

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	5-7 Main Street, Pakenham VIC 3810 L1 PS504646 V11052 F702
The application is for a permit to:	Use of land for an education centre (secondary school).
The applicant for the permit is:	SD Planning
The application reference number is:	T240059
You may look at the application and any documents that support the application at the office of the Responsible Authority:	Cardinia Shire Council 20 Siding Avenue Officer 3809 This can be done during office hours and is free of charge. Documents can also be viewed on Council's website: https://www.cardinia.vic.gov.au/advertisedplanningapplications

Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority.

- An objection must
- * be sent to the Responsible Authority in writing, at Cardinia Shire Council, PO Box 7, Pakenham, Vic, 3810 or email at mail@cardinia.vic.gov.au.
 - * include the name and address of the objector/ submitter.
 - * include the application number and site address.
 - * include the reasons for the objection, and
 - * state how the objector would be affected.

The Responsible Authority will not decide on the application before:	26 April 2024
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If you object, the Responsible Authority will tell you its decision.

Please be aware that copies of objections/submissions received may be made available to any person for the purpose of consideration as part of the planning process.

For additional information or advice contact Cardinia Shire Council, Planning Department on 1300 787 624 or mail@cardinia.vic.gov.au.

Your objection/submission and personal information is collected by Cardinia Shire Council for the purposes of the planning process as set out in the *Planning and Environment Act 1987*. If you do not provide your name and address, Council will not be able to consider your objection/submission. Your objection/submission will be available free of charge at the Council office for any person to inspect and copies may be made available on request to any person for the relevant period set out in the *P&E Act*. You must not submit any personal information or copyright material of third parties without their informed consent. By submitting the material, you agree that the use of the material as detailed above does not breach any third party's right to privacy and copyright.

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T240059 PA

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[View map online](#)

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ePlanning

Application Summary

Portal Reference A1247215

Basic Information

Proposed Use Use of land for an education centre (secondary school).
Current Use Youth centre which provides youth-focused meetings, services or programs and as a secondary school (Oakwood School)
Site Address 5-7 Main Street Pakenham 3810

Covenant Disclaimer

Does the proposal breach, in any way, an encumbrance on title such as restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope? Not Applicable, no such encumbrances apply.

Contacts

Type	Name	Address	Contact Details
Applicant	Dale Gemmell Community College Gippsland	71 Korumburra-Warragul Road, Warragul VIC 3820	W: 5622-6000 E: dale.gemmell@ccg.asn.au
Owner	Cardinia Shire Council	20 Siding Avenue, Officer VIC 3809	W: 1300-787-624 E: mail@cardinia.vic.gov.au

Total \$1,415.10

Meetings

Meeting Type	Officer Name	Date of Meeting
Pre Application	Jason Gilbert	05 Sep 2023



Civic Centre
20 Siding Avenue, Officer, Victoria

Council's Operations Centre (Depot)
Purton Road, Pakenham, Victoria

Postal Address
Cardinia Shire Council
P.O. Box 7, Pakenham VC, 3810

Email: mail@cardinia.vic.gov.au

Monday to Friday 8.30am–
5pm
Phone: 1300 787 624
After Hours: 1300 787 624
Fax: 03 5941 3784

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Documents Uploaded

Date	Type	Filename
14-02-2024	A Copy of Title	231114 Cert of Title.pdf
14-02-2024	Site plans	231121 Application Plans.pdf
14-02-2024	Written Explanation	240214 Town Planning Report.pdf
14-02-2024	Additional Document	240214 Cover Letter.pdf

Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit

Declaration

By ticking this checkbox, I, Kate O'Reilly, declare that all the information in this application is true and correct; and the Applicant and/or Owner (if not myself) has been notified of the application.



Civic Centre
20 Siding Avenue, Officer, Victoria

Council's Operations Centre (Depot)
Purton Road, Pakenham, Victoria

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11052 FOLIO 702

Security no : 124110481605B

Produced 14/11/2023 11:40 AM

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LAND DESCRIPTION

Lot 1 on Plan of Subdivision 504646Q.

PARENT TITLES :

Volume 08273 Folio 227 Volume 10180 Folio 829

Created by instrument PS504646Q 14/02/2008

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

CARDINIA SHIRE COUNCIL of 20 SIDING AVENUE OFFICER VIC 3809

AR278476A 25/07/2018

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PS504646Q FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 5-7 MAIN STREET PAKENHAM VIC 3810

ADMINISTRATIVE NOTICES

NIL

eCT Control 09857J CARDINIA SHIRE COUNCIL

Effective from 25/07/2018

DOCUMENT END



Imaged Document Cover Sheet

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Document Type	Plan
Document Identification	PS504646Q
Number of Pages (excluding this cover sheet)	1
Document Assembled	14/11/2023 11:42

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<h1>PLAN OF SUBDIVISION</h1>	LTO use only EDITION I	Stage No. /	Plan Number PS 504646 Q
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LOCATION OF LAND

Parish: Nar Nar Goon
Township: ---
Section: ---
Crown Allotment: ---
Crown Portion: 44 (Part)
Title Reference: V. 8273 F. 227
 V. 10180 F. 829
Last Plan Reference: CP 358205 & LP 62408
Postal Address: 5 - 7 Main Street
 (at time of subdivision) Pakenham 3810
AMG Co-ordinates E 366 200
 (of approx. centre of land in plan) N 5 784 780
 Zone: 55

COUNCIL CERTIFICATION AND ENDORSEMENT
COUNCIL NAME: CARDINIA SHIRE
REF: S02/020

- This plan is certified under section 6 of the Subdivision Act 1988.
- ~~This plan is certified under section 11(7) of the Subdivision Act 1988.~~
~~Date of original certification under section 6~~ / /
- This is a statement of compliance issued under section 21 of the Subdivision Act 1988

OPEN SPACE

(i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made.
 (ii) ~~The requirement has been satisfied.~~
 (iii) ~~The requirement is to be satisfied in Stage~~.....
 Council Delegate
~~Council Seal~~
 Date 20 / 11 / 06
~~Re-certified under section 11(7) of the Subdivision Act 1988~~
~~Council Delegate~~
~~Council Seal~~
 Date / /

LTO use only

Statement of Compliance/
Exemption Statement

Received

DATE 13 / 02 / 08

Vesting of Roads or Reserves

Identifier	Council/Body/Person
Nil	Nil

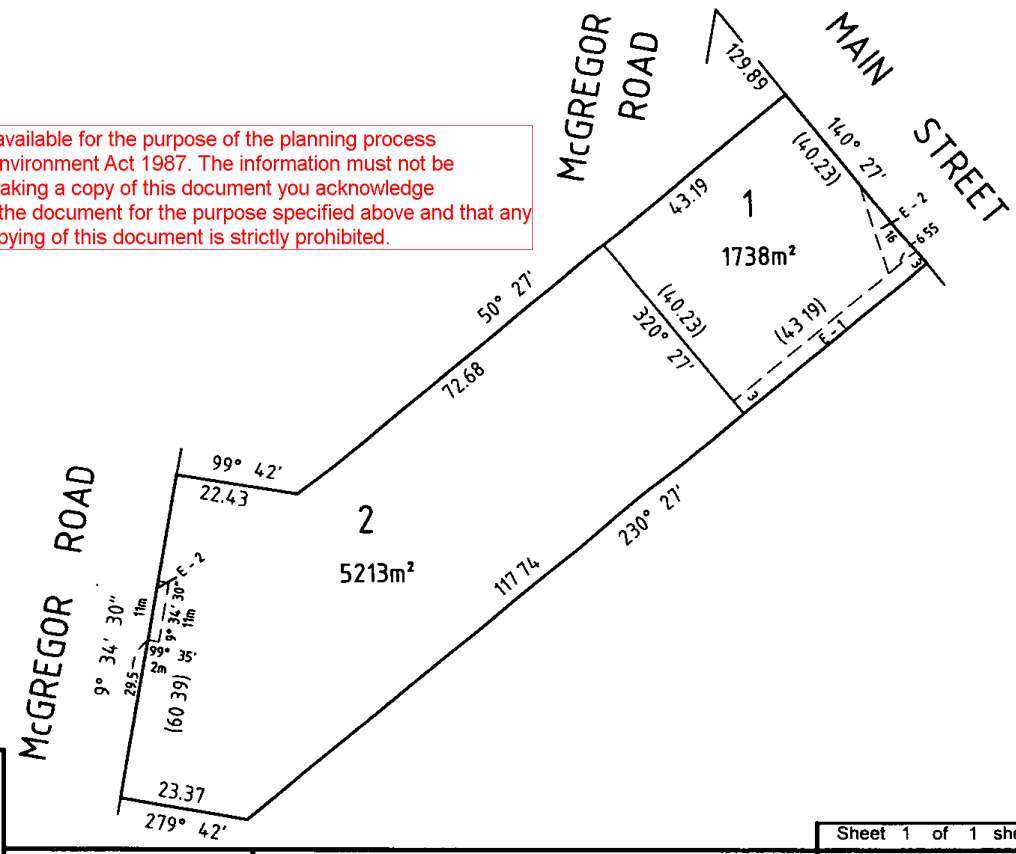
Notations

Depth Limitation: Nil
 Staging:
 This is not a staged subdivision
 Planning Permit No. ---
 Survey
 This plan is not based on survey

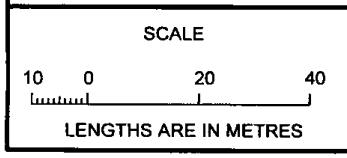
Easement Information

Legend	A - Appurtenant Easement	E - Encumbering Easement	R - Encumbering Easement (Road)	
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1 & E-2	Drainage	See Plan	This Plan	Cardinia Shire Council
E-1	Gas Supply	3m	This Plan	Vic. Gas Distribution Pty. Ltd.

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NOBELIUS LAND SURVEYORS
 P.O. BOX 461
 PAKENHAM 3810
 Ph 03 5941 4112
 Fax 03 5941 7359
 rob@nobelius.com.au



ORIGINAL SCALE
 1 : 1000

SHEET SIZE
 A3

LICENSED SURVEYOR: ROBIN P. NOBELIUS

SIGNATURE..... DATE / /

REF: 3349 VERSION A

Sheet 1 of 1 sheets

DATE 20 / 11 / 06

COUNCIL DELEGATE SIGNATURE

Original sheet size A3

14 February 2024

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Coordinator Statutory Planning
Cardinia Shire Council

Lodged via online submission

Dear Jason,

Re: Planning Permit Application

Address: 5-7 Main Street Pakenham

Title Particulars: Lot 1 on PS 504646Q

Proposal: Use of land for an education centre (secondary school).

SD Planning acts on behalf of Community College Gippsland. Please find enclosed planning application documentation submitted in relation to the above proposal which includes:

- A completed (online) Planning Permit Application Form;
- Town Planning Drawings Package;
- A current copy of Certificate of Title for the site; and
- A Town Planning Statement prepared by SD Planning.

We look forward to your acknowledgement of the application. Should you wish to discuss any elements of this proposal further, please contact me on 0400 663 592

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This report assesses a planning permit application for use of land for an education centre (secondary school).

