CITY OF GREATER GEELONG

AGENDA

PLANNING COMMITTEE

MEETING NO 202

TO BE HELD AT CITY HALL
GERINGHAP STREET, GEELONG
ON
THURSDAY, 23 MAY AT 5.30 P.M.

1. Committee Members Present
2. Officers Present
3. Apologies
4. Confirmation of Minutes
5. Declaration of Interest
6. Matters for Consideration
7. Late Reports
8. Next Meeting

Cr S Asher
Chair
23 May 2019

Committee Membership
Cr S Asher (Chair)
Councillors

Distribution:
G Smith, Director – Planning & Development
J Van Slageren – City Development
J Rush – Statutory Planning
M Nigido – Building Services
G Russell – Communications & Marketing
Town Planners
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<td>Consumption of Liquor (Cafe and Restaurant Licence), Display of Business</td>
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<td>Identification Signage, and Reduction of Carparking</td>
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Application No: PP-1029-2018
Applicant: Ivelja Design
Subject Land: 1/175 McKillop Street, GEELONG
Owner: A R Cooper and O J Cooper
Zone: Residential Growth Zone 2
Overlay: Heritage Overlay 1644
Existing Use: Commercial
Proposal: Use and Development of a Food and Drink Premise (Café); the Sale and Consumption of Liquor (Cafe and Restaurant Licence), Display of Business Identification Signage, and Reduction of Car parking

Subject Site

★ Indicates nearby Objectors. Due to the map size, not all objectors have been identified.
Summary

- The subject site, 1/175 McKillop Street, is located on the northern side of McKillop Street. It is a corner allotment, located on the intersection with Garden Street. The site has a frontage of approximately 10m to McKillop Street, a secondary frontage of approximately 38.5m to Garden Street, and an overall area of 405m². A carriageway easement is located along the northern boundary that provides rear access to 176 McKillop Street.

- McKillop Street is a main road, governed by Vic Roads. It is a Road Zone Category 1. Traffic lights are located at its intersection with Garden Street. Pedestrian footpaths are provided at the front of the site along Garden and McKillop Street.

- The site is currently used for commercial purposes. The building contains three tenancies all under the one roofline. The businesses consist of:
  - A Podiatrist is located in the part of the building located along the western boundary. This business fronts McKillop Street.
  - A hairdresser was located in that part of the building located along the eastern boundary. This business fronts McKillop Street. Note: This proposal is to replace the hairdresser salon with a food and drink premise/café.
  - A day spa is located in the northern section of the building. This business fronts Garden Street and the rear carpark.

  The northern part of the site is dedicated to parking. Three on site car parking spaces have been provided on site. These spaces are accessed from Garden Street.

- The existing businesses rely on on-street parking to provide parking for their customers. Three on street parking spaces are located along Garden Street, along the property frontage. Additional formalised parking is located in Garden Street. This includes the provision of a central median strip within Garden Street that provides parking bays.

- The subject site is included in a Heritage Overlay- the City South-East Residential Area. This area is significant for its combination of architecturally diverse grand houses dating from the 1890s until the 1930s located alongside more modest residential buildings of these eras. The building is D Listed- that is, it is of Contributory Significance.

- This building has historically been used as a residence/shop. A planning permit allowed for the conversion of the front section of the building into a hairdresser salon. Subsequent permits have been issued to convert the remaining rooms into three commercial tenancies.

- The subject site and land surrounding the subject site are located in a Residential Growth Zone 2. The immediate properties surrounding the subject site are used for residential purposes.

- The site is located approximately 100m to the south of the East Geelong, Ormond Road strip shopping centre. This land is included in a Commercial 1 Zone. On street parking to support this strip shopping centre is predominately located in Garden Street and Myers Street, where the central median strip is also used for parking. The on street parking is located in a Residential Zone. The nearest median strip parking is located approximately 30m to the north of the subject site.

- The majority of commercial premises within the strip shopping centre are open during the day only. There is little to no demand for on street parking to support the commercial premises at night time.
The application seeks approval to use part of the existing building on the subject site for the purposes of a food and drink premise/licensed café, and also display advertising signs and reduction in car parking. The two other tenancies are to remain.

- It is proposed to:
  - operate 7 days a week - 7:30am – 10 pm Sunday – Saturday.
  - serve and consume alcohol between 11am to 10pm Sunday – Saturday.
  - cater for a total of 35 patrons and also allow for takeaway food.
  - Have a maximum of 5 staff on site at any time - which is less than the existing occupier of the premise (hairdresser), which can have up to 9 staff at one time.
  - Not to provide for external dining
  - Play background music inside the café
  - Limit deliveries to during the day.
  - Utilise existing bin storage areas
  - Utilise the short-term on-street car parking within Garden Street for deliveries
  - Display three advertising signs
  - Not to provide additional car spaces on site.

- The application was advertised to all owners and occupiers that adjoin and located opposite the subject site. Two signs were also placed on site, one fronting McKillop Street and the other fronting Garden Street. As a result, seven objections were received and one objection was subsequently withdrawn.

- Objections were based on lack of onsite parking, unreasonable noise, waste management, odour concerns, and impact on general amenity.

- A consultation meeting was not held at the request of the applicant. Rather, the applicant provided additional information in an attempt to address the objectors concerns and requested a decision be made on this application. This information included providing an acoustic report and information on how odour will be managed.

- The additional information provided was sent to all objectors to consider prior to the DHP meeting.

- The application was referred externally to Vic Police and the EPA and internally to Council’s Engineering, Health, Community Development (Liquor Licence) and Waste Departments. A copy of all objections were also sent to Engineering and Environmental Health to review prior to responding on this application.

- Referral comments have now been received. No objections were received, subject to conditions.

- The acoustic report submitted with this application has demonstrated that noise can be appropriately controlled on site, subject to conditions. In addition, it has been demonstrated that odour can be appropriately managed, via conditions.
• On balance, the proposal is considered to result in an acceptable outcome under the provisions of the Greater Geelong Planning Scheme. The report concludes that:
  o Opening until 10pm is reasonable. People enjoy meeting family and friends over a meal that may be accompanied by liquor. It is reasonable to conclude that most people will undertake this activity in a moderate and responsible manner. It is likely that this business will not operate to full capacity during weekdays.
  o An acoustic report that has been submitted with the application demonstrates that noise within the premise can be appropriately controlled, subject to permit conditions that include keeping the windows shut and front door shut when not in use, during business hours.
  o A condition on the permit will require a patron management plan to be prepared to ensure that customers and staff are respectful to the amenity of the area when arriving and leaving the subject site.
  o Council's Environmental Health Department have reviewed this application and determined that odour can appropriately be controlled on site, including via the appropriate installation of the wood fire oven and flue, so it does not become an amenity concern to the adjoining tenancies and the general community.
  o Council’s Engineering Department have no objection to the application, noting that:
    o the reduction in parking will not create a significant amenity concern
    o the proposal will not impact on traffic movement in the area. The site is located on a main road on a busy intersection, near a strip shopping centre. The road network can safely cater for the predicted traffic movements.
  o Council’s Waste Department have reviewed the plans and are satisfied that sufficient room has been provided on site for waste storage. They have requested a plan be prepared to outline the detail of the private waste collection. This is a standard condition applied to a commercial premises.
  o Condition can be placed on any permit issued to restrict delivery hours to respect the amenity of the area.
  o The proposed buildings, works and signage are respectful to neighbourhood character and the requirements of the Heritage Overlay.
  o The referral authorities have not objected to this application.

• As such the application is recommended for approval subject to conditions contained in this report.

Recommendation

That the Responsible Authority having considered all matters which the Planning and Environment Act, 1987, requires it to consider, decides to Issue a Notice of Decision to Grant a Planning Permit for the Use and Development of a Food and Drink Premise (Café); the Sale and Consumption of Liquor (Cafe and Restaurant Licence), Display of Business Identification Signage, and Reduction of Car parking at 175 McKillop Street, GEELONG generally in accordance with the plans submitted with the application and subject to the following conditions:
Amended Plans

1. 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 three copies must be provided. The plans must be generally in accordance with the plans that were submitted on 18th March 2019, but modified to show:

   a) That the flue construction is to be compatible with the roof cladding construction, so not to cause an adverse galvanic reaction.
   b) Clarification on the materials and finishes of the proposed signage to ensure they meet the requirements of Clause 43.01 Heritage Overlay.

