

3 RESTAURANT AT 3/38 LAKESIDE BOULEVARD PAKENHAM

FILE REFERENCE INT163549

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That Planning Permit T150361 be issued for use of the land for sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06 at 3/38 Lakeside Boulevard, Pakenham subject to the conditions attached to this report.

Attachments

- 1 Locality plan 1 Page
- 2 Development plans 1 Page

EXECUTIVE SUMMARY:

APPLICATION NO.:	T150361
APPLICANT:	Iyli Fachkha
LAND:	L35 PS624301; 3/38 Lakeside Boulevard Pakenham
PROPOSAL:	Use of the land for sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06
PLANNING CONTROLS:	Comprehensive Development Zone Schedule 1 Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	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. Council has not received any objections to date.
KEY PLANNING CONSIDERATIONS:	Sale and Consumption of liquor Hours of operation Reduction in car parking
RECOMMENDATION:	Approval subject to conditions

BACKGROUND:

- Planning permit T060430 was issued on the 15 January 2007 for the development of the land for six buildings for commercial and residential purposes. This permit has been amended twice, firstly on 2 December 2008 to change the use of one of the speciality shops in building A to a dentist. The second amendment was on 27 August 2010 and involved changes to the preamble including the adjustment of the uses and number of practitioners and the changes to condition 5 and 6 to reflect the changes to patron and practitioner

numbers. In terms of the subject building the change of use was from a restaurant and speciality retail to a café and, day spa, hair salon and speciality retail.

- Five of the six buildings associated with this development were constructed with the subject building known as Building B not constructed and the permit lapsed. Planning permit T120700 was issued for buildings and works to construct a commercial building (restaurant and four shops) on 17/06/2013.

SUBJECT SITE

The site is located on the western side of Lakeside Boulevard Pakenham.

The site is located within the shopping precinct therefore does not have a separate crossover or not affected by any easements.

The site is currently used as a pizza and pasta shop which is defined as a shop in the planning scheme. The site is located in the Comprehensive Development Zone Schedule 1 and the use of the land for a shop does not require a planning permit.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

North	Retail/commercial
South	Retail/commercial
East	Access Road (Lakeside)
West	Retail/commercial

PROPOSAL

Approval is sought for the sale and consumption of liquor and a reduction in car parking in association with a restaurant.

The restaurant will have a maximum of 40 patrons and will be operated during the following hours:

Monday – Sunday 5pm-10pm

As a result of the proposed change of use, 16 car parking spaces are required to be provided. The site is allocated 4 parking spaces, based on the percentage of floor space this premises contains. This results in a waiver of 12 car parking spaces being sought with this application.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.02 – Urban Growth
- Clause 17.01-1 Business
- Clause 18.02-5 Car parking

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04-1 Employment
- Clause 21.04-3 Activity Centres
- Clause 21.06-1 Design and Built Form

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking
- Clause 52.27 Licensed Premises
- Clause 65 Decision Guidelines

Zone

The land is subject to the Comprehensive Development Zone (Schedule 1)

Overlays

The land is subject to the following overlays:

- Development Contributions Plan Overlay (Schedule 1)

PLANNING PERMIT TRIGGERS

The proposal for use of the land for the sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

Pursuant to Clause 52.06 Car Parking a planning permit is required for a reduction in car parking

Pursuant to Clause 52.27 Licensed Premises, a permit is required for the sale and consumption of liquor.

The use of the land for a restaurant does not require a planning permit in this location.

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.

The notification has been carried out correctly, and Council has received no objections to date.

REFERRALS

Victoria Police

The application was referred to Victoria Police for comment. Victoria Police had no objection to the proposal and no conditions have been provided.

DISCUSSION

Sale and Consumption of Liquor and extension of hours of operation

The permit application includes a request for the sale and consumption of liquor in association with the restaurant use. It is noted that a 'red line' plan indicating where the sale and consumption of the liquor has been provided. The proposed area will contain the internal and external dining areas. These areas are considered suitable.

