

21 September 2023

File ref: 0024-02 da

Chief Executive Officer
City of Vincent
email: mail@vincent.wa.gov.au

Attention: Planning Department

Dear Sir

**RE: DEVELOPMENT APPLICATION – SPRITZ SPIZZICHERIA
PROPOSAL TO EXTEND DURATION OF DEVELOPMENT APPROVAL (REF: 5.2018.159.1)
EXISTING CANOPY STRUCTURE AND MOTORISED CAFÉ BLIND SYSTEM**

This is to advise that *PLAN. (Town Planning & Urban Design)* acts on behalf of Messrs Mario Talardo and Franco Tambasco, the owners and operators of the *Spritz Spizzicheria (Spritz)* restaurant which is located at Lot 600 (No. 148 to 158) Scarborough Beach Road, Mount Hawthorn.

This Development Application is lodged pursuant to clause 77, Part 9, Schedule 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015 (P&D Regulations)*.

The Application is submitted to seek the approval of the City to amend Condition 2 of the existing Development Approval by extending the duration of the decision for the canopy structure and café blind addition to the alfresco dining area of Spritz which was granted under delegated authority on 6 November 2018. (City's Ref: **5.2018.159.1**)

The extension of the approval is sought to facilitate a further five (5) year approval period for the canopy structure and café blinds. The structure with its motorised blind system is essential to the operation of the alfresco area. It protects customers from all types of weather conditions making it possible for this popular outdoor dining area to remain open throughout the year. It is the year round activation of the alfresco area which has created the vibrancy and activity now seen in this section of Scarborough Beach Road, at the heart of the district centre of Mount Hawthorn. For these reasons, we seek the City's support to approve an extension of the duration of the development approval to allow for the canopy structure and motorised blind system to remain in place.

All conditional requirements of the existing approval are to remain unchanged and upheld.

Accordingly, please find attached the completed Development Application Form and MRS Form 1, which are signed by the Directors of *Hyde Park Management Ltd*, the company which owns the subject tenancy. In addition to that, we also attach a copy of the current Certificate of Title (**Annexure 1**), and a copy of the current Development Approval and stamp approved plans and certified building permit drawings (**Annexure 2**).

The following report provides a summary of the details of the canopy structure system together with the planning justification in support of canopy structure and alfresco blind system remaining in place and unmodified for a further five year period.

1.0 THE SITE AND SURROUNDING ENVIRONS

Spritz is a thriving Italian restaurant situated in the heart of the Mount Hawthorn District Centre at 148-158 Scarborough Beach Road, Mount Hawthorn.

The site details and project information are summarised below at **Table 1**.

TABLE 1: SUMMARY TABLE	
Landowner:	Hyde Park Management Ltd
Property Description:	Lot 600 (No. 148-158) Scarborough Beach Road, Mount Hawthorn
Existing Development Approval:	Addition to Café – canopy structure and café blinds. Serial No: 5.2018.159.1 Approval date: 6 November 2018
Certificate of Title:	Volume 2598, Folio 388
Local Government Authority:	City of Vincent
Local Planning Scheme:	Local Planning Scheme No. 2
Zoning:	District Centre
Built Form Area:	Town Centre
Proposal:	This Application is submitted under clause 77 of Schedule 2, Part 9, of the Deemed Provisions of the <i>Planning and Development Regulations 2015</i> . The proposal seeks to amend Condition No. 2 the development approval by extending the duration of the development approval. This will allow for the canopy structure and café blinds to remain in place for a further five (5) year period, from the date of the extended approval.

Spritz is located on the northern eastern side of Scarborough Beach Road and has a southwestern frontage to it. It is a tenancy which forms part of the strip of commercial tenancies of The Mezz shopping centre which shops have frontages to and are accessible directly from the footpath on Scarborough Beach Road. (Refer below to **Figure 1**: Location of Spritz within the District Centre of Mount Hawthorn.

