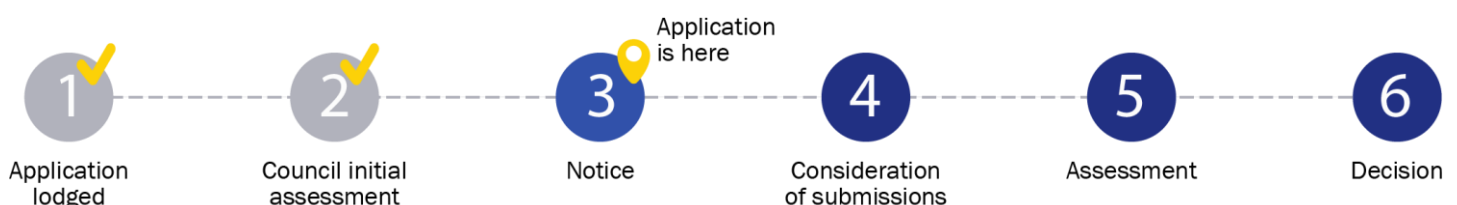


# Notice of Application for a Planning Permit

The land affected by the application is located at:	L2 PS516658 112 Princes Highway, Pakenham VIC 3810
The application is for a permit to:	Use of Land for the Purpose of a Restricted Recreation Facility (Gym) and Display of Business Identification Signage
A permit is required under the following clauses of the planning scheme:	
32.04-2	Use of the land for a (Gym),
52.05-2	Construct or put up for display a (Business Identification Signage)
<b>APPLICATION DETAILS</b>	
The applicant for the permit is:	D&D Architects & Interiors Pty Ltd
Application number:	T250221
<p>You may look at the application and any documents that support the application at the office of the Responsible Authority:</p> <p>Cardinia Shire Council, 20 Siding Avenue, Officer 3809.</p> <p>This can be done during office hours and is free of charge.</p> <p>Documents can also be viewed on Council's website at <a href="http://cardinia.vic.gov.au/advertisedplans">cardinia.vic.gov.au/advertisedplans</a> or by scanning the QR code.</p> 	
<b>HOW CAN I MAKE A SUBMISSION?</b>	
This application has not been decided. You can still make a submission before a decision has been made. The Responsible Authority will not decide on the application before:	
<b>26 August 2025</b>	
<b>WHAT ARE MY OPTIONS?</b> Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority. If you object, the Responsible Authority will notify you of the decision when it is issued.	<p>An objection must:</p> <ul style="list-style-type: none"><li>• be made to the Responsible Authority in writing;</li><li>• include the reasons for the objection; and</li><li>• state how the objector would be affected.</li></ul> <p>The Responsible Authority must make a copy of every objection available at its office for any person to inspect during office hours free of charge until the end of the period during which an application may be made for review of a decision on the application.</p>



# Application for a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the end of this form.

**⚠** Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any questions, please contact Council's planning department.

**⚠** Questions marked with an asterisk (\*) must be completed.

**⚠** If the space provided on the form is insufficient, attach a separate sheet.

**i** Click for further information.

Clear Form

## The Land **i**

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

### Street Address \*

Unit No.:	St. No.: 112	St. Name: Princes Highway
Suburb/Locality: Pakenham		Postcode: 3810

### Formal Land Description \*

Complete either A or B.

**⚠** This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A	Lot No.: 2	<input type="radio"/> Lodged Plan	<input type="radio"/> Title Plan	<input checked="" type="radio"/> Plan of Subdivision	No.: 516658Q
OR					
B	Crown Allotment No.:		Section No.:		
Parish/Township Name:					

## The Proposal

**⚠** You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

**i** For what use, development or other matter do you require a permit? \*

Use of land as a restricted recreational facility (gym), associated works and display of business identification signs

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**⚠** Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

Cost \$ 150,000

**⚠** You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy **must** be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit [www.sro.vic.gov.au](http://www.sro.vic.gov.au) for information.

**i** Estimated cost of any development for which the permit is required \*


## Existing Conditions

### Describe how the land is used and developed now \*

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Single building previously occupied by retail premises.

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 Provide a plan of the existing conditions. Photos are also helpful.

## Title Information

### Encumbrances on title \*

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☒ No
- ☐ Not applicable (no such encumbrance applies).

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

## Applicant and Owner Details

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit.

Please provide at least one contact phone number \*

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

### Owner \*

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Organisation (if applicable): D&D Architects & Interiors Pty Ltd

Postal Address:

If it is a P.O. Box, enter the details here:

Unit No.:

St. No.: 1

St. Name: Stanley Road

Suburb/Locality: Vermont South

State: VIC

Postcode: 3133

### Contact information for applicant OR contact person below

Business phone:

Mobile phone:

Fax:

### Contact person's details\*

Same as applicant ☒

Name:

Title:

First Name:

Surname:

Organisation (if applicable):

Postal Address:

If it is a P.O. Box, enter the details here:

Unit No.:

St. No.:

St. Name:


Suburb/Locality:

State:

Postcode:

## Declaration

This form must be signed by the applicant \*

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

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Date: 16/04/2025

day / month / year

## Need help with the Application?

General information about the planning process is available at [planning.vic.gov.au](http://planning.vic.gov.au)

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

Has there been a pre-application meeting with a council planning officer?



No



Yes

If 'Yes', with whom?:

Date:

day / month / year

## Checklist

Have you:



Filled in the form completely?



Paid or included the application fee?



Most applications require a fee to be paid. Contact Council to determine the appropriate fee.



Provided all necessary supporting information and documents?



A full, current copy of title information for each individual parcel of land forming the subject site.



A plan of existing conditions.



Plans showing the layout and details of the proposal.



Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.



If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts).



If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void.



Completed the relevant council planning permit checklist?



Signed the declaration?

## Lodgement

Lodge the completed and signed form, the fee and all documents with:

Cardinia Shire Council  
PO Box 7  
Pakenham VIC 3810

In person: 20 Siding Avenue, Officer

### Contact information:

Telephone: 1300 787 624

Email: [mail@cardinia.vic.gov.au](mailto:mail@cardinia.vic.gov.au)

DX: 81006

Deliver application in person, by post or by electronic lodgement.

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112 PRINCESS HIGHWAY, PAKENHAM  
VIC 3810

ARCHITECTURAL DRAWING LIST

DRWG	TITLE
TP-002	NEIGHBOURHOOD PLAN
TP-003	EXISTING SITE PLAN
TP-004	EXISTING AND DEMOLITION GROUND FLOOR PLAN
TP-005	EXISTING ROOF PLAN
TP-101	PROPOSED SITE PLAN
TP-102	PROPOSED GROUND FLOOR PLAN
TP-103	PROPOSED ROOF PLAN
TP-104	PROPSOED ELEVATIONS
TP-105	PROPSOED SIGNAGE
TP-106	PROPSOED SIGNAGE
TP-108	PROPOSED TOILETS & SHOWERS

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ISSUE FOR TOWNPLANNING APPLICATION

C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION
REV	DATE	DRAWN	REV'D	REVISION

D & D ARCHITECT & INTERIORS PTY LTD

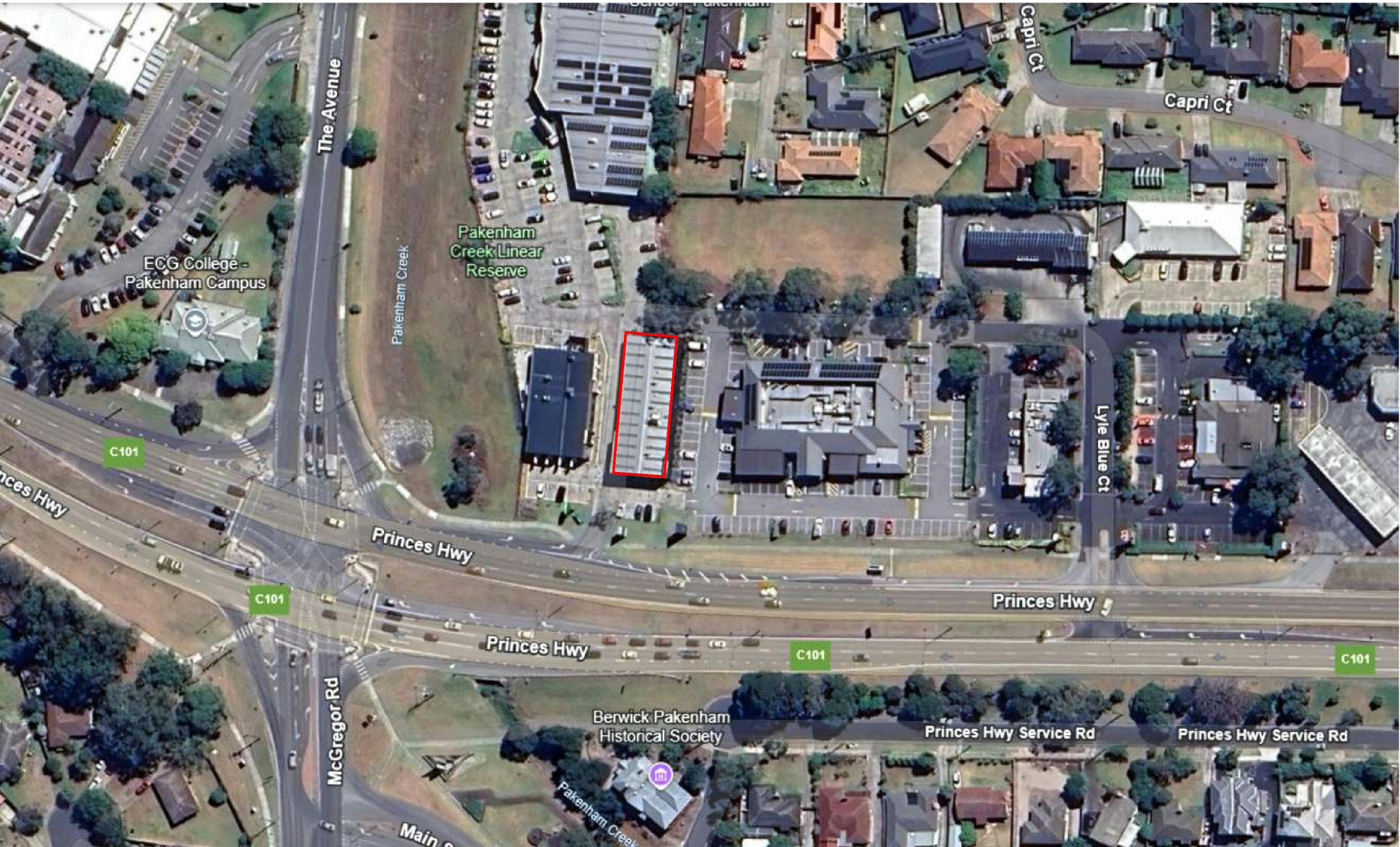
DRAWN	DRAWING CHECK	DESIGN REVIEW
L.L.	R.L.	R.L.

TITLE	COVERSHEET
SCALE	DRAWING No
@A3	TP-001
REV	C



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VIC 3133, AUSTRALIA





○ SITE LOCATION/SITE PHOTOS

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ISSUE FOR TOWNPLANNING APPLICATION

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A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION

D & D ARCHITECT & INTERIORS PTY LTD

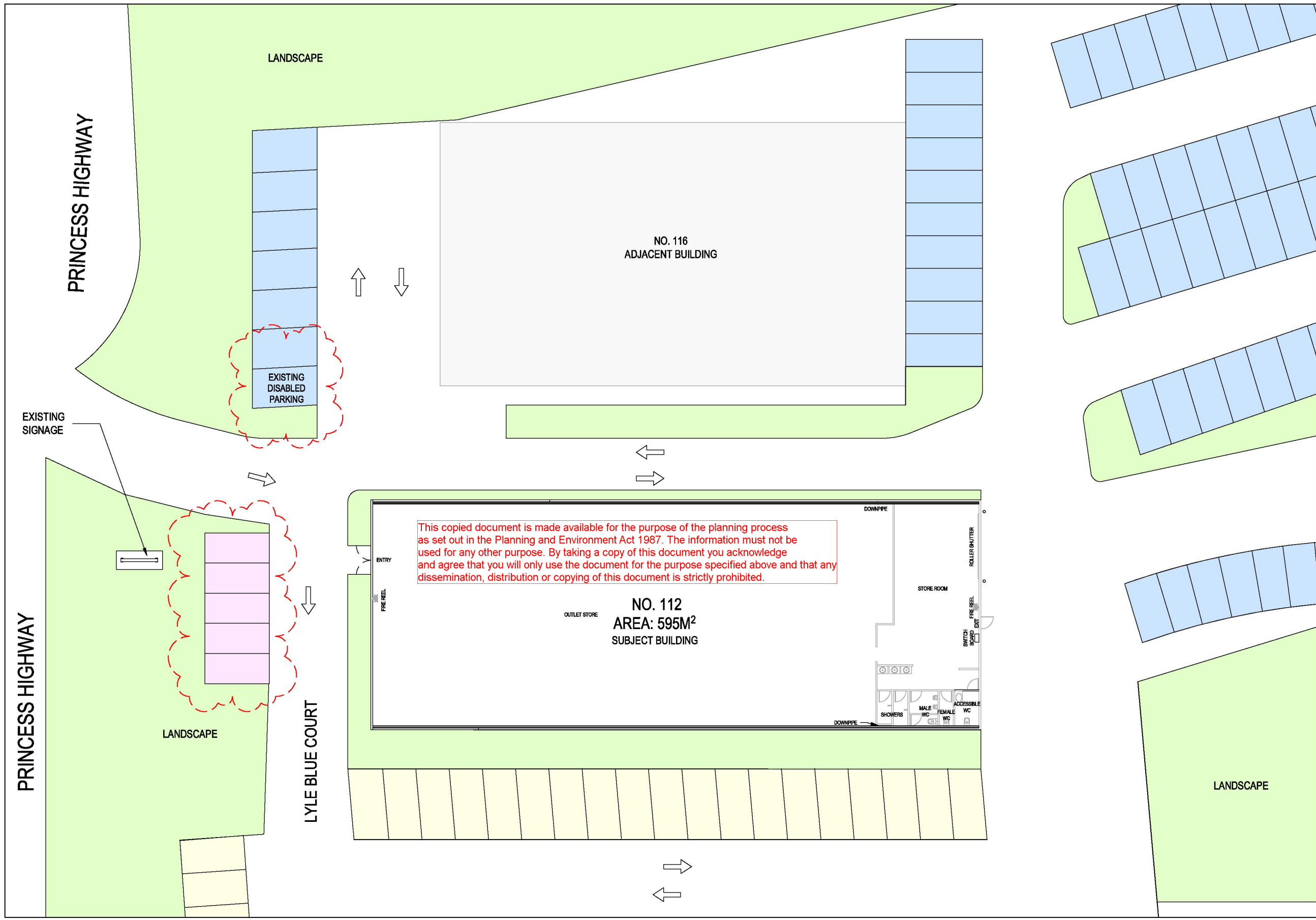
CLIENT [REDACTED]		
[REDACTED] 112 PRINCESS HWY, PAKENHAM		
DRAWN L.L.	DRAWING CHECK R.L.	DESIGN REVIEW R.L.

