



**Item 7.2 Petition regarding noise and issues at Flour Child (Shakespeare Grove), St Kilda**

A Petition containing 22 signatures was received from local residents.

**The Petition states the following: -**

*This petition has been prepared by members of the Owners Corporation of the residential apartment on the corner of Shakespeare Grove and Chaucer St and the owners of the Soul Sister and Bay City Burrito restaurants.*

*Let me begin by saying that we have been trying to engage either individually or as a group with the Flour Child to discuss a way forward so that all neighbourhood bodies can coexist. To date this has been unsuccessful. Discussion and text message dates and times can be provided. A resident of the Shakespeare apartment building was recently reassured by Luke the Port Philip Compliance Officer that their concerns were passed onto the Flour Child and would be addressed; yet issues continue.*

*Further, we are aware of the financial pain many in St Kilda have suffered including residents, local restaurants and retail businesses during the COVID-19 lockdown. The signatories to this document include residents, retail and restaurant businesses, many who have suffered directly as a result of the pandemic and who are now further disadvantaged by the behaviour of the Flour Child since lock down ended. This is notwithstanding the support given to the Flour Child by some signatories in the form of regularly purchasing take away from them during the lockdown.*

*The Flour Child has demonstrated disregard for the Victorian government laws governing health and safety for all and for the residents of Shakespeare Grove. During the easing of lockdown when indoor venue numbers were capped at 20, the Flour Child operated with at least twice this number. When asked why from very concerned residents they replied that with the windows fully open they are considered an outdoor venue and therefore more patrons is lawful. When asked if they could turn the music down, especially when all the windows were open, the reply was that the loud music is part of their business model.*

*We remain confused as to why the Council would not consult with effected locals and grant building permits to remove walls and replace with floor to ceiling windows etc and continue to sanction the operation of what is effectively a nightclub in Shakespeare Grove in a premise that is neither fit for purpose (such as adequate sound proofing) nor managed appropriately. As a consequence, this corner precinct amenity has been significantly negatively impacted. Specific groups impacted include:*

*Residents of the Shakespeare building are approximately only 15 metres away and on the same side of Shakespeare Grove as the Flour Child (nightclub). The Shakespeare is an apartment building that houses in excess of 40 residents over three levels. The complaints predominantly concern noise but also the appearance a few weeks ago of a parklet under the bedroom windows of 9 apartments. The noise complaints have been voiced by many residents and concern the heavy bass of the music played consistently by the Flour Child. Residents endure the constant bass that intrudes their living rooms throughout the day and then report that they are sleep deprived, as it continues into the night. This varies but is always the case on Friday and Saturday nights. The unpredictability of which night in conjunction with the Friday and Saturday nights compounds the anxiety of the negative health consequences of sleep deprivation. Despite double glazing, the bass of the electronic*

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*music penetrates the windows with a constant relentless beat that really does drive people crazy. This is NOT acceptable.*

*Every one of the residents have their own story. One resident has small children, another is quarantining post an International flight, another has terminal cancer and also dealing with long COVID-19 ongoing headaches and other symptoms. All they ask for is to have a decent night's sleep after 11pm. Some have even been talking about being forced to move, something they would rather not do given their support networks are in this area. A home is a person's sanctuary and secure base. When this is taken away by the constant intrusion of heavy bass noise it is very harmful to one's mental and physical health. In fact one couple have already booked alternative accommodation on the weekends to escape the noise.*

*It is our understanding that currently the Flour Child only has a Restaurant and Cafe Liquor License and therefore music can only be background noise. Not live music - which a DJ is considered to be. So the heavy bass and noise that can be readily heard is a clear breach of the license.*

- 1. More recently The Flour Child parklet has been set up directly across from the apartment complex with two big black metal shipping containers that are presently used for graffiti and inebriated patrons to urinate on. And we have only just discovered today that there will be loud music and the constant drone of generators for fridges that add to the noise - affecting both the residents and the traders across the street. They are also an eyesore and a source of anxiety for many about what might happen when it gets busy! Also, inebriated patrons leaving the Flour Child at times congregate in O'Donnell Gardens and the adjoining carpark adding to noise and disruption already experienced by residents throughout the night. In addition the manager stated to a resident that the parklet would be open till 11pm -we were of the understanding that parklets had a 9pm limit on operating hours.*
- 2. There is also a real safety concern as a number of vehicles have already been observed nearly colliding with the parklet fence when reversing out of the carpark spaces directly opposite the parklet. Further concerns have been raised in relation to the extent that the setup structure impedes the car and pedestrian flow, particularly given its proximity to the pay station. The parklet (signs etc) currently also extends beyond the existing boundaries of the parking bays.*
- 3. Retail businesses on the ground level of the Shakespeare complex (Bay City Burrito and Gyoza King). This relates to the parklet that takes 6 valuable car spaces in the carpark that adjoins the Vineyard in O'Donnell Gardens. The three businesses rely upon the parking spaces opposite their business. Reducing the car spaces has reduced trade according to one of the signatories. Following a particularly stressful year for these businesses it is especially upsetting to have this compound their difficulties. There also appears to be a lack of transparency given the traders association was never notified of this set up, yet they were notified of all others. There is also a question of the COVID-19 requirement of safe distancing, both inside and in the queue. How can the Police possibly enforce this in a parking lot. The entrance to the space is also in the parking lot. And finally why was a space chosen that was not directly opposite their venue?*
- 4. Retail businesses on the ground level directly under and adjacent to the Flour Child nightclub that include Sister of Soul, 7 Apple ice-creams and Europa Cakes. The loud music and heavy bass penetrates the Sister of Soul vegetarian restaurant directly below,*