Endorsed Plans

2. Except with the prior written consent of the Responsible Authority, the layout of the land and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified.

3. The location, size, and construction of the signs shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.

4. The licensed area must be limited to the area as shown on the endorsed plans and delineated by the red line plan to the satisfaction of the Responsible Authority.

Waste Management Plan

5. Prior to the use commencing a waste management plan must be submitted to and approved by the Responsible Authority. The plan must include the following:

   a) details of a regular garbage collection service.
   b) details of the estimated bin storage capacity requirements for the site and an area on the land that can accommodate the estimated bin storage requirements;
   c) the type/size of trucks suitable for pick-ups in the loading/unloading area of the site.
   d) the frequency and times of the day for the pick-ups.
   e) ensuring that waste storage and collection are consistent with conditions 22 to 25 on this permit

All to the satisfaction of the Responsible Authority.

The approved Waste Management Plan must be implemented to the satisfaction of the Responsible Authority
Patron Management Plan

6. Before the use starts, a noise and amenity plan/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. All activities forming part of the use must comply with the endorsed plan. The plan must include:

   a) staffing and other measures which are designed to ensure the orderly arrival and departure of patrons
   b) how on street parking will be encouraged in Garden Street, in formalised on street car parking bays
   c) signage to be used to encourage responsible off-site patron behaviour
   d) the training of staff in the management of patron behaviour
   e) staff communication arrangements
   f) measures to control noise emissions from the premises
   g) Confirmation that the telephone number of a person responsible for the operation of the premises be displayed in a prominent position on the external façade at all times such that adjoining neighbours and shop owners have a point of contact regarding excessive noise, unruly behaviour and other concerns. This shall at all times be maintained to the satisfaction of the Responsible Authority.
   h) Confirmation that 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 locality to the satisfaction of the Responsible Authority (referred to in this permit as ‘the manager’).
   i) Standard procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an ‘authorised officer’ of the Responsible Authority, or an officer of Liquor Licensing Victoria.
   j) Security lighting outside the premises
   k) Any other relevant precautions

All to the satisfaction of the Responsible Authority.

The approved Patron Management Plan must be implemented to the satisfaction of the Responsible Authority.

Limit on the number of persons

7. No more than 35 seats are to be provided on site at any one time. No seats or dining is to be provided outside.

Hours of operation

8. The use hereby permitted must only operate during the following times:

   • 7.30am to 10pm - 7 days a week

9. The sale and consumption of liquor must only be permitted during the following times:

   • 11am to 10pm - 7 days a week
Common Roof Space

10. Prior to the use commencing, evidence must be provided from a suitably qualified person to the satisfaction of the Responsible Authority demonstrating that the common roof space has been suitably engineered and installed to a standard as to not allow unreasonable noise and odour transfer between the tenancies on the subject site.

Odour

11. The food premises exhaust system must provide for a vertical discharge to the atmosphere at a point and velocity which allows for effective discharge so as to not create a nuisance (as defined under the Public Health and Wellbeing Act 2008, or equivalent) to the surrounding amenity.

12. The pizza oven must be installed and operated per manufacturers specifications.

Noise

13. Unless otherwise agreed in writing by the Responsible Authority, the front door of the food and drink premise (café) must remain closed at all times during business hours and only be opened to allow patrons and staff enter and exit the food and drink premise/café.

14. Unless otherwise agreed in writing by the Responsible Authority, all windows to the food and drink premise (café) must remain closed at all times during business hours.

15. No amplified music, including live amplified music, must be played or piped to external areas without the further written consent of the Responsible Authority.

16. Only background music is permitted to play within the premise.

17. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a monitored security service.

18. A notice to the satisfaction of the Responsible Authority shall be fixed in a prominent position visible to all patrons as they leave the premises. The notice shall be clearly legible and draw attention to the requirements for considerate and quiet behaviour of patrons on departing from the premises.

Deliveries

19. Delivers to and from the site must be only taken place between:

- 8am – 6pm Monday to Saturday
- 9am – 6pm Sundays and public holidays.
General Amenity

20. The amenity of the area must not be detrimentally affected by the use or development through the:

   a) Transport of materials, goods or commodities to or from the land;
   b) Appearance of any building, works or materials;
   c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   d) Presence of vermin;

   To the satisfaction of the Responsible Authority.

Waste disposal

21. The collection and disposal of rubbish from the premises (other than normal Council collection) must be conducted between 8am and 6pm Monday to Sunday, to the satisfaction of the Responsible Authority.

22. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

23. Bottles shall be bagged during operation times and shall not be emptied into any external refuse bins between the hours of 9pm and 9am.

24. The storage, removal and disposal of such/garbage refuse must be undertaken in such a manner so as to avoid any nuisance, pollution or loss amenity to the surrounding area and must at all times be to the satisfaction of the Responsible Authority.

Signage

25. The signs, including their structure and advertising material, as shown on the endorsed plans, shall at all times be maintained in good order and condition to the satisfaction of the Responsible Authority.

26. The sign must not obstruct the view of motorists, obscure traffic signals or constitute a road safety hazard in any way.

27. The signs must not be illuminated by external or internal lighting.

EPA CONDITIONS

28. Offensive odours must not be discharged beyond the boundaries of the premises.

29. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.

30. Stormwater contaminated with effluent must not be discharged beyond the boundary of the premises.
Expiry

31. This permit as it relates to the use and development of buildings will expire if one of the following circumstances applies:

   a) The development of the building(s) hereby approved has not commenced within two (2) years of the date of this permit.
   b) The development of the building(s) hereby approved is not completed within four (4) years of the date of this permit.
   c) The use hereby permitted is not commenced within two (2) years of the date of this permit.

   The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires; or

   a) Within six (6) months after the permit expires where the use or development has not yet started; or
   b) Within twelve (12) months after the permit expires, where the development allowed by the permit has lawfully commenced before the permit expiry.

32. Unless otherwise extended in writing by the Responsible Authority, this permit, as it relates to signage expires 15 years from the date of issue, at which time the signage and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

Notes:

Waste

1. The Council Residential Waste Service Charge is still payable even though a Private Waste Contractor provides the residential recycling and waste collection services.

Report

The Site & Locality

The subject site, 1/175 McKillop Street, is located on the northern side of McKillop Street. It is a corner allotment, located on the intersection with Garden Street. The site has a frontage of approximately 10m to McKillop Street, a secondary frontage of approximately 38.5m to Garden Street, and an overall area of 405m2. The site has a gentle fall of 0.5m from the northern boundary to the southern boundary. A carriageway easement is located along the northern boundary that provides rear access to 176 McKillop Street. Pedestrian footpaths are provided at the front of the site along Garden and McKillop Street. McKillop Street is a main road, governed by Vic Roads. It is a Road Zone Category 1. Traffic lights are located at its intersection with Garden Street.
The site is currently used for commercial purposes. The building contains three tenancies all under the one roofline. The businesses consist of:

- A Podiatrist is located in the part of the building located along the western boundary. This business fronts McKillop Street.
- A hairdresser was located in that part of the building located along the eastern boundary. This business fronts McKillop Street. Note: This proposal is to replace the hairdresser salon with a food and drink premise/café.
- A day spa is located in the northern section of the building. This business fronts Garden Street and the rear carpark.

The northern part of the site is dedicated to parking. Three on site car parking spaces have been provided on site. These spaces are accessed from Garden Street.

The existing businesses rely on on-street parking to provide parking for their customers. Three on street parking spaces are located along Garden Street, along the property frontage. Additional formalised parking is located in Garden Street. This includes the provision of a central median strip within Garden Street that provides parking bays.

Informal car parking spaces are also provided in McKillop Street. There are no car spaces provided at the front of the subject site, due to the site being located on the corner. Spaces are available at the front of 171 McKillop Street and beyond.

The subject site is included in a Heritage Overlay- the City South-East Residential Area. This area is significant for its combination of architecturally diverse grand houses dating from the 1890s until the 1930s located alongside more modest residential buildings of these eras. The building is D Listed- that is, it is of Contributory Significance.

As can be seen in the site history section below, this building was once used as a residence/shop. A planning permit allowed for the conversion of the front section of the building into a hairdresser salon. Subsequent permits have been issued to convert the remaining rooms into three commercial tenancies.