TITLE NEIGHBOURHOOD PLAN	
SCALE @A3	DRAWING No TP-002
REV C	



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VIC 3133, AUSTRALIA





AREA ANALYSIS	
SITE AREA	595M <sup>2</sup>
OUTLET STORE AREA	500M <sup>2</sup>
STORE ROOM	63M <sup>2</sup>
SHOWERS	5M <sup>2</sup>
DISABLE TOILET	4M <sup>2</sup>
ALL WCS	8M <sup>2</sup>
TOTAL BUILDING AREA	580M <sup>2</sup>

EXISTING PARKING ALLOCATION

NO.108-110 Parking

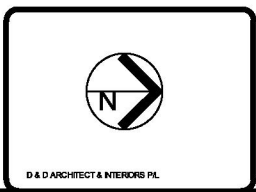
NO.112 Parking

NO.116 Parking

ISSUE FOR TOWNPLANNING APPLICATION

1 EXISTING AND DEMOLISH SITE PLAN  
TP-003 1 : 250

C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI	
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A	
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION	
REV	DATE	DRAWN	REV'D	REVISION	



PROJECT NO. 112 PRINCESS HWY, PAKENHAM		
DRAWN	DRAWING CHECK	DESIGN REVIEW
L.L.	R.L.	R.L.

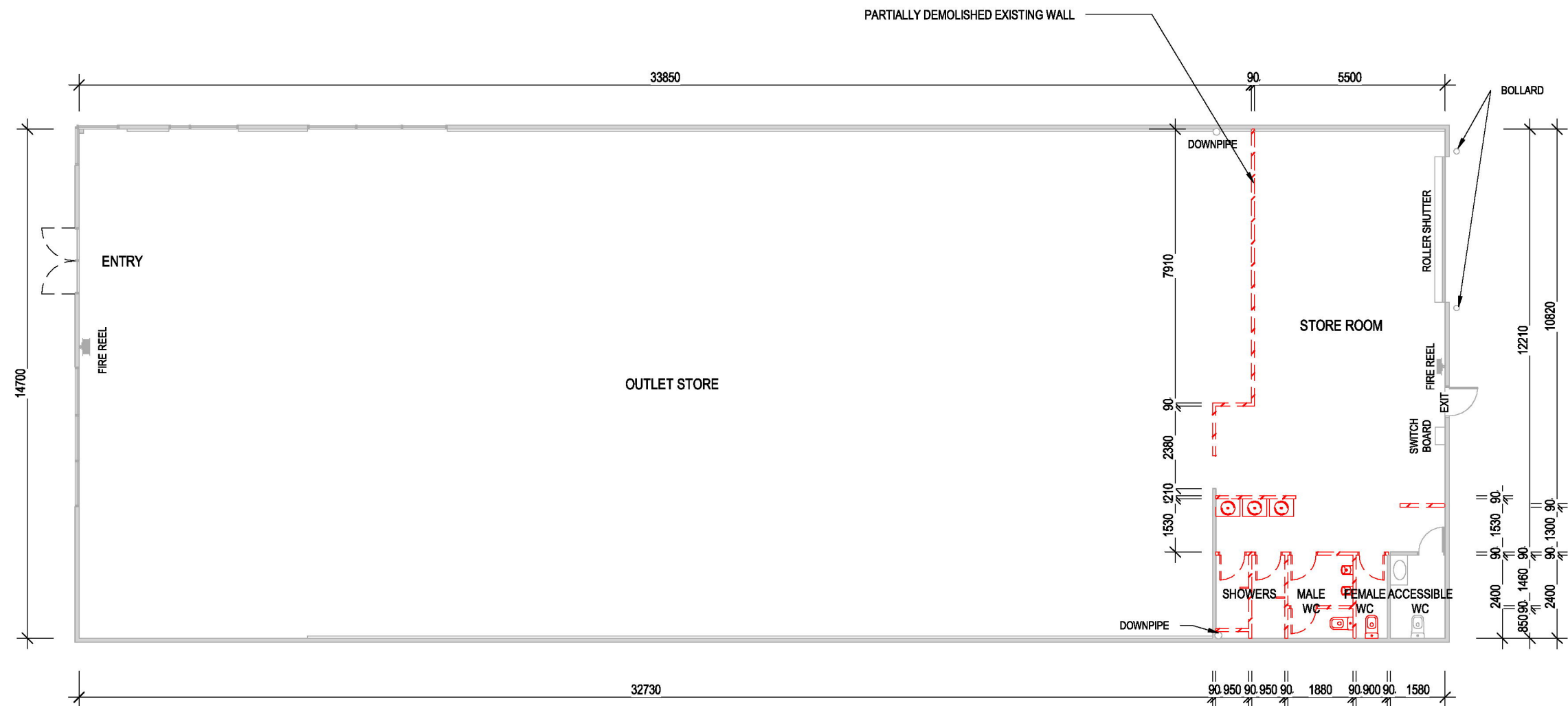
TITLE EXISTING SITE PLAN		
SCALE As indicated @A3	DRAWING No TP-003	REV C

ARCHITECT INTERIORS

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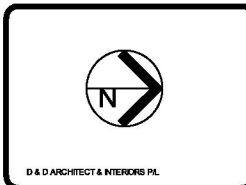
AREA ANALYSIS	
SITE AREA	595M <sup>2</sup>
OUTLET STORE AREA	500M <sup>2</sup>
STORE ROOM	63M <sup>2</sup>
SHOWERS	5M <sup>2</sup>
DISABLE TOILET	4M <sup>2</sup>
ALL WCS	8M <sup>2</sup>
TOTAL BUILDING AREA	580M <sup>2</sup>



1  
TP-004  
EXISTING AND DEMOLISH GROUND FLOOR PLAN  
1:150

ISSUE FOR TOWNPLANNING APPLICATION

REV	DATE	DRAWN	REV'D	REVISION
C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION



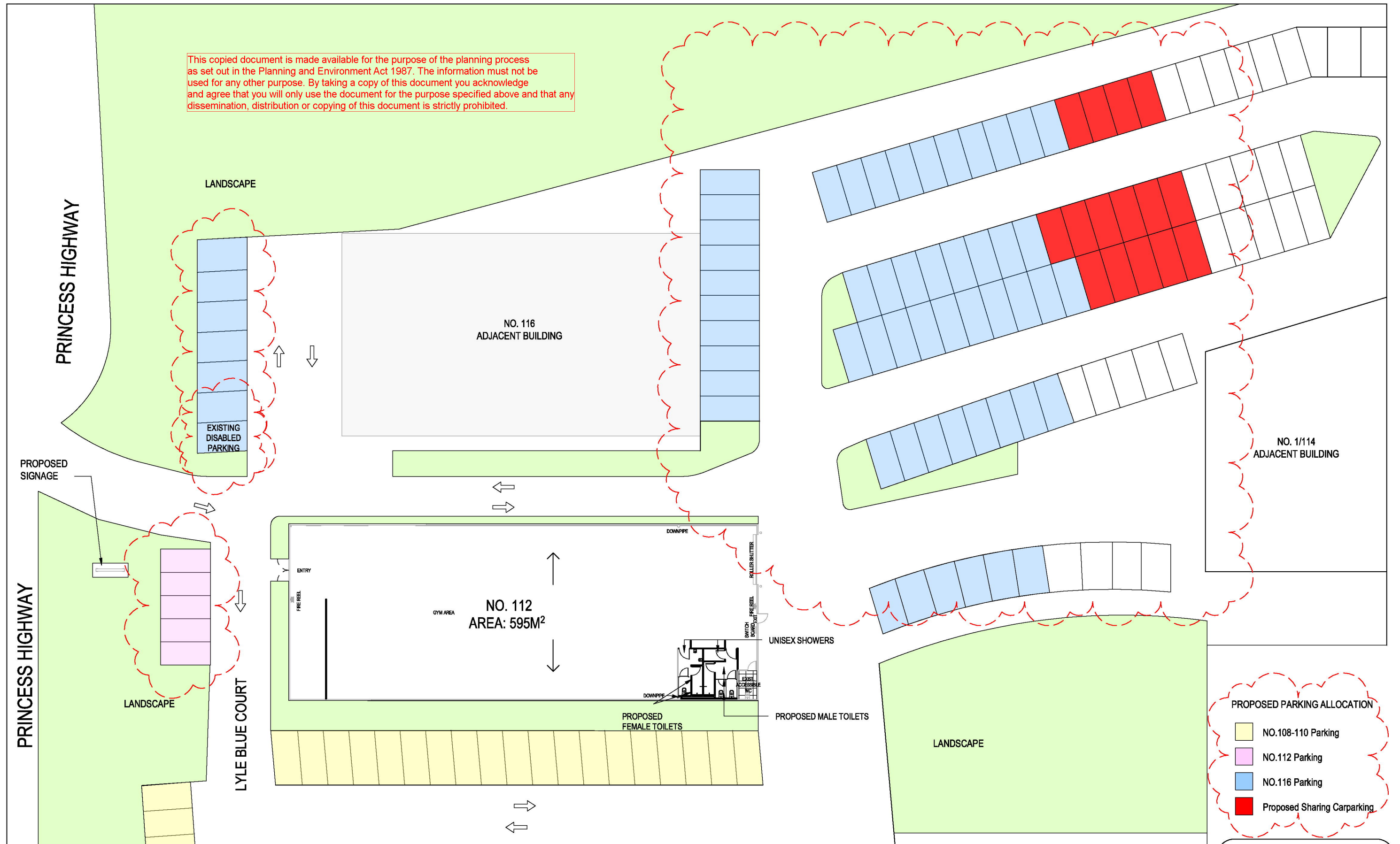
CLIENT		
PROJECT	112 PRINCESS HWY, PAKENHAM	
DRAWN	DRAWING CHECK	DESIGN REVIEW
L.L.	R.L.	R.L.

TITLE	EXISTING AND DEMOLITION GROUND FLOOR PLAN	
SCALE	DRAWING No	REV
As indicated @A3	TP-004	C

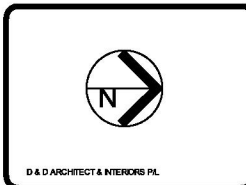
**ARCHITECT INTERIORS**

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REV	DATE	DRAWN	REV'D	REVISION
C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION



CLIENT			
PROJECT	-112 PRINCESS HWY, PAKENHAM		
DRAWN	L.L.	DRAWING CHECK	R.L.
DESIGN REVIEW	R.L.		

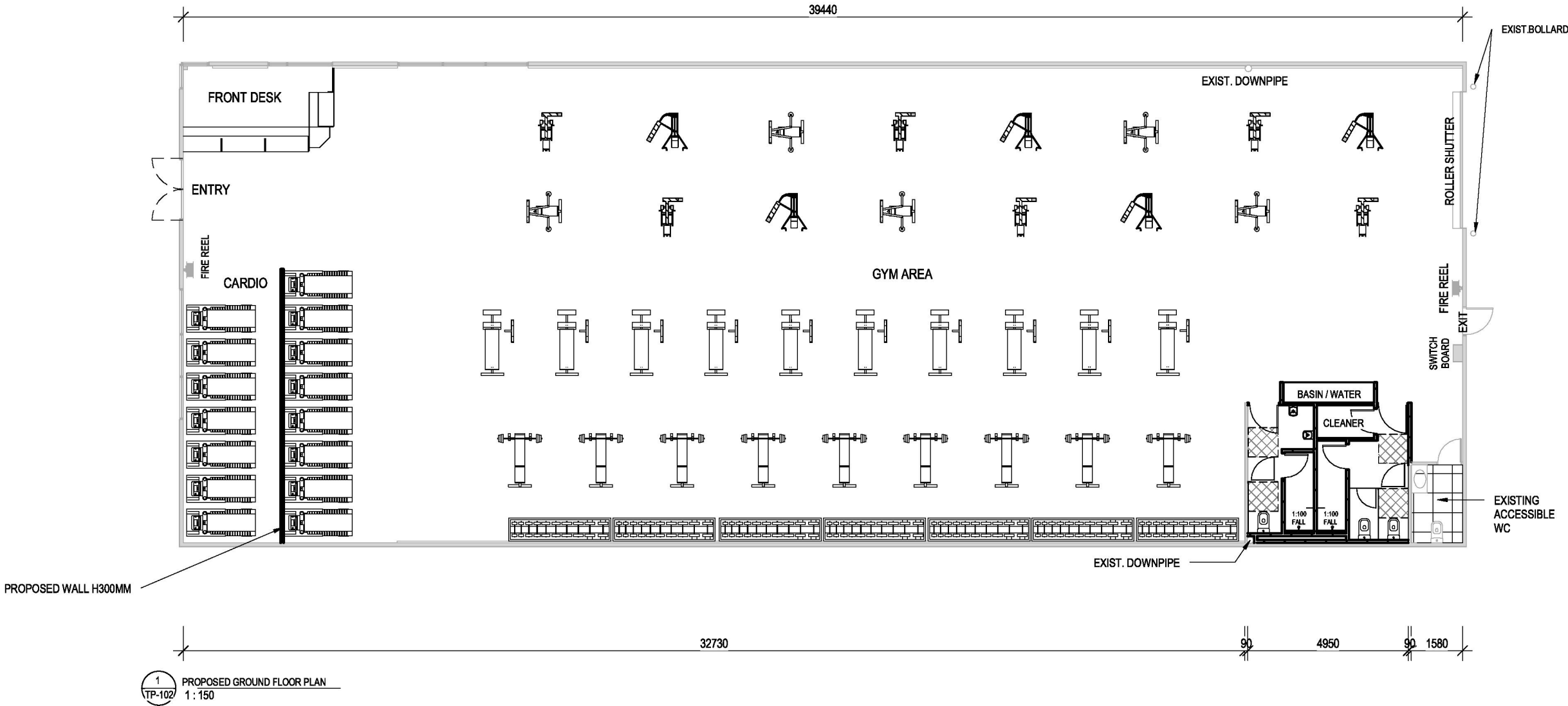
TITLE	PROPOSED SITE PLAN		
SCALE	As indicated @A3	DRAWING No	TP-101
REV	C		