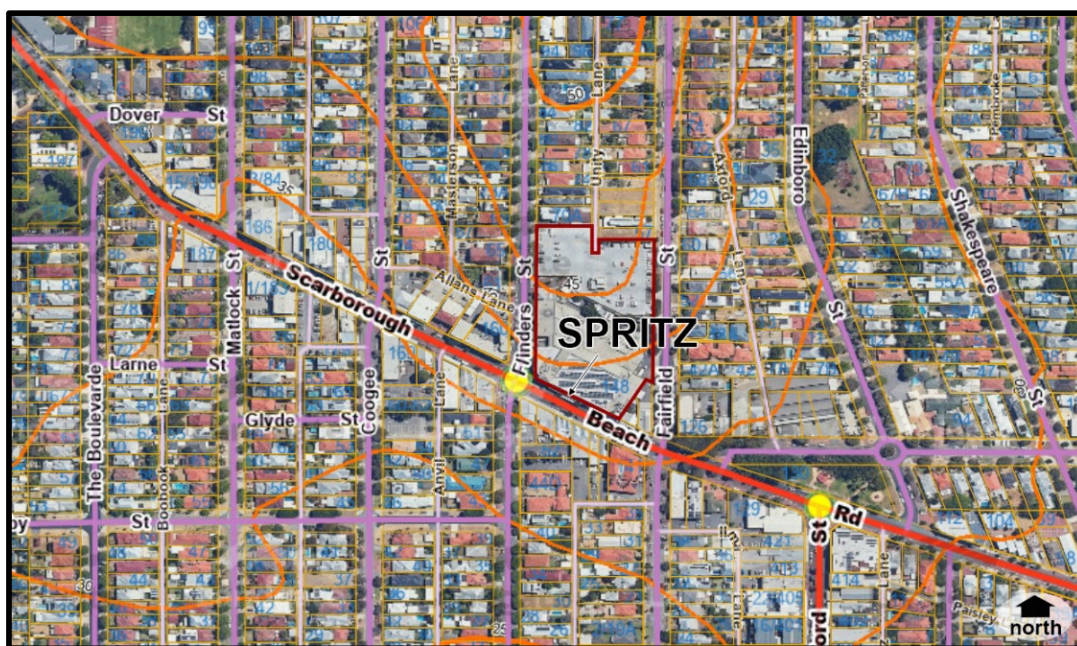


Figure 1: Location of Spritz within the District Centre of Mount Hawthorn (source: landgate)

The introduction of the structural canopy shelter to the alfresco area has significantly and positively contributed to the success of Spritz and added to the vibrancy of this commercial strip. The canopy is a striking design and offers a comfortable place for customers to sit and enjoy a meal whilst actively engaging with the street. It is also regularly utilised outside of the operating hours of Spritz by the local community as a casual seating area.

The photographs below illustrate the high quality of the design of the structure which fits within and adds to the character and identity of this commercial strip.



Photograph 1: Standing on the southwestern side of Scarborough Beach Road looking in a north westerly direction towards Spritz. Note: The unique design of the canopy structure creates a visual marker in the streetscape which positively adds to the unique identity and character of Mount Hawthorn.



Photograph 2: Standing on the southwestern side of Scarborough Beach Road looking in a north westerly direction towards Spritz. The design is inviting and sits comfortably in the streetscape. The extent of visibility through the canopy structure is like the adjacent tenancy, with the visibility being impacted only by the trees in the median, the planter boxes and the shadow cast by the awnings.



Photograph 3: Standing on the southwestern side of Scarborough Beach Road looking towards the canopy structure. Note: the design retains visibility and accessibility through the space, inviting pedestrian movement through and within it.



Photograph 4: Standing on the northeastern side of Scarborough Beach Road in the pedestrian footpath clear zone between the alfresco dining area and the internal dining area of the restaurant. Note: The tables and chairs are removed from the space and the motorised blinds are retracted, as Spritz was not open for trade when the photograph was taken and the weather conditions at this time of the day did not require the blind system to be activated to shelter the space. This space is available to the community to use when the restaurant is not open.



Photograph 5:

Looking in a north westerly direction along the footpath between the alfresco dining area and the internal dining space of Spritz. Note the high level of visibility maintained through the structure and the unimpeded pedestrian movement along the footpath.

2.0 THE EXISTING STRUCTURE AND MOTORISED BLIND SYSTEM

The engineered steel frame of the canopy structure is designed with a motorised louvre roof and café blind system, lighting and heat lamps. The roof is fixed with flashing, gutters and downpipes that connect to the stormwater drainage system. This structure is specifically designed to provide customers of Spritz the opportunity to enjoy alfresco dining on the main street during all weather conditions. A copy of the **Development Approval** and the **certified building permit plans** which detail the engineered design are attached at **Annexure 2**.