**PLANNING APPLICATION: USE OF LAND FOR AN EDUCATION CENTRE (SECONDARY SCHOOL)
5-7 Main Street, Pakenham**

SD Planning
Strategy & Development

Planning Policy Summary

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Applicant	Community College Gippsland
Address	5-7 Main Street, Pakenham
Title Particulars	Lot 1 on PS 504646Q
Zoning	Activity Centre Zone, Schedule 1 (ACZ1)
Overlays	Development Contributions Plan Overlay – Schedule 1 (DCPO1) Parking Overlay Schedule 1 (PO1)
Other Designations	The property is located within an Area of Cultural Heritage Sensitivity The property is located within the Melbourne Strategic Assessment Area
Particular Provisions	Clause 52.06 – Car Parking
Permit Triggers	Clause 37.08-2 – 3.0 of Schedule 1 requires a permit to use the land as an education centre (secondary school) because the subject site is not located in Area 4.
Proposal	Use of land for an education centre (secondary school).
Total Site Area	Approximately 1738m ²

1. Introduction

SD Planning has been engaged by Community College Gippsland to provide advice and prepare a town planning application for the use of land for an Education Centre (Secondary School) at 5-7 Main Street, Pakenham.

The proposal has been assessed having regard to the relevant requirements of the Cardinia Planning Scheme. The proposal is considered to meet the relevant objectives of Planning Policy, including the Municipal Planning Strategy, along with the purpose and decision guidelines for the Activity Centre Zone, Schedule 1, applicable overlay controls and particular provisions.

This planning report should be read in conjunction with other information including:

- Copy of Title; and
- Planning Application Plans.

2. Planning History of the Site

This planning permit application for use has come about as a result of Community College Gippsland's successful expression of interest to lease the subject site from Cardinia Shire Council. It is noted that the premises is currently used as a youth centre which provides youth-focused meetings, services or programs and as a secondary school (Oakwood School) which provides learning opportunities for students (10–18 years) who have disengaged from school or where mainstream schooling does not meet their needs. Despite the current uses being operated for some years from the subject site, including the comparable school use, it is understood that there is no planning permit history/approval in relation to education use.

As part of the preparation of this planning permit application, SD Planning has had early conversations with Jason Gilbert, Coordinator of Statutory Planning on 5th September 2023 regarding the application and documentation requirements.



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3. Site and Surrounds

The subject site is located on the western side of Main Street, opposite the intersection of Snodgrass Street, Pakenham. It comprises a purpose built Council owned single storey brick building. It has formalised vehicle access and 17 car parking spaces which are located in front of the building towards the street frontage and along the southern property boundary to the rear of the site in an axe-handle shape.

The subject site is located approximately 135m south east of the intersection of Main Street and McGregor Road and is approximately 175m (as the crow flies) south east of the intersection of the Princes Highway and McGregor Road. Main Street is designated as a Transport Road Zone 3. It provides a single lane in each direction with car parking provision on each side of the road. There are no parking restrictions for on-street parking provided along Main Street in proximity to the subject site.

5-7 Main Street is located approximately 600m to the north-west of Pakenham Town Centre, (which is designated as a MAC) and is approximately 1km from the Pakenham Railway Station. It has very good walkability access from Pakenham Railway Station and the surrounding MAC area, and is also serviced by bus routes 925, 926 and 927 along McGregor Road.

A reserve used adjoins the subject site to the south. The north the site is adjoined by a development of four single storey residential units. A car parking area and dwellings beyond lie to the west. Across the road on the eastern side of Main Street opposite the subject site there are a range of single and double storey dwellings and a child care centre.

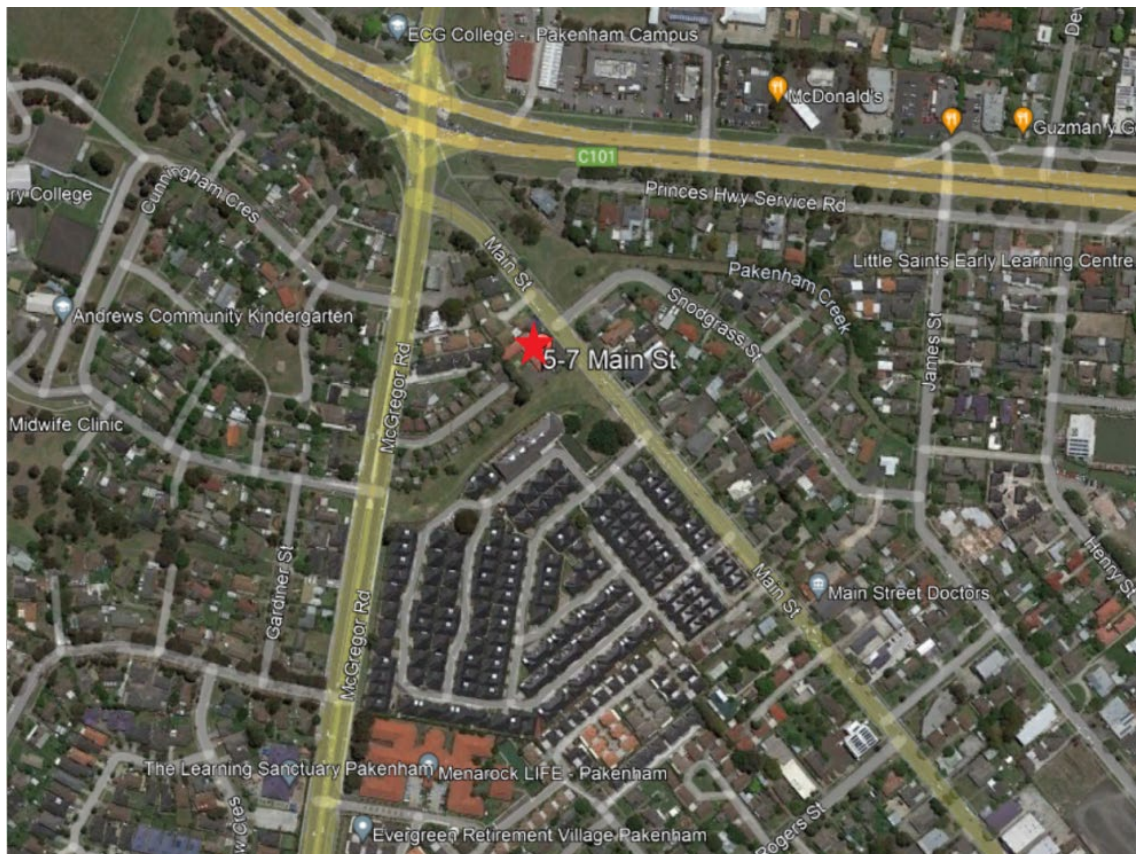


Figure 1: Aerial photograph of the subject site (Google Earth)



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Figure 2: Aerial photograph of the subject site and proximate surrounds (Google Earth)

Site Photos below:



Figure 3: View looking west towards 5-7 Main Street site frontage



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Figure 4: Adjoining unit development to the north



Figure 5: Open space to the south





Figure 6: Residential development opposite the site (looking down Snodgrass Street) on the eastern side of Main Street

4. Proposal

This application seeks planning approval for the use of land as an education centre (secondary school).

The site is proposed to be occupied by Community College Gippsland which is a small alternative secondary school that delivers hands-on, practical, empowering education for students aged 15-20. The school has been established exclusively for young people who wish to study the Victorian Certificate of Applied Learning (VCAL). The on-site education focusses on real-life learning, supporting students to build their employability through structured workplace learning and to improve their literacy, numeracy and communication skills.

Community College Gippsland was established in 2009 and has campuses in Warragul, Leongatha and Pakenham (126 Princess Highway). The Pakenham campus was registered with the Victorian Registrations & Qualifications Authority as an additional ECG College campus in October 2014.

This application seeks the use of the land for an education centre (secondary school) which comprises the following key characteristics:

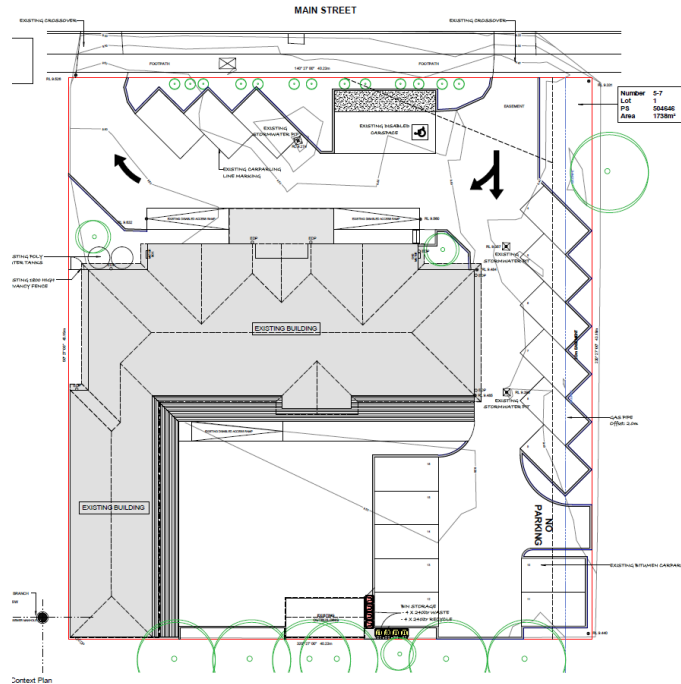
- Use of the existing building for education (secondary school);
- A maximum number of 70 students at any one time;
- 14 on-site staff (employees) at any one time;
- School hours - 8:30am to 5:00pm Monday to Friday. It is noted that there may be occasional meetings/use of the building for educational purposes outside these times, for example parent teacher and staff meetings. Any such use of the building outside school hours is expected to end before 9pm.

No buildings and works are proposed. The use will occupy the existing premises with only changes to the internal layout required. The existing car park will be utilised as constructed. Waste will be dealt with as it is currently using Council kerbside collection and on-site bin storage.



