

Planning Panels Victoria

Cardinia Planning Scheme Amendment C282card and permit application T230528 Officer kiln site

Panel Report

Planning and Environment Act 1987

1 July 2026

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the Planning Scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Cardinia Planning Scheme Amendment C282card and permit application T230528

Officer kiln site

1 July 2026



Con Tsotsoros, Chair

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Glossary and abbreviations

Amendment	Cardinia Planning Scheme Amendment C282card
Council	Cardinia Shire Council
DTP	Department of Transport and Planning
PE Act	<i>Planning and Environment Act 1987</i>
the permit application	Planning permit application T230528
Planning Scheme	Cardinia Planning Scheme
Subject land	Lot AA PS814723, Cotswold Crescent, Officer

Overview

Proposal summary

Combined PE Act section 96a application	Cardinia Planning Scheme Amendment C282card (Amendment) and planning permit application T230528 (the permit application)
Common name	Officer kiln site
Brief description	The Amendment seeks to revise the Heritage Overlay Schedule to allow prohibited uses to be considered for James Hicks Pty Ltd Pottery (HO104) The permit application seeks to use and develop the subject land for office and food and beverage premises with associated car parking, signage and access to Princes Highway
Subject land	Lot AA PS814723, Cotswold Crescent, Officer (see Figure 1)
The Proponent	James Hicks Pottery Site Pty Ltd
Planning Authority	Cardinia Shire Council
Authorisation	30 October 2025, with conditions
Exhibition	29 January to 5 March 2026
Submissions	Five submissions (two with unresolved issues including one from the Proponent were referred to the Panel)

Panel process

The Panel	Con Tsotsoros
Supported by	Laura Agius
Directions Hearing	Not conducted
Panel Hearing	Panel considered issues based on documents without a hearing
Site inspections	Unaccompanied, 26 June 2026
Citation	Cardinia PSA C282card [2026] PPV
Date of this report	1 July 2026

Executive summary

James Hicks Pottery Site Pty Ltd lodged a combined planning scheme amendment and permit application through section 96A of the *Planning and Environment Act 1987* (the PE Act). The combined application seeks approval:

- through Cardinia Planning Scheme Amendment C282card (the Amendment) and Planning permit application T230528 (the permit application)
- to develop a heritage place at Lot AA PS814723, Cotswold Crescent, Officer (subject land) comprising multi-level office space, parking, restaurant/bar and café.

Cardinia Shire Council (Council) exhibited the Amendment and Planning permit application from 29 January to 5 March 2026 and received five submissions, including two submissions with unresolved issues. Council referred the two submissions from:

- an individual who sought to:
 - regulate what type of tenants occupied the subject land
 - redistribute privately earned revenue to other members of the community
- the Proponent who sought to revise permit conditions to:
 - extend the restaurant/bar operating hours that it originally proposed
 - remove the requirement for all patrons in the external dining area to be seated when consuming food and drink
 - remove the requirement to not have live music, live entertainment, amplified music or speakers installed outside the building unless with prior written consent of the Responsible Authority.

Tenants, wealth distribution and community benefit

The PE Act and Cardinia Planning Scheme:

- do not enable a planning authority or responsible authority to regulate what type of tenants can occupy the subject land
- do not enable planning to redistribute privately earned revenue to other members of the community.
- seek to achieve net community benefit rather than benefit to all in the community.

The issues raised in this submission are beyond the scope of the Amendment, permit application and more broadly, planning. The PE Act does not enable Council to refer such issues to the Panel.

Restaurant/bar permit conditions

Operating hours

The exhibited permit conditions should not be revised to extend the specified operating hours. The Traffic Impact Assessment and Car Parking Demand Assessment and Town Planning Report have appropriately assessed the proposal based on the restaurant/bar operating hours provided by the Proponent.

There are no revised assessments to consider whether extending the operating hours will result in acceptable amenity impacts for matters such as potential noise and parking, particularly as the subject land is adjacent to sensitive residential uses.

