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12/03/2026

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Strategic Planning Department
Cardinia Shire Council
20 Siding Avenue, Officer VIC 3809

RE: Amendment C282 card & Planning Permit Application T230528

As the applicant of the above planning scheme amendment and planning permit application, Nobelius Land Surveyors wish to make a submission to Council relating to the exhibited documents.

Upon review of the exhibited permit conditions for T230528, we submit that it is appropriate to:

- Remove or vary proposed condition 11 (maximum number of patrons)
- Vary proposed condition 12 (hours of operation)
- ~~Remove proposed condition 39 (external dining area requirements).~~ No longer required. Outdoor dining standards dealt with under new condition 32(i) (Patron and Premises Plan).
- Vary proposed condition ~~43~~ 37 (no live music outside the building)
- Vary proposed condition ~~44~~ 38 (no speakers outside the building)

Maximum number of patrons to be removed/varied

Proposed condition 11 is as follows:

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.

We contend that this condition is unduly restrictive on the operation of the restaurant/wine bar and should be removed given:

- VC277 was gazetted 18 December, 2025 and altered the car parking rates associated with a 'Restaurant' use under clause 52.06. Under the old car parking rates, the number of car parking spaces required correlated with the number of patrons permitted within the restaurant. Under the new provisions, the car parking rate for a 'Restaurant' use has been removed, and the applicable car parking rate is now associated with the wider land use term 'Food and Beverage Premises' which has a floor area calculation rather than patron number calculation. As such, there is no longer a need to impose a restriction via permit condition for patron numbers for the Restaurant/Wine Bar use.
- The number of patrons permitted within the restaurant/wine bar can be controlled via certificate of occupancy and liquor license as per maximum patron capacity requirements of Liquor Control Victoria (LCV).

Should Council maintain that maximum patron numbers be conditioned, we kindly ask that the number is in keeping with the maximum patron rates imposed by LCV (1 patron per 0.75sqm floor area providing there are chairs and tables provided for 75% of patrons).

Hours of operation to be varied

Proposed condition 12 stipulates:

12. Except with the prior written consent of the Responsible Authority, the use (restaurant/wine bar) may only operate:

A) Monday and Tuesday 5.00pm – 9.00pm

B) Wednesday 5.00pm – 10.00pm

C) Thursday and Friday 5.00pm – 11.00pm

D) Saturday 11.00am – 11.00pm

E) Sunday 11.00am – 10.00pm

The hours of operation previously specified in both 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.

VC277 has significantly reduced the number of car parking spaces required for this development, noting that under the new rates the proposal now seeks a reduction of only three (3) car parking spaces which can be provided through the activation of on street parking along Grace Street.

Given the above, it would be appropriate for Council to vary condition 12 to extend the hours of operation for the restaurant/wine bar use. This would enable the restaurant/wine bar to be open for lunch midweek and would enhance the economic viability of the operation.

We propose condition 12 include the following hours of operation for the restaurant/wine bar use:

a) Monday and Tuesday 10.30am – 9.00pm
b) Wednesday 10.30am – 10pm
c) Thursday and Friday 10.30am – 11.00pm
d) Saturday 10.30am – 11.00pm
e) Sunday 10.30am – 10.00pm

We do not anticipate that extending the hours of operation for the restaurant/wine bar for lunchtime trading would result in any adverse amenity impacts to nearby residential land.

~~Requirement for patrons to be seated outside removed~~

~~Condition 39 is as follows:~~

~~*39. All patrons within the external dining area (s) must be seated when consuming food and drink, unless with the prior written consent of the Responsible Authority.*~~

~~We contend that this condition is not consistent with the LCV requirement for 75% of patrons in a restaurant to be provided with chairs and tables and that this issue is best managed through a liquor license rather than as a permit condition. As such, we propose that this condition be removed.~~

No longer required. Outdoor dining to be dealt with under the Patron and Premises Plan (exhibited condition 32).

Vary restrictions relating to music outdoors

Proposed conditions ~~43 & 44~~ 38 & 39 seek to impose restrictions on music outside of the building:

~~43~~ 38. 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.

~~44~~ 39. Speakers must not be installed or located outside the building, unless with the prior written consent of the Responsible Authority.

These conditions are excessively restrictive and would effectively prohibit any kind of radio or mood music being played within the alfresco area. We seek Council clarification on the reasoning behind these conditions and propose they be varied to allow music within this space during approved operating hours for the restaurant/wine bar use.

We would welcome the opportunity to discuss the above with Council further and can be contacted on the undersigned.

Warm Regards,

[redacted]