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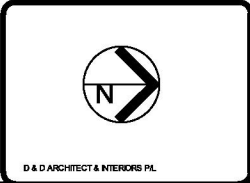
AREA ANALYSIS	
SITE AREA	595M <sup>2</sup>
GYM AREA	550M <sup>2</sup>
SHOWER & WCS	27M <sup>2</sup>
TOTAL BUILDING AREA	580M <sup>2</sup>
SHOWER & WCS	QTY
FEMALE WC	2
MALE WC	3
UNISEX SHOWER	2
ACCESSIBLE WC	1



1  
TP-102  
PROPOSED GROUND FLOOR PLAN  
1:150

ISSUE FOR TOWNPLANNING APPLICATION

REV	DATE	DRAWN	REV'D	REVISION
C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION

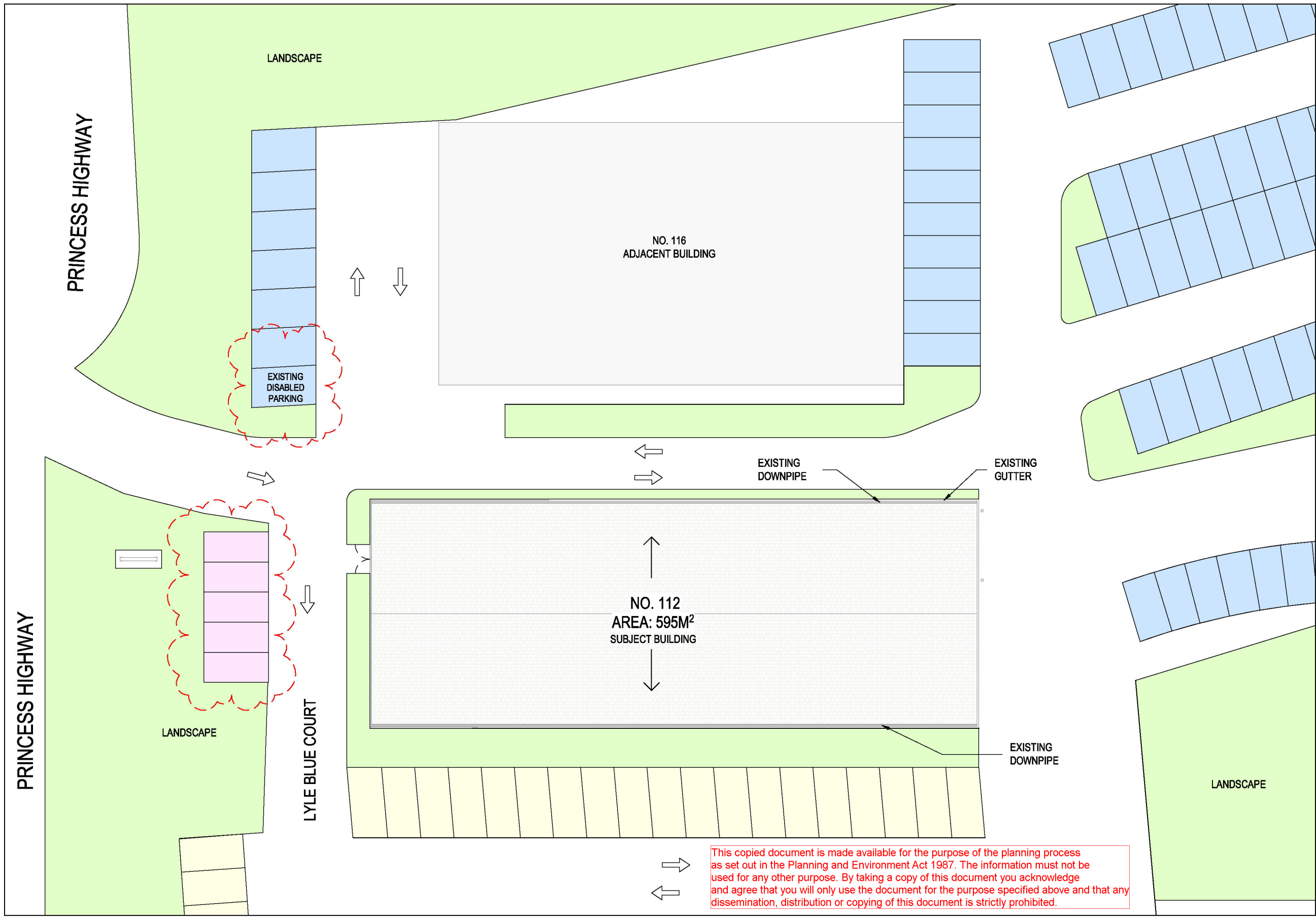


CLIENT [REDACTED]		
PROJECT [REDACTED] 2 PRINCESS HWY, PAKENHAM		
DRAWN L.L.	DRAWING CHECK R.L.	DESIGN REVIEW R.L.

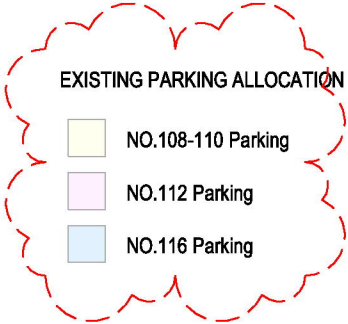
TITLE PROPOSED GROUND FLOOR PLAN		
SCALE As indicated @A3	DRAWING No TP-102	REV C

**ARCHITECT INTERIORS**

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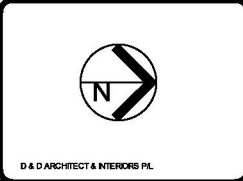
NOTE: NO WORK TO EXISTING ROOF



ISSUE FOR TOWNPLANNING APPLICATION

1  
TP-103  
PROPOSED ROOF PLAN  
1 : 250

REV	DATE	DRAWN	REV'D	REVISION
C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION



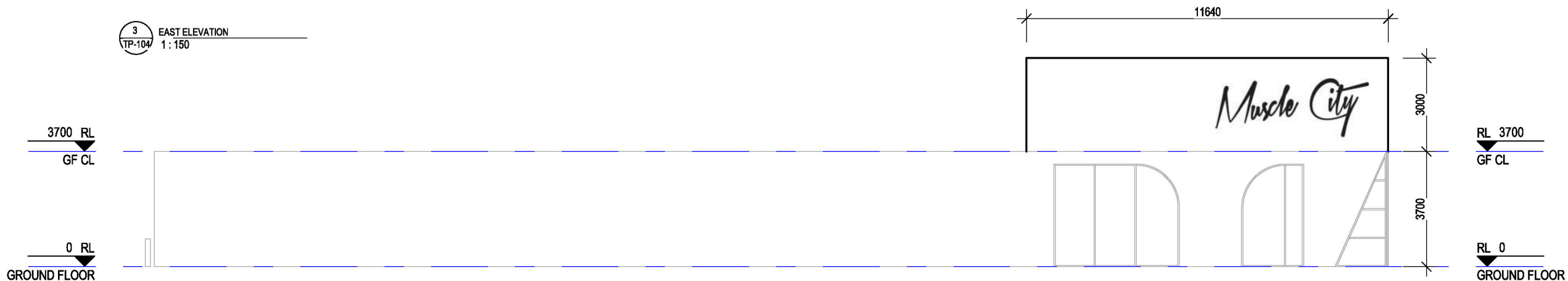
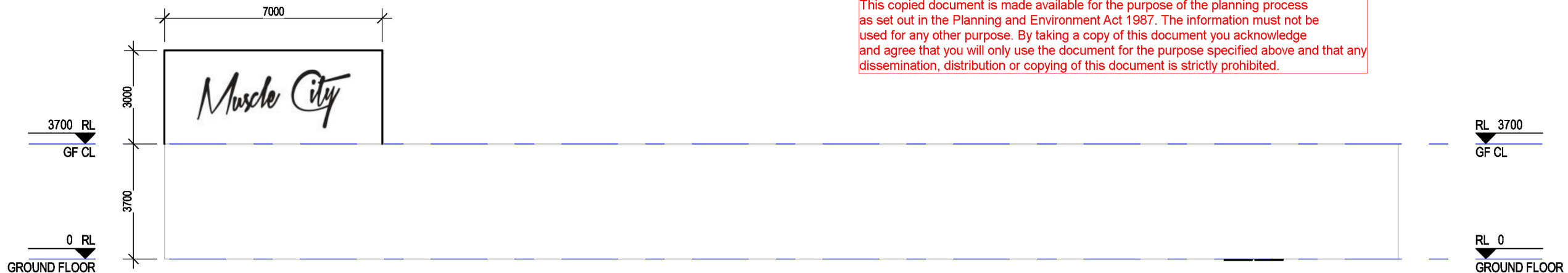
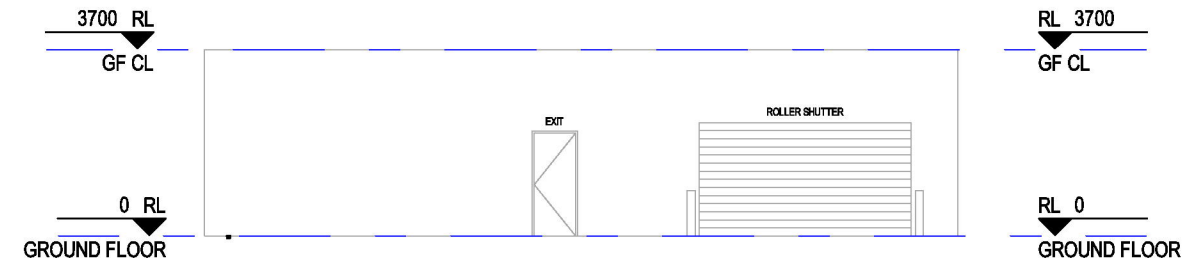
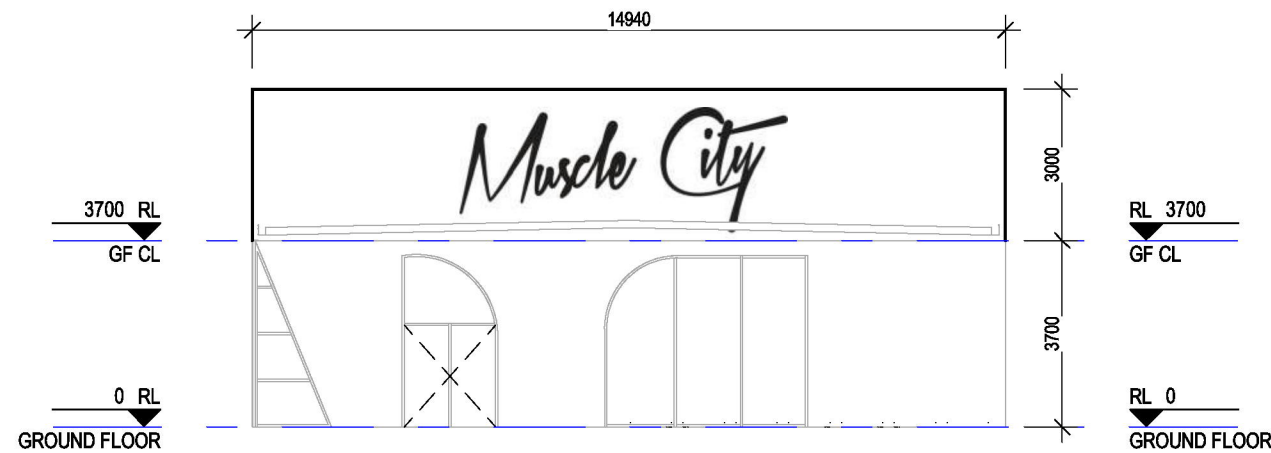
CLIENT	[REDACTED]		
PROJECT	[REDACTED] 12 PRINCESS HWY, PAKENHAM		
DRAWN	DRAWING CHECK	DESIGN REVIEW	
L.L.	R.L.	R.L.	

TITLE		PROPOSED ROOF PLAN	
SCALE	DRAWING No	REV	
As indicated @A3	TP-103	C	



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NOTE: NO WORK TO EXISTING FACADE



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ISSUE FOR TOWNPLANNING APPLICATION

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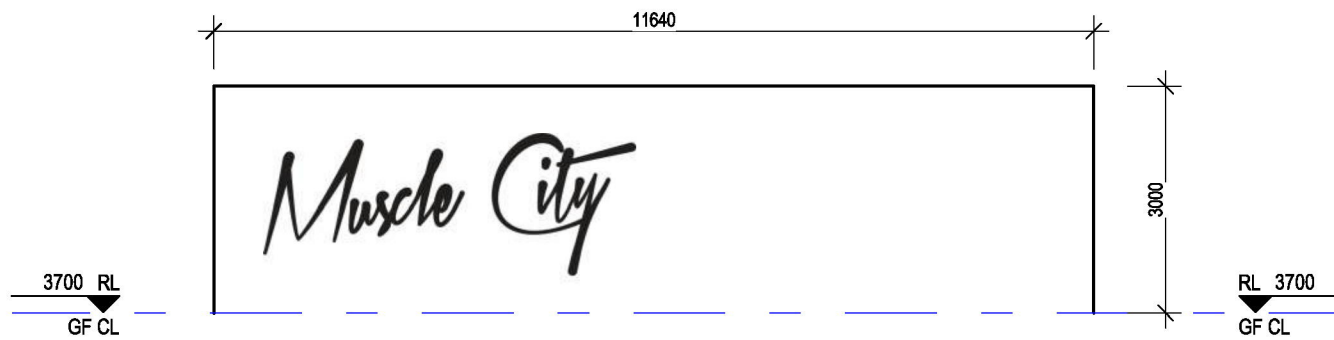
D & D ARCHITECT & INTERIORS PTY LTD

CLIENT	
PROJECT	112 PRINCESS HWY, PAKENHAM
DRAWN	L.L.
DRAWING CHECK	R.L.
DESIGN REVIEW	R.L.