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PLANS ISSUED FOR TOWN PLANNING ONLY. NOT FOR CONSTRUCTION



PLANS ISSUED FOR TOWN PLANNING ONLY. NOT FOR CONSTRUCTION

Figure 7: Site Context/Layout Plan, 3D Design

The floor plan for the proposed use is shown below:

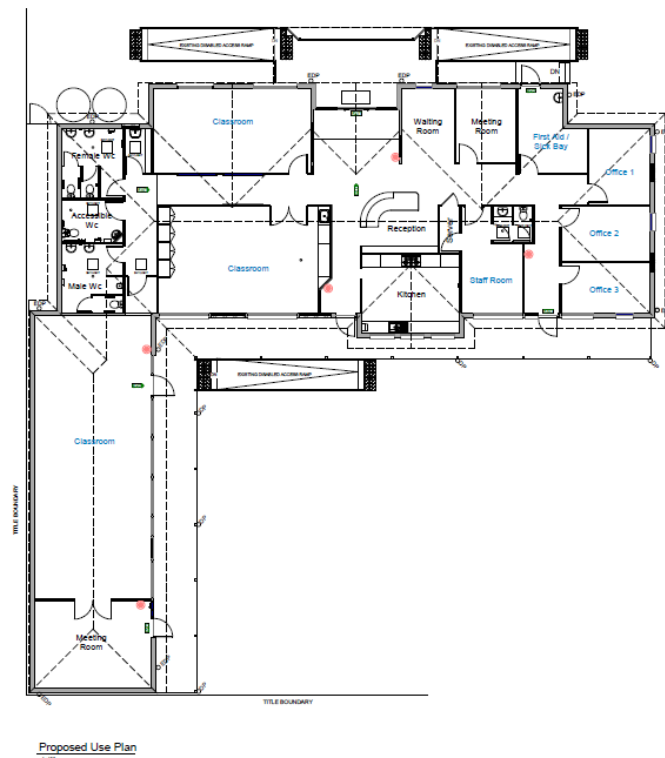


Figure 8: Education (Secondary School) use/layout



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5. Planning Assessment:

5.1. Planning Policy Framework (SPPF)

Council is required to consider the Planning Policy Framework (PPF). For this application it is considered that the policies and strategies outlined in the following clauses are not only relevant, but provide support for the proposal:

Clause 17.01-1S Diversified Economy

The objective is,

'To strengthen and diversify the economy.'

Strategies include,

'Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.'

Clause 17.02-1S Business

The objective of this clause is,

'To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.'

Strategies include,

'Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.'

Clause 19.02-2S Education Facilities

The objective is,

'To assist the integration of education and early childhood facilities with local and regional communities.'

Strategies include,

'Consider demographic trends, existing and future demand requirements and the integration of facilities into communities in planning for the location of education and early childhood facilities...'

Facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities...'

Locate secondary school and tertiary education facilities in designated education precincts and areas that are highly accessible to public transport.'

Locate tertiary education facilities within or adjacent to activity centres.'

Ensure streets and accessways adjoining education and early childhood facilities are designed to encourage safe bicycle and pedestrian access.'

Consider the existing and future transport network and transport connectivity.'



5.2. Local Planning Policy Framework (LPPF)

Council is also required to consider the Local Planning Policy Framework (LPPF). The Cardinia Municipal Strategic Statement (MSS) sets out the future strategic direction for the municipality in Clause 21 of the Planning Scheme. The following is an outline of the relevant planning policies:

Clause 21.03-2 Urban Established Area - Beaconsfield and Pakenham

The subject site is located within the established urban area of Pakenham and is included within the area mapped below and provided in Clause 21.03-2.

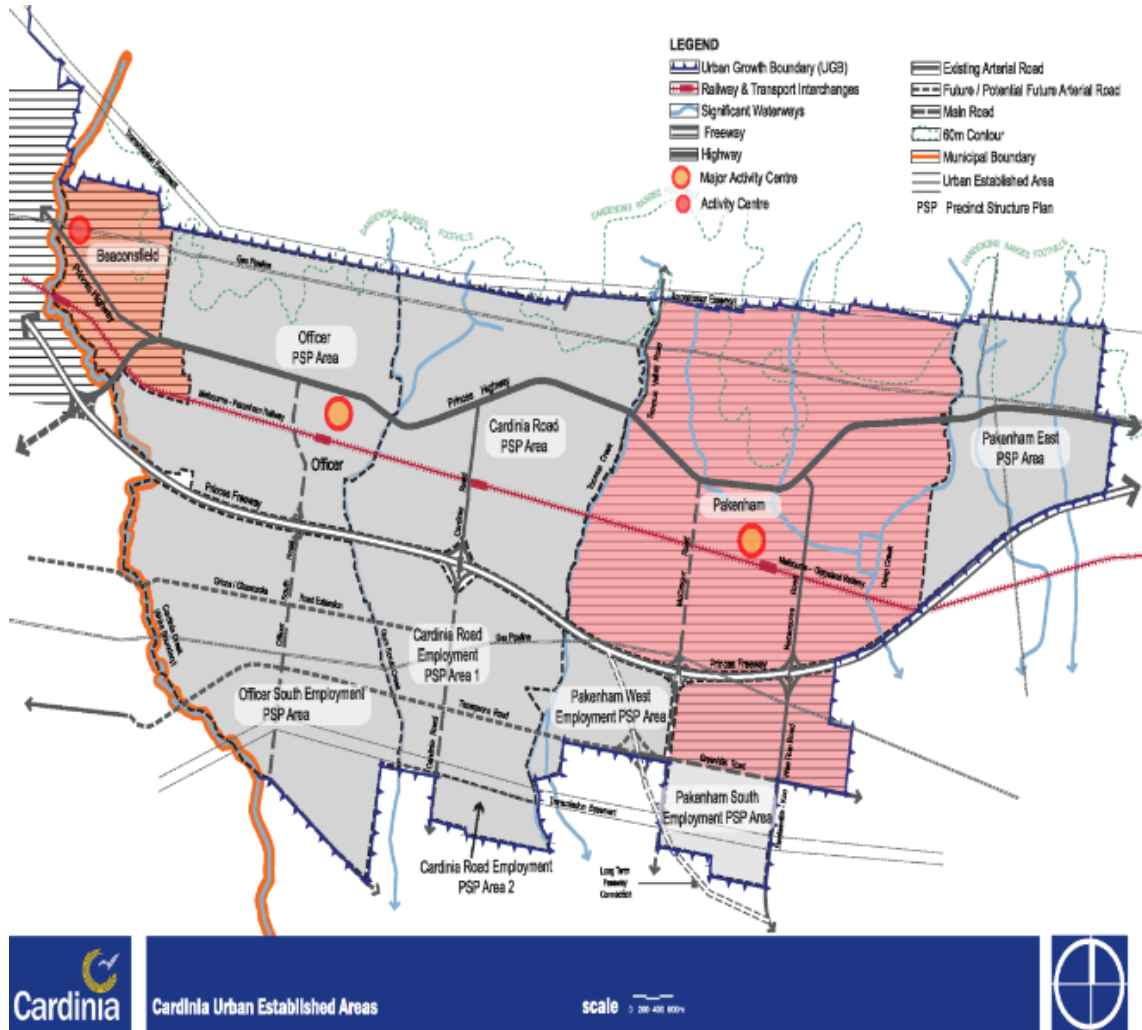


Figure 10: Cardinia Urban Established Area (Clause 21.03-2 Figure 1)

Key principles of development relevant to this proposal include delivering accessible community facilities and infrastructure. The objective for this established urban area is,

'To create a functional, attractive, safe and sustainable urban environment for the existing and future community of the Urban Established Area.'

Clause 21.04-1 Employment

The objective of this clause is,

'To develop diverse local employment opportunities to meet the needs of a growing residential population.'

Skills and education strategies to meet this objective are to:

'Advocate for access to education and training, especially for young people; and

Support the establishment of tertiary and vocational facilities with links to the local economy.'

The proposal will support the introduction of an additional secondary schooling option in the municipality. It will provide for a diversity of educational choice and is located in an accessible location, within the Pakenham Major Activity Centre.

The proposal will support access to education and training for young people, building on the success of the existing Community College Gippsland Campus, enhancing accessible community facilities within the municipality.

5.3. Zoning Controls – Activity Centre Zone 1

The subject site is located in the Activity Centre Zone, Schedule 1. A zoning map is shown below.



Figure 11: Subject Site Zoning Map (VicPlan)

Schedule 1 of the Activity Centre Zone provides the Pakenham Major Activity Centre Framework Plan. The subject site is identified by a green dot and is located in Area 2.

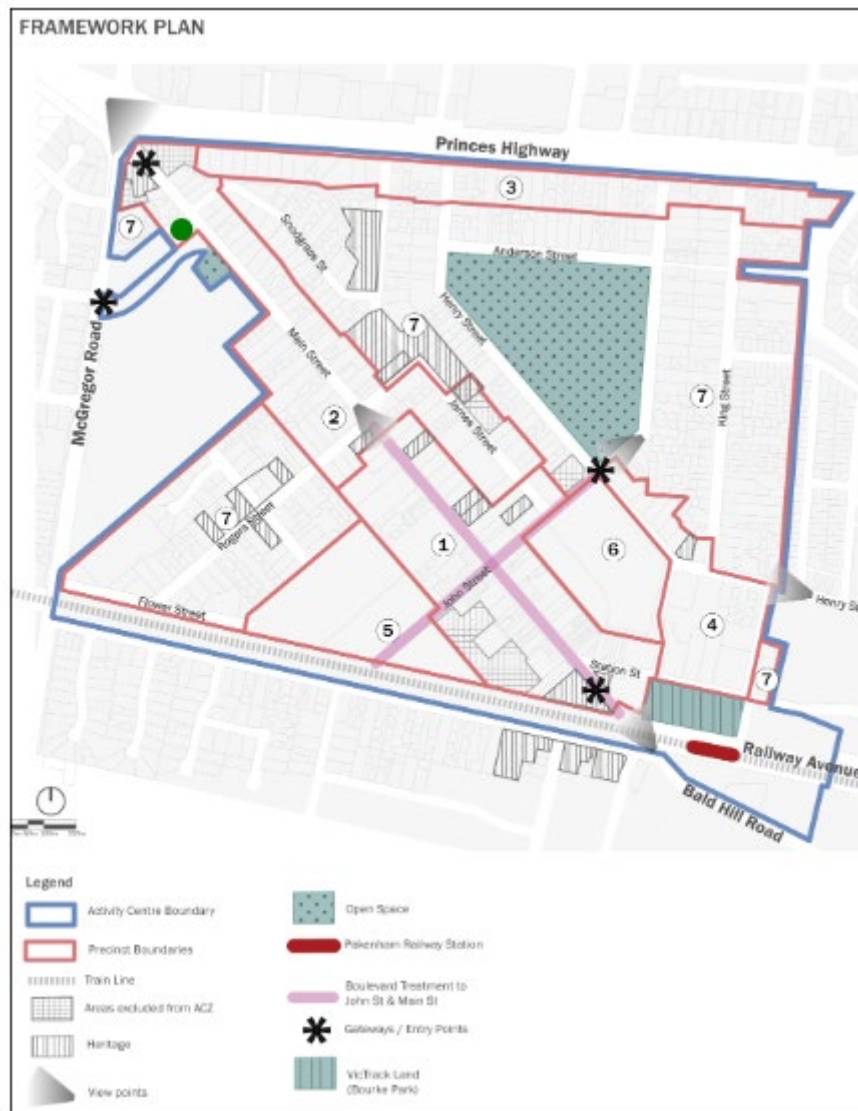


Figure 12: Pakenham Major Activity Centre Framework Plan

2.0 of Schedule 1 provides activities and land use objectives to be achieved which are:

- Support and ensure the provision of diverse well-designed housing that caters to all members of the community.
- Reinforce the Pakenham Major Activity Centre's role as a regional hub promoting and encouraging a diverse and compatible mix of land uses that includes retail, commercial, residential as well as civic and community services.
- Provide appropriate transitions and interfaces between different land use and development including surrounding residential, heritage or significant sites.
- Protect and restore the built heritage of the activity centre through the conservation, reuse and restoration of heritage buildings.
- Encourage the co-location or centralisation of community services to support the needs of the local and regional area.