The sale and consumption of liquor is consistent with the restaurant use and is reasonable given the location of the premises within an established commercial area. The sale and consumption of liquor will be subject to suitable restrictions to the hours of operation and appropriate amenity conditions to ensure minimal impact on the surrounding development. As such the proposal is consistent with the established commercial area and is consistent with both the State and Local Planning Policy framework.

The proposed hours of operation are from 5pm to 10pm Monday to Sunday, which are considered reasonable for the location. The application was referred to Victoria Police who had no objection to the overall proposal. Furthermore, the hours are consistent with other similar businesses in the surrounding area, as per the following table:

Restaurant	Operating hours (Monday - Sunday)
Lime Leaf Thai restaurant (previously pizza shop)	9am-11pm (Thai restaurant is only open from 5pm-11pm)
Indian restaurant	11am-11pm
Cheeke Chooks	11am -8pm

As such, the proposed sale and consumption of liquor, and associated hours of operation are considered appropriate, and unlikely to have an adverse impact on the surrounding area.

Car Parking

Pursuant to Clause 52.06-5 of the Cardinia Planning Scheme the use of a restaurant requires the provision of 0.4 spaces to each patron permitted. As 40 patrons are proposed, 16 spaces are required.

The car parking spaces associated with the wider development have not been specifically allocated to individual premises, however for previous applications within this development, parking spaces have been allocated based on the percentage of the floor space of the overall development that each premises contains. This results in the subject premises having an allocation of four parking spaces. As such, a waiver of 12 spaces is proposed.

According to the parking assessment provided with the application, there have been approximately 130 car parking spaces available during the peak time and approximately 150 spaces during the proposed operating hours of the proposed use.

In considering a parking reduction Council must consider the availability of alternative parking in the locality, availability of public transport, impact on adjoining uses, and impact on the local traffic management of the area. The applicant has submitted a car parking assessment for the proposed use including a review of parking occupancy rates within the site and in close proximity of the site. This report indicates that a high number of spaces were available at all times with lower levels of car park occupancy during the proposed hours of operation in the evenings where the peak demand is likely for the proposed use.

In addition to the available car parking spaces in the shopping precinct it is also noted that as a result of the shop being located within the Lakeside shopping centre, the visits to the site are likely to be combined with the trips to the other shops within the shopping centre. Therefore, multipurpose trips will aid in reducing the car parking demand for the proposed use.

Lakeside Boulevard has access to public transport (bus) and located within close proximity to the Cardinia Railway Station. There are also bicycle and pedestrian links available along Lakeside Boulevard which will also help to reduce the car parking demand.

These factors have also been considered by Councils Traffic Engineer who has no objection to the proposed reduction in car parking. It was recognised that there is adequate onsite and on street parking that can accommodate for the proposed increase in the use. It is acknowledged that the likely peak times for the restaurant will be outside business hours and will minimise the likely impact on street parking for the area.

CONCLUSION

It is considered that the application is consistent with the requirements of the Cardinia Planning Scheme and should be approved subject to the amendment to conditions outlined below.

CONDITIONS

1. The licenced premises as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Except with the written consent of the Responsible Authority, the use may operate only between the hours of:
 - a) Monday – Sunday: 5pm – 1000pm
3. Not more than forty (40) seats may be made available for the restaurant at any one time to patrons on the premises, without the written consent of the Responsible Authority.
4. 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 licensed area, as specified on the endorsed plan.
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. A copy of this permit must be displayed in a conspicuous position on the premises and, where applicable, adjacent to any statutory notices required to be exhibited.
8. Cigarette disposal facilities must be placed in appropriate external locations to ensure any customer smoking litter is contained.
9. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land whilst providing appropriate measures to ensure adequate lighting and security while the premises is in operation to the satisfaction of the Responsible Authority.
10. All amplified music offered must be kept to background levels only. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
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.