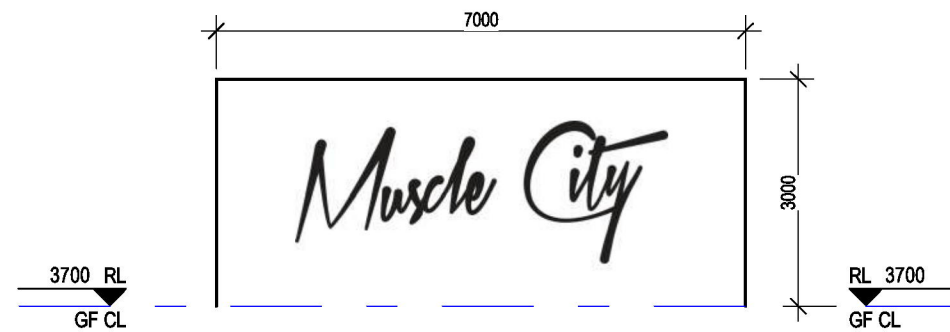
TITLE	PROPOSED ELEVATIONS
SCALE	1:150 @A3
DRAWING No	TP-104
REV	C



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VIC 3133, AUSTRALIA



1 PROPOSED SIGNAGE WEST ELEVATION  
TP-106 1 : 100



2 PROPOSED SIGNAGE EAST ELEVATION  
TP-106 1 : 100



3 PROPOSED SIGNAGE SOUTH ELEVATION  
TP-106 1 : 100

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ISSUE FOR TOWNPLANNING APPLICATION

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B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION

D & D ARCHITECT & INTERIORS PTY LTD

PROJECT  
[REDACTED] PRINCESS HWY, PAKENHAM

DRAWN L.L.	DRAWING CHECK R.L.	DESIGN REVIEW R.L.
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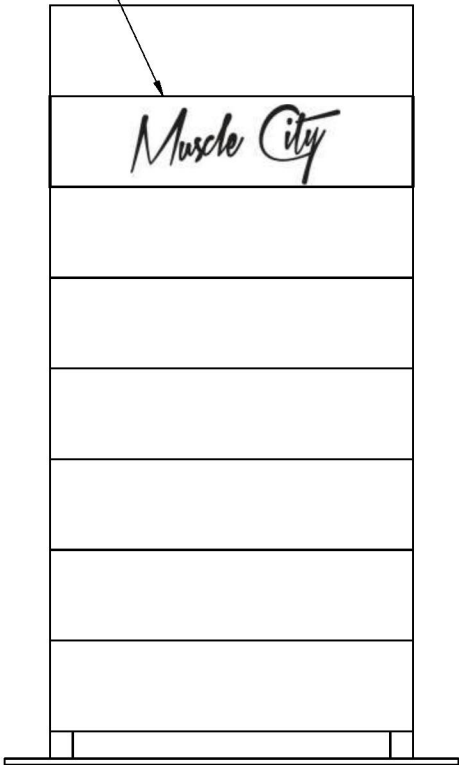
TITLE PROPOSED SIGNAGE	SCALE 1 : 100 @A3	DRAWING No TP-106	REV C
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T1 / 5 STANLEY ROAD,  
VERMONT SOUTH,  
VIC 3133, AUSTRALIA





EXISTING SIGNAGE TO  
BE REPLACED BY  
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1  
TP-105 PROPOSED SIGNAGE  
1:50

ISSUE FOR TOWNPLANNING APPLICATION

REV	DATE	DRAWN	REV'D	REVISION
C	250701	L.L.	R.L.	ISSUE TO RESPONSE COUNCIL RFI
B	250528	L.L.	R.L.	RFI RESPONSE TO ITEM 2A
A	250407	L.L.	R.L.	ISSUE FOR TOWNPLANNING APPLICATION



CLIENT [REDACTED]		
PROJECT [REDACTED] -112 PRINCESS HWY, PAKENHAM		
DRAWN L.L.	DRAWING CHECK R.L.	DESIGN REVIEW R.L.

TITLE PROPOSED SIGNAGE		
SCALE 1:50 @A3	DRAWING No TP-105	REV C

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# 112 Princes Highway, Pakenham Planning Report

Version II 11 April 2025

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# 1. Introduction

D&D Architect & Interiors PTY LTD, act on behalf of our client trading as Muscle City, in relation to land at 112 Princes Highway, Pakenham as the subject site. The application comprises of 1 lot (Premise).

The application seeks approval for the use and development of land as an indoor restricted recreational facility (gym) and associated buildings and works, including four (4) business identification signages.

Pursuant to Clause 32.04 Mixed Use Zone (MUZ) of the Scheme, the use of land as a restricted recreational facility is categorized as Section 2 Use, which a permit is required.

Under Clause 73.03 Land Use Terms of the Scheme, restricted recreational facility is defined as land used by members of a club or group for leisure or recreation, which the subject site is proposed as a place for fitness centre.

This report should be read in conjunction with the following documents:

- Architectural Plans, prepared by D&D Architect & Interiors PTY LTD revised and dated 8 April 2025.

Overall, the submitted proposal aims to meet relevant policy objectives and the intention of the Cardinia Planning Scheme. This report presents an appropriate response to the site's opportunities, constraints and context of the surrounding area to support the proposed use.

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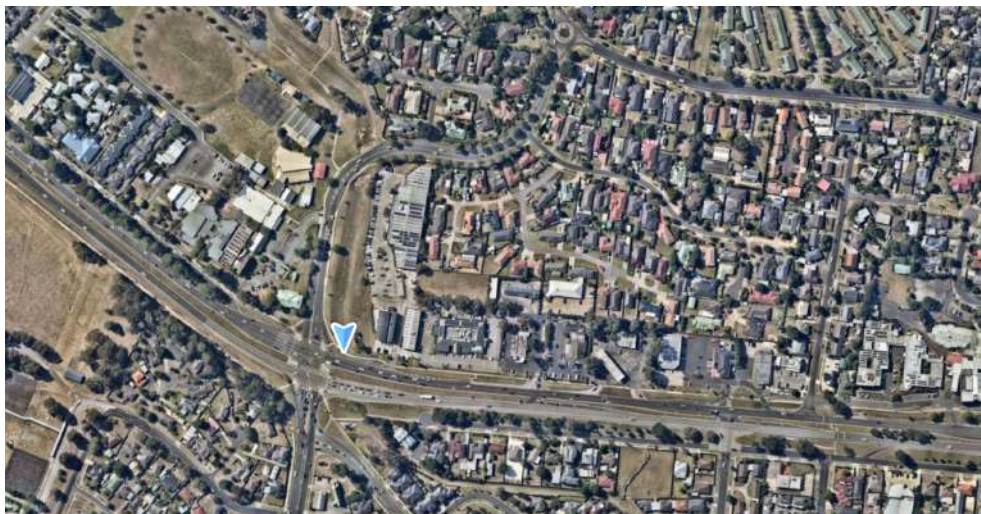
## 2. Site Context

### 2.1 Subject Site



*(Subject Site, Nearmap Aerial Photo dated 30 December 2024)*

The subject site is located near the intersection between Princes Highway and the Avenue, Pakenham, on the southern side of the highway as an independent warehouse. The site is legally described as *Lot 2 on Plan of Subdivision 516658Q* and occupies a rectangular allotment with an approximate area of 595 sqm. The land has direct frontage to Princes Highway, a major arterial road providing major transport connectivity to the broader Pakenham and South-East Growth Corridor areas within the municipality.



*(Site Surrounding, Nearmap Aerial Photo dated 30 December 2024)*



*(Site Frontage West- Google Map Street View)*



*(Site Frontage East - Google Map Street View)*



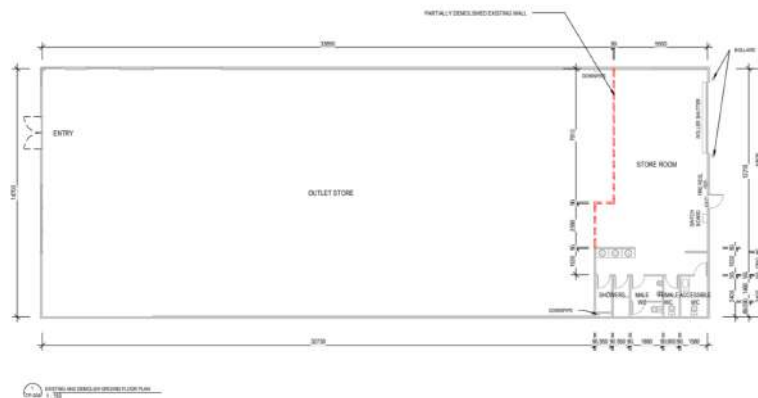
*(Front and Rear Views - Google Map Street View)*





*(Existing carparking surrounding the Subject Site)*

The site is currently developed with a single-storey warehouse and is previously occupied by a retail premises, features concrete areas for car parking surrounding the built form and some landscaped areas to the south. Entry to the subject site is accessed via an existing crossover in the south from Princes Highway. The topography of the site is generally flat, with no existing vegetation.

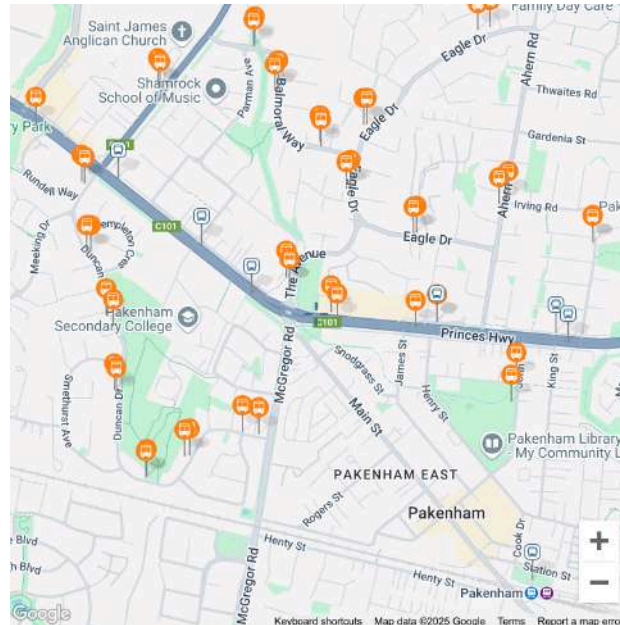


*(Existing layout and demolition plan)*

A minimum of 25 car parking spaces are available for car parking to support the operation of the existing building. Accessways are well positioned to ensure safe manoeuvring of vehicles for parking throughout the site. Vehicles can enter the site via Lyle Blue Court, which directs towards the eastern parking area, or through an alternative accessway located on the western side of the building.

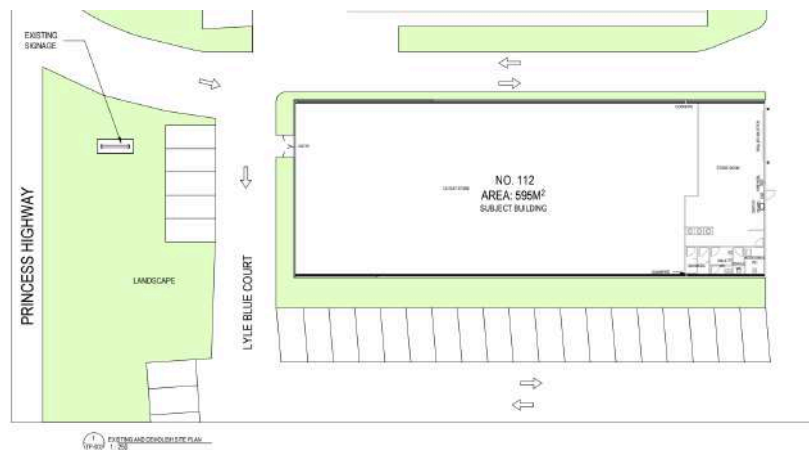


The subject site has excellent access to public transport options which provides connections to the local area and wider metropolitan area. There are several bus routes accessible from the subject site, including routes 925, 926, 927 as seen in the figure below. Pakenham Train Station is located to the southeast of the subject site, adjacent to Henty Street, approximately 2.1 kilometres away.



*(Public transport surrounding the Subject Site)*

Each commercial building/warehouse within the mixed- use zone is allocated with independent car parking spaces adjacent to each entry, additional public parking is available within the common property area, adjacent to the landscape strip near Princes Highway. Direct access to the subject site is located at LyleBlue Court.



*(Existing Site Plan)*

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There are a few abutting tenancies adjacent to the subject site located with a Mixed Used Zone (MUZ) which includes a variety of commercial and retail land uses, including a Swimming School to the immediate north, a hospitality facility (hotel), several Food and Drink Premises to its immediate east along Princes Highway.

Operating hours vary among the existing adjoining land uses. In particular, two food and drinks premises at 104-106 Princes Highway and 98-102 Princes Highway operates 24 hours, 7 days a week.



(Google Map Street View)

The site abuts a general residential zone to its immediate northeast, adjacent to the Pakenham Creek Linear Reserve. Vehicle access to the residential areas is located in the west of the site, along The Avenue.



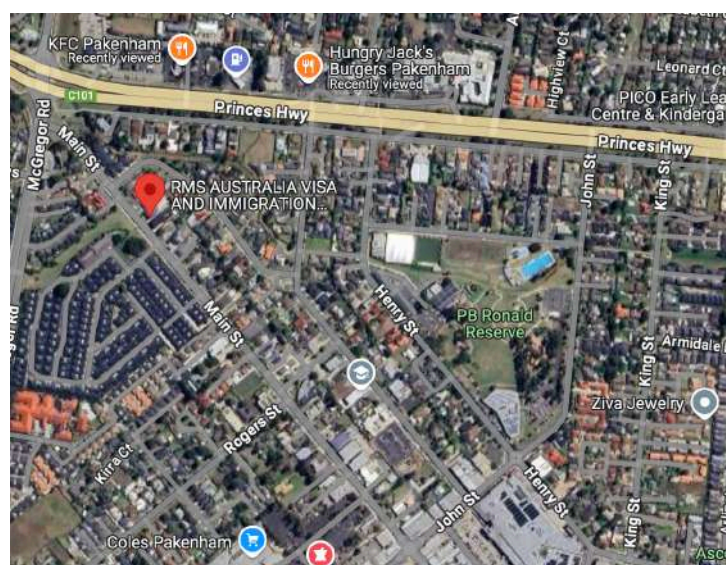
(Google Map Street View)

The site is also surrounded by several educational/communal land uses. There are existing community facilities located within a general residential zone further to the west of the site, such as Saint Patrick's Roman Catholic Church and St Patrick's Primary School.