- *Facilitate consolidation of land to create viable development sites for the activity centre.*

The subject proposal is considered consistent with these objectives as it assists with reinforcing Pakenham MAC as a regional hub, providing a specialised education use that is well located within the MAC and that contributes to centralization of services required by the community to support their local needs.

Pursuant to Clause 37.08-2, the proposed education centre is a Section 2 use as it is located in Area 2, not Area 4 of the Framework Plan. 5.2-2 of Schedule 1 provide the Precinct Objectives for Area 2. Those of relevance to the proposed use are:

- *Provide mixed use, community, commercial and residential opportunities within the precinct.*
- *Encourage retail premises at ground floor level which activates the street, office uses in upper levels and the rear of the development, and residential uses located within the upper levels of the development.*

The proposal is to be located in a purpose built single storey building. It will provide for a community use, being specialized education services within the precinct, consistent with the current use of the building and consistent with the need to provide a range of uses to meet community needs within the precinct.

The precinct also includes development guidelines, but these are not relevant given that the proposal relates to use only and there is no development proposed.

8.0 of the schedule provides decision guidelines. Those specific to use are:

- *An appropriate scale of development in order to accommodate the mix and intensity of uses envisaged for each precinct.*
- *The compatibility of uses within a mixed use development.*

The use is considered compatible with surrounding development and is consistent with the current scale of the like use which is already operating from the premises. The proposal will result in an important educational facility, located in a highly accessible location in a purpose built Council building which requires no external modification or change to the site to facilitate the educational use proposed. The proposal provides a community service – education. Council has clearly identified support for the use, leasing the building to the permit applicant.

The use proposed is wholly compliant with the Precinct Objectives and Decision Guidelines, delivering a valuable educational use to the local community in an appropriate location in accordance with the Activity Centre Zone, Schedule 1.



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5.4. Overlay Controls

5.4.1. Development Contributions Plan Overlay, Schedule 1

The site is affected by the Development Contributions Plan Overlay, Schedule 1.



Figure 12: Development Contributions Plan Overlay Map (VicPlan)

The purpose of the of the Development Contributions Plan Overlay, as stated in Clause 45.06 of the scheme is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Pursuant to Clause 45.06 of the Cardinia Planning Scheme, the Development Contributions Plan Overlay enables the levying of contributions for the provision of works, services and facilities prior to development commencing. The building is existing and therefore the overlay does not require a contribution.

5.4.2. Parking Overlay, Schedule 1

The subject site is affected by the Parking Overlay, Schedule 1 as shown below.



Figure 13: Parking Overlay, Schedule 1 Map (VicPlan)



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3.0 of Schedule 1 advises that Column B of Table 1 in Clause 52.06-5 applies to the proposal. There is no maximum provision specified. The requirements of Column B, Table 1 will be discussed in Section 5.5 below.

5.5. Particular Provisions - Clause 52.06 – Car Parking

Pursuant to Table 1 of Clause 52.06-5, the number of parking spaces required for secondary school education use is 1.2 car spaces to each employee that is part of the maximum number of employees on site at any one time.

The proposed use will have a maximum number of 14 employees on the site at any one time. The number of car parking spaces required by this proposal is therefore 16.8 (16) car parking spaces. The subject site has a total of 17 spaces, which includes one disabled space. The car parking has been purposely designed and constructed by Council for this purpose built community building. The car park is currently in use as part of the existing occupancy. The proposal meets the required on site car parking provision and therefore does not require a planning permit.

6. Area of Cultural Heritage Sensitivity and Melbourne Strategic Assessment Area

The subject site is located both within an area of Cultural Heritage Sensitivity and within the Melbourne Strategic Assessment Area. There are no requirements related to this proposal given that it is only related to the use of an existing building/site and that there is no development proposed.



Figure 14: Area of Cultural Heritage Sensitivity Map and Melbourne Strategic Assessment Area (VicPlan)



General provisions and decision guidelines of Clause 65

The decision guidelines contained in Clause 65 set out matters that the responsible authority must consider, as appropriate.

Clause 65.01 – Approval of an application or plan

- *The matters set out in section 60 of the Act.*

These are matters that the responsible authority must consider before deciding on an application.

- *The Municipal Planning Strategy and the Planning Policy Framework.*

As is discussed in earlier in this report, it is considered that the proposal is consistent with the requirements of the PPF and LPPF and is wholly supported by relevant policy.

- *The purpose of the zone, overlay or other provision.*

The proposal achieves the purpose of the zone and meets the requirements/has regard to the relevant overlay controls.

- *Any matter required to be considered in the zone, overlay or other provision.*

These matters have been considered and are discussed within the report.

- *The orderly planning of the area.*

The proposal is considered entirely appropriate in the context of the site's location within Pakenham MAC. It will deliver an appropriate use of the land, providing an important community use and is consistent with the current tenancy operating from the site. The approval of the proposal will make use of a purpose designed community building for an education need that is present in the local community and will represent an orderly approach to planning.

- *The effect on the amenity of the area.*

No adverse amenity impacts have been identified within the assessment and the location of the proposed education centre is considered appropriate.

- *The proximity of the land to any public land.*

There will be no adverse effect on public land near the site.

- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*

N/A

- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*

The stormwater quality of the site will not be altered by the proposal.

- *The extent and character of native vegetation and the likelihood of its destruction.*

N/A

- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*

N/A



- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

There are no risks identified.

- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

There are no loading/unloading requirements generated by the use. The use is provided with a purpose built premises that has appropriately designed access and car parking which is currently in use. There will be no traffic flow or road safety impacts resulting from the use of the site as proposed. The proposed use is consistent with how the site currently operates.

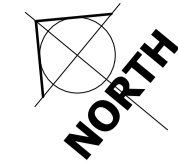
7. Conclusion

The proposal for the use of land as an education centre is appropriate. It:

- Satisfies the purposes and decision guidelines of the zone and overlay controls;
- Adequately responds to the relevant particular provisions; and
- Complies with relevant Planning policy objectives and Local planning policy objectives.

It is therefore respectfully requested that Council support this proposal, and accordingly issue a planning permit.



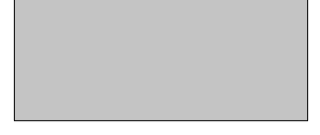



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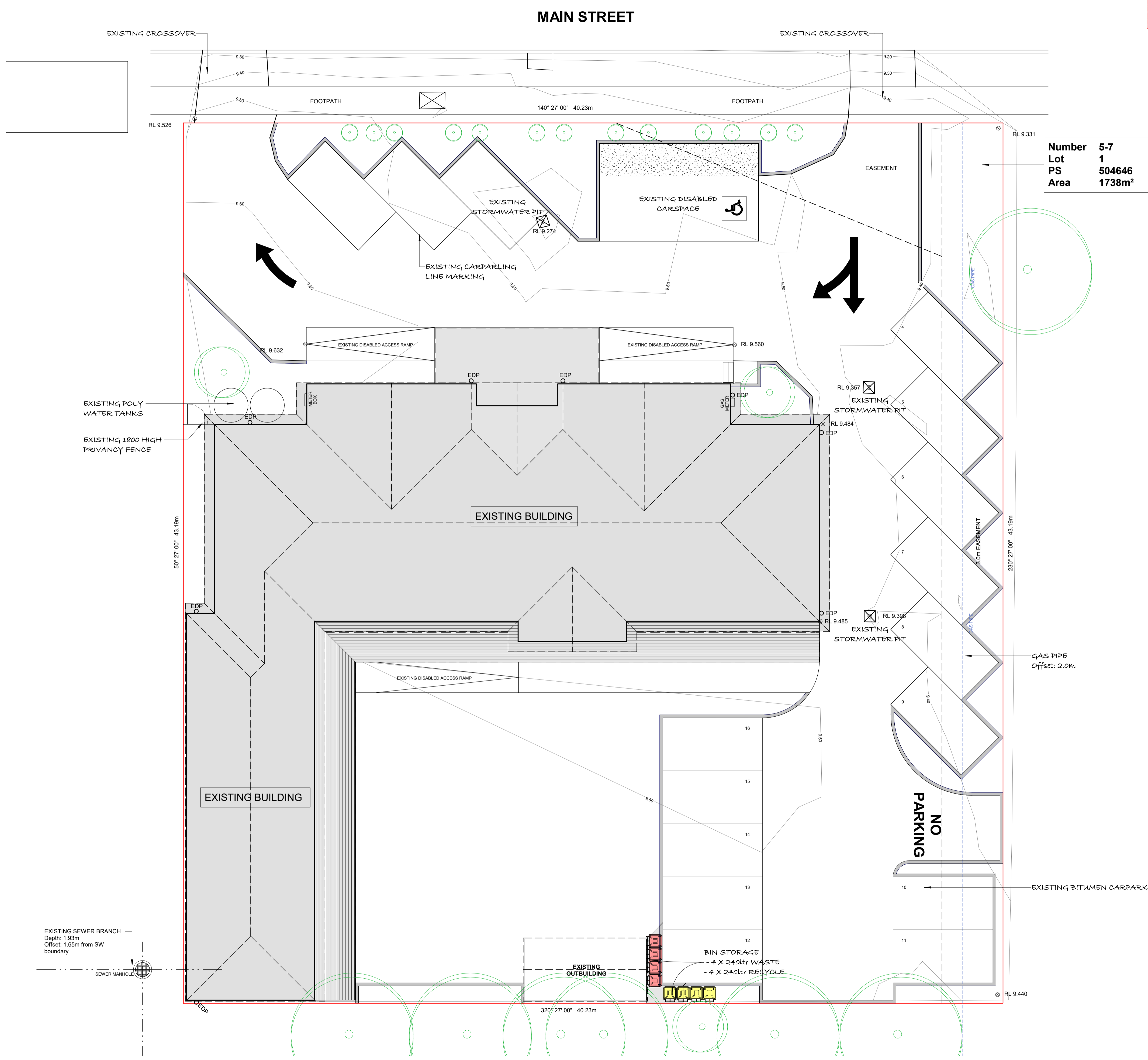
Notes:
 OWNER and/or BUILDER to check and verify all dimensions, site levels, grades, roof pitches, etc prior to commencing any works.
 Report any discrepancies to 3D Design Group for directions prior to ordering materials and start of building works.
 Do not scale drawings, written dimensions are to take precedence over scaled drawings.