The location and orientation of the restaurant tenancy has limited (if any) protection from the weather. The frontage of the tenancy is severely impacted by wind, rain and sun due to its position on the northeastern side of Scarborough Beach Road and its orientation to the southwest. This canopy structure and its motorised louvre roof and blind system allows the owners to discreetly open and lower blinds and activate the louvers on the roof to respond to changing weather conditions throughout the day. This ensures the alfresco dining area remains an inviting and engaging space for customers to enjoy across all seasons. It is the year round activation of this alfresco area which is the key driver behind the success of Spritz in this location, with alfresco dining being the preferred choice of seating area for its customers.

The ability to use of the alfresco dining area throughout the year has meant that Spritz has been able to retain its staff on a permanent basis to cater for the 100 seat capacity. Spritz employs 8-10 staff at the restaurants at any one time, many of which live locally. The retention of the structure is necessary to ensure the continued viability of this restaurant is maintained and its staff gainfully employed. It is an unavoidable reality that the removal of the canopy structure and its motorised louvre and blind system will mean that the alfresco area will not be able to be used for much of the year. The outcome being that customer numbers will rapidly decline as many will choose more reliable restaurant environments to visit, which offer alfresco areas in locations which are less exposed to the changes in weather.

It is also relevant to acknowledge the significant contribution made by Spritz in reactivating this section of the main street of Mount Hawthorn. This has been made possible by the installation of this canopy structure system to the alfresco area which draws people to the venue all year round. The activation of the strip by this restaurant has generated a substantial amount of foot traffic and passing trade for the many local businesses operating along Scarborough Beach Road. This is because customers of Spritz will often take the opportunity to visit the independent retailers and boutiques operating along the main

street after dining at the restaurant. The striking unique design of the canopy structure is now embedded in the built fabric of this area and recognised as a landmark in Mount Hawthorn. It is an aesthetic form and appropriate in scale, which is sought to be retained for the ongoing activation of the alfresco area by Spritz, to the benefit of the local community more generally.

3.0 THE PLANNING FRAMEWORK

The planning framework has not changed since the Development Approval was granted for the canopy structure and café blind system.

The subject tenancy remains zoned 'District Centre' in the City's *Local Planning Scheme No. 2 (LPS 2)* and 'Urban' in the *Metropolitan Region Scheme (MRS)*.

The tenancy is approved for use as a 'Restaurant/Café', with the alfresco dining area and canopy structure forming part of that approved land use. The land use of 'Restaurant/Café' remains a permitted ('P') use in the District Centre zone.

The site continues to be identified as part of the 'Town Centre' Built Form Area of City's *Local Planning Policy 7.1.1*.

The alfresco area and the canopy structure system remain compliant with the requirements of LPS 2 and other associated policies.

The canopy structure as constructed was approved by the City's Planning Department on 6 November 2018 under delegated authority. A Building Permit was issued by the City on 23 April 2019. The structure is constructed and continues to be used in accordance with the requirements of the City's approvals. A copy of both the Development Approval and Building Permit are attached at **Annexure 2**.

Condition No. 2 of the Development Approval states:

2. *This approval for the canopy structures and café blinds is valid is (sic) for a period of five (5) years from the date shown above. Following expiry of this period, the permanent canopy structure shall be removed at the owner's cost and the road reserve made good, unless a further development approval is granted by the City.'*

The reference in the wording of the condition that the period of five (5) years is to be taken from the 'date shown above' is presumed to mean the date that the approval was issued by the City, which is not stated above the condition. The only date references above the condition are the date of the submitted plans, and the date that the application was received. The reference is therefore taken to mean the date stated 'below', being the date of the decision stated on page 4 of the approval as 6 November 2018.

All conditions of the approval are to remain unchanged and will continue to be upheld.

This Application seeks only to extend the duration of the approval, which will amend Condition No. 2 to reference the date of the extended approval as being the start of the further five (5) year approval period for the canopy structure and café blind system.

For information purposes, we also attach a copy of the current **public liability insurance** held by Spritz at **Annexure 3**, as required by Condition No. 10 of the approval.

On the basis that the planning framework has not changed since the last approval was granted and the planning reasons given in support of this application that we respectfully seek the City's approval to extend the duration of the approval and in doing so amend Condition No. 2 to permit another five (5) year approval period for the canopy structure and blind system, under clause 77 of Schedule 2 of the Deemed Provisions of the P&D Regulations.

4.0 CONCLUSION

The integrated canopy and motorised blind system is a high quality, attractive and robust structure which remains appropriate for use by the Spritz restaurant in this location. It provides a site specific solution to facilitate the use of the alfresco dining in this area of the commercial strip of Mount Hawthorn which would otherwise be severely compromised and limited due to its exposure to the changes in the weather. The retention of the canopy structure with the motorised blind system will allow for the alfresco space to remain functional and comfortable for customers to enjoy throughout the year. It is an essential contributor to the ongoing success of the restaurant and the pedestrian activation of this road.