The subject site and land surrounding the subject site is located in a Residential Growth Zone 2. The immediate properties surrounding the subject site are used for residential purposes.

The site is located approximately 100m to the south of the East Geelong, Ormond Road strip shopping centre. This land is included in a Commercial 1 Zone. This strip shopping centre fronts Garden Street, Myers Street and Ormond Road. On street parking to support this strip shopping centre is predominately located in Garden Street and Myers Street, where the central median strip is also used for parking. The on street parking is located in a Residential Zone. The nearest median strip parking is located approximately 30m to the north of the subject site.

The majority of commercial premises within the strip shopping centre are open during the day only. There is little to no demand for on street parking to support the commercial premises at night time.
It is relevant to note that Planning Permit-1365-2011 approved on 20 December 2011 allowed an existing convenience shop at 103 Garden Street East Geelong to be converted to a food and drink premise (licensed café). This site is located in the Residential Growth Zone 2, approximately 73m from the strip shopping centre, and is located between two residential properties. The applicant applied to open the café during daytime hours. Hence the permit allows the café to be open during the following hours:

- Monday to Friday – 7am to 6pm
- Saturday – 7am to 5pm
- Sunday – Closed

The permit is worded to allow for the applicant to apply to increase their hours of operation at later date, if they desire. The café has a permit to cater for 30 patrons at any one time.
Photo 2: The subject site and parking surrounding the subject site

Photo 3: The subject site - view from McKillop Street
Photo 4: The subject site - view from Garden Street

Photo 5: The subject site - the rear carpark that accesses Garden Street (3 spaces provided)
Photo 6: The subject site - the rear carpark that accesses Garden Street – note the access to the carpark also is used to access the garage at 173 McKillop Street. A carriageway easement provides access.

Photo 7: The subject site - view from the intersection of McKillop and Garden Street.

Photo 8: The subject site - showing location of on street parking around the subject site.
Photo 9: The subject site- showing location of on street parking around the subject site on Garden Street.

Photo 10: 103 Garden Street- Café approved under PP-1365-2011. The café is located in a Residential Growth Zone 2, in between two residential properties.
Site History

The following planning permits have been issued on this land in the past:

PP-1113-1991- Hairdressing salon
- This permit allowed part of an existing building to be used for the purpose of a hairdressing salon.
- The endorsed plan indicates that the remainder of the building was used for the purposes of a dwelling.
  Note: the food and drink premise (café) is proposed to be located in this space.

PP-1678-1992- Building for use as beauty salon
- This permit allows the establishment of a beauty salon in conjunction with a hairdresser
- Condition 3 on this permit required 4 off site car spaces to be provided on site, with access off Garden Street. Note: Only three spaces can fit on site.
- Condition 4 on this permit required the carpark to be constructed
- Condition 7 on this permit required these spaces to be made available at all times for the businesses

PP-44-1995- Extension to existing building.
- This permit allowed for the extension to the building at the rear.
- The endorsed plan shows a total of four car spaces are to be provided on site. Note: Only three spaces can fit on site.

PP-222-2007- Alterations to the existing building
- This permit allowed for the extension to the building at the rear and external buildings and works- including a verandah.
- Parking on site is unchanged.

PP-1302-2014- Display of business identification sign
- This permit consents to advertising signage associated with the beauty salon (being the day spa) at the rear of the site.
Proposal

It is proposed to use part existing building on the subject site for the purposes of a Food and Drink Premise/licenced café, and also display advertising signs and reduction in car parking. The two other tenancies are to remain.

The leasable floor area of the premise is 87m².

Use

The applicant advised that food and drink premise/café will offer a broad range of coffee and brunch products during the day. The dinner options however will include Wood Fired Sourdough pizza. Food will be consumed on and off site.

The premise that will operate 7 days a week: 7:30am - 10pm

It will cater for a total of 35 patrons are to be catered for on-site.

The maximum number of staff onsite at any time would be 5, which is less than the existing occupier of the premise, which can have up to 9 staff at one time.

Noise

The applicant submitted an acoustic report to explain noise levels associated with this development. The report notes:

- Music is planned for the inside of the café and is to be played at background noise levels. It is normal to use several small speakers to obtain reasonable spread but modest noise levels. Music will be inside only and the windows closed and operated at background noise levels only, thus ensuring compliance with the SEPP N-2.
- There is no provision for external dining and all the patrons will be housed internally. As outside dining is not to be provided, there will be no need to have windows open.
- There will be an additional item for refrigeration equipment. This will be housed internally and so is not a matter for concern regarding external noise.
- There is no need for an external mechanical ventilation system for the kitchen.
- Based on the likely parking arrangement, there will be little unusual disturbance to the existing acoustic streetscape for nearby residents.

Odour

The applicant will address the installation guidelines from the manufacturer for the woodfire pizza oven. The oven caters for extremely high capacity (400 patrons). The application however does not need such an intensive use.

This will result in the need to a new flue on the roof that connects to the woodfire pizza oven.

Deliveries

The applicant has advised that their deliveries will occur during the day. As majority of their suppliers are small local producers, the deliveries would likely occur in cars or vans, and parking and/or noise related to deliveries will not be an issue.

Opportunities for unloading of goods will be able to be provided by the short-term on-street car parking within Garden Street.
Waste

There is no change to the location of the bin storage. The applicant will also ensure that their bottle waste will not be taken outside after trading hours to ensure minimal impact to the neighbours.

Liquor license

The applicant proposes to apply for a restaurant and café liquor license for inside the premise only.

The consumption of alcohol will be limited to the following hours:
• 11am - 10pm – 7 days a week.

Signage

Three advertising signs are proposed, being:

• A sign is to be located on the front of the building, above the verandah;
• A sign to be located on the side of the building on the eastern elevation- a wall sign. The signage will not be floodlit.
• A below verandah sign

The signage on the eastern elevation will be painted on the timber/weatherboards. The weatherboards are painted white. The lettering will be black. It will state ‘Local- Brunch and Pizza’. The signage will have a width of 2.9m and a height of 1.34m.

The signage located at the front of the property above the verandah is to state ‘Local’. It will span the width of the parapet. The writing will be in black.

The signage hanging below the verandah, is be 1.24m wide by 0.340m in height and state ‘Local’. It will consist of natural timbers and black Perspex. The writing will be in white lettering.

Parking

This application does not propose any additional car spaces on site. This application therefore seeks a waiver of parking.

Greater Geelong Planning Scheme

Definition and Nesting

The use is defined as Food and Drink Premise (Café) is nested under Retail Premise.

Under Clause 73.03 Land Use Terms of the scheme, a Food and Drink Premise is defined as:

*Land used to prepare and sell food and drink for immediate consumption on, or off, the premises.*

This definition includes uses such as a restaurant and take away food premise. Both these uses are associated with the functionality of a café.
Note: A café is not defined in the planning scheme. However this term is commonly used to define a restaurant that allows for ancillary takeaway food. For the purposes of this application, the use has been defined as a Food and Drink Premise.

**ZONE**

The subject site are located with a Residential Growth Zone 2. The purpose of zone is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide housing at increased densities in buildings up to and including four storey buildings.
- To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.
- To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.
- To ensure residential development achieves design objectives specified in a schedule to this zone.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The purpose of this zone.
- The objectives set out in a schedule to this zone.
- Any other decision guidelines specified in a schedule to this zone.
- The impact of overshadowing on existing rooftop solar energy facilities on dwellings on Adjoining lots in a Mixed Use Zone or Residential Growth Zone.

**Non-residential use and development**

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

**OVERLAY**

The subject site is located in a Heritage Overlay 1644.

The purpose of this Overlay is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.
Under the schedule to the overlay, the site is identified in the City South-East Residential Area. There are no specific controls that apply to this land.

**PERMIT REQUIRED CLAUSE AND CONDITION**

- Pursuant to Clause 32.07-2 of the Residential Growth Zone a permit is required to use the land for the purposes of a food and drink premise.
- Pursuant to Clause 32.07-8 of the Residential Growth Zone a permit is required for buildings and works.
- Pursuant to Clause 43.01-1 of the Heritage Overlay a permit is required for buildings and works.
- Pursuant to Clause 52.05 of the Signs a permit is required to display a business identification sign.
- Pursuant to Clause 52.06 of the Car parking a permit is required waive parking on site. 
  