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Drawing List		
Sheet Number	Sheet Name	Current Revision
A100	Site Context Plan	B
A200	Floor Plans	B

-  DENOTES EXISTING BUILDINGS
-  DENOTES EXTENT OF TITLE BOUNDARIES

Number 5-7
 Lot 1
 PS 504646
 Area 1738m²



EXISTING SEWER BRANCH
 Depth: 1.93m
 Offset: 1.65m from SW boundary

Site Context Plan
 1:100

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Revision: B		
No.	Date	Description
A	04.10.23	DRAFT ISSUE
B	05.10.23	TOWN PLANNING ISSUE



Title:	Site Context Plan
Job:	Change of Use
Name:	Community College Gippsland
Address:	5-7 Main Street, Pakenham
Design:	>> Sheet Size: A1
Drawn:	DM Scale: As indicated
Checked:	BE Issue: Planning
Date:	04.10.2023 Revision: B
Dwg No:	23-039 Sheet No: A100

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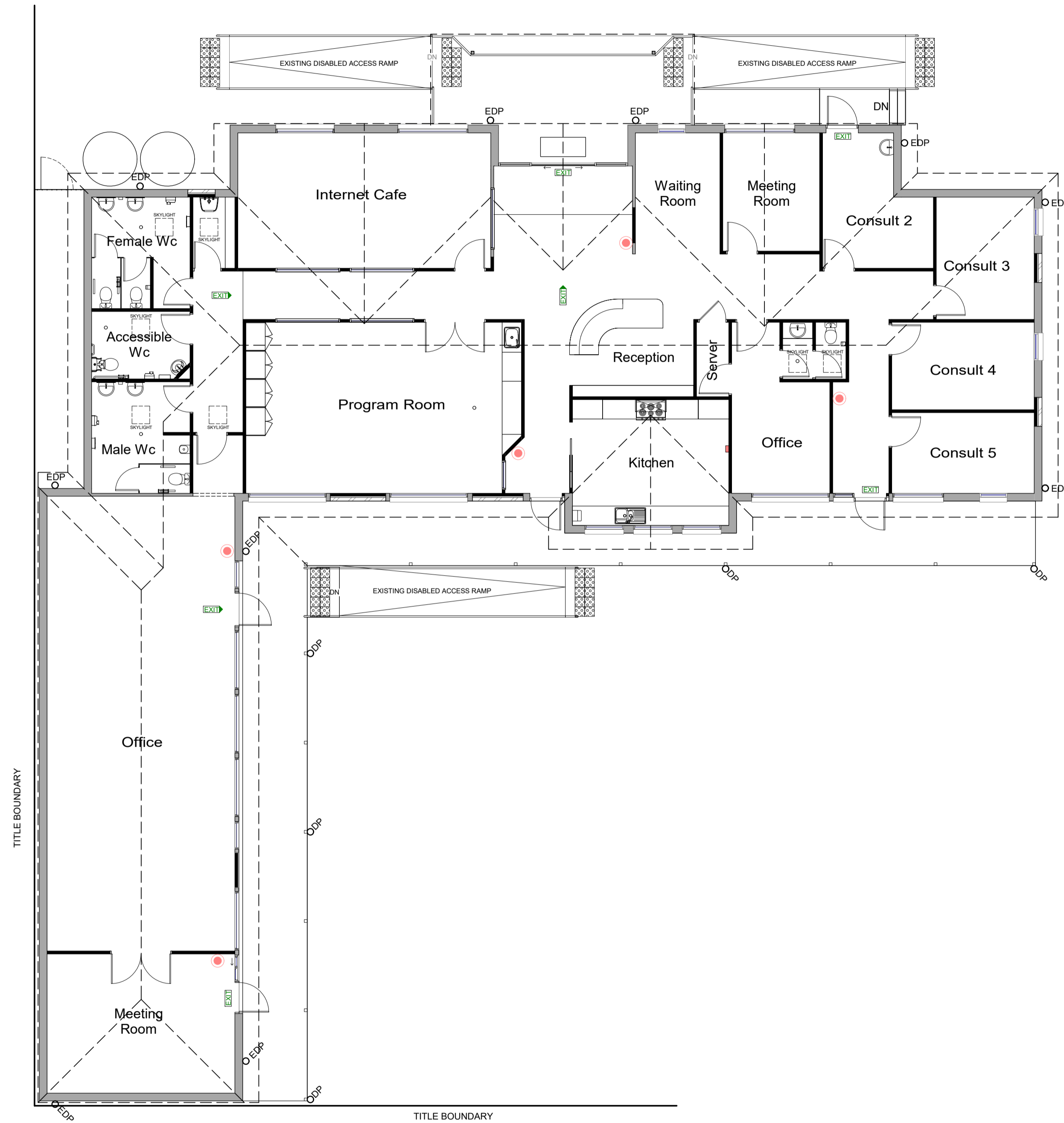
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Notes:
OWNER and/or BUILDER to check and verify all dimensions, site levels, grades, roof pitches, etc prior to commencing any works.

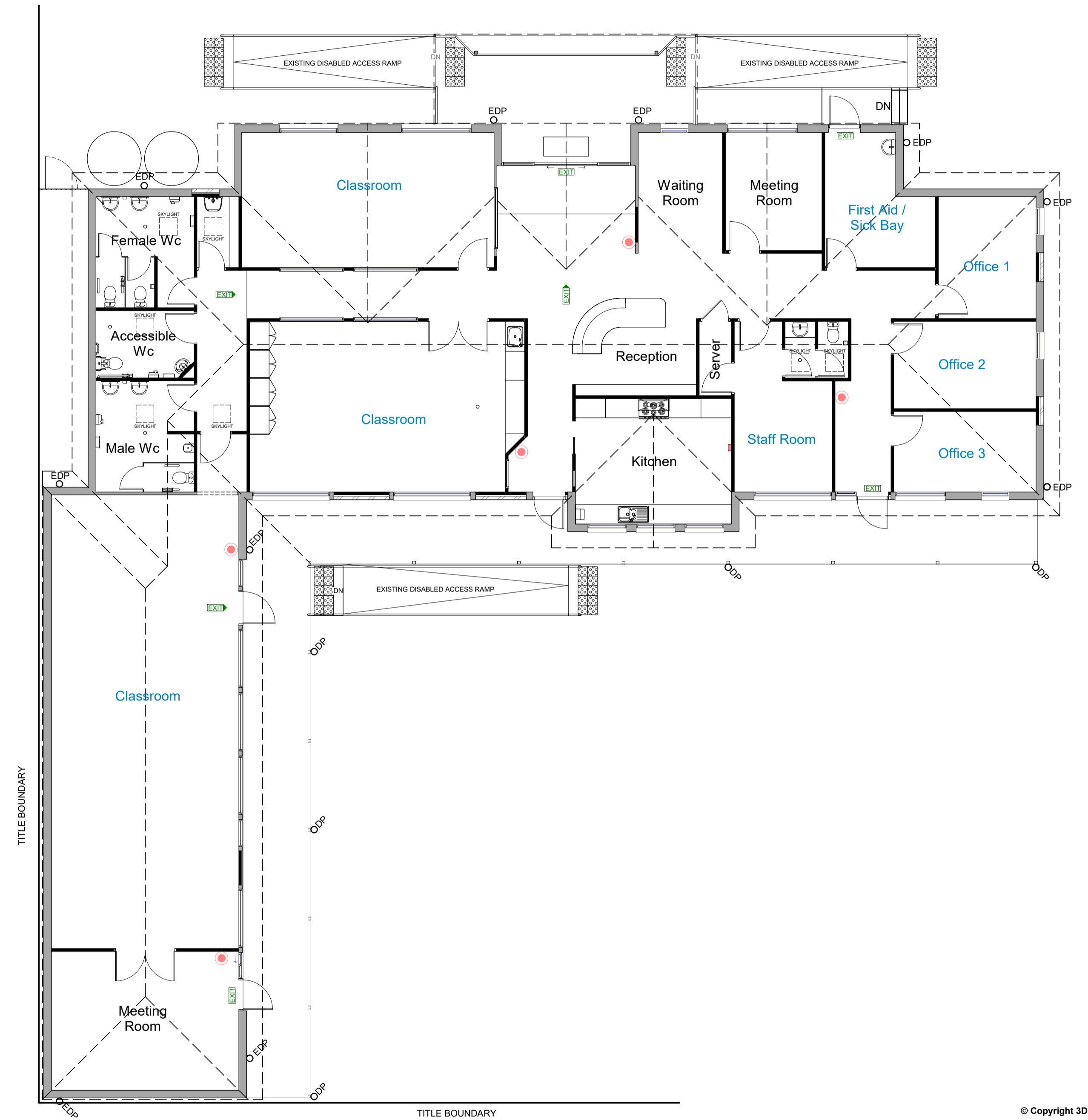
Report any discrepancies to 3D Design Group for directions prior to ordering materials and start of building works.

Do not scale drawings, written dimensions are to take precedence over scaled drawings.

Area Schedule - Existing	
Name	Area
Existing Building	452.77 m ²
Proposed Verandah	77.42 m ²
	530.19 m ²



Existing Use Plan
1:100



Proposed Use Plan
1:100

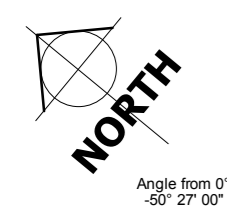
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Revision: B		
No.	Date	Description
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B	06.10.23	TOWN PLANNING ISSUE

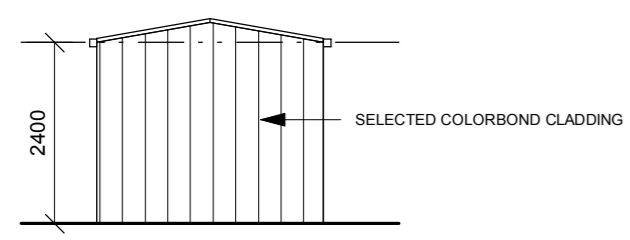
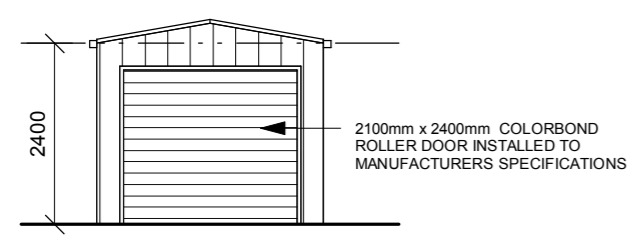
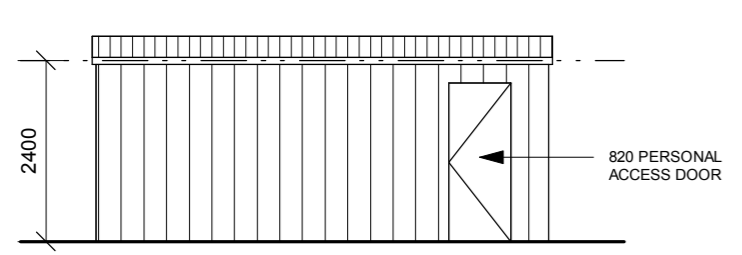
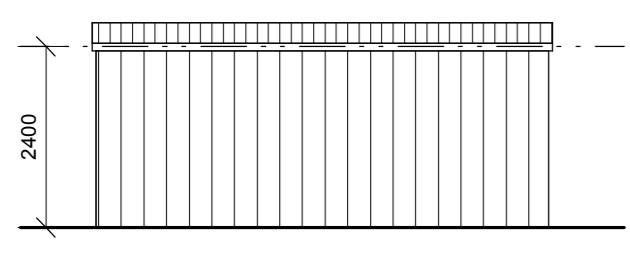
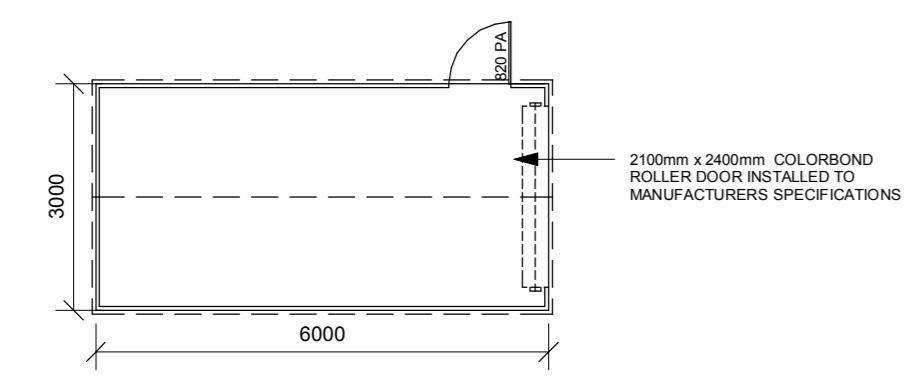