(Google Street View)

Pakenham's activity centre (zone) is located in the immediate south of the site, along the opposite end of Princes Highway. It functions as the primary commercial, retail, and community hub for the township of Pakenham, offering a diverse mix of uses. The site's proximity to the activity zone reinforces its suitability for the proposed land use as a gym facility.



(Google Street View)



### 3. The Proposal

#### 3.1 Works

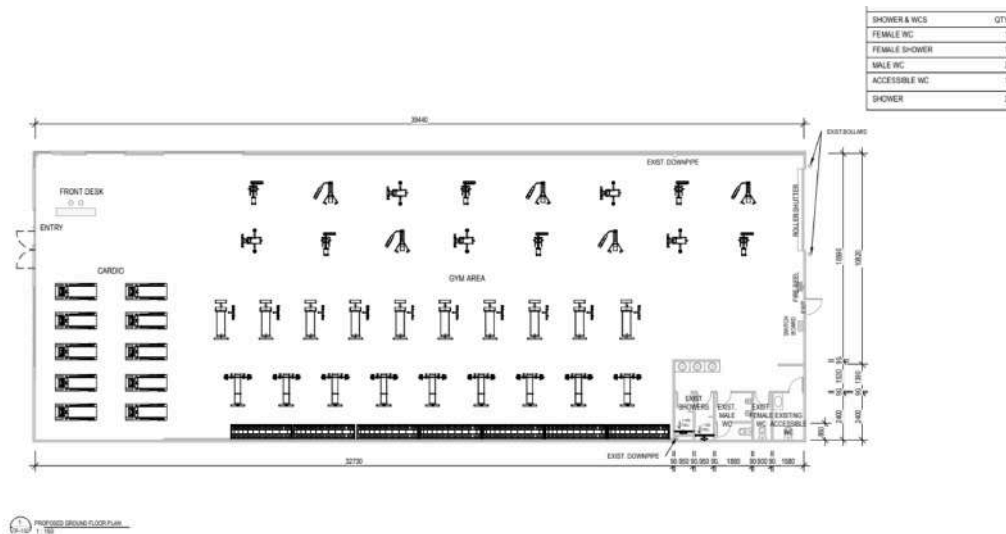
As outlined in Section 1 of this Submission, consent from the Responsible Authority is sought for a planning permit to allow the change of use of the land for a restricted recreational facility and associated buildings and works as Section 2 use in Mixed Use Zone. There are no external buildings and works proposed, the application is subjected to internal configurations to the existing layout.

The gym facility operates as follow:

To provide entertainment as a billiards facility available on purchased memberships. It operates *24 hours, 7 days* per week, including public holidays.

The use of the gym facility will be strictly tailored to manage access through the purchase of memberships by the general public. Considering the large proximity of the site while managing traffic and possible amenity impacts, the business proposes *a maximum number of 50 - 60 patrons, inclusive of 2 Staff*, being allowed on site at all times. Staff numbers include receptionist and manager on site at all times.

The proposal is comprised of the following works:



(Proposed Internal Ground Floor Plan)

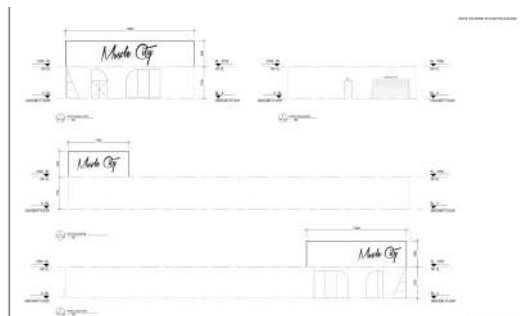
- Proposed built area for the gym facility is approximately 580 sqm;
- Comprises of communal gym area with equipments;
- Separated Cardio area with pilates equipment;
- Front reception area adjacent to the site entry;
- Washrooms, shower and accessible facilities at the rear.



### 3.2 Signage

Business identification signs are proposed for the gym facility. To serve the intention of identification for business opportunities, all signs are proposed with illuminating effects between 6 pm – 3 am, each day. Proposed content, colour and illuminating effects of all signs remains consistent.

- South elevation Signage 1 dimensioned 1.49 metres x 0.3 metres, 3.7 metres above natural ground level;
- East elevation Signage 2: dimensioned 0.7 metres x 0.3 metres, 3.7 metres above natural ground level;
- West elevation Signage 3: dimensioned 11.6 metres x 0.3 metres, 3.7 metres above natural ground level;
- Business name is displayed on each sign, with each maximum height to be erected below verandah level;
- All signs are designed in black bold letters and be mounted to the external walls of the existing building;
- Illumination is projected from the letters on the signs which is minimal in effect.



(Proposed Signage Elevations)

(3) three business identification signs are proposed for the gym facility in the north, south and west elevations.

(1) one business identification sign will be replacing the existing sign erected on the sign board in the common property area.



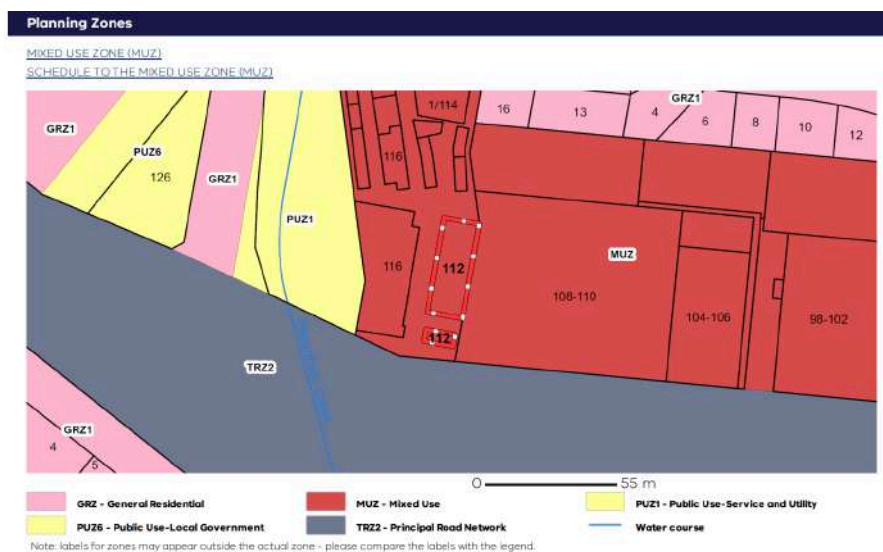
(Proposed Signage Elevations)

## 4. Planning Controls

The planning controls that apply to the subject site, including zoning, overlays, planning policies, and particular provisions, are contained within the *Cardinia Planning Scheme*. The applicable controls are identified under corresponding headings below, while an assessment of the proposal against relevant policies and controls is provided in the later section of this Submission.

### 4.1 Zoning – Mixed Use Zone (MUZ)

Under the Scheme, the subject site is located within the Mixed Use Zone. Majority of the adjoining properties are also located within the same zoning control on Princes Highway, while gradually transitioning into General Residential Zone and Public Use Zone surrounding the site.



(Planning Property Report: Zoning)

The purpose of the zone includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

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As discussed in the earlier section of the report, the proposed land use can be classified as a 'Restricted Recreational Facility', which is a section 2 use in a Mixed Use Zone and therefore triggers a permit pursuant to Clause 32.04-2.

Clause 32.04-10 specifies that the associated building works for a Section 2 Use also triggers a permit under this zone. Clause 32.04-13 provides the Decision Guidelines for an application that requires a permit for the use of the land as a 'Restricted Recreational Facility' and associated buildings and works as outlined in the assessment section below.

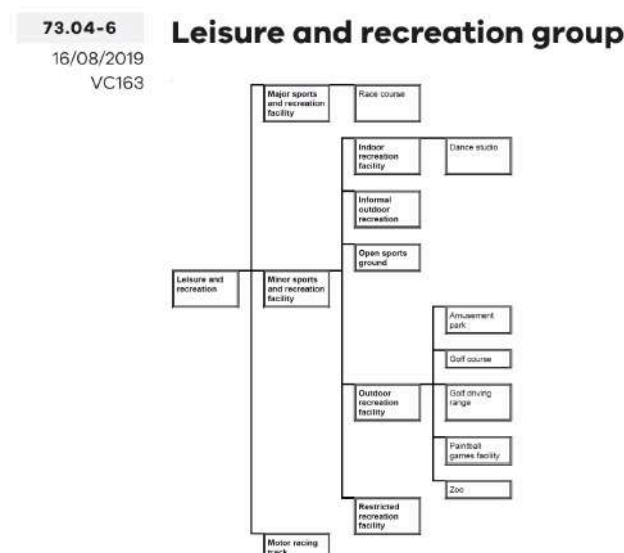
Note that upon site inspection and details provided on the certificate of Title, the current land use of the subject site is identified as a retail premise (Shop), with no previous planning permit approved for other land uses on the site.

## 4.2 Land Use – Clause 73.03

According to the definitions outlined in Clause 73.03 and the nesting diagram in Clause 73.04, proposed land use as a *gym facility* falls under the Category as 'Restricted Recreational Facility'. It is nested under *Minor Sports and Recreation Facility* under the Scheme.

Proposed land use as a gym facility provides memberships to be purchased by the general public, utilised for indoor recreation and exercises, restricted use upon payments/registrations with capped number of patrons onsite at all times.

This classification pertains to land used as members of a *club or group* for leisure, recreation, or sport, such as a bowling or tennis club, gymnasium and fitness centre. The definition of relevant land use under Clause 73.03 and the nesting diagram under Clause 73.04-6 are extracted below.



(Cardinia Planning Scheme - Nesting Diagram)

### 4.3 Planning Overlays

The subject site is regulated under Special Building Overlay (SBO), and Development Contributions Plan Overlay (DCPO).

- *Special Building Overlay (SBO):* A planning permit is not required for the proposal as it is limited to works carried out for internal alterations. Clause 44.05-2 specifies that a permit is not required to alter an existing building where the original building footprint remains the same and floor levels are constructed to at least 300mm above flood level.
- *Development Contributions Plan Overlay (DCPO):* Schedule 1 under the overlay specifies A permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme. The proposal does not contradict to the requirements under the Schedule of the overlay.



(Cardinia Planning Scheme - Overlays)

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## 4.4 Particular Provisions

Under the Scheme, Clause 52.06-2 (Car Parking) applies as new land use is proposed. Further assessment of the applied Clause is provided in **Section 5** below.

Pursuant to Clause 52.06-6, where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme, the requirements of car parking provisions are assessed and decided upon the Responsible Authority. Proposed land use as 'Restricted Recreational Facility' is not included in *Table 1 under Clause 52.06-5* of the Scheme.

**52.06-2**  
19/04/2013  
VC95

### Provision of car parking spaces

Before:

- a new use commences; or
- the floor area or site area of an existing use is increased; or
- an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use,

the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- on the land; or
- in accordance with a permit issued under Clause 52.06-3; or
- in accordance with a financial contribution requirement specified in a schedule to the Parking Overlay.

If a schedule to the Parking Overlay specifies a maximum parking provision, the maximum provision must not be exceeded except in accordance with a permit issued under Clause 52.06-3.

Back to top ↑

(Cardinia Planning Scheme - Overlays)

Pursuant to Clause 52.05-13 (Signs), a planning permit is required to put up business identification signs and internally illuminated signs at the subject site, identified as a high-amenity area under the Mixed Use Zone.

**32.04-16**  
14/12/2023  
VC253

### Signs

Sign requirements are at Clause 52.05. This zone is in Category 3 unless a schedule to this zone specifies a different category.

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#### **4.5 Local Planning Policy Framework - PPF**

It is considered that *Clause 17 – Economic Development*, *Clause 22.09 - Signs* are relevant to this proposal and is discussed in Section 5.2 of this Submission.

##### **Clause 17.02 – Commercial:**

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

The proposal responds positively to the strategies under the Clause:

- The gym is located within an existing commercial precinct along **Princes Highway**, adjoining other compatible uses such as a hotel and food and drink premises. The site is located with good transport infrastructure, equipped with existing car parking areas and adjoins nearby residential areas. A net community benefit is therefore achievable.
- The site is located immediately north of Pakenham's activity centre zone, and forms part of the extended commercial corridor along Princes Highway.
- The proposed gym is a small scale and community orientated facility that targets surrounding residents and workers in the existing neighbourhood. Its location within a mixed use area ensures convenience for both residents and workers with good accessibility.

##### **Clause 22.09 – Signs:**

The proposal responds positively to the strategies under the Clause:

- Proposed signs are clear, concise, and solely display the business name for identification purposes. 3 signs are mounted on the external walls of the building without advertising clutter.
- Proposed sign located at the common property (pole sign), is well-proportioned and compatible with existing signs for other businesses. The sign enhances locating the proposed gym facility along Princes Highway, consistent with good urban design outcomes.
- Proposed signs on the existing building are located on blank walls, avoiding obstruction of views into or out of the building. This ensures that passive surveillance of pedestrian paths, parking areas, and the street frontage is maintained.

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# Planning Assessment

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## **5.1 Zoning – Mixed Use Zone (MUZ)**

### ***Purpose***

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*
- *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
- *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

### ***Decision Guidelines***

#### **General**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The objectives set out in a schedule to this zone.*
- *Any other decision guidelines specified in a schedule to this zone.*
- *The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a Housing Choice and Transport Zone, Mixed Use Zone or Residential Growth Zone.*

It is considered that the proposed use is consistent with the purpose and decision guidelines of the *Mixed Use Zone* and will not result in unreasonable adverse impacts to the amenity of adjacent uses for the following reasons:

- The site is adjoined by established commercial tenancies, including a privately owned swimming school, a hotel (accommodation) and a few food and drink premises. Proposed land use as a gym facility is not sensitive in nature and operate within the commercial context of Princes Highway.
- The proposed hours of operation (24 hours, 7 days a week) are consistent with nearby commercial uses (i.e. McDonalds, BP Fuel Station) and will not create unreasonable off-site amenity impacts. Noise levels will be managed through appropriate acoustic treatment and operational procedures. The nature of the use is limited to indoor recreational activities, further minimising off-site impacts.