The structure is consistent with the City's requirements. It maintains visibility, allows for unimpeded pedestrian movement along the footpath and through the structure for pedestrian crossing of Scarborough Beach Road. It is an inviting space for customers to dine and is available for use by the community outside of operating hours. The structure positively contributes to the vibrancy and unique identity of the district centre of Mount Hawthorn, as envisaged by the City. It is for all these reasons, we respectfully seek the City's support to grant an extension to the duration of the approval to allow the canopy structure and blind system to remain for a further five (5) year time limited period, pursuant to clause 77 of Schedule 2 of the Deemed Provisions of the P&D Regulations.

We trust that the information provided in this Application is sufficient for staff's assessment. However, should staff have any queries, the writer is available on 0414 384 972 or clare@planwa.au.

Yours sincerely



Clare McLean
Director

cc: *Messrs M Talardo and F Tambasco of Spritz Spizzicheria*
Ms B Moharich, Director – Moharich & More.

11 April 2024

File ref: 24-2024

Chief Executive Officer
City of Vincent
Attn: Ellis George – Urban Planner
Email: ellis.george@vincent.wa.gov.au

**RE: PLANNING APPLICATION – EXTENSION OF PLANNING APPROVAL
ADDITIONAL JUSTIFICATION IN SUPPORT OF APPLICATION
SPRITZ EXISTING ALFRESCO STRUCTURE AND BLIND SYSTEM
APPLN NO: 5.2023.294.1**

Dear Ellis

This additional information is submitted as justification that the mesh blind component of the motorised dual blind system for the Spritz alfresco structure meets with the requirements of Condition No. 4 of the existing Development Approval, which states that:

- 4. The alfresco blinds shall remain visually permeable in appearance at all times to the satisfaction of the City.*

This information is submitted in response to the City's Administration's query as to whether the mesh shade blind is visually permeable.

It is understood that the term 'visually permeable' in the context of the mesh blind component of this dual blind system is taken to mean that the blind is not to have a visual or apparent effect of enclosing the alfresco space, which reference of the City is taken from its Vibrant Public Spaces Policy.

This submission is provided to the City to advise in writing that the separate mesh blind components maintain a satisfactory level of visually permeability when drawn. Notwithstanding this, these blinds are mostly retracted and not used.

As the City is aware, the motorised dual blind system includes clear plastic café blinds to provide weather protection and woven mesh blinds for sun protection. The woven mesh blinds provide sun protection for customers at certain times of the day (when requested) which is operated only during the heat of summer. The use of the mesh blind system can in this way be likened to the use of commercial café umbrellas along alfresco strips, which are often orientated and manoeuvred across a trading day to respond to the angle of the sun.

The mesh blinds remain retracted for most of the day and throughout most of the year.

Spritz does not operate all of the mesh blinds simultaneously. It might be that a single blind is drawn at the request of a customer for around 1-2 hours over the trading day in summer.

The mesh blind is not required to be used at all during the cooler winter months.

In providing this advice, we seek to highlight to the City that it is not in the commercial interests of Spritz to draw any of the mesh blinds unless requested by a customer. Visual permeability and creating an active connection between the alfresco space and the surrounding street is critical to maintaining the commercial success of Spritz.

The mesh blind element is however a functional necessity of this space. It provides an option for customers enjoying the space to be able to request that a mesh blind be drawn (partially or fully) to reduce the impact of sun exposure on their bodies. There is an underlying health risk in preventing the continued and infrequent use of the mesh blind component of this structure, which is a position which we oppose vehemently. In this regard, we seek the City's support for the mesh blinds to continue to function as approved given the mesh is: a visually permeable fabric; it is infrequently used across a single trading day and only for part of the year; and the ability for it to continue to be operated assists in preventing sun burn, skin damage and skin cancer.

In support of our position, the owners of Spritz have taken a photographic record as an example of its daily operation of the restaurant and the use of this mesh blind system.

The photographic record is provided below. These photographs were taken on 3 April 2024, being the day immediately following the City's advice to us that the mesh blind component of the structure was being reviewed by the City's Administration.

The photographs demonstrate without doubt that the mesh blind is visually permeable and that the use of these blinds does not in any way have a visual or apparent effect of enclosing the alfresco space. We therefore seek the City's support to approve the alfresco structure, without any restriction being placed on the use of the mesh blind function.