  *Note: The application does not meet the exemption requirements under Clause 52.06-3 Car parking as the site is not located in a commercial zone.*
- Pursuant to Clause 52.27 of the Licensed Premise a permit is required for a restaurant and café liquor license.

**RESTRICTIVE COVENANT**

There is no restrictive covenant that applies to this land.

**CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)**

The Aboriginal Heritage Regulations 2007 specify the circumstances in which a Cultural Heritage Management Plan is required for an activity or class of activity.

Areas of cultural heritage sensitivity are defined within Part 2 - Division 3 of the Aboriginal Heritage Regulations 2007. Part 2 - Division 3 does not identify the site or part of the site as within an area of cultural heritage sensitivity.

In accordance with the above assessment, a Cultural Heritage Management Plan is not required and a Cultural Heritage Management Plan.

**COASTAL INUNDATION AND EROSION:**

Clause 13.01-1 of the SPPF requires the Responsible Authority to consider the potential coastal impacts of climate change.

Strategies include:
- In planning for possible sea level rise, an increase of 0.2 metres over current 1 in 100 year flood levels by 2040 may be used for new development in close proximity to existing development (urban infill).
- Plan for possible sea level rise of 0.8 metres by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and coastal impacts associated with climate change.
- Consider the risks associated with climate change in planning and management decision making processes.
The subject site is located within close proximity of existing urban development.

Council’s data indicates that the site is unlikely to be affected by the potential coastal impacts of climate change at 2040/2100.

**LANDFILL GAS RISK ASSESSMENT**

Before deciding on a Planning Permit application, a Responsible Authority is required to consider, amongst other things:

- Any significant effects the responsible authority considers the environment may have on the use or development [S 60(1) of the PEA].
- Clause 13.03-1 of The State Planning Policy Framework which aims to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

The EPA has adopted the “Best Practice Environmental Management, Siting, Design Operation and Rehabilitation of Landfills” (September 2010) or “Landfill BPEM.”.

The Landfill BPEM identifies that:

- Risks associated with landfill gases may occur for at least 30 years post-closure.
- Appropriate buffer distances must be maintained between the landfill and sensitive land uses. The BPEM recommends a 500 metre buffer for landfills that contained putrescible waste and 200 metres for landfills that contained non-putrescible waste.
- Where the recommended buffers are unavailable, it must be demonstrated that risks are suitably mitigated.
- All buildings and structures and associated infrastructure should be considered.

The BPEM specifies that development undertaken within a buffer distance of up to 500 metres may be at risk. As the subject site is not located within 500 metres of an identified former landfill site, a risk assessment is not required.

**DEVELOPMENTS IN BUSHFIRE PRONE AREAS**

Clause 13.05 (Bushfire) seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

The policy must be applied to all planning and decision making under the Planning and Environment Act 1987 relating to land which is:

- Within a designated bushfire prone area;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

The proposal is listed at Clause 13.05 as one of the uses or developments which should be considered:

- Subdivisions of more than 10 lots.
- Accommodation.
- Child care centre.
- Education centre.
- Emergency services facility.
- Hospital.
- Indoor recreation facility.
- Major sports and recreation facility.
- Place of assembly.
- Any application for development that will result in people congregating in large numbers.

The site is not located within a designated bushfire prone area.

The application is not expected to create a risk bushfire to people, property and community infrastructure.

**OFFICER DIRECT OR INDIRECT INTEREST:**

No Council officers have any direct or indirect interest in the matter to which this report relates, in accordance with Section 80 (C) of the Local Government Act.

**Car Parking**

The car parking rate for a food and drink premise is 4 spaces to 100m² of leasable floor area. The leasable floor area is roughly 87m². Therefore the scheme requires 3 spaces to be provided.

It is noted that there are three spaces provided on site. No additional parking is provided on site. A reduction in car parking is therefore sought.

**Bicycle Spaces**

Clause 52.34-5 of the scheme requires 1 bike space to be provided to each 100m² floor area available the public for the employee; and 2 plus 1 to each 200 sq m of floor area available to the public if the floor area available to the public exceeds 400 sq m for visitors.

The floor area available to the public is approximately 82m². Therefore no bike spaces are required on site.

**STATE PLANNING POLICY FRAMEWORK**

The purpose of Clause 11 (Settlement) includes to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure…. Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

The objective of Clause 11.041-1S Settlement is to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. Strategies to achieve this include to:

- Promote and capitalise on opportunities for urban renewal and infill redevelopment.
- Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.

The objective of Clause 11.02-1S Supply of urban land is to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

The objective of Clause 11.02-2S Structure planning is to facilitate the orderly development of urban areas.
The objective of **Clause 13.05-1S Noise abatement** is to assist the control of noise effects on sensitive land uses. Strategies to achieve this include to ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

The objective of **Clause 13.06-1S Air quality management** is to assist the protection and improvement of air quality. Strategies to achieve this include to ensure, wherever possible, that there is suitable separation between land uses that reduce air amenity and sensitive land uses.

The objective of **Clause 13.07-1S Land use compatibility** is to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects. Strategies to achieve this include to:

- Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:
  - Directing land uses to appropriate locations.
  - Using a range of building design, urban design, operational and land use separation measures.

The objective of **Clause 15.01-1S Urban design** is to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

The objective of **Clause 15.01-4S Health neighbourhoods** is to achieve neighbourhoods that foster healthy and active living and community wellbeing.

The objective of **Clause 15.01-5S Neighbourhood character** is to recognise, support and protect neighbourhood character, cultural identity, and sense of place.

The objective of **Clause 15.03-1S Heritage conservation** is to ensure the conservation of places of heritage significance.

The objective of **Clause 17.01-1S Diversified economy** is to strengthen and diversify the economy. Strategies to achieve this include to improve access to jobs closer to where people live.

The strategy identified in **Clause 17.01-R Diversified economy- Geelong G21** includes to:

- Build on the region’s competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.
- Support new businesses that provide employment and innovation opportunities in identified employment nodes across the region.

The objective of **Clause 17.02-1S Business** is to encourage development that meets the community’s needs for retail, entertainment, office and other commercial services. Strategies to achieve this include to provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

The objective of **Clause 18.02-4S Car parking** is to ensure an adequate supply of car parking that is appropriately designed and located. Strategies to achieve this include to protect the amenity of residential precincts from the effects of road congestion created by on-street parking.
LOCAL PLANNING POLICY FRAMEWORK

Municipal Strategic Statement

The policy basis of Clause 21.02 City of Greater Geelong Sustainable Growth Framework includes to:

- Manage urban growth
- Build sustainable infrastructure
- Encourage diversity in industry; and
- Reduce greenhouse gas emissions

The objectives of Clause 21.07 Retail include to:

- To facilitate the development of vibrant and viable retail activity centres in accordance with the Geelong Retail Activity Centre Hierarchy included at Clause 21.07-8.
- To ensure all major retail developments, and out of centre developments, provide a clear net community benefit.

Strategies to achieve this include to:

- Ensure that new retail development is directed to activity centres and is consistent with the role and function described in the Retail Activity Centre Hierarchy included at Clause 21.07-8.
- Encourage a mix of retail, office, cafes, entertainment, housing, education and community facilities to locate within activity centres.
- Support accommodation uses above ground level floor space in activity centres subject to appropriate provision of parking and access requirements.

Local Planning Policies

The objective of Clause 22.01 Discretionary uses in residential areas is to:

- To provide for non-residential and service uses which are compatible with the residential character, scale and amenity of neighbourhoods.
- To provide for non-residential uses which serve the needs of the local community.
- To encourage the re-use of purpose built non-residential buildings for a mix of appropriate local convenience/service and commercial uses.
- To ensure that car parking can be appropriately accommodated on site and that on street parking is relied upon only where it can be demonstrated that it will not be to the detriment of surrounding residential uses.
- To ensure that traffic generated by the use can be accommodated within the surrounding street network.
- To discourage new non-residential uses in residential zones that could reasonably be located in a nearby commercial or mixed use zones.
- To avoid the concentration of non-residential uses where it would create a de-facto commercial area, isolate residential properties or contribute to unplanned expansion of commercial or mixed use zones into surrounding residential land.