Expiry of permit:

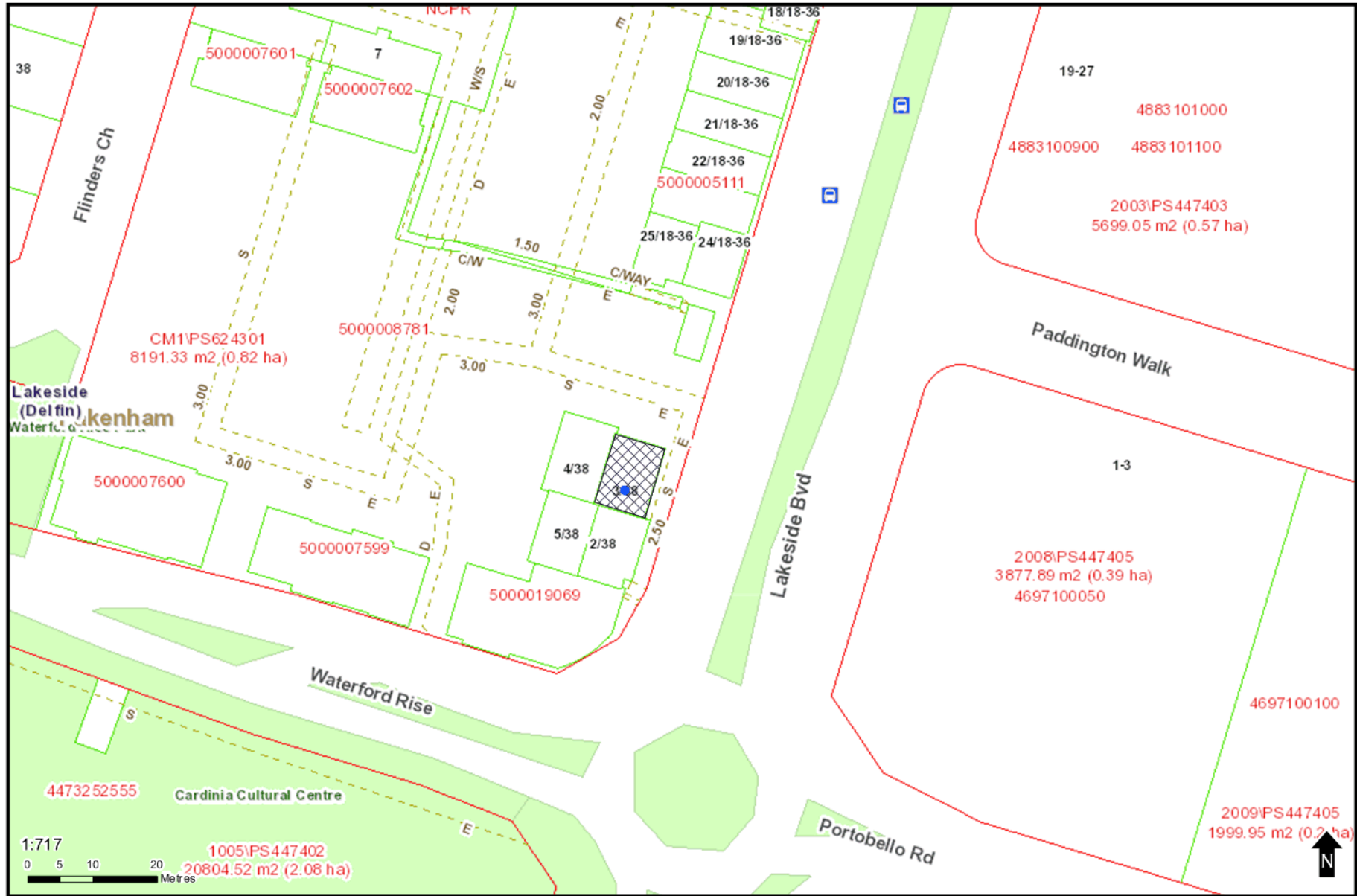
In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