- The proposed use is highly compatible with adjoining and nearby land uses being allowed in a Mixed Use Zone, which include hospitality, food services, and retail. Proposed gym facility will complement the existing commercial context in the immediate neighbourhood thus providing recreational opportunities to the residents in surrounding residential zone.
- The proposed gym is expected to generate a moderate level of traffic, consistent with surrounding commercial uses. Access is available via Princes Highway, with allocated car parking spaces for the subject site. Any traffic flow generated by the proposed land use will not adversely impact the amenity in nearby residential zone to its north.

## 5.2 Particular Provisions – Signs

Pursuant to Clause 32.04-16, **Category 3** of the sign controls contained within Clause 52.05 is applicable to signage in the Mixed Use Zone. The proposed internally illuminated signs are considered to accord with the purpose of Category 3 signage, and respond to the decision guidelines of Clause 52.05 of the Scheme.

### Purpose – Clause 52.05-13

- *To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

52.05-13  
03/02/2022  
VC199

Category 3 - High amenity areas

Medium limitation

Purpose

To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.

Section 1 - Permit not required	
Sign	Condition
Bed and breakfast sign	Only one to each premises.
Home based business sign	The display area must not exceed 0.2 sqm.
Direction sign	None specified

[View table in full screen](#)

Section 2 - Permit required		Section 3 - Prohibited
Sign	Condition	Sign
Above-verandah sign	None specified	Any sign not in Sections 1 or 2
Business identification sign		
Electronic sign	The display area must not exceed 3 sqm.	<a href="#">View table in full screen</a>
Floodlit sign	None specified	
High-wall sign	Must be a business logo or street number.	
Internally illuminated sign	None specified	

(Cardinia Planning Scheme - Signs)

## Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The character of the area;*
- *Impacts on views and vistas;*
- *The relationship to the streetscape, setting or landscape;*
- *The relationship to the site and building;*
- *The impact of structures associated with the sign;*
- *The impact of any illumination;*
- *The impact of any logo box associated with the sign;*
- *The need for identification and the opportunities for adequate identification on the site or locality;*
- *The impact on road safety;*

The proposed signs respond appropriately as follow:

- The subject site is not in a sensitive area with rural, landscape or residential settings. Business identification signages are common in a Mixed Use Zone. The nearest residential zone to the south is approximately more than 70 metres away, while the residential properties to the north are located behind the vacant land at Pakenham Creek Reserve.
- Proposed signs are compatible to existing business identification signs in the existing neighbourhood, see examples below from street view.



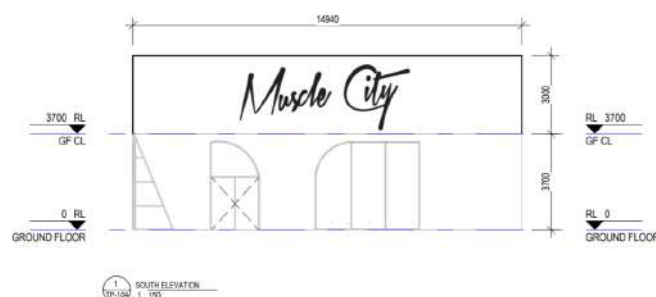
(Google Map Street View - Signs)

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(Google Map Street View - Signs)

- Proposed signs will not obscure or compromise any significant public views. Apart from the proposed sign to be erected within the common property, all other signs are located below the eave height of the existing building. Only 1 sign will be fronted towards Princes Highway. All existing signs in relation to the previous use will be removed from the subject site.



(Proposed Sign – South Elevation)

- The signs are modest scale and are adequately proportionate with the scale of the existing building. It is consistent with other business identification signs in the area and will not overwhelm the streetscape or appear out of character.



- The signs are fixed to the building façade and do not protrude above the roofline or disrupt the skyline. 3 signs are dispersed across 3 elevations, proposed sign 1 is the largest in size (south elevation) due to its proximity to street frontage.
- The signage will be internally illuminated at a low intensity and will not include any flashing, animated, or high-glare lighting that impact road safety. The illumination will be limited within the letters on each sign to ensure it does not create glare or distraction for passing motorists or pedestrians.
- The site is located in a commercial context within a Mixed Use Zone, adjoining other non-sensitive uses. While it is surrounded by residential areas in the south and north of the immediate vicinity, the low-level illumination will not result in unreasonable light spill or visual disturbance.
- There is a reasonable need for business identification signs on the site to ensure the gym is easily distinguishable within the commercial setting along Princes Highway. As the premises are set within a busy mixed-use environment with a variety of adjoining commercial uses, appropriate signs locating on different interfaces for essential for wayfinding, brand visibility and promotion, and operational clarity for the general public.
- The proposed signs have been carefully designed and located to ensure they do not pose any risk to road safety. The signs are positioned well away from any traffic control devices.
- The signs are appropriate in scale, and do not include any flashing, reflective, or animated elements. Proposed illuminated signs contain lighting that is static and low-intensity, with fixtures designed to prevent glare or light spill towards the road.
- Proposed sign (4) is a business identification sign with no illuminated effects, it will be placed on the shared pole sign within the common property.



(Google Map Street View – Current Pole Sign)

### **5.3 Particular Provisions – Car Parking**

Clause 52.06-2 underlines a permit is required if a new use is proposed for the land. This application seeks planning approval for a new land use (retail premises – shop, to a restricted recreational facility – gym facility). A maximum number of 60 patrons is proposed, including 2 staff, attending the site at all times.

#### ***Purpose***

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

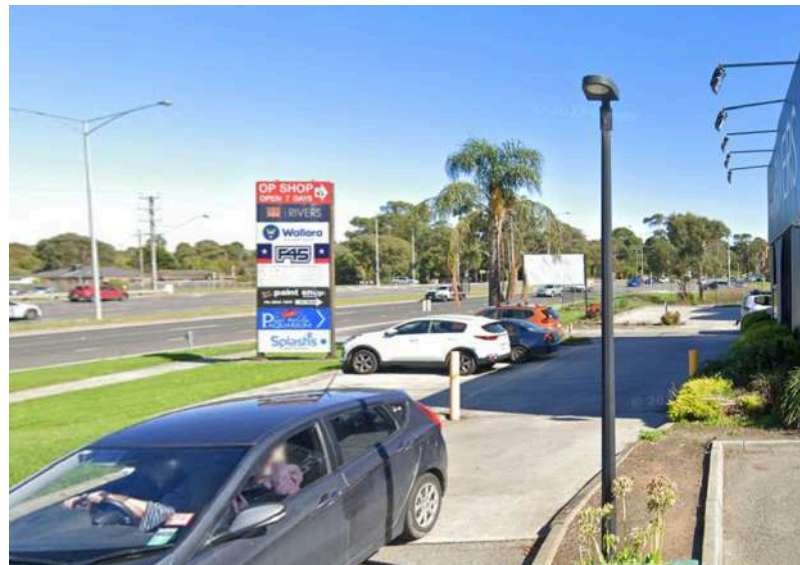
The proposal does not increase the existing floor area or site area for the new use, and proposed works are subjected to internal alterations. Therefore, the availability of car parking spaces is adequate to meet the decision guidelines of the provision:

- The subject site benefits from direct frontage to **Princes Highway**, a major arterial road that plays a key role in facilitating east–west movement across Pakenham and the municipality. Vehicle access to the site is via an existing crossover located south to the site.
- The site plan indicates clear entry and exit paths, adequate turning areas, and safe manoeuvrability for vehicles accessing designated parking bays surrounding the existing building. There are adjacent crossovers in the east which provide access to vehicles entering/exiting the subject site, see aerial image below.



*(Nearmap Aerial 2025)*

- Proposed works do not involve any external alterations to the building or car parking area, existing car parking spaces will be utilized. See street view photos of existing car parking areas:



*(Google Map Street View)*

- There are existing landscape strips surrounding the southern, western and eastern building boundaries, proposed signs will be erected on the external walls of the building. Existing line markings and landscaping areas will not be impacted.
- The site is situated within a predominantly commercial precinct delineated from neighbouring residential areas. Any potential increase in pedestrian activities associated with the gym is expected to be minimal and in keeping with the area's existing character. All activities associated with the new use will be contained within the building, with no amplified music or outdoor operations to be proposed.



## Conclusion

The proposed use and development of the site for a restricted recreational facility (gym), is an appropriate and modest planning outcome that responds positively to the site's strategic location, planning requirements and compatible with adjoining land uses.

The proposal enhances community access to health and wellbeing services in the neighbourhood, thus circulating pedestrian flow and economic benefits to the established commercial corridor along Princes Highway.

Current parking provisions, and pedestrian safety adequately meets the design and operational standards of Clause 52.06. Proposed signs are reasonable, and well-integrated with the built form, avoiding visual clutter and preserving the streetscape.

The proposal demonstrates compliance with relevant planning provisions and reflects the objectives of the Cardinia Planning Scheme.

Given all of the above, it is considered the proposal is appropriate and worthy of approval, subject to appropriate permit conditions to ensure its orderly operation.

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26 June 2025

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[www.onemilegrid.com.au](http://www.onemilegrid.com.au)

D&D Architect & Interiors Pty Ltd  
 Via email: [lisa.lam@ddai.com.au](mailto:lisa.lam@ddai.com.au)

Attention: Lisa Lam

## 112 Princes Highway, Pakenham

### Car Parking Demand Assessment

Dear Lisa,

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### Introduction

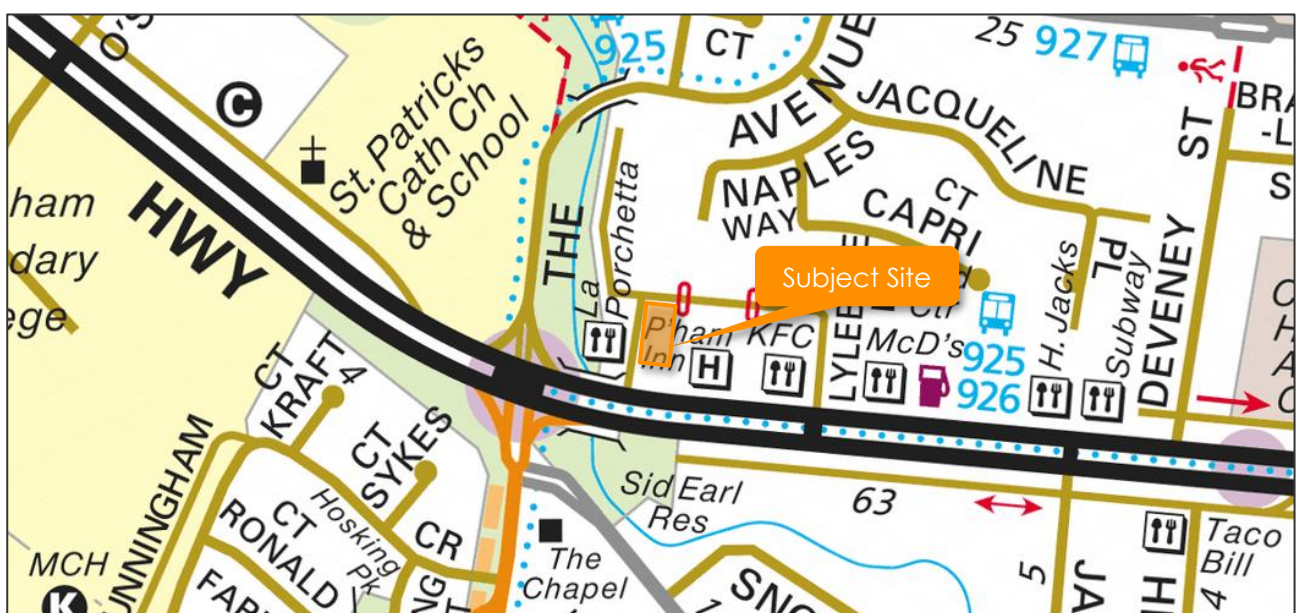
**onemilegrid** has been requested by D&D Architect & Interiors Pty Ltd to undertake a Transport Impact Assessment of the proposed Gymnasium development at 112 Princes Highway, Pakenham. This report has been prepared in response to Cardinia City Council's Request for Further Information where a Car Parking Demand Assessment was requested.

## Existing Conditions

### Site Location

The [subject site](#) is located on the northern side of Princes Highway, east of the Princes Highway / McGregor Road / The Avenue intersection, and is addressed as 112 Princes Highway, Pakenham, as shown in Figure 1.