Yours sincerely



Clare McLean
Director

PHOTOGRAPHIC RECORD – SPRITZ OPERATIONS ON 3 APRIL 2024

The recorded temperature on 3 April 2024 was 30°C, with clear skies.



PHOTOGRAPH 1: 11:18am. The sun is not yet impacting the alfresco space. The structure remains open and visually permeable.



PHOTOGRAPH 2: 12:49pm. The angle of the sun is not yet impacting the space. The mesh blinds remain retracted. The structure is open in nature, with maximum engagement and activation with the street. It is entirely visually permeable, in accordance with the conditional requirements of the approval.



PHOTOGRAPH 3: 1:28pm. A single mesh blind is now drawn at the western end of structure at the request of customer, for protection from the sun. The high degree of visibility through the structure is maintained.



PHOTOGRAPHS 4 & 5: 1:29pm. The use of the mesh blinds is not preferred and is infrequently used for limited periods during the trading day to ensure maximum visibility and connection with the street when viewed by customers seated inside the restaurant space.



PHOTOGRAPH 6: 1:56pm. A single blind remains drawn at the request of a customer. Visual permeability is sufficiently maintained and in reality, less obscured than a large café umbrella being angled to assist in providing such sun protection.



PHOTOGRAPH 7: 1:58pm. The space remains visually permeable when viewed from the pedestrian thoroughfare between the alfresco area and the restaurant.



PHOTOGRAPH 8: 2:09pm. The single drawn blind does not impact on the high level of visual permeability maintained through the structure.



PHOTOGRAPH 9: 2:10pm. This photograph demonstrates the angle of the sun and the negligible impact on visual permeability resulting from a single mesh blind being drawn for the benefit of the customer.



PHOTOGRAPH 10: 2:17pm. Standing inside the restaurant space and looking at the side of a truck driving along Scarborough Beach Road. Full visibility is maintained with the street.



PHOTOGRAPH 11: 2:35pm. Only a single mesh blind was drawn over the lunch service.



PHOTOGRAPH 12: 2:50pm. The blind is now retracted half way. Visual permeability is maintained through the blind and the section not covered by the mesh blind.



PHOTOGRAPH 13: 2:50pm. The view from inside the alfresco area with the partially drawn blind.



PHOTOGRAPH 14: 3:08pm. A view through the alfresco area, standing outside at the south eastern end of the structure.



PHOTOGRAPH 15: 3:08pm. Visual permeability is maintained.



PHOTOGRAPH 16: 4:07pm. This photograph shows the angle of the sun at this time of the day and the high level of visual permeability maintained through the structure.



PHOTOGRAPH 17: 4:07pm. Standing on the pedestrian thoroughfare between the internal restaurant and alfresco area. Visual permeability is maintained.



PHOTOGRAPH 18: 5:19pm. The blind is drawn at the end of the structure to protect customers from the angle of the sun as it sets.



PHOTOGRAPH 19: 5:20pm. Standing on Scarborough Beach Road looking north east towards the structure. The mesh blinds are not required. Visual permeability is maintained.



PHOTOGRAPH 20: 5:21pm. The mesh blinds are not in use as it is not necessary.



PHOTOGRAPH 21: 5:21pm. Standing at south eastern end on the verge looking towards the structure. The visual permeability is maintained.



PHOTOGRAPH 22: 5:39pm. Standing centrally within the structure. Visibility is maintained. The sun is setting. The customers at the north western end of the alfresco dining area are protected.



PHOTOGRAPH 23: Looking across the structure. Note pedestrian thoroughfare actively used.



PHOTOGRAPH 24: 5:45pm. The sun is now setting.



PHOTOGRAPH 25:

5:51pm. The mesh blind at the north western end of the structure is no longer required. It is now retracted.

It is also relevant to note that the mesh blind would be used even less than it is currently, should the branches of the trees in the verge not have been pruned so rigorously. The canopy of the trees have the ability to provide a significant amount of additional shade and protection from the sun over the alfresco area during the summer months, should the extent of pruning be reduced.



PHOTOGRAPH 26: 5:59pm. The blind is retracted as the sun is no longer filtering into the alfresco area at a level which concerns the customers. The space is activated, visually permeable and continues to add vibrancy to this public space.



PHOTOGRAPH 27: 6:00pm. Looking in a westerly direction towards the setting sun. No blinds are drawn. The space remains open and vibrant as the dinner trading hour commences.