Number of patrons

The exhibited permit conditions should not be revised to enable an unrestricted number of patrons. The permit should have a restriction on the number of patrons to enable certainty in how the subject land is managed.

The permit application does not include supporting information to demonstrate that more than 60 patrons would result in acceptable onsite and offsite amenity impacts. The potential negative impact on neighbouring residents resulting from more patrons may be exacerbated if the restaurant/bar's operating hours are extended.

Outdoor music and speakers

The exhibited permit conditions should not be revised to enable outdoor music and speakers without prior permission from Council. Requiring prior permission from the responsible authority to install speakers and play music in the outdoor area appropriately responds to the subject land's sensitive residential surrounds.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Cardinia Planning Scheme Amendment C282card be adopted as exhibited.**
- 2. Planning permit application T230528 be approved as exhibited.**

1 Introduction

1.1 The Amendment and permit application

(i) Subject land

Address:	Lot AA PS814723, Cotswold Crescent, Officer
Size:	About 1,759 square metres
Frontage:	Grace Street and Princes Highway rather than Cotswold Crescent which is about 90 metres to its northwest
Land use:	Previously used to manufacture terracotta building materials as part of the James Hicks Pty Ltd Pipe and Bricks Works The brick kiln and chimney structures remain on the land (see Figure 1)
Zone:	Urban Growth Zone Schedule 3
Overlays:	Heritage Overlay (HO104) Development Contributions Plan Overlay Schedule 4

(ii) Site context

North:	Residential area including a dwelling about 4.5 metres away
East:	Public open space
South:	Princes Highway, residential areas and Berwick Potteries
West:	Public open space with waterways

Figure 1 Subject land



Source: Explanatory report (Subject land shown in orange outline)

(iii) Proposal description

James Hicks Pottery Site Pty Ltd (the Proponent) seeks to develop a mixed-use development on the subject land. To achieve this, the Proponent lodged a combined planning scheme amendment and planning permit application and under section 96A of the *Planning and Environment Act 1987* (the PE Act).

Cardinia Planning Scheme Amendment C282card (the Amendment) proposes to change the Heritage Overlay Schedule to allow prohibited uses to be considered for James Hicks Pty Ltd Pottery (HO104).

Planning permit application T230528 (permit application) seeks to:

- use the subject land for office and food and beverage premises
- develop the land with an office building, café, restaurant/wine bar and associated car parking (see Figure 2 and Figure 3)
- construct and display signage associated with the development
- reduce the number of carpark spaces required to be provided
- create access to the Princes Highway (Transport Road Zone 2).

Figure 2 Proposed ground floor plan (restaurant/bar and café)

