm with a maximum of 60 patrons
 - Monday to Friday 5.00pm – 11.00pm with a maximum of 75 patrons
 - Saturday & Sunday 8.00am – 11.00pm with a maximum of 75 patrons

Unless otherwise approved by the Responsible Authority

4. Before the use starts, patron management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved,

the plan will be endorsed and will then form part of the permit. The plan must be consistent with the endorsed plan(s) and include:

- a. Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons.
 - b. Signage to be used to encourage responsible off-site patron behaviour.
 - c. The training of staff in the management of patron behaviour.
 - d. Staff communication arrangements.
 - e. Measures to control noise emissions from the premises.
5. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as "the manager").
 6. The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible Authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.
 7. Without further consent of the Responsible Authority, the sale and consumption of liquor shall occur only within the confines of the premises and the designated external licensed area, as specified on the endorsed plan.
 8. Appropriate measure should be taken to ensure adequate lighting and security to the satisfaction of the Responsible Authority while the premise's is in operation.
 9. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at one time.
 10. All amplified music offered must be kept to background levels only. No external speakers used in the alfresco dining areas.
 11. Noise levels emanating from the premises must not exceed those permissible levels determined under:
 - (a) State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1.
 - (b) State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.

Permit Expiry

12. In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
 - a) The use is not started within two years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made before the expiry date or within three months afterwards.

Notes:

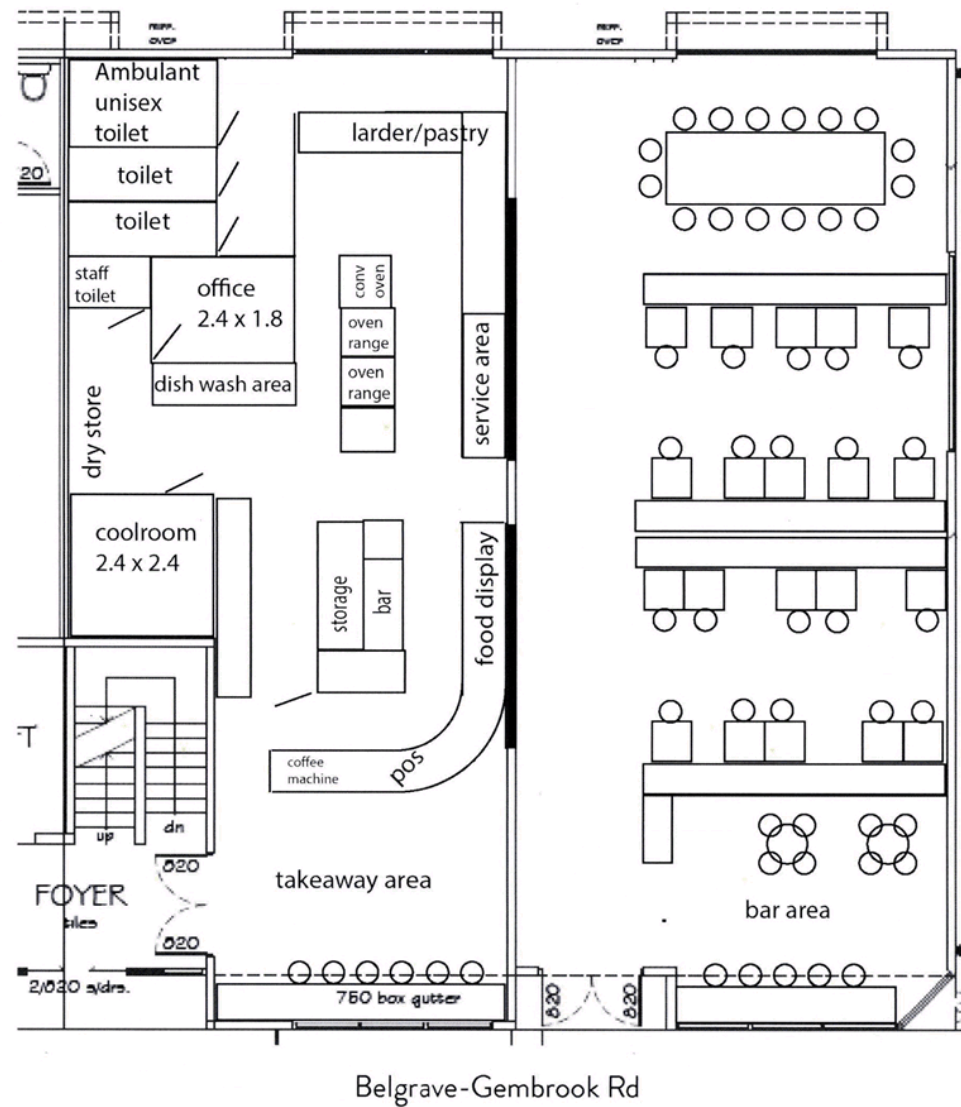
Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Public Health & Wellbeing, Food or Tobacco Acts.



16/06/2016

Proposed floor plan for shops 4 & 5:

- 75 seats inside



Premises Address:
329-331 Belgrave-Gembrook Road
Emerald, Victoria, 3782