Title:	Floor Plans
Job:	Change of Use
Name:	Community College Gippsland
Address:	5-7 Main Street, Pakenham
Design:	>> Sheet Size: A1
Drawn:	DM Scale: 1 : 100
Checked:	BE Issue: Planning
Date:	04.10.2023 Revision: B
Dwg No:	23-039 Sheet No: A200



COLOUR SCHEDULE

CLADDING:	COLORBOND 'CLASSIC CREAM'
ROOF:	COLORBOND 'HEADLAND'
ROLLER DOOR:	COLORBOND 'CLASSIC CREAM'



Shed Plans

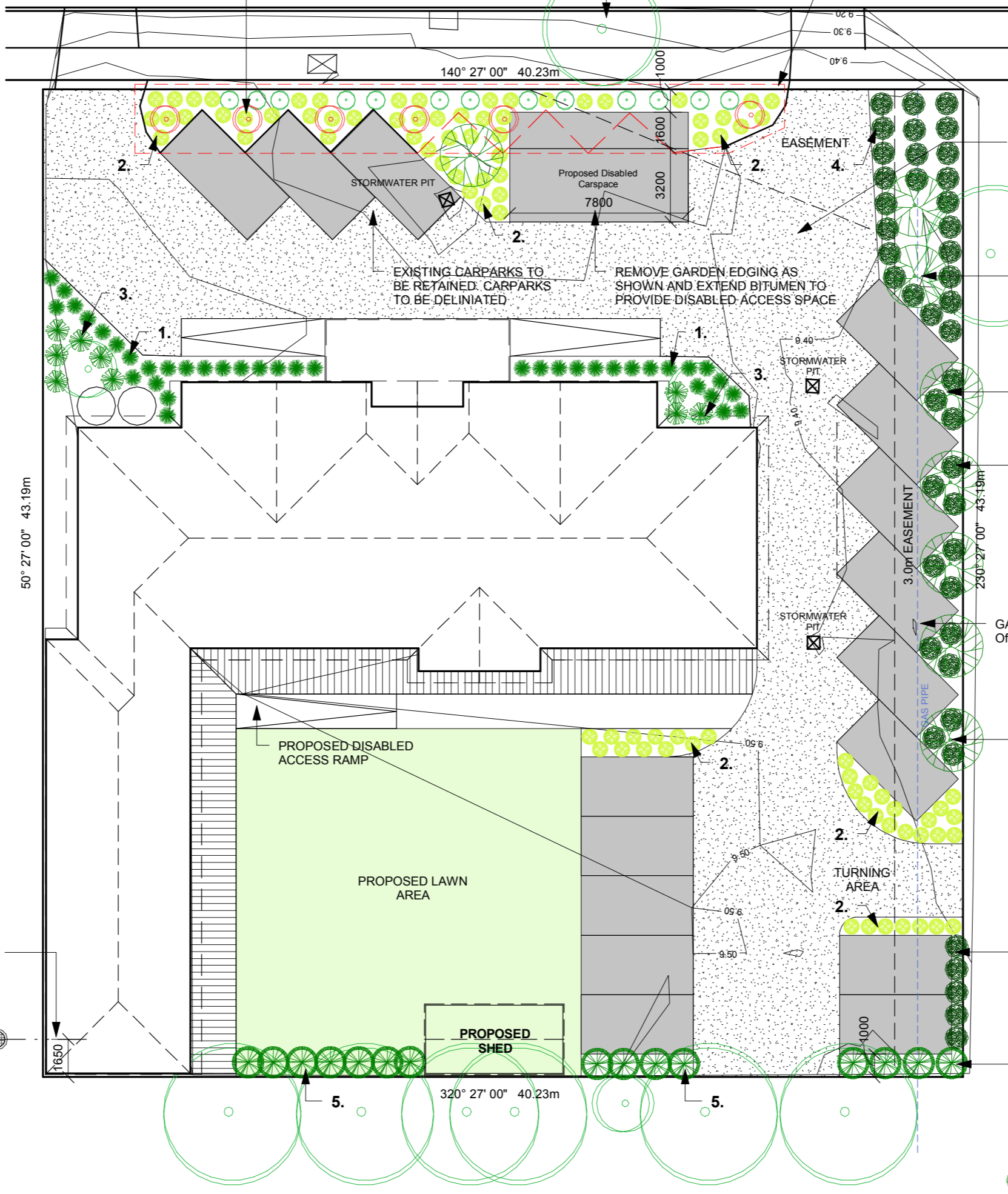
1: 100

REMOVE ALL BIRCH, PITTOSPORUM, ASH AND SHRUBS INCLUDING STUMPS.
RETAIN ALL CAMELLIA, WEEPING CHERRY AND NANDINA TREES/ SHRUBS.

MAIN STREET

PROVIDE ADVANCED (MIN 2.5m HIGH) 'TRISTANIOPSIS LAURINA' STREET TREE

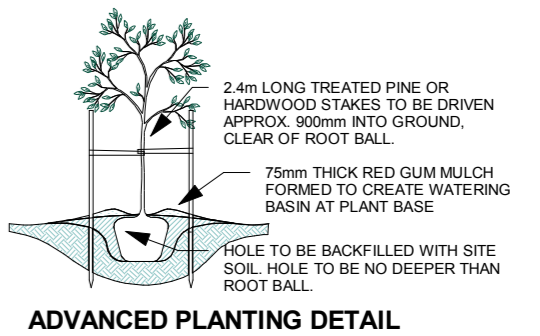
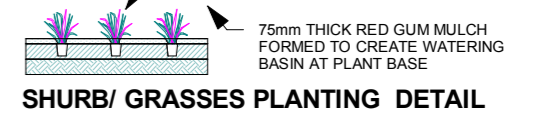
ERECT A 'TREE PROTECTION AREA' AROUND THE FRONT GARDEN BED. TREE PROTECTION TO BE CONSTRUCTED OF STAR PICKETS AND CHAIN MESH OR SIMILAR. TREE PROTECTION SHALL REMAIN IN PLACE UNTIL CONSTRUCTION IS COMPLETED.



LANDSCAPING NOTES:

NEW GARDEN BEDS ARE TO BE EDGED IN CONCRETE. WEEDS ARE TO BE SPRAYED PRIOR TO CULTIVATION OF GARDEN BEDS. ADD TERRA COTTEM™ SOIL CONDITIONER TO ALL GARDEN BEDS. SPREAD COMPOST AND HAND CULTIVATE EXISTING GARDEN BEDS TO INCORPORATE SOIL AMELIORANTS. CULTIVATE NEW GARDEN BEDS TO A DEPTH OF 150mm. ALL DEBRIS, ROCKS AND LARGE LUMPS OF CLAY SHALL BE REMOVED. SPREAD 75mm IMPORTED MULCH.

PLANT SELECTION AND LOCATION AS PER PLAN. INCORPORATE NUTRICOTE OR SIMILAR 9-12 MONTH SLOW RELEASE FERTILISER AT THE RATE OF 25GRMS PER 150 AND 200mm POT AND 50GRMS PER 300mm POT. WATER IN IMMEDIATELY.



Number Lot PS Area
5-7
1
504646
1738m²

TOWN PLANNING DRAWINGS ONLY.

TOWN PLANNING DRAWINGS ONLY.

Landscape Plan

1: 200

LANDSCAPING LEGEND

BOTANICAL NAME	COMMON NAME	Height X Spread	Pot Size	Qty
1. HEMEROCALLIS 'BELLA STELLA'	DAYLILY	0.4m X 0.4m	150cm	39
2. LOMANDRA	LITTLE CON	0.3m X 0.3m	150cm	87
3. CORREA GLABRA	BAROSSA GOLD	1.2m X 1.5m	150cm	9
4. DIANELLA CAERULEA 'SSP ASSERA'	CURLY TOPS	0.2-1.0m X 0.3-1.5m	150cm	44
5. CALLISTEMON 'CAPTION COOK'	BOTTLE BRUSH	1.2m X 1.2m	200cm	15
6. SYZIGIUM AUSTRALE	SCRUB CHERRY RED TIP VARIETY	5.0m X 2.5m	Advanced	8



Shop B, 42 Main Street, Pakenham, Vic. 3810.
Ph (03) 5941 4717 Fax (03) 5941 4501
pakenham@3dds.com.au



Revisions -	No.	Date	Description

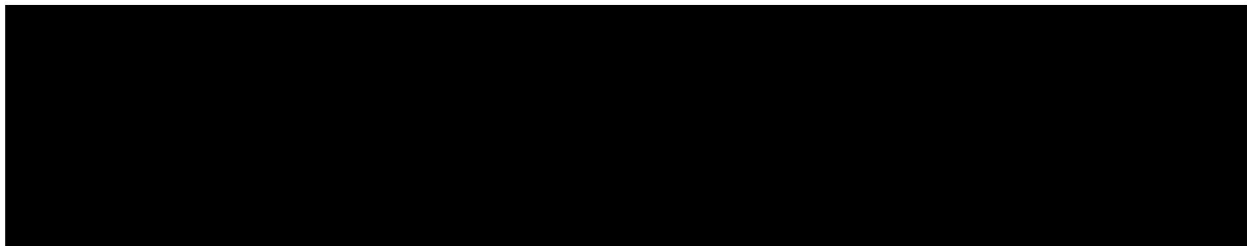
Name: Cardinia Shire	Title: Landscape Plan
Address: 5-7 Main Street, Pakenham	Job: Proposed Addition/ Renovation
© Copyright 3D Design Group 2011 Building Practitioner B.Egan BP-AD 2274	Design: Client Issue: Date: 10.01.2012 Revision: TP1A Drawn: RDH Checked: BE Dwg No: 11-074 Sheet No: B07 of 7



Cardinia

Receipt

Receipt No	EPLAN007315
Amount Paid	\$1,415.10
Transaction Status	Processing
Transaction Date	14/02/2024 5:25:11 PM
Reference 1	T22736099
Reference 2	T240059
Reference 3	A124721S



Owner Cardinia Shire Council
Owner Address 20 Siding Avenue, Officer VIC 3809



Preferred Contact Address SD Planning
PO BOX 703, Drouin VIC 3818

Site Address 5-7 Main Street Pakenham 3810

Portal Reference A124721S
ReferenceNumber T240059

InvoiceNumber 459364
InvoiceDate 14-Feb-2024
InvoicePayByDate 15-Mar-2024

Regulation	Description	Amount	Modifier	Modified Amount
9 - Class 1	Change of use only	\$1,415.10	100%	\$1,415.10

Total Amount \$1,415.10





25 March 2024

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Director
SD Planning Pty Ltd
PO Box 703
Drouin 3818

Dear Kate,

Re: Aboriginal Cultural Heritage Advice: Proposed Use of Land for Education (Secondary School) Lot 1 PS50464Q (5-7 Main Street Pakenham)

I have examined the Victorian *Aboriginal Heritage Act* 2006 and its regulations, the *Aboriginal Heritage Regulations* 2018, and conclude that the proposed use of land for education (a secondary school) at Lot 1 PS50464Q (5-7 Main Street Pakenham) does not require a mandatory Aboriginal cultural heritage management plan under section 46 of the Act.