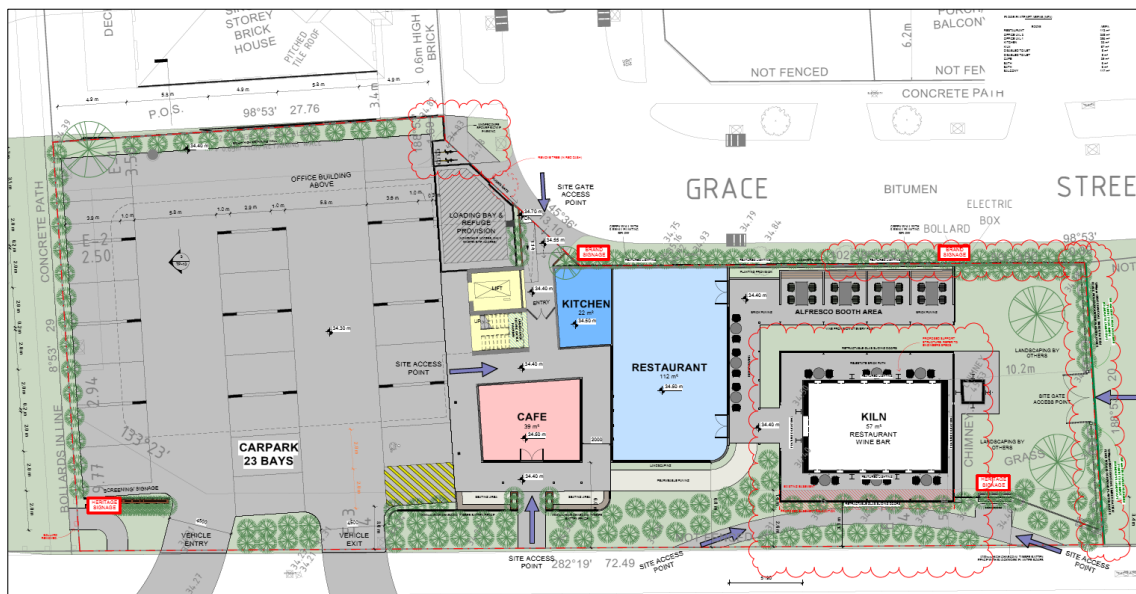
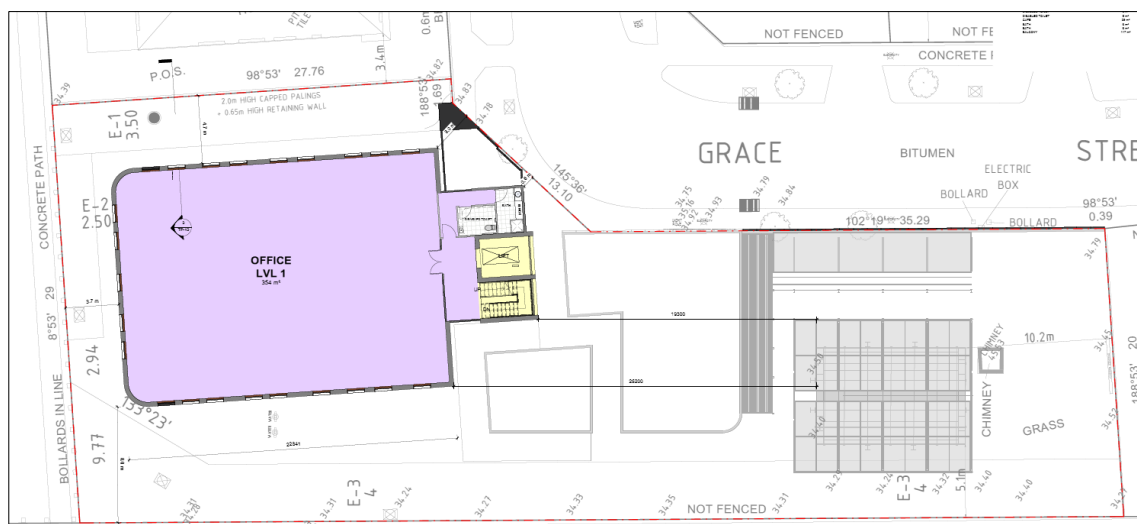


Figure 3 Proposed Level 1 plan (office space)

1.2 Procedural issue

After reviewing the Amendment and permit application documents and unresolved issues raised in submissions, the Panel gave notice to submitters¹ that it proposed to consider the issues based on documents without a Hearing. It advised the submissions did not raise a major issue of policy.

The Panel invited comments from submitters about its proposed process by 15 May 2026 before making its decision five business days later. Council supported the proposed document-based process subject to making a further written submission. No other submitters responded.

On 25 May 2026, the Panel notified parties that it would:

- proceed to consider unresolved issues based on documents
- provide Council with an opportunity to provide a further submission by 12 noon on 12 June 2026.