**Figure 1 Site Location**



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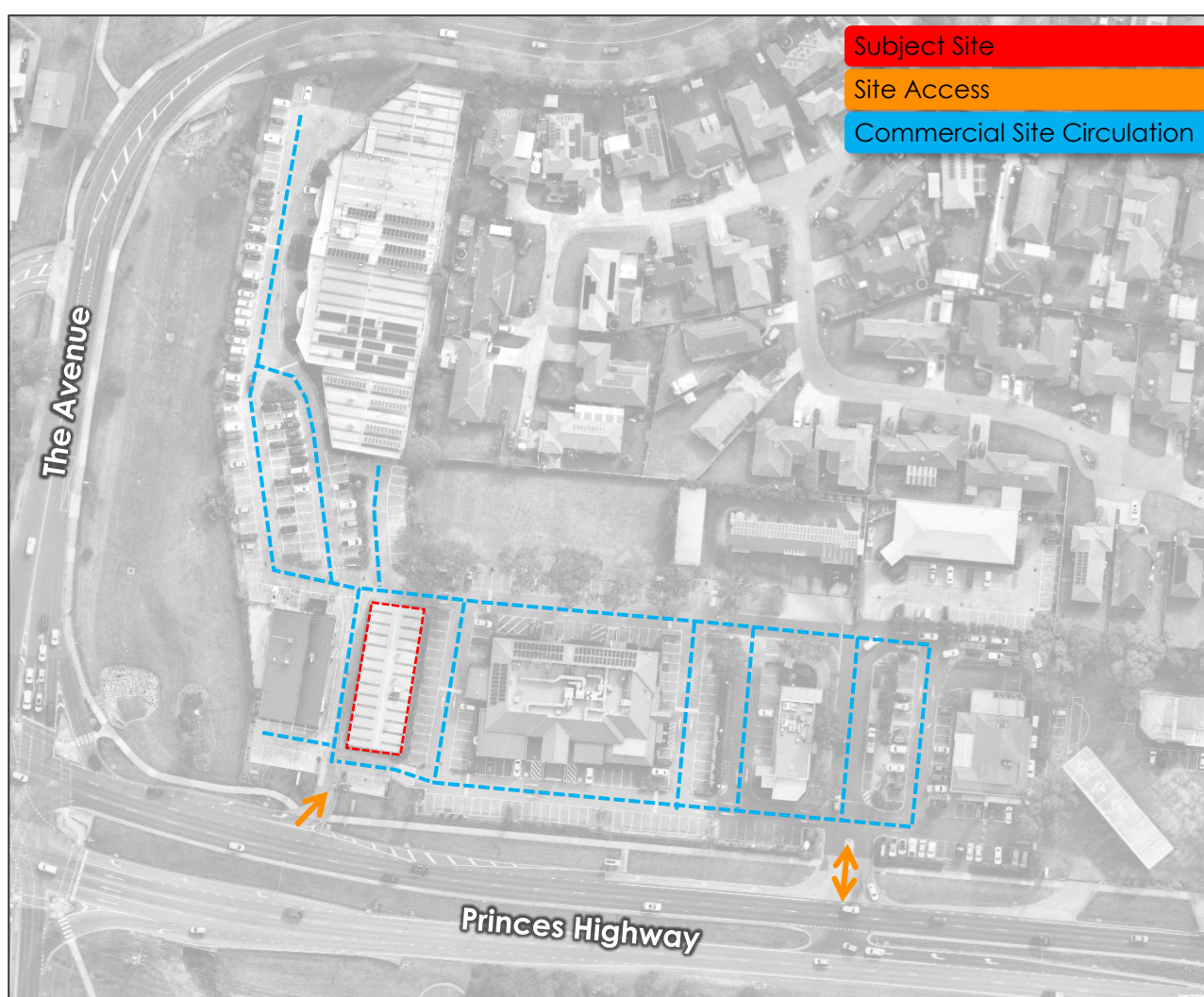
The site comprises of a warehouse building with an approximate floor area of 580 m<sup>2</sup> which has historically been occupied by a Rivers clothing store, however, has remained vacant since April 2025.

The site is located within a larger commercial site with other food and drink tenancies, shops and a recreation centre which is addressed as 112-116 Princes Highway. Additionally, a hotel and other fast food tenancies are located to the immediate east of the site with shared internal accessways providing access to all the above uses (98-108 Princes Highway).

Primary access to the overall commercial site is provided via a left-in only crossover located adjacent to the site. Additionally, a fully-directional unsignalised access to Princes Highway is provided approximately 145 metres east of the subject site which facilitates access to the subject site and surrounding uses.

A view of the subject site and site access arrangements are shown below in Figure 2.

**Figure 2 Site Access Arrangements**

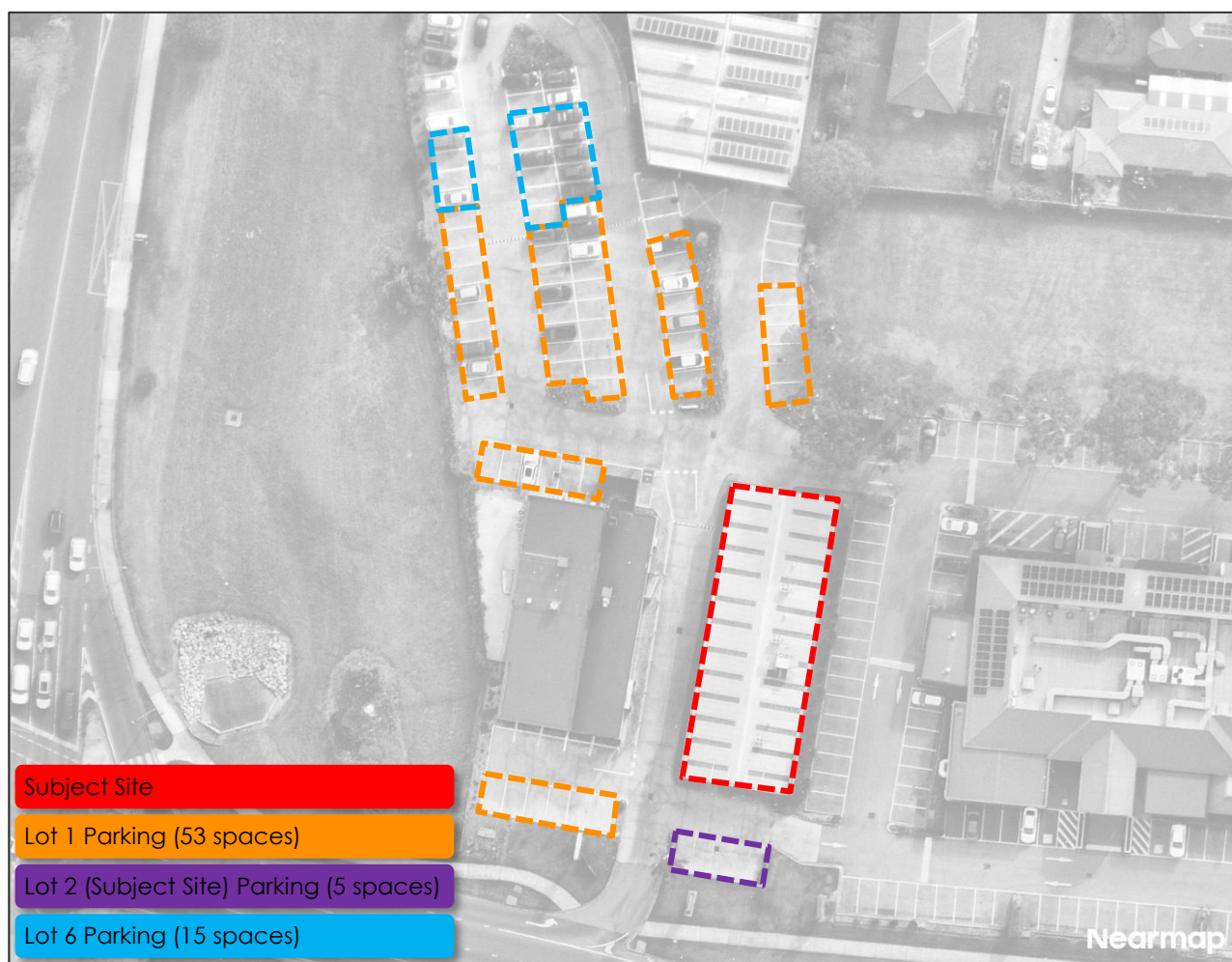


The plan of subdivision shows that there are 5 allocated parking spaces for the subject site, located adjacent to the Princes Highway crossover at the site frontage. In addition, the site benefits from the shared parking provided at Lot 1 and 6 within the plan of subdivision, where a total of 68 spaces are provided for these two tenancies which are utilised by the various tenancies at 112 and 114 Princes Highway. All other car parking in this area is allocated to the various tenancies, however, generally no signage or line-marking is provided throughout the site.

A view of the car parking available to the subject site is shown below in Figure 3.



**Figure 3 Subject Site Parking Provision**



The site is located within a Mixed-Use Zone (MUZ) and abuts Princes Highway which is within a Transport Zone (TRZ2) designating the Principle Road Network.

## Road Network

Princes Highway is a major arterial road running east-west along the site's frontage. Adjacent to the subject site, Princes Highway comprises of a divided carriageway, with two through traffic lanes in each direction, with breaks provided within the central median to facilitate access as required.

A signed 80 km/h speed limit applies to Princes Highway in the vicinity of the site.

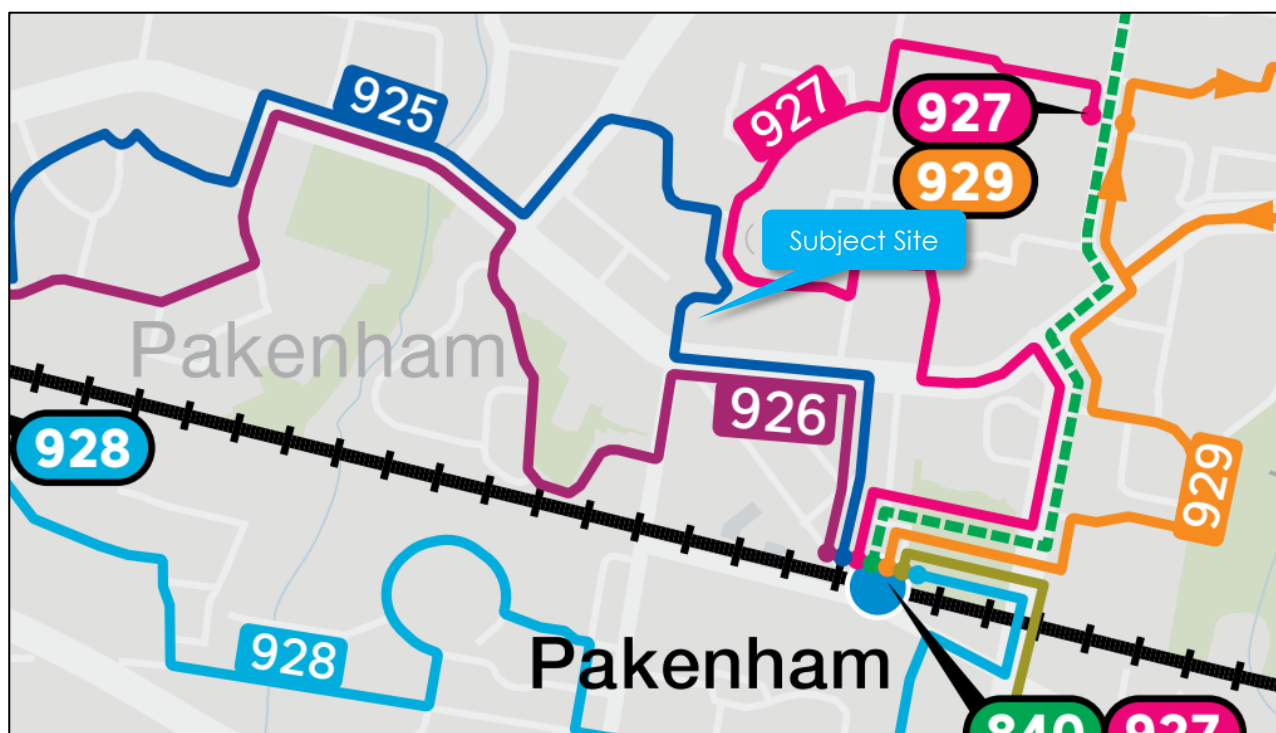
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## Sustainable Transport

Public transport in the immediate vicinity of the site is limited to bus services with the 925 Pakenham Station – Lakeside and 926 Pakenham Station - Fountain Gate Shopping Centre bus routes located along Princes Highway which provide access to Pakenham Train Station.

A view of the public transport in the vicinity of the site is show below in Figure 7.

**Figure 4 Public Transport Provision**



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## Development Proposal

It is proposed to change the use of the site and make modifications internally to allow for the building to operating as a gymnasium (indoor recreational facility).

No modifications are proposed to the internal floor area of the site, with the existing floor area of 580 m<sup>2</sup> being retained for the gymnasium.

The gym is to operate 24 hours, 7 days per week.

A maximum of four staff members would be required during the period of peak operation of the gymnasium.

No changes are proposed to the existing access arrangements along Princes Highway. Additionally, no changes are proposed to the existing car parking provision with the site having access to the five allocated parking spaces and 68 shared parking spaces (Lot 1 and Lot 6 within the plan of subdivision).

## Car Parking

### Statutory Car Parking Requirement – Clause 52.06

The proposed gymnasium land-use is nested under the 'restricted Recreation Facility' classification within Clause 73.03 of the Planning Scheme. The Planning Scheme however does not specifically refer to parking requirements for a restricted recreation facility, therefore, the parking provision must be to the satisfaction of the responsible authority, as noted by Clause 52.06-6, which states that:

*'Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.'*

In order to verify the suitability of the proposed parking provision, a review of the parking demands expected to be generated by the site is undertaken below.

### Car Parking Demand Assessment

Transport for New South Wales (TfNSW) produced the document "Guide to Transport Impact Assessment" dated September 2024 (Version 1.1), which aims to assist with the assessment and preparation of development applications. The guide identifies peak parking rates for a variety of land uses based on surveys of existing facilities.

With regard to gymnasiums, the guide identifies a gymnasium as a building, room or number of rooms used for organised or instructed indoor exercise typically including aerobics, weight/circuit training, etc. Ancillary facilities such as health care services, spa/sauna and a small apparel sales area are commonly provided within gymnasiums.

The guide identifies the parking rates for gymnasiums as shown in Table 1.

**Table 1 Gymnasium Parking Rates – Guide to Transport Impact Assessment**

Location	Spaces per 100 m <sup>2</sup> of GFA
Historic Rate (applicable if within a centre and close to rail/bus)	3.0
Bondi Junction (970m <sup>2</sup> , extended business hours operation)	2.78
Oatley (905m <sup>2</sup> , extended business hours operation)	3.54
Potts Point (2,600m <sup>2</sup> , extended business hours operation)	1.38
Chatswood (3,700m <sup>2</sup> , extended business hours operation)	4.32
Riverwood (3,200m <sup>2</sup> , extended business hours operation)	2.0

The guide also states that, 'the peak activity for gymnasiums generally occurs between 5:30pm and 6:30pm on weekdays. The peak parking accumulation is usually characterised by a short, pronounced peak just prior to the commencement of the main evening class'.

To provide for a conservative analysis, a parking rate of 4.32 spaces per 100 m<sup>2</sup> of GFA has been adopted.

Based on the NSW RTA guide, the proposed 580 m<sup>2</sup> of gymnasium floor area is expected to generate a peak parking demand of 25 spaces.