Policies to achieve this include to consider the following:
Preferred Location

- Non-residential uses are located so as to benefit and be convenient to local residents.
- Non-residential uses generally be encouraged to locate on sites which have access to a Road Zone and discouraged from locating within a local access street, access lane or access place. Other locations may be considered appropriate where it can be demonstrated that residential amenity can be protected.
- Residential properties are not isolated between non-residential uses.
- Non-residential uses are encouraged to locate on sites where it can be demonstrated that due to existing conditions or constraints the site has a low standard of residential amenity.
- Shops, offices, taverns and larger medical centres (5 or more practitioners) be located within commercial zones, unless it is adequately justified that this is not practical, in which case the use should be located adjoining a Road Zone.
- Commercial uses in residential zones within a 400 metre radius of an existing commercial zone are provided only where it can be justified that the use cannot be reasonably located within the nearby commercial zone.

Amenity

- Residential amenity should be protected from:
  - Noise, light and odours emitted from the site.
  - Disturbance associated with the hours of operation.

Design and Siting

- The re-use of buildings originally built for non-residential uses be encouraged and facilitated.

Landscaping

- The landscape character of an area is maintained by ensuring that there is adequate space available for planting of vegetation and that significant trees be retained where practicable.
- Adequate buffers in the form of landscape strips be provided between adjoining properties and areas used for access and parking within the subject site.

Carparking & Traffic

- Adequate area is set aside for on site car parking.
- Areas set aside for car parking be located to ensure that they do not dominate the streetscape.
- Residential amenity be protected from significant changes in traffic conditions and significant increases in on street parking demand.
- Loading and unloading of vehicles does not cause unreasonable detrimental impact to residential amenity.

Advertising Signage

- Advertising signage be designed and located so as to create a balance between providing appropriate identification for visitors to a site and ensuring signage has regard to its residential context.

Performance Measures

Proposals will be measured against the following performance measures:
Amenity
- Hours of operation for all non-residential uses will be considered having regard to the nature and intensity of the use and the context of the site and surrounding areas.
- Loading and unloading of vehicles should only occur between the hours of 8am and 6pm.
- Noise attenuation measures should be provided where appropriate and all external noise sources (air-conditioning, heating, plant equipment etc.) should be designed and located to restrict noise emission to adjoining properties.

Design
- Air-conditioning, heating and plant equipment should be located so as to avoid being visible from areas external to the subject site.

Landscaping
- A minimum 1.5 metre landscaped buffer should be provided to separate accessways and car parking areas from adjoining residential properties.
- The front setback of sites should be set aside for landscaping.

Car parking
- Car parking should be provided at the side or rear of the site.

The objectives of Clause 22.35 HO1644: City South East Heritage Area are to:
- To retain the distinctive, original street planning, garden settings, street setback, and wide nature strips.
- To retain and enhance the combination of grand and modest residential buildings.
- To retain characteristics of intact houses of diverse architectural styles including late Victorian, Edwardian and California Bungalow styles.
- To retain the uniformity of scale of the area including single storey height, regular front and side setbacks, side or rear driveways, building separation and subdivision pattern.
- To encourage the contemporary interpretation of traditional building design within the area.
- To encourage the use of traditional construction materials in the area.
- To encourage the use of appropriate fence types, designs and locations.
- To encourage the appropriate development, form and scale of garages and/or carports.

RELEVANT PARTICULAR PROVISIONS

The objectives of Clause 52.05 Signs are to:
- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

The objectives of Clause 52.06 Car parking of the Greater Geelong Planning Scheme sets out the following parking requirements for the proposal.
Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- The Car Parking Demand Assessment.
- Any relevant local planning policy or incorporated plan.
- The availability of alternative car parking in the locality of the land, including:
  - Efficiencies gained from the consolidation of shared car parking spaces.
  - Public car parks intended to serve the land.
  - On street parking in non residential zones.
  - Streets in residential zones specifically managed for non-residential parking.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.
- The future growth and development of any nearby activity centre.
- Any car parking deficiency associated with the existing use of the land.
- Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.
- Local traffic management in the locality of the land.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- The need to create safe, functional and attractive parking areas.
- Access to or provision of alternative transport modes to and from the land.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.
- The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.
- Any other matter specified in a schedule to the Parking Overlay.
- Any other relevant consideration.

Clause 52.06-7 outlines the requirements for a car parking plan. This plan must be prepared to the satisfaction of the Responsible Authority before the new use commences. Clause 56.06-8 outlines the design standards for car parking.

The objective of Clause 52.27 Licensed Premise is to:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
The objective of Clause 52.34 Bicycle Facilities is to:

- To encourage cycling as a mode of transport.
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

The scheme does not require any bicycle space to be provided on site.

**REFERRALS**

**INTERNAL**

<table>
<thead>
<tr>
<th>Authority:</th>
<th>Engineering</th>
</tr>
</thead>
</table>
| Response:  | This application seeks a waiver of carparking. Using Table 1 of Clause 52.06 and a use of ‘Food and drink premises other than listed in this table’ a demand of 4 parking spaces is required as the leasable floor area is just below 100\(\text{m}^2\).

After review of this application, and in light of the below considerations, Engineering is supportive of the application and waiver of carparking, and no Engineering conditions are required to be placed on the Planning Permit:

- The site is located 100m from a strip shopping centre. On street parking in Garden Street, that is used to support the commercial strip shopping centre, is considered to be conveniently located within 30m to the north of the to the subject site. It is also noted that demand for parking spaces is low in the evening as most businesses do not operate in the evening. Therefore, there are plenty of opportunities to provide for parking to support the proposed food and drink premise in the evening.
- It is also noted that VCAT have ruled in many instances that parking within a strip shopping centre is to be viewed holistically. People visit these centres with the idea of making multiple trips to different businesses. They park centrally to the locations they wish to visit. This allows businesses within the centre to maximise commercial space and reduce onsite parking requirements. This improved the efficiency of the centre. Staff parking however are encouraged to be located on site to maximise on street parking opportunities for customers.
- In this instance, it is considered that the business can rely on on-street parking associated with the strip shopping centre. Those who visit the commercial strip for multi purposes will have the choice to also visit the subject site for a meal/beverage. This is no different to the existing café at 103 Garden Street. This café caters for up to 30 patrons and is also located in residential area in close proximity to the commercial strip.
- It is also relevant to note that most of the commercial premise within the strip shopping centre are not open in the evening. It is relevant to note that a planning application cannot fix an existing parking problem within an area. It has been reported by objectors that it is difficult to find a carpark in this strip shopping centre at certain times of the day. This area may be subject to a future parking strategy to be undertaken by the transport team. The parking strategy will review parking on a holistic level for the entire commercial strip. This sits outside the statutory planning process.

This sits outside the statutory planning process.
- It is also relevant to note that the subject site was previously used for the purposes of a hairdresser. Planning Permit PP-1113-1991 that authorised this use did not require any parking to be provided on site. Therefore all staff and visitors to rely on on-street parking. As such this premise has historically relied on on-street parking to function. It has been supported from parking associated with the strip shopping centre.

**Officer Comment:**
No objection, no conditions.

<table>
<thead>
<tr>
<th>Authority:</th>
<th>Health</th>
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<tbody>
<tr>
<td><strong>Response:</strong></td>
<td>An amended acoustic report still has not been provided. The version we have from 31 Jan indicates there will be no need to have the windows open. Due to this the engineer can’t foresee there are any issues with meeting SEPP N2. A condition to have all windows in the premises closed will need to be upheld unless an amended report is provided information that there will still be compliance with windows being openable.</td>
</tr>
</tbody>
</table>

**Non-Standard Conditions**

- Front door to remain closed unless being used for patrons entering and exiting
- All windows to remain closed at all times (unless acoustic report amended)
- The pizza oven is to be installed and operated per manufactures specifications.
- Smoke generated from the pizza oven is not to cause a nuisance to neighbouring residential properties or commercial business
- Odour generated from the business is not to cause a nuisance to neighbouring residential properties or commercial business
- The common roof space is to be suitably engineered and installed to a standard as to not allow noise and odour transfer between the tenancies
- The amenity of the area must not be detrimentally affected by the use or development through the:
  - Transport of materials, goods or commodities to or from the land;
  - Appearance of any building, works or materials;
  - Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - Presence of vermin;
- to the satisfaction of the Responsible Authority.
- No amplified music, including live amplified music, must be played or piped to external areas without the further written consent of the Responsible Authority.
- No music apart from background to be audible outside of the premises
- Bottles shall be bagged during operation times and shall not be emptied into any external refuse bins between the hours of 9pm and 9am.
• The storage, removal and disposal of such/garbage refuse must be undertaken in such a manner so as to avoid any nuisance, pollution or loss amenity to the surrounding area and must at all times be to the satisfaction of the Responsible Authority.