I am qualified to comment on these matters as I meet the requirements of a 'heritage advisor' under s. 189 of the *Aboriginal Heritage Act* 2006, and have high level qualifications in both archaeology and the earth sciences (see Attachment 1 for my CV). I have particular expertise in understanding the formation of archaeological sites and Quaternary environments and have published extensively on these topics in high-profile, peer-reviewed scientific journals. I was lead author for the Quaternary chapter of the *Geology of Victoria* (Cupper *et al.* 2003), the current, premier reference to Victoria's geology. I am currently a Research Fellow in the School of Geography, Earth and Atmospheric Sciences at The University of Melbourne (www.findanexpert.unimelb.edu.au/display/person20521).

The Victorian *Aboriginal Heritage Regulations* 2018 (r.7) require an Aboriginal cultural heritage management plan for a proposed activity, if: (a) all or part of the activity area for the activity is an area of cultural heritage sensitivity (not subject to significant ground disturbance); and, (b) all or part of the activity is a high impact activity.



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The first limb (part [a]) of regulation 7 is not met because my review of relevant background information, including examining aerial and site photography, shows the proposed activity area would not be located within an area of cultural heritage sensitivity as defined by Division 3 of the Victorian *Aboriginal Heritage Regulations* 2018, by virtue of regulation 26(2).

According to regulation 26(1), land within 200 m of a waterway (not subject to significant ground disturbance) is an area of cultural heritage sensitivity. The area proposed for use of land for education is within 200 m on Pakenham Creek.

However, under regulation 26(2), if part of the land within 200 m of a waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

Significant ground disturbance is defined in the regulations (r.5) and Aboriginal Victoria's practice note (Attachment 2) as 'disturbance of: (a) the topsoil or surface rock layer of the ground; or, (b) a waterway, by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping'.

All of the activity area has been subject to significant ground disturbance during previous development (Figures 1-3). The original vegetation has been removed. The topsoil and subsoil within the activity area has been substantially disturbed during past land levelling and trimming. This has included complete removal of the original land surface (Figures 1-3).

The topsoil and subsoil within the activity area has also been heavily modified by earthworks to construct a large existing single-storey brick structure. Paved surfaces including parking areas, driveways and footpaths occupy much of the remainder of the land. Earthworks by machinery necessary to construct foundations for this structure and ancillary works would have caused previous significant ground disturbance.

The second limb (part [b]) of regulation 7 is also not met because use of land for education is not a high impact activity by virtue of regulation 58(4). A statutory authorisation is required to change the use of land for education under r. 58(1) (see r.46[1][b][viii]). However, r. 58(4) states: "Despite subregulations (1), (2) and (3), if the whole of the activity area for an activity referred to in subregulation (1), (2) or (3) has been subject to significant ground disturbance,



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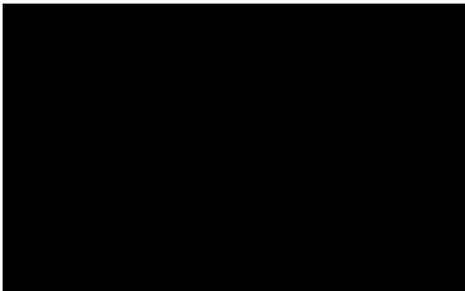
that activity is not a high impact activity”. The whole of the activity area for an activity has been subject to significant ground disturbance and therefore the activity is not a high impact activity.

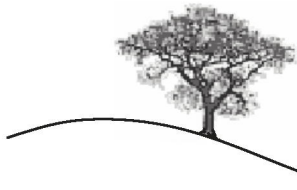
Therefore, a cultural heritage management plan under section 46 of the *Aboriginal Heritage Act 2006* is not required for the proposed use of land for education (a secondary school) at Lot 1 PS50464Q (5-7 Main Street Pakenham).

Additionally, the risk of harm to Aboriginal cultural heritage places or items by the activities is predicted to be negligible, given the previous extensive development of the lot.

Moreover, no previously identified Aboriginal cultural heritage places are known to occur at the lot, according to the Aboriginal Cultural Heritage Register and Information System database maintained by First Peoples - State Relations (formerly Aboriginal Victoria).

Please feel free to contact me if you require any clarification of the above matters.

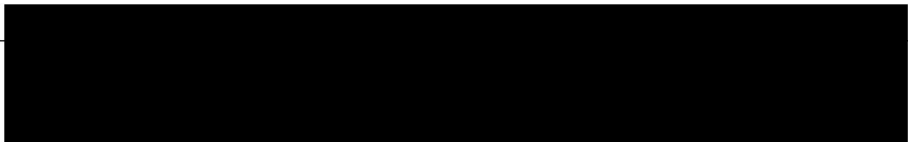




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Figure 1. Activity area showing the extensive previous development at Lot 1 PS50464Q (5-7 Main Street Pakenham).





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Figure 2. 5-7 Main Street Pakenham showing existing disturbance of the activity area.

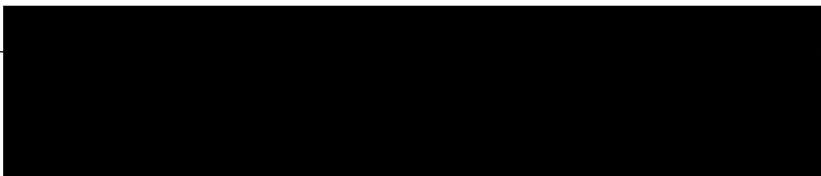


Figure 3. 5-7 Main Street Highway Pakenham showing existing disturbance of the activity area.





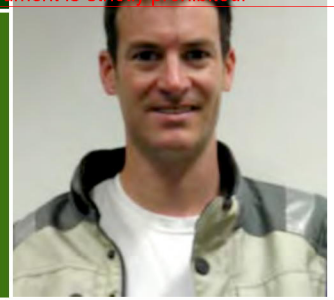
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Skills: Aboriginal and Historical Archaeology, Geomorphology

Qualifications: Doctor of Philosophy (Archaeology/Geology) The University of Melbourne 2003
Bachelor of Arts (Archaeology/Classical History) The University of Melbourne 1999
Bachelor of Science with Honours (1st Class) (Botany) The University of Melbourne 1999

Affiliations: Research Fellow, School of Earth Sciences, The University of Melbourne
Honorary Research Associate, School of Geography and the Environment, University of Oxford
Visiting Researcher, Research School of Earth Sciences, Australian National University



Experience: [REDACTED] has 20+ years' experience in cultural and natural heritage management and an academic background in archaeology and botany, including a PhD in the palaeoecology and early Aboriginal occupation of the Lower Darling River. As a consultant archaeologist and geomorphologist he has been engaged in a range of management and research-oriented studies throughout southeastern Australia for industry and government clients.

Publications: Chapters in books:

1. Clark, D., McPherson, A., **Copper, M.**, Collins, C., Nelson, G. (2015). The Cadell Fault: a record of temporally clustered morphogenic seismicity in a low-strain intraplate region, south-eastern Australia. In: *Seismicity, Fault Rupture and Earthquake Hazards in Slowly Deforming Regions* (Eds. Landgraf, A., Stein, S. Hintersbergen, E.). (The Geological Society of London, Special Publication 432).
2. Clark, D., **Copper, M.**, Sandiford, M., Kiernan, K. (2011). Style and timing of late Quaternary faulting on the Lake Edgar Fault, southwest Tasmania, Australia. In: *Geological criteria for evaluating seismicity revisited*. (Geological Society of America SP 479).
3. **Copper, M.**, White, S., Neilson, J.L. (2003). Quaternary. In *Geology of Victoria*. (Ed. Birch, W.D.). pp. 337-360.

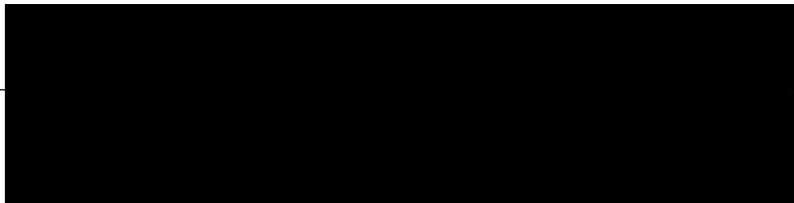
Refereed publications:

1. Lipar, M., Webb, J., **Copper, M.**, Wang, N. (2017). Aeolianite, calcrete/microbialite and karst in southwestern Australia as indicators of Middle to Late Quaternary palaeoclimates. *Palaeogeography, Palaeoclimatology, Palaeoecology* 470, 11-29.
2. Dortch, J., **Copper, M.**, Grun, R., Harpley, B., Lee, K. Field, J. (2016). The timing and cause of megafauna mass deaths at Lancefield Swamp, south-eastern Australia. *Quaternary Science Reviews* 145, 161-182.
3. Swift, J., **Copper, M.**, Greig, A., Westaway, M., Carter, C., Santoro, C., Wood, R., Jacobsen, G., Bertuch, F. (2015). Skeletal arsenic of the pre-Columbian population of Caleta Vitor, northern Chile. *Journal of Archaeological Science* 58, 31-45.
4. Horne, D., Lees, B., **Copper, M.**, Fitzsimmons, K. (2015). Revisiting the development of the Princess Charlotte Bay chenier plain: results and broader implications for chenier plain studies. *Marine Geology* 365, 12-20.
5. McPherson, A., Clark, D., Macphail, M., **Copper, M.** (2014). Episodic post-rift deformation in the south-eastern Australian passive margin: evidence from the Lapstone Structural Complex. *Earth Surface Processes and Landforms* 39, 1449-1466.
6. Westaway, M.C., **Copper, M.**, Johnston, H., Graham, I. (2013). The Willandra Fossil Trackway: Assessment of ground penetrating radar survey results and additional OSL dating at a unique Australian site. *Australian Archaeology* 76, 85-90.
7. Gardner, T., Fisher, D., Morell, K., **Copper, M.** (2013). Upper plate deformation in response to flat slab subduction inboard of the aseismic Cocos Ridge, Osa Peninsula, Costa Rica. *Lithosphere* 5, 247-264.
8. Prendergast, A., **Copper, M.**, Jankaew, K., Sawai, Y. (2012). Indian Ocean tsunami recurrence from optical dating of tsunami sand sheets in Thailand. *Marine Geology* 295-298, 20-27.
9. Carey, S., Camens, A., **Copper, M.**, Grün, R., Hellstrom, J., McKnight, S., MacLennan, I., Pickering, D., Trusler, P. (2011). A diverse Pleistocene marsupial trackway assemblage from the Victorian Volcanic Plains, Australia. *Quaternary Science Reviews* 30, 591-610.
10. Mooney, S., Harrison, S., Bartlein, P., Daniu, A., Stevenson, J., Brownlie, K., Buckman, S., **Copper, M.**, Luly, J., Black, M., Colhoun, E., Dodson, J., Haberle, S. (2011). Late Quaternary fire regimes of Australasia. *Quaternary Science Reviews* 30, 28-46.
11. Quigley, M., Horton, T., Hellstrom, J., **Copper, M.**, Sandiford, M. (2010). Holocene climate change in arid Australia from speleothem and alluvial records. *The Holocene* 20, 1093-1104.
12. Gardner, T., Webb, J., Pezzia, C., **Copper, M.** (2009). Episodic intraplate deformation of stable continental margins: evidence from Late Neogene and Quaternary marine terraces, Cape Liptrap, Southeastern Australia. *Quaternary Science Reviews* 28, 39-53.
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**Attachment 2.
First Peoples – State Relations Practice Note: Significant Ground
Disturbance.**



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Aboriginal Heritage Act 2006 Practice Note: Significant Ground Disturbance

This Practice Note provides guidance about the meaning of **significant ground disturbance** as it relates to requirements to prepare Cultural Heritage Management Plans under the *Aboriginal Heritage Act 2006**.

The Practice Note covers:

- when a Cultural Heritage Management Plan is required
- why significant ground disturbance should be assessed
- what significant ground disturbance means
- who needs to provide proof
- how to determine significant ground disturbance
- who can determine this
- what is the role of the responsible authority
- how Aboriginal cultural heritage is protected in areas of significant ground disturbance.

Background

The *Aboriginal Heritage Act 2006* (Act) and *Aboriginal Heritage Regulations 2007* (Regulations) provide protection in Victoria for all Aboriginal places, objects and human remains regardless of their inclusion on the Victorian Aboriginal Heritage Register or whether they are located on public or private land.

When is a Cultural Heritage Management Plan required?

A Cultural Heritage Management Plan is required for an activity (i.e. the use or development of land) if the activity:

- is a high impact activity
- falls in whole or in part within an area of cultural heritage sensitivity.

The terms 'high impact activity' and 'cultural heritage sensitivity' are defined in the Regulations.

A Plan must also be prepared when an activity requires an Environmental Effects Statement, or when the Minister for Aboriginal Affairs requires.

High impact activities are categories of activity that are generally regarded as more likely to harm Aboriginal cultural heritage. Most high impact activities provided for in the Regulations are subject to a requirement that the activity results in significant ground disturbance.

Areas of cultural heritage sensitivity are landforms and land categories that are generally regarded as more likely to contain Aboriginal cultural heritage. A registered Aboriginal cultural heritage place is also an area of cultural heritage sensitivity.

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If part of an area of cultural heritage sensitivity (other than a cave) has been subject to significant ground disturbance that part is not an area of cultural heritage sensitivity.

If a Cultural Heritage Management Plan is required for an activity it must be approved before the sponsor can obtain any necessary statutory authorisation for the activity and/or before the activity can start. For more information about Cultural Heritage Management Plans see Aboriginal Affairs Victoria's (AAV) website (www.aboriginalaffairs.vic.gov.au).

Why should significant ground disturbance be assessed?

It is important to assess significant ground disturbance when considering whether a cultural heritage management plan is required because:

- A Cultural Heritage Management Plan does not need to be prepared for a high impact activity if all the area of cultural heritage sensitivity within the activity area has been subject to significant ground disturbance.
- Some types of activity will not be a high impact activity, meaning a Cultural Heritage Management Plan would not need to be prepared, if the activity does not cause significant ground disturbance.

The Regulations specify the landforms and land categories that are areas of cultural heritage sensitivity. Areas of cultural heritage sensitivity are displayed in a series of maps available on AAV's website. The areas delineated on these maps however do not take account of the past history of land use and development that may have caused significant ground disturbance in localised areas.

How is significant ground disturbance defined?

'Significant ground disturbance' is defined in r.4 of the Regulations as meaning disturbance of –

- (a) the topsoil or surface rock layer of the ground; or
- (b) a waterway –
by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

The words 'disturbance', 'topsoil', 'surface rock layer', 'machinery', 'grading', 'excavating', 'digging', 'dredging', 'ploughing' (other than deep ripping) are not defined in the regulations and therefore have their ordinary meanings.

Ploughing (other than deep ripping) to any depth is not significant ground disturbance. Deep ripping is defined in the regulations to mean 'ploughing of soil using a ripper or subsoil cultivation tool to a depth of 60 centimetres or more'. None of the words used in this definition are defined, and therefore have their ordinary meanings. The Victorian Civil and Administrative Tribunal (VCAT) has determined that a ripper or subsoil cultivation tool must be distinguished from conventional ploughs or topsoil cultivation tools such as disc ploughs or rotary hoes which are not sufficient to show significant ground disturbance.

Deep ripping will result in significant ground disturbance regardless of the degree of disturbance caused to the topsoil or surface rock layer of the ground.

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Who needs to provide proof that land has been subject to significant ground disturbance?

The burden of proving that an area has been subject to significant ground disturbance rests with the applicant for a statutory authorisation for the activity (or the sponsor of the activity). The responsible authority may assist by providing the applicant access to any relevant records it has about past land use and development.

How can a sponsor determine whether significant ground disturbance has occurred?

The responsible authority should require evidence of support for claims that there has been significant ground disturbance of an area. The levels of inquiry outlined below provide some guidance about what information should be required to satisfy a responsible authority (depending on the circumstances of each case) that significant ground disturbance has occurred. The levels of inquiry are listed in order of the level of detail that may be required. An assessment of whether significant ground disturbance has occurred should be dealt with at the lowest possible level in order to avoid unnecessary delay or cost to applicants.

Little weight should be given to mere assertions by applicants or land owners that an activity area has been subject to significant ground disturbance.

Level 1 – Common knowledge

The fact that land has been subject to significant ground disturbance may be common knowledge. Very little or no additional information should be required from the responsible authority.

For example, common knowledge about the redevelopment of a petrol station with extensive underground storage tanks.

Level 2 – Publicly available records

If the existence of significant ground disturbance is not common knowledge, a responsible authority may be able to provide assistance from its own records about prior development and use of land, or advise the applicant about other publicly available records, including aerial photographs.

These documents may allow a reasonable inference to be made that the land has been subject to significant ground disturbance. In such event, no further inquiries or information would be needed by the responsible authority. The particular records and facts relied upon should be noted by the responsible authority as a matter of record.

For example, a former quarry site subsequently filled, but where the public records show the area of past excavation.

Level 3 – Further information

If 'common knowledge' or 'publicly available records' do not provide sufficient information about the occurrence of significant ground disturbance, the applicant may need to present further evidence either voluntarily or following a formal request from the responsible authority. Further evidence could consist of land use history documents, old maps or photographs of the land or statements by former landowners or occupiers. Statements should be provided by statutory declaration or similar means.

For example, the construction of a former dam on a farm.

Level 4 – Expert advice or opinion

If these levels of inquiry do not provide sufficient evidence of significant ground disturbance (or as an alternative to level 3), the applicant may submit or be asked to submit a professional report with expert advice or opinion from a person with appropriate skills and experience. Depending on the circumstances, this may involve a site inspection and/or a review of primary documents. If there is sufficient uncertainty some preliminary sub-surface excavation may be warranted.

An expert report should comply with VCAT's practice note on expert evidence.

The responsible authority must be reasonably satisfied that the standard of proof presented by the applicant shows that all of the land in question has been subject to significant ground disturbance.

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A level 1 or 2 inquiry will commonly provide sufficient information as to whether or not the activity area has been subject to significant ground disturbance, and a level 3 or 4 inquiry should not be required as a matter of course.

There will be cases when the responsible authority is simply not persuaded or where there remains genuine doubt about significance ground disturbance regardless of the level of inquiry. In these circumstances the default position is that a Cultural Heritage Management Plan is required. This is in line with the purpose of the Act and Regulations to provide for the protection of Aboriginal cultural heritage in Victoria.

Who can provide expert advice about significant ground disturbance?

A person needs to have expertise to decide, based upon an inspection of the land or interpreting primary documents, whether the land has been subject to significant ground disturbance.

A cultural heritage advisor may not necessarily have this expertise. Under section 189 of the Act, an advisor must have a qualification directly relevant to the management of Aboriginal cultural heritage such as 'anthropology, archaeology or history' or have extensive experience or knowledge in relation to the management of heritage. An advisor appropriately qualified in archaeology may be able to assist where excavation is required to determine significant ground disturbance.

Other experts such as a land surveyor, geomorphologist or civil engineer could also have the necessary expertise (depending on the circumstances). For example, a civil engineer should have the qualifications and experience to determine the extent of previous engineering works along a watercourse or road, and therefore the extent of significant ground disturbance.

What is the role of the responsible authority?

The responsible authority determines whether a Cultural Heritage Management Plan is required for an activity. It may require the applicant to provide information to satisfy it that an area has been subject to significant ground disturbance.

Evaluating information relating to the occurrence of significant ground disturbance may be critical in deciding whether a Cultural Heritage Management Plan is required and therefore whether a statutory authorisation can be granted. This question should be resolved at an early stage in planning a proposed development. Applicants for statutory authorisations and the responsible authority should therefore seek to agree at an early stage about whether a Cultural Heritage Management Plan is required. In the event of a dispute this can be brought without delay to VCAT for resolution. The responsible authority should take care to document the steps taken in each case.

What if Aboriginal cultural heritage is discovered in an area determined to have been subject to significant ground disturbance?

It is possible that there are Aboriginal cultural heritage places, objects or human remains within areas determined to no longer be areas of cultural heritage sensitivity due to significant ground disturbance. It is also possible that Aboriginal cultural heritage could be harmed by activities which do not amount to high impact activities.

These Aboriginal places are still protected under the Act. In particular, it is an offence under sections 27 and 28 of the Act to harm Aboriginal cultural heritage unless acting in accordance with a Cultural Heritage Permit or approved Cultural Heritage Management Plan (regardless of whether a Plan was required).

** This Practice Note is based on VCAT's determination about significant ground disturbance. For further details see VCAT, Reference No. P1020/2008 – Mainstay Australia vs Mornington Peninsula SC.*