*constantly and throughout the day. This has a serious and ongoing negative impact on the dining experience of their patrons. Numerous patrons have complained about the noise and indicated it is so bad in terms of their dining experience that they do not wish to return to the venue until the noise has been dealt with. Moreover, the inebriated Flour Child patrons congregate at the entrance to all three businesses to smoke or wait. When asked gently by staff of these Acland street businesses if they could move from the entrance when smoking they often respond aggressively. This negatively impacts the staff as well as the patrons.*

- 5. Residents of St Kilda who frequent Acland street shops. Complaints have been made about the excessive and constant noise emanating from Flour Child by residents. The noise levels are shocking to many and have a negative impact on their experience on the Acland Street and Shakespeare Grove corner.*
- 6. Comments have been made by a range of people about permitting the addition of what is expected to be an open air high alcohol cocktail bar essentially in O'Donnell Gardens. This is alongside the CoPP Message Board prohibiting drinking in O'Donnell Gardens that reflects a long running campaign by Council to have alcohol free, safe areas during the summer season.*

*The manager assured us that the volume would be reduced after 11pm; that a curtain had been installed to reduce the sound travelling; and some windows would be closed after 10 p.m. Yet there appears to be very little reduction in the bass travelling into residents' bedrooms. We have learnt from sound engineers that it is not just simply lowering the db volume, but that the bass needs to be measured separately as well considering the impact of the way sound travels in waves. This results in different sound level impacts at different heights. It always comes back to the bass rather than just the volume. The bass creates havoc with the wellbeing of the residents at Chaucer Street and has a deleterious impact on, and negatively impacts the ambiance of, the restaurants directly below. This can be easily fixed if they just turn down the bass. DJs are often reluctant to comply with this as they see the heavy bass effects as integral to that type of music.*

*We believe it is worth mentioning that we would be much more supportive of 'live' music as it contributes to the arts and music scene which has done it so tough during COVID-19. Secondly live music is not constant and has breaks unlike the way DJ music is played. Nor does it contribute anything back to the community.*

*The Flour Childs latest marketing campaign for NYE included the following direct quote in italics - The gloves are coming off as we celebrate in "true St Kilda style" with a "Coachella NYE". Tickets include: a 4 hour bottomless beverage package .... This seems to reflect a business model of selling loads of high alcohol cocktail beverages to a predominantly young clientele, and this occurs without managing the consequences of this.*

*We have also just seen the permit application to build a balcony for smokers at the Flour Child. Does CoPP really wish to encourage smoking? This would appear to be a component of a strategic path they are taking to formally turn the venue in to a nightclub. Given their flagrant disregard of the current license restrictions, we request that the permit not be given.*

**Therefore we as a collective of residents and traders request the following:**

- 1. That the music volume and especially the bass levels be significantly reduced, during the day and after 11 p.m. and that windows be closed when music is playing. In*



- addition, that soundproofing commensurate with the demands of a nightclub be installed.*
2. *That professional security bouncers be employed to manage the crowd on street level and that they not congregate outside the impacted businesses on Acland street and Shakespeare Grove.*
  3. *That the 3 am licence be changed to 1a.m.*
  4. *That the bar on the edge of O'Donnell Gardens and directly opposite an apartment full of residents be closed-down or relocated.*
  5. *That the application to amend permit No 841/2019 be rejected.*
  6. *A sign similar to the one recently installed in Chaucer St near the basketball courts be erected in O'Donnell Gardens asking visitors to respect the locals and reduce noise levels from 10pm to 7am.*

#### **OFFICER COMMENT**

This petition requires several elements to be investigated and assessed with the venue at 1/77 Acland St, St Kilda and the parklet located in the Shakespeare Grove car park.

The emitted noise concerns raised in the petition are currently being investigated by Council's Planning Compliance Unit who will continue their investigation and ensure compliance with the venue's Planning Permit.

The Local Laws Unit will continue to monitor the venue for compliance with the temporary parklet permit, and appropriate action will be taken if breaches of the Local Law are identified.

With respect to the parklet, Council has supported Flour Child with a trial parklet permit and the occupation of parking bays in the Shakespeare Grove car park, in support of the economic and social recovery of local businesses from COVID-19.

A Policy is to be developed for the future use of public land for outdoor trade, parklets and events. Council encourages all members of the community who have an interest in the commercial use of public land to engage in this future consultation.

Council's Statutory Planning processes will be followed in assessing the Planning Permit Amendment application and this petition will be recorded as an objection to that application.

Officers are pursuing the installation of a sign in O'Donnell Gardens asking visitors to respect residents in the area.

#### **OFFICER RECOMMENDATION**

That Council:

1. Receives and notes the Petition.
2. Notes that the emitted noise matters described in the petition are subject of an existing investigation, the results of which will be reported to the petitioners at its conclusion.
3. Notes that compliance with the temporary parklet and Council's Local Law is being monitored by Council's Authorised Officers and appropriate action will be taken if breaches are identified.

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4. Notes that the Planning Permit amendment application is currently being considered under the ordinary statutory planning processes and that this petition will be recorded as an objection to the amendment application.
5. Notes that a new Policy is to be developed for the future use of public land for outdoor trade, parklets and events and encourages the community to participate in the consultation process when it commences later in the year.
6. Notes that officers are pursuing the installation of a sign in O'Donnell Gardens asking visitors to respect residents in the area.

**TRIM FILE NO:** F21/7

**ATTACHMENTS** Nil