• All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a monitored security service.

• All deliveries to the property and truck movements offsite must be in adherence with the EPA Noise Control Guidelines (publication 1245) which are:
  o 7am – 10pm Monday to Saturday
  o 9am – 10pm Sundays and public holidays.

• A notice to the satisfaction of the Responsible Authority shall be fixed in a prominent position visible to all patrons as they leave the premises. The notice shall be clearly legible and draw attention to the requirements for considerate and quiet behaviour of patrons on departing from the premises.

• In regards to the odour condition I was suggest the following wording:
The food premises exhaust system must provide for a vertical discharge to the atmosphere at a point and velocity which allows for effective discharge so as to not create a nuisance (as defined under the Public Health and Wellbeing Act 2008, or equivalent) to the surrounding amenity.

**Officer Comment:**
The majority of the suggested conditions have been included in the permit. The intent of some of the conditions are to be included in the patron management plan and the general amenity condition.

It also should be noted that the delivery hours have been further reduced to reflect the requirements of Clause 22.01- Discretionary uses in Residential Areas.

**EXTERNAL**

<table>
<thead>
<tr>
<th>Authority:</th>
<th>Building</th>
</tr>
</thead>
<tbody>
<tr>
<td>Response:</td>
<td>No comments received</td>
</tr>
</tbody>
</table>

**Officer Comment:**
Noted.
<table>
<thead>
<tr>
<th>Authority:</th>
<th>Heritage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Response:</td>
<td>ADVERTISING SIGN</td>
</tr>
</tbody>
</table>

The proposed locations, extent and designs for the signage at 175 McKillop Street, Geelong should complement the shop and dwelling. This proposal is generally in accordance with the City’s A5 Advertising Sign Guidelines for Heritage Overlay Areas. However, the construction (material/finishes) of the signage has not been documented. It is unclear whether any of the signage is proposed to be internally illuminated (which the Guidelines recommend against). This should also be clarified.

The proposed removal of the verandah brackets will have no adverse affect on the significance of the shop (and this part of the City South Heritage Area HO1641) because they have been introduced.

**Recommendation**
It is recommended that this application is supported subject to the clarification on the materials and finishes of the proposed signage.

**FLUE**

There should be no adverse affect on the significance of the shop and this part of the City South Heritage Area as a result of the installation of the proposed flue. Chimneys and flues are traditional to these types of buildings. A planning permit trigger under the heritage overlay is external buildings and works. The proposed material/finish of the flue has not been documented on the drawings. It is therefore unclear whether the flue construction will be compatible with the existing roof cladding, flashings and gutters.

**Recommendation**
It is recommended that the proposed flue is supported.

It is suggested that the permit is conditioned (or an annotation added to the submitted drawings) indicating that the flue construction is to be compatible with the roof cladding construction.

Having reviewed the submitted drawings dated 4 July 2018 (no COGG date stamp), there should be no issue with the flue matching the colour of the existing roof. If the existing roof is colorbond, then it is assumed a colorbond flue is proposed and this should therefore not create any issues into the future. I am only advising on this matter to ensure that there will be no future secondary impacts.

**Officer Comment:**
The suggested conditions have been included in the permit.

Conditions are to be included on any permit issued to require the signage not to be illuminated; and to require additional information on flue construction.
**Authority:** Waste  

**Response:** Other Comments from Waste Department

As this development is classified as Commercial and not Residential, the Kerbside Waste Services cannot be supplied to this development as they are not subject to a Residential Waste Charge.

The additional information supplied still states “Similar to the deliveries, our waste will be collected by the council, during Monday - Friday, before the hours of 9:30am. Based on our processes and our reducing our environmental impact we don’t anticipate excessive waste, as we will be working with our producers and suppliers and implementing minimal waste solutions (milk in stainless steel pails, veggies in reusable plastic crates etc.).

The waste will not be collected by Council, so waste reference in the additional information needs to reflect this.

**Recommended Permit Conditions (Without Prejudice)**

Prior to the commencement of the development, a waste management plan must be submitted to and approved by the Responsible Authority. The plan must include the following:

a) details of a regular garbage collection service.
b) details of the estimated bin storage capacity requirements for the site and an area on the land that can accommodate the estimated bin storage requirements;
c) the type/size of trucks suitable for pick-ups in the loading/unloading area of the site.
d) the frequency and times of the day for the pick-ups.

Once approved, the plan must be implemented to the satisfaction of the Responsible Authority.

**Officer Comment:**

The suggested conditions have been included in the permit. Noted that the waste is to be collected via a private waste collector.
**Authority:** Community Development

**Response:** Healthy Communities acknowledges that the applicant has reduced their requested hours for the sale and consumption of liquor, therefore we have no further concerns regarding hours.

**Agreed Hours:**

**Operational Hours**
7.30am Until 10.00pm Monday – Thursday  
7.30am until 11.00pm Friday – Saturday  
7.30am until 10.00pm Sunday

**Sale and Consumption of Liquor Hours**
11.00am until 10.00pm Monday – Thursday  
11.00am until 11.00pm Friday – Saturday  
11.00am Until 10.00pm Sunday

Sale and consumption of liquor will cease at 9.00pm on any given day in all external areas.

Healthy Communities notes that there will be no live or amplified music played at the restaurant/café.

Healthy Communities acknowledges that a Restaurant/Café Liquor Licence will be sought from VCGLR.

**Standard Conditions**

**NS5 No External Sound Amplification**

No permanently fixed sound amplification equipment, juke boxes or loud speakers may be used for the purpose of announcements, broadcasts, playing of music (whether recorded or otherwise) or similar purposes so as to be audible on adjoining public or private land to the satisfaction of the Responsible Authority.

**LQ2 Telephone Number of Responsible Person**

The telephone number of a person responsible for the operation of the premises approved herewith, shall be displayed in a prominent position on the external façade at all times such that adjoining neighbours and shop owners have a point of contact regarding excessive noise, unruly behaviour and other concerns. This shall at all times be maintained to the satisfaction of the Responsible Authority.

**LQ3 Manager Responsible for Conduct of Patrons**

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 locality to the satisfaction of the Responsible Authority (referred to in this permit as ‘the manager’).
<table>
<thead>
<tr>
<th>LQ5</th>
<th><strong>Surveillance and Security Measures Required on Site</strong></th>
</tr>
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<tbody>
<tr>
<td>The Licensee shall at all times ensure adequate security and surveillance staff so as to control the behaviour of patrons within the premises and on leaving the premises.</td>
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<table>
<thead>
<tr>
<th>LQ6</th>
<th><strong>No Nuisance</strong></th>
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<tbody>
<tr>
<td>No nuisance or annoyance to persons beyond the site shall be caused by the use hereby permitted.</td>
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<table>
<thead>
<tr>
<th>LQ7</th>
<th><strong>Notices for Considerate Behaviour of Patrons</strong></th>
</tr>
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<tbody>
<tr>
<td>A notice to the satisfaction of the Responsible Authority shall be fixed in a prominent position visible to all patrons as they leave the premises. The notice shall be clearly legible and draw attention to the requirements for considerate and quiet behaviour of patrons on departing from the premises as there are nearby residents.</td>
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<table>
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<tr>
<th>LQ8</th>
<th><strong>Disposal of Bottles</strong></th>
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<tbody>
<tr>
<td>Bottles shall be bagged during operation times and shall not be emptied into any external refuse bins between the hours of 11pm and 8am.</td>
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<thead>
<tr>
<th>LI1</th>
<th><strong>Illumination of Public Areas</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Exterior lights must be installed in such positions so as to effectively illuminate all pertinent public areas, without spilling onto the road reserve or adjoining land, and must be connected to a time clock switch or other approved system to the satisfaction of the Responsible Authority.</td>
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</table>

**Officer Comment:**
The majority of the suggested conditions have been included in the permit. Many are to be included in the patron management plan.
### EPA

**Response:** EPA has no concern with Council issuing this planning permit according to the information that has been provided. However, we recommend Council considers the following conditions for inclusion in the planning permit:

- Offensive odours must not be discharged beyond the boundaries of the premises.
- Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
- Stormwater contaminated with effluent must not be discharged beyond the boundary of the premises.