1.3 Planning context

Table 1 identifies planning context relevant to the Amendment and planning permit application.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Planning Policy Framework	- Clause 13.04-1S - Contaminated and potentially contaminated land - Clause 13.07-1S (Land use compatibility) - Clause 15 (Built environment and heritage) – 15.01-1S (Urban

¹ through section 158F of the *Planning and Environment Act 1987* (PE Act)

	design), 15.01-2S (Building design), 15.01-5S (Neighbourhood character) and 15.03-1S (Heritage conservation) - Clause 17.01-1S (Diversified economy) - Clause 17.02-1S (Business) - Clause 17.02-2S (Out-of-centre development) - Clause 18.01-1S (Land use and transport integration) - Clause 18.02-1S (Walking) and Clause 18.02-2S (Cycling) - Clause 19.03-2S (Infrastructure design and provision) - Clause 19.03-5S (Waste and resource recovery) - Clause 21.01-4 (Strategic vision) - Clause 21.01-5 (Strategic framework plan) - Clause 21.02-6 (Post-contact heritage) - Clause 21.03-3 (Urban Growth Area) - Clause 21.04-1 (Employment) - Clause 21.06-1 (Urban Design) - Clause 21.06-2 (Community Safety) - Clause 22.04 (Highway Development)
Other planning strategies and policies	- Plan Victoria
Planning scheme provisions	- Urban Growth Zone Schedule 3 - General Residential Zone (applied zone) - Heritage Overlay - Development Contributions Plan Overlay
Ministerial directions	- Ministerial Direction 1 (Potentially Contaminated Land) - Ministerial Direction 9 (Metropolitan Planning Strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments) - Ministerial Direction 12 (Urban Growth Areas)
Planning practice notes	- Planning Practice Note 46 (Strategic Assessment Guidelines)

The Panel has not considered whether the Amendment is strategically justified because the unresolved issues do not relate to its justification.

(i) Recommendations

For the reasons set out in this report, the Panel recommends:

- 1. Cardinia Planning Scheme Amendment C282card be adopted as exhibited.**
- 2. Planning permit application T230528 be approved as exhibited.**

2 Issues

2.1 Tenants, wealth distribution and community benefit

(i) The issues

The issues are whether:

- planning can regulate which tenants can occupy the subject land
- planning can redistribute privately earned revenue to other members of the community
- the proposal needs to benefit the entire community.

(ii) Submissions

One submission objected to the Amendment because he believed the proposed office space should benefit the whole community. To achieve this, he considered:

- the office complex should support not-for-profit organisations
- any revenue generated is donated to a local community organisation such as one that creates social housing opportunities for the vulnerable.

Council did not propose any change in response to the objection and submitted:

- the subject land is privately owned so it cannot control who would tenant the office space through the Amendment process
- the Planning Scheme primarily regulates land use and built form rather than the specific business models or philanthropic contributions of private occupants
- residential housing is not proposed through the Amendment.

(iii) Discussion

The Panel agrees with Council's response to the issues raised in the submission. The issues are beyond what the PE Act and Planning Scheme can regulate and beyond the scope of the Amendment and permit application. PE Act section 23(6)(a) states:

- (6) A planning authority must not refer to the panel a submission which, in the opinion of the planning authority, is—
- (a) frivolous or vexatious; or
 - (b) wholly irrelevant to the amendment.

In line with the PE Act, Council should not have referred these issues to the Panel.

(iv) Conclusions

The Panel concludes:

- The *Planning and Environment Act 1987* and Cardinia Planning Scheme:
 - do not enable a planning authority or responsible authority to regulate which tenants can occupy the subject land
 - do not enable planning to redistribute privately earned revenue to other members of the community.
 - seek to achieve net community benefit rather than benefit to all in the community

- The *Planning and Environment Act 1987* prohibits Council from referring frivolous or wholly irrelevant submissions to the Panel.

2.2 Restaurant/bar permit conditions

2.2.1 The issues

The Proponent requested the exhibited permit conditions be revised to:

- extend the specified operating hours
- not restrict the number of patrons
- enable outdoor music and speakers.

The issues relate to whether these changes will result in acceptable impacts.

2.2.2 Operating hours

(i) Submissions

Council noted the Proponent proposed the operating hours that appeared on the permit conditions.