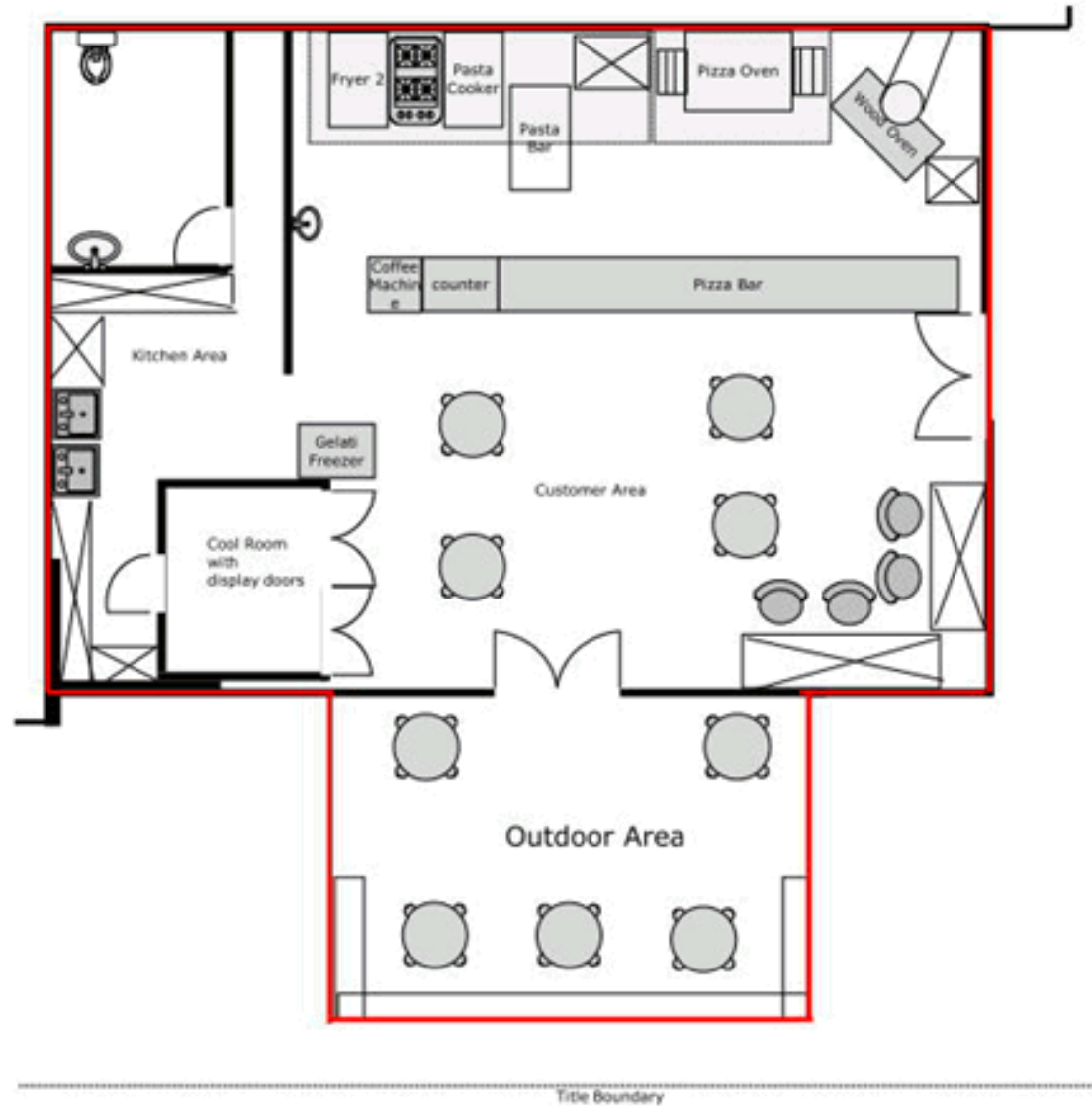
- a) The use is not started within **two (2) years** from the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

Notes

- a) Should the development be used for a commercial enterprise involving handling of food or drink, hairdressing, beauty therapy, myotherapy, colonic irrigation, skin penetration or tattooing or be providing accommodation to more than four (4) persons then the applicant must contact the Environmental Health Department for further advice concerning legislative requirements.
- b) Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Health, Food or Tobacco Acts.





Proposal for Sale & Consumption of Liquor associated with Bar/Restaurant
Lot 35, 3/38 Lakeside Boulevard, Pakenham 3810