As the subject site is included in the Residential Growth Zone Schedule 2 and numerous dwellings are located in the immediate vicinity, Council should ensure that amenity impacts as a result of the proposed use are adequately managed. Council should ensure that the proposed method of waste management/collection is adequate for the site and will not result in litter to the surrounding area.

EPA recommends Council should consider the above prior to deciding to issue or object to the planning permit.

### Vic Police

**Response:** The Geelong Liquor Licencing Unit has received this application and previously made several recommendations to the City of Greater Geelong Planning Department. These recommendations have been implemented therefore the Geelong Liquor Licensing Unit have no objections to this application.

Taking all this into consideration the Police are prepared to follow the recommendations made by the City of Greater Geelong Planning Department and will review any future licence application based on its merits at the time of the application being received.

**Officer Comment:**

No objection, no conditions.
AMENDMENT OF THE PROPOSAL PRIOR TO PUBLIC NOTIFICATION:

The applicant made a request to amend the application pursuant to Section 50 of the Planning and Environment Act 1987 on 17 October 2018. Council accepted the amendment. The amendment made the following changes to the application:

- Requested to delay the need to an acoustic report
- Amended the plans to show the location of air conditioning units - this is an existing unit. No new unit is proposed.
- Provided installation guidelines on the installation of the woodfire pizza oven
- Advised they will not play live or amplified music. Music will be played at background noise levels
- Details of deliveries and waste management provided for assessment
- Additional information on signage was submitted
- Applicant confirmed that they are applying for a restaurant and café liquor licence
- Information on staffing numbers provided
- Hours of operation revised for the premise and serving of liquor
- Plans amended so that there is no alfresco dining.

These are the plans that form the basis of this report.

PUBLIC NOTIFICATION:

The application is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act and pursuant to Section 52 of the Planning and Environment Act 1987 the following forms of advertising were undertaken:

- Notices were sent to owners and occupiers of adjoining land (including opposite)
- Two A3 sign(s) were placed on the land- one fronting Garden Street and the other fronting McKillop Street.

Seven objections have been lodged with Council. In addition, one objection was withdrawn.

AMENDMENT OF THE APPLICATION FOLLOWING PUBLIC NOTIFICATION

The applicant made a request to amend the application following public notification pursuant to Section 57A of the Planning and Environment Act 1987 on 27 March 2019. Council has accepted the amendment. The amendment made the following changes to the application:

- Buildings and works to include the construction of a flue in a Heritage Overlay
- An acoustic report was provided
- Additional information on woodfire pizza oven was provided to demonstrate that the premise will not create an odour issue in the neighbourhood

These are the plans currently under assessment.

It was not considered necessary to readvertise the proposal based on the amendment, as the amendment would not result in any additional material detriment compared with the advertised application, for the following reasons:

- Buildings and works associated with a flue are exempt from notice under the requirements of the Heritage Overlay. These works are also considered to be of no consequence to the heritage integrity of the area, as outlined by Council’s Heritage Advisor.
- The other additional information provided does not transform the proposal.
The additional information was however considered to be relevant to objectors. This information was therefore circulated to objectors prior to the DHP meeting.

**CONSULTATION**

A consultation meeting was not held in relation to this application. This was because the applicant did not believe this application could be mediated. They therefore requested that a decision be made on this application.

The applicant did however provided additional information in an attempt to address objectors concerns. This information has been sent to the objectors for consideration.

**OBJECTION**

1. **Objection: Inadequate parking provided. Finding a park in this area is already an issue.**

   **Response:**

   This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.

2. **Objection: Increased traffic flow will increase danger to the pedestrians and increase the potential for car collisions.**

   - The intersection is already busy/congested.
   - Roadside parking will impact traffic flow.
   - Delivery vans have nowhere to park and unload goods in a safe manner without causing traffic congestion and safety issues

   **Response:**

   This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.

3. **Objection: Noise will negatively impact on surrounding neighbourhood. Noise patrons and alcohol will impact on residential amenity.**

   - The hours of operation will create an amenity concern in the neighbourhood
   - Pedestrian traffic will create at night when patrons enter and exit venue
   - Increase in traffic, cars parking, cars left running whilst someone gets out to pick up takeaway pizza, cars starting, car doors opening and closing.
   - The operation hours are excessive and will impact on the neighbourhood
   - Music coming from the venue will be a major nuisance factor for the residents.
   - Residents have rights to peaceful enjoyment of their home and land.

   **Response:**

   This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.
4. **Objection:** The odour from the wood fire oven will create an amenity concern in the neighbourhood

**Response:**

This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.

5. **Objection:** The area does not need another licensed business. It will result in more drunken patrons walking around the suburb.
   - Considering we have 2 licenced venues both some 500 to 600 meters away in different directions. One the Elephant Castle Hotel and the other Limeburners Bar and restaurant, in the East Geelong activity centre.

**Response:**

This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.

6. **Objection:** Increase litter/waste in area.
   - Waste, litter, vermin and food odours: Food outlets such as the one planned will produce huge volumes of food waste, packaging, cooking odours and vermin, all which will have a major negative impact on the beautification of the surrounding community.
   - McKillop Street is already a dumping ground for empty alcohol bottles and cans and used food containers as people either walk home from the above food and alcohol outlets or are thrown from moving cars. Litter and waste are an ongoing problem for residents.

**Response:**

This is considered to be a relevant planning consideration, and is discussed in the assessment section of the report.

7. **Objection:** Increase in air pollution from car exhausts.

**Response:**

This is not considered to be a relevant reason to reject this application. It is noted that the subject site is located on a main road and in close proximity to a commercial strip shopping centre. This area is designed to cater for a large volume of traffic movement.

8. **Objection:** The proposed business will have a greater amenity impact on the neighbourhood than the previous business.
   - In reality there has been a hair salon there for a number of years, this business had a minimal impact on the residential amenity as the number of people in that shop was minimal and the operating hours were more than half of what this new establishment is proposing. It also wasn't a licenced venue that in itself is an issue to me.
   - In the east Geelong activity centre we have number of cafes and businesses in the area that don't have a detrimental effect on the residential amenity.
Response:

The scheme allows for a planning application to be lodged to consider a Food and Drink premise on the subject site. Any application lodged is required to be assessed against relevant policy in the scheme to determine if the use is appropriate.

In this instance, an application has been lodged. The decision below provides an assessment of how the proposal can be considered against the relevant policy. Policy does not directly require an assessment on the comparison of past and proposed uses when considering the amenity of the area.

ASSESSMENT

Use

Policy encourages any application for a food and drink premise (café) within a residential area, to be established on sites that:

- Are adjacent to a main road;
- Do not result in the isolation of residential properties; and
- On sites that have a lower standard of residential amenity.

In this instance, the proposal qualifies to all of the above. The business:

- fronts McKillop Street - a main road;
- does not isolate residential properties - three commercial tenancies are located on the subject site;
- is located on a site with a lower standard of residential amenity - it is located on a busy intersection, 100m from a commercial strip shopping centre. The site is not located in a quiet residential street.

Policy however also requires an assessment be made on how the use can be considered compatible with the residential amenity of the neighbourhood.

Noise

Policy requires that any application for a non-residential use in a residential area ensure that any noise emitted from the site does not unreasonably impact residential amenity and create a disturbance due to the hours of operation.

The applicant provided an acoustic report to demonstrate how their proposal might impact upon residential amenity. This report outlined that the noise sources associated with this business include patron noise, music, air-conditioning and refrigeration. The report concludes that noise emissions can be satisfactorily controlled to meet EPA noise requirements.