The Proponent submitted that permit condition 12 should be revised to extend the operating hours (by starting earlier each day) for the Restaurant/Wine bar use to:

- Monday and Tuesday: 10:30am to 9:00pm (rather than 5:00pm start)
- Wednesday: 10:30am to 10:00pm (rather than 5:00pm start)
- Thursday and Friday: 10:30am to 11:00pm (rather than 5:00pm start)
- Saturday: 10:30am to 11:00pm (rather than 11:00am start)
- Sunday: 10:30am to 10:00pm (rather than 11:00am start).

The Proponent explained:

- the extended operating hours would enable the restaurant/wine bar to be open for lunch midweek and would enhance its economic viability
- the operation hours previously specified in the Traffic Impact Assessment and Car Parking Demand Assessment and Town Planning Report consciously sought to separate the operating times of each proposed use to ensure no overlap in operating times for the sole purposes of car parking
- Amendment VC277 has reduced the number of car parking spaces required for this development
- under the new rates, the proposal now seeks a reduction of only three car parking spaces which can be provided through the activation of on-street parking along Grace Street.

The Proponent did not expect the extended operating hours would result in negative amenity impacts to nearby residential land.

Council did not support the proposed extended operating hours because:

- residential land immediately adjoins the subject land to the north
- the extended hours would result in overlapping operating hours between the office space and the restaurant/bar during weekdays.

Council explained:

- the initial hours were consciously separated to ensure that peak parking demand for the office did not coincide with the restaurant use as requested by the town planning report
- extending the restaurant hours to include lunchtime trading would remove this separation, leading to a cumulative impact on parking availability
- Grace Street is the only viable option for overflow parking because parking cannot be accommodated on the Princes Highway
- it is not ideal to rely on Grace Street to absorb the combined parking demand
- using Grace Street would lead to a loss of parking for local residents and increased traffic movements in a sensitive residential setting.

Council submitted that without additional parking technical assessments and reviews to justify this requested change, the maximum patron numbers should remain to:

- protect the amenity of the adjoining residential area
- reduce impact on Grace Street
- ensure that the parking demand does not unfairly burden the local community or the existing road infrastructure.

(ii) Discussion

The permit application has not been assisted by the Proponent seeking to change important aspects of its proposal after it was exhibited. The request to increase restaurant/bar hours needs to be considered with:

- the number of car parking spaces available for the proposed 60 patrons
- the request to not restrict the number of patrons onsite (see Chapter 2.2.3)
- the request to not restrict outdoor live music, live entertainment, pre-recorded or amplified music (see Chapter 2.2.4).

All four components of the proposal are interrelated.

The proposed number of car parking spaces (23) continues to be relevant under the new Clause 52.06-5 because it:

- has been calculated by the Traffic Impact Assessment based on estimated demand for all proposed uses and on 60 patrons for the restaurant/bar use
- depends on a portion of those spaces being available for the restaurant/bar use after office hours
- continues to be less than the number of parking spaces the clause requires for the proposal (assuming Clause 52.06-5 requires eight spaces for the restaurant/bar and one for the cafe – total: 29 spaces for the entire proposal).

Since exhibition, the Proponent has sought to have the restaurant/bar and office use operate concurrently for 6.5 hours on business days. This is a notable change that needs to be assessed through a revised Traffic Impact Assessment. The car parking rates, even if reduced since Amendment VC277 introduced changes to Clause 52.06 (Car parking), are not appropriate justification for extending operating hours. They are applied as thresholds to determine whether a planning permit is needed to assess parking impact. Any potential impacts would continue to require empirical evidence through a traffic impact assessment.

The Panel does not accept the Proponent's explanation regarding the operating hours that appear in permit condition 12. The Traffic Impact Assessment supporting the permit application clearly states for all proposed uses *"The Applicant proposes the following hours of operation"*. Council assessed the appropriateness of the permit application based on the Proponent's proposed operating hours for the restaurant/bar.