This report was reviewed by Council’s Environmental Health Department. As outlined above, they have no objection to the proposal, subject to conditions.
On balance, the proposal is considered to result in an acceptable amenity outcome in the residential zone for the following reasons:

- The site is located on a busy intersection, within 100m from the commercial strip shopping centre. This is not a quiet residential street.
- That part of the building to be used for the purposes of a Food and drink Premise (café) does not directly abut a residential property. It fronts onto the McKillop/Garden Street intersection on a main road.
- An acoustic report has been submitted with the application that demonstrates that noise within the premise can be appropriately controlled, subject to permit conditions that include keeping the windows shut during business hours.
- Opening until 10pm is reasonable. People enjoy meeting family and friends over a meal that may be accompanied by liquor. It is reasonable to conclude that most people will undertake this activity in a moderate and responsible manner. It is unlikely that this business will operate to full capacity during weekdays.
- Patrons primarily will visit the premise for a meal, rather than to solely consume alcohol. Food and drink premise/café are low risk venues in terms of antisocial behavior.
- Whilst it is acknowledged that there will be some noise impacts from patrons leaving the venue in the evening to access their cars that are parked adjacent to the dwellings, it is considered that most patrons will be responsible. This is not considered to result in an unreasonable amenity impact in this location.
- A condition on the permit will require a patron management plan to be prepared to ensure that customers and staff are respectful to the amenity of the area when arriving and leaving the subject site.

It is also relevant to note that ‘Pizza With Attitude, Geelong’ is located in the General Residential Zone, approximately 300 meters to the west from the subject site at 37 Bourke Crescent, Geelong. This business also operates 7 days a week and open until 9.30pm Sunday to Thursday and 10.30pm Friday and Saturday nights. This is a takeaway food premise that adjoins residential development. Council’s Environmental Health Department have advised that they have not received complaints regarding this business.

**Liquor Licence**

When considering an application for a licenced premise, consideration must be given to how the proposal may impact on the amenity of the area, including hours of operation, the number of patrons and the cumulative impact an additional licenced premise may have on the area.

The determinative matter to be considered is whether the proposal is located in an area where there is a cluster of licensed premises that might add to possible problems and risks and hence give rise to negative impacts.

As reported in the decision *Johnson v Manningham CC [2015] VCAT 1917* (3 December 2015), a cluster may occur if there are three or more licensed premises including the proposed premises within a radius of 100 metres from the subject land or 15 or more premises within 500 metres. Negative impacts may include anti-social behaviours, infrastructure problems, threats to safety and crime.

Council’s Environmental Heath and Community Development (Liquor Licencing) Departments have reviewed this application and have no objection to the premise being licenced.
It is considered that the proposal is not at odds with the policy requirements in the scheme as:

- There is not a cluster of licenced premise within 100m from the subject site.
- The acoustic report submitted with this application demonstrates that the use results in an acceptable amenity outcome, given the site context.
- No alfresco dining and serving of liquor is proposed.
- Appropriate conditions can be applied to any permit to control patron noise and the general amenity of the area.

It is also worth noting that in the VCAT decision Swancom Pty Ltd v Yarra CC and Bambou Restaurant v Stonnington CC, the Tribunal established that different types of licensed venues have different risk levels to the wider community. Restaurants are low risk venues because people attend to consume a meal rather than liquor, people are seated, they attend early in the evening, patrons don’t preload, they tend to have smaller numbers of patrons and they close in the early evening.

**Odour**

Council’s Environmental Health Officer reviewed this application and determined that odour can appropriately be controlled on site, including via the appropriate installation of the wood fire oven and flue, so it does not become an amenity concern to the adjoining tenancies and the general community.

The premise will also need a separate permit for a food premise under the Health Act. Odour issues will need to be addressed under this permit process.

**Reduction of Car Parking**

Clause 52.06 Car parking of the Greater Geelong Planning Scheme requires 3 car space to be provided to support the use of the land for the purposes of a Food and Drink premise.

It is noted that there is no onsite parking spaces provided for customers and it is unclear how many spaces are to be provided on site for staff. As such, a reduction in parking is sought.

On balance, it is considered that the proposed reduction is appropriate for the following reasons:

- The site is located 100m from a strip shopping centre. On street parking in Garden Street is considered to be conveniently located within 30m to the north of subject site. It is also noted that there are three on street spaces provided at the front of the property on Garden Street.

- The demand for parking spaces is low in the evening as most businesses do not operate in the evening. Therefore, there are opportunities to provide for parking to support the proposed food and drink premise in the evening. It is acknowledged that residential demand is higher during the evening period.

- The business will have access to 3 on site parking spaces at night, when the other two tenancies on the subject site are not open. It is noted that the Geelong Podiatry is open Monday to Friday, operating most days until 5.30pm. In addition the day spa is open Tuesday to Wednesday until 6pm, Thurs to Friday until 8pm, Saturday until 2pm.
• It has been reported by objectors that it is difficult to find a carpark in this strip shopping centre at certain times of the day. This planning application cannot fix an existing parking problem within an area. This issue area may be subject to a future parking strategy to be undertaken by the transport team. This sits outside the statutory planning process.

• The subject site was previously used for the purposes of a hairdresser. Planning Permit PP-1113-1991 that authorised this use did not require any parking to be provided on site. As such this premise has historically relied on on-street parking to function. It is been supported from parking associated with the strip shopping centre.

• Council’s Engineering Department have no objection to the reduction in parking.

Traffic Movement

Given the site is located on a main road on a busy intersection and is located close to a strip shopping centre, it is considered that traffic movement in the area is unlikely to be adversely impacted.

Waste Storage and Collection

Council’s Waste Department have reviewed the plans and are satisfied that sufficient room has been provided on site for waste storage.

It is Council's Policy that waste collection for any commercial premises is collected via a private waste collection service.

The Waste Department have requested a waste management plan be prepared to outline the finer detail of the private waste collection. This is a standard condition applied to a commercial premises.

In addition, in the event that this application is supported, it is also recommended that conditions be applied to any permit issued to ensure that waste storage/collection from the premise does not become an amenity concern.

Deliveries

The applicant has advised that their deliveries will occur during the day. As majority of their suppliers are small local producers, the deliveries would likely occur in cars or vans, and parking and/or noise related to deliveries will not be an issue.

Council’s Environmental Health Department has no objection to the proposal. They have requested conditions to be included on any permit issued to request delivery hours to respect the amenity of the area.

External Buildings and Works

As outlined in the Heritage Advisor comments above, the external buildings and works, (that include the construction of the flue), are considered appropriate within the Heritage Overlay. The works will not impact of the heritage significance of the area.
Signage

The proposed signage is considered appropriate given the context of the site. As outlined in the Heritage Advisor comments above, it is considered that the signage will not impact upon the heritage integrity of the area. It is recommended that conditions be included on any permit issued to ensure the signage does not create an amenity concern.

Legislative Issues

The Planning and Environment Act 1987 and the Greater Geelong Planning Scheme are the relevant documents under which Council must consider this application.

Conclusion

On balance, the proposal is also considered to result in an acceptable outcome under the provisions of the Greater Geelong Planning Scheme. The report concludes that:

- Opening until 10pm is reasonable. People enjoy meeting family and friends over a meal that may be accompanied by liquor. It is reasonable to conclude that most people will undertake this activity in a moderate and responsible manner. It is unlikely that this business will operate to full capacity during weekdays.
- An acoustic report has been submitted with the application that demonstrates that noise within the premise can be appropriately controlled, subject to permit conditions that include keeping the windows shut during business hours.
- A condition on the permit will require a patron management plan to be prepared to ensure that customers and staff are respectful to the amenity of the area when arriving and leaving the subject site.
- Council's Environmental Health Department have reviewed this application and determined that odour can appropriately be controlled on site, including via the appropriate installation of the wood fire oven and flue, so it does not become an amenity concern to the adjoining tenancies and the general community.
- Council's Engineering Department have no objection to the application, noting that:
  - the reduction in parking will not create a significant amenity concern
  - the proposal will not impact on traffic movement in the area. The site is located on a main road on a busy intersection, near a strip shopping center. The road network can safely cater to the predicted traffic movement.
- Council's Waste Department have reviewed the plans and are satisfied that sufficient room has been provided on site for waste storage. They have requested a prepared to outline the finer detail of the private waste collection. This is a standard condition applied to a commercial premises.
- Condition can be placed on any permit issued to restrict delivery hours to respect the amenity of the area.
- The proposed buildings, works and signage are respectful to neighbourhood character and the requirements of the Heritage Overlay.
- The referral authorities have not objected to this application.

As such the application is recommended for approval subject to conditions contained in this report.