Without supporting information:

- there is insufficient information for the Panel to consider whether extending the restaurant/bar's operation hours will result in acceptable impacts
- it can only be assumed that patrons who cannot find an onsite car parking space will seek to park on surrounding residential streets.

The Proponent's suggestion for patrons to use Grace Street for overflow parking is of concern. Based on the surrounding street network layout, restaurant/bar patrons would have to travel through other resident streets to reach Grace Street.

Streets surrounding the subject land have been designed for a low-density residential area with the ability for those visiting residents to park on the street. Unlike streets found in activity centres, Grace Street has:

- a relatively narrow carriageway of about 6.5 metres-wide
- has many crossovers concentrated south of Cotswold Crescent.

For the proposed uses and existing sensitive residential uses to co-exist harmoniously, the Panel agrees with Council that the proposed restaurant/bar operating hours should remain as exhibited, consistent with what was originally advised by the Proponent.

(iii) Findings

The Panel finds:

- The Traffic Impact Assessment and Car Parking Demand Assessment and Town Planning Report have appropriately assessed the proposal based on the restaurant/bar operating hours provided by the Proponent.
- There are no revised assessments to consider whether extending the operating hours will result in acceptable amenity impacts for matters such as potential noise and parking, particular as the subject land is adjacent to sensitive residential uses.

2.2.3 Number of Patrons

(i) Submissions

The Proponent referred to planning permit condition 11:

No more than sixty (60) patrons (not including staff) may be present at any time on the site in associated with the restaurant/wine bar use unless with the prior written consent of the Responsible Authority.

The Proponent requested that condition 11 be deleted because it considered it to be 'unduly restrictive' to the restaurant/wine bar operations. It explained:

- Amendment VC277 (gazetted 18 December 2025) altered the car parking rates associated with a Restaurant in Clause 52.06

- the previous car parking rates required the number of car parking spaces to correlate with the number of patrons permitted in the restaurant
- there is no car parking rate for a Restaurant use in the new Clause 52.06
- the applicable car parking rate is now associated with the broader Food and Beverage Premises use which has a floor area calculation rather than patron number calculation
- accordingly, there is no longer a need to restrict the number of patrons through a permit condition for the Restaurant/Wine bar use.

The Proponent considered the number of patrons in the restaurant/wine bar can be controlled through the certificate of occupancy and liquor license in accordance with maximum patron capacity requirements of Liquor Control Victoria.

The Proponent submitted that, if Council sought a permit condition to restrict patron numbers, the number should align with the maximum patron rates applied by Liquor Control Victoria – one patron for every 0.75sqm floor area subject to chairs and tables provided for 75 per cent of patrons.

Council did not support the change and submitted:

- the subject land is constrained with residential properties located to the north and east
- the only available overflow area is Grace Street (a residential road), as Princes Highway cannot accommodate additional car parking
- the proposed planning permit conditions serve to protect residential amenity and reduce impact on Grace Street.

Council added that limiting the number of patrons is therefore needed to manage the localised impact on car parking availability and to ensure the use intensity is compatible with the surrounding environment. It noted the Proponent requested the maximum patron number through the town planning report supporting its Planning Scheme Amendment request.

(ii) Discussion

The Panel has concluded the restaurant/bar operating hours should remain as exhibited so that a portion of the car parking spaces can accommodate up to 60 patrons. The Proponent provided this number in the permit application. It is common for a responsible authority to restrict the number of patrons through a permit condition to ensure acceptable onsite and offsite amenity.

There is a strong correlation between car parking and patron numbers. It is unclear whether the proposed 23 car parking spaces will be enough for more than 60 patrons because the Traffic Impact Assessment did not consider a larger number. Assuming there are insufficient spaces, patrons would have to park on surrounding streets which can be disruptive to residents, particularly if patrons leave during later hours.

On car parking alone, the Panel considers there should be a restriction on the number of patrons for a Restaurant/bar use. The question remains as to whether the number of patrons should be:

- 60, as original proposed by the Proponent

- calculated at one patron for every 0.75 square metres of floor area, as proposed by the Proponent.

The rate of one patron for every 0.75 square metres of floor area is an upper limit and is not appropriate, safe or achievable in every circumstance. Such a density is more commonly found at nightclubs and pubs.

Assuming the restaurant/bar has a combined floorspace of 169 square metres (as specified in the permit application), one patron for every 0.75 square metres of floor area would result in 126 patrons. This would be more than double what the exhibited Application proposes.

The Traffic Impact Assessment states:

The cafe and restaurant will likely attract customers from future office employee of the development for social gatherings and/or meetings during the week.

The Panel was unable to find the total number of office employees that would be onsite. Assuming one office worker for every 10 square metres, there would be 53 employees across the 537 square metres of office space. Enabling 126 restaurant/bar patrons would therefore attract up to 73 to 126 external patrons depending on how many office workers are present.

Irrespective of the number, the permit application does not include sufficient information to determine whether having more than 60 patrons can:

- appropriately manage offsite impacts including noise, particularly:
 - during later hours in the external area irrespective if they are seated
 - when most or all patrons leave at a similar time during late hours
- be safely evacuated during an emergency.

This information is important because what Liquor Control Victoria may consider to be appropriate for a licensed premises may not necessarily result in acceptable offsite amenity impacts to the abutting residential area.

The Panel accepts Council's submission on this issue and agrees the number of patrons should be specified as 60. This reflects the exhibited number, as provided by the Proponent for the purpose of the permit application.

(iii) Findings

The Panel finds:

- The permit should have a restriction on the number of patrons to enable certainty in how the subject land is managed.
- The permit application does not include supporting information to demonstrate that more than 60 patrons would result in acceptable onsite and offsite amenity impacts.
- The potential negative impact on neighbouring residents resulting from more patrons may be exacerbated if the restaurant/bar's operating hours are extended.

2.2.4 Outdoor music and speakers

(i) Background

The exhibited planning permit included conditions:

37. No live music, live entertainment, pre-recorded or amplified music may be played outside the building at any time, unless with the prior written consent of the Responsible Authority.
38. Speakers must not be installed or located outside the building, unless with the prior written consent of the Responsible Authority.

(ii) Submissions

The Proponent requested permit conditions which prohibited outdoor music or speakers be deleted, and submitted:

- these conditions are excessively restrictive and would effectively prohibit any kind of radio or 'mood' music being played within the alfresco area
- there is no apparent reason for these conditions.

Council did not support the request change and submitted:

- the subject site directly abuts residential properties to the north
- outdoor speakers and music even if intended as mood music would significantly risk acoustic leakage
- unlike indoor areas, where sound can be mitigated by building fabric, outdoor sound is difficult to contain and would have a direct, adverse impact on the quiet enjoyment of the neighbouring homes
- outdoor areas are naturally more sensitive in a residential context
- low-level background music, when combined with patron noise, can cumulate and become intrusive, particularly during evening hours
- permit conditions 37 and 38 are intended to prevent ongoing amenity disputes and to ensure the long-term compatibility of the two land uses.

(iii) Discussion

Exhibited permit conditions 37 and 38 enable the opportunity to seek prior permission from the responsible authority to install speakers and play music in the outdoor area. While outdoor speakers and music are prohibited without this consent, it does not entirely prevent them.

The Panel agrees with Council's reasons for retaining conditions 37 and 38 on the permit. There is a risk of causing unacceptable noise disturbance to surrounding residents. There was no information in the permit application to demonstrate how the outdoor area can be effectively designed to achieve acceptable offsite amenity impacts.

(iv) Finding

The Panel finds that requiring prior permission from the responsible authority to install speakers and play music in the outdoor area appropriately responds to the subject land's sensitive residential surrounds.

2.2.5 Conclusions

The Panel concludes that the exhibited permit conditions should not be revised to:

- extend the specified operating hours
- enable an unrestricted number of patrons
- enable outdoor music and speakers without prior permission from Council.