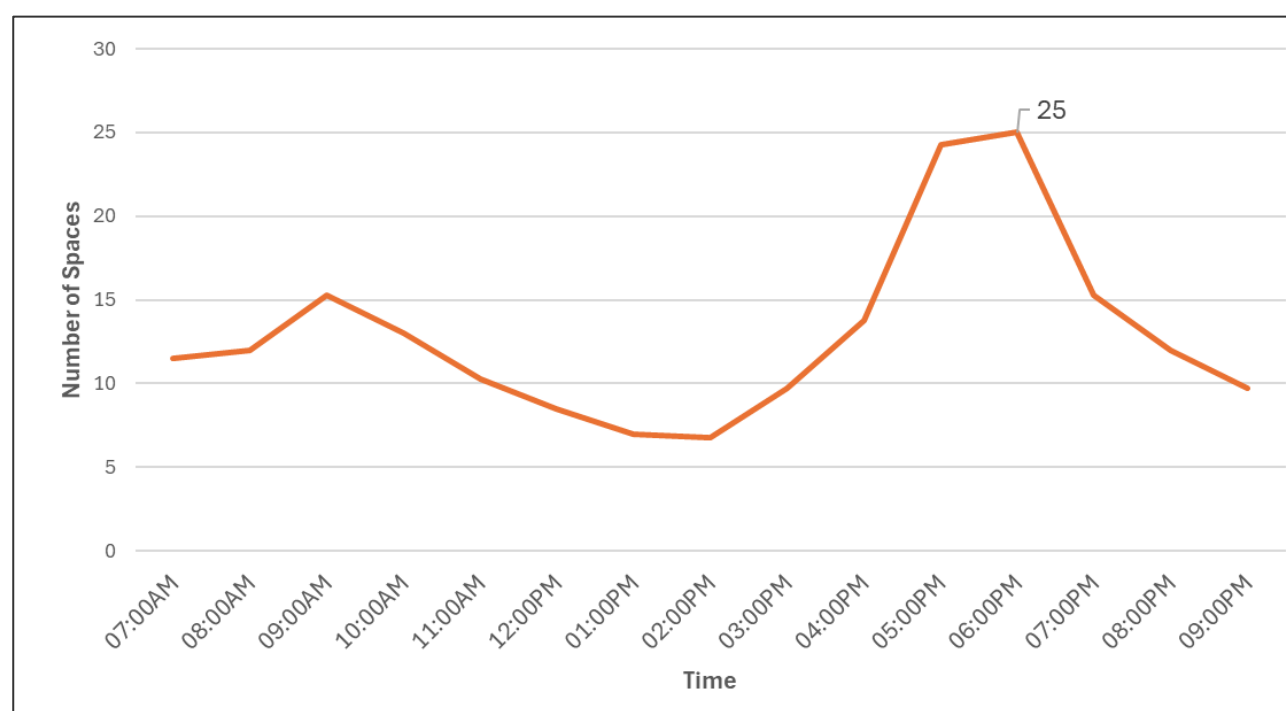
Furthermore, **onemilegrid** holds visitation data from other large gymnasiums within Melbourne which shows that the proposed gymnasium is expected to have the following operating characteristics on a typical day.

**Table 2 Car Parking Demand Profile**

07:00 AM - 08:00 AM	08:00 AM - 09:00 AM	09:00 AM - 10:00 AM	10:00 AM - 11:00 AM	11:00 AM - 12:00 PM	12:00 PM - 01:00 PM	01:00 PM - 02:00 PM	02:00 PM - 03:00 PM	03:00 PM - 04:00 PM	04:00 PM - 05:00 PM	05:00 PM - 06:00 PM	06:00 PM - 07:00 PM	07:00 PM - 08:00 PM	08:00 PM - 09:00 PM	09:00 PM - 10:00 PM
46%	48%	61%	52%	41%	34%	28%	27%	39%	55%	97%	100%	61%	48%	39%

A view of the site anticipated car park demand which will occur over a typical weekday is shown below in Figure 5 below.

**Figure 5 Gym Car Parking Demand - Weekday**



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## Anticipated Parking Demand

Based on the above case study data, it is anticipated that the proposed development may typically generate a peak demand for approximately 25 parking spaces.

It is proposed to retain the existing car parking provision for the site, providing a total of 5 on-site car parking spaces to service the proposed development, which equates to a shortfall of 20 spaces when compared to the anticipated parking demand outlined above.

Clause 52.06-7 of the Cardinia Planning Scheme further indicates that a permit may be granted to reduce the number of parking spaces, in consideration of the following:

- *The Car Parking Demand Assessment.*
- *Any relevant local planning policy or incorporated plan.*
- *The availability of alternative car parking in the locality of the land, including:*
  - ✦ *Efficiencies gained from the consolidation of shared car parking spaces.*
  - ✦ *Public car parks intended to serve the land.*
  - ✦ *On street parking in non-residential zones.*
  - ✦ *Streets in residential zones specifically managed for non-residential parking.*
- *On street parking in residential zones in the locality of the land that is intended to be for residential use.*
- *The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.*
- *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
- *The future growth and development of any nearby activity centre.*
- *Any car parking deficiency associated with the existing use of the land.*
- *Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.*
- *Local traffic management in the locality of the land.*
- *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*
- *The need to create safe, functional and attractive parking areas.*
- *Access to or provision of alternative transport modes to and from the land.*
- *The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.*
- *The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.*
- *Any other matter specified in a schedule to the Parking Overlay.*
- *Any other relevant consideration.*

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## Review of Car Parking Provision

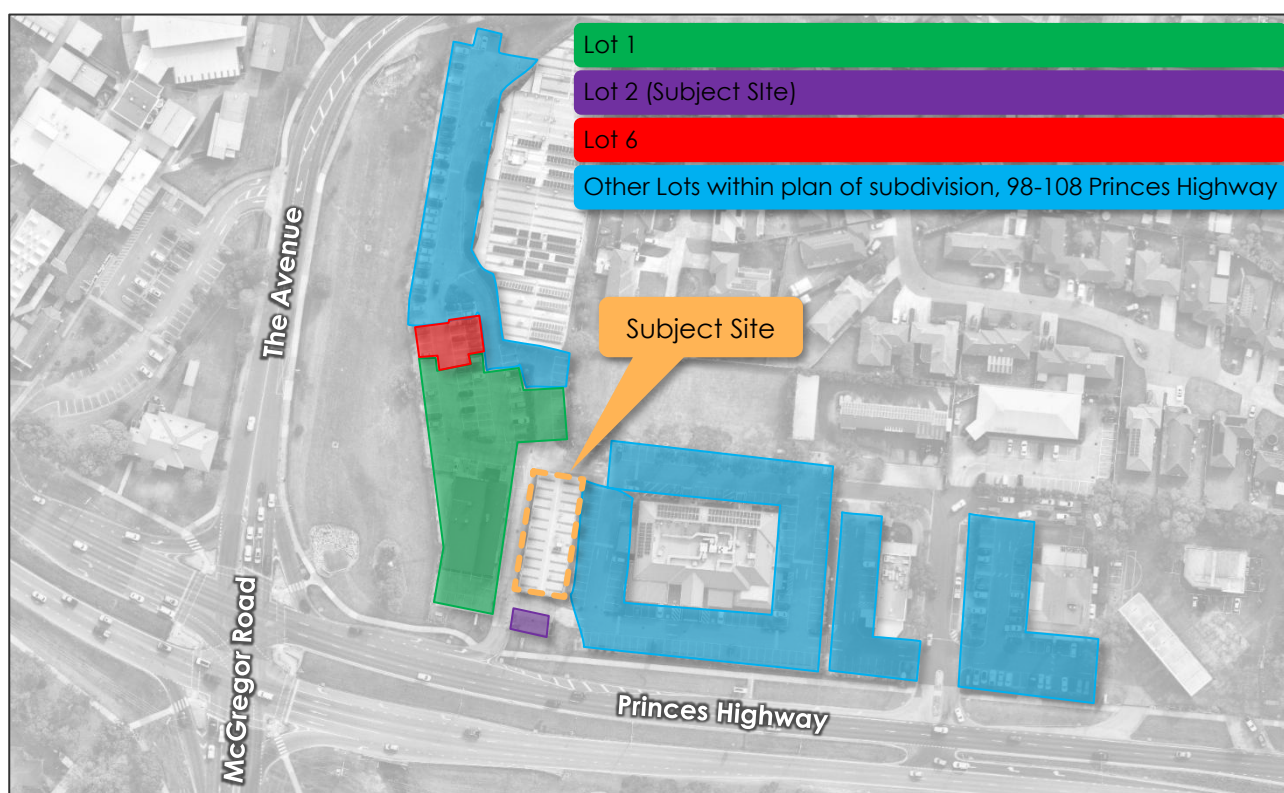
Car parking occupancy surveys were undertaken by Trans Traffic Survey on behalf of **onemilegrid** across the broader site area during the following periods:

- Thursday 12<sup>th</sup> June 2025, between 7:00am and 10:00pm; and
- Saturday 14<sup>th</sup> June 2025, between 9:00am and 8:00pm.

The survey times cover the peak operating periods of the gym on weekdays and on a Saturday.

The survey results presented below are for the areas shown in Figure 6, which includes the allocated car parking within Lot 2 of the plan of subdivision and the car park within Lot 1 and Lot 6 of the plan of subdivision which have been agreed to be used by the subject site.

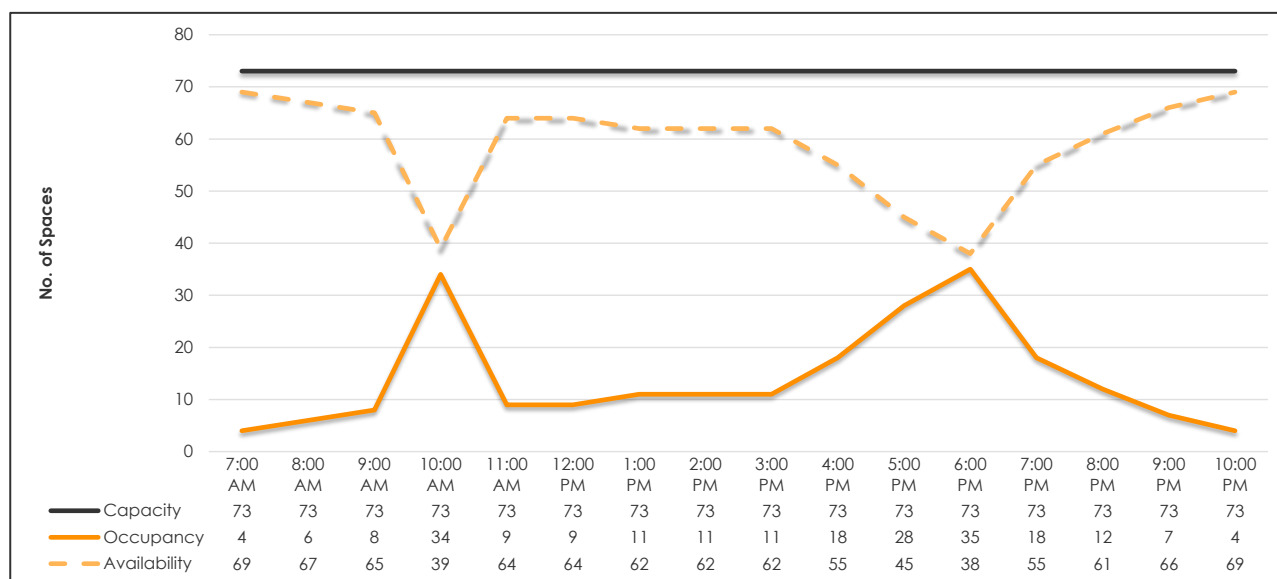
**Figure 6 Survey Area**



The car parking surveys for the Thursday (shown in Figure 7) identified that peak car parking occurred at 6:00pm when 35 spaces were occupied within Lot 1, 2 and 6 of the plan of subdivision, leaving no fewer than 38 spaces available for use by the site.

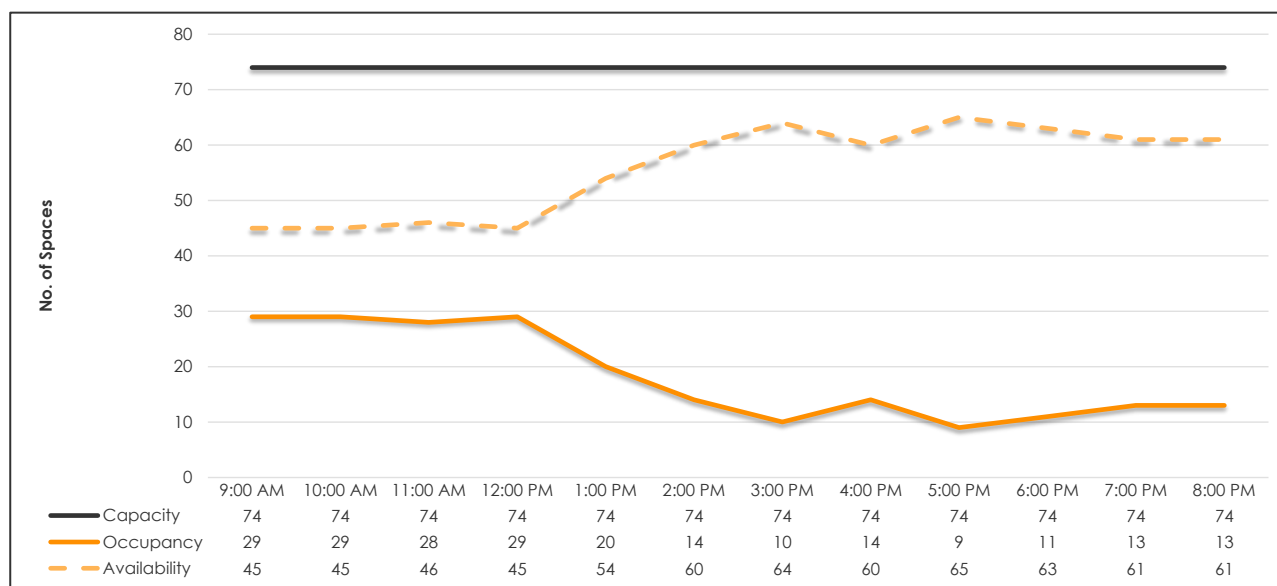
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**Figure 7 Car Parking Survey Results (Lot 1, 2 and 6) – Thursday 12<sup>th</sup> June 2025**



The car parking surveys for the Saturday (shown in Figure 8) identified that peak car parking occurred between 9:00am and 10:00pm, and at 12:00pm when 29 spaces were occupied within Lot 1, 2 and 6 of the plan of subdivision, leaving no fewer than 45 spaces available for use by the site.

**Figure 8 Car Parking Survey Results (Lot 1, 2 and 6) – Saturday 14<sup>th</sup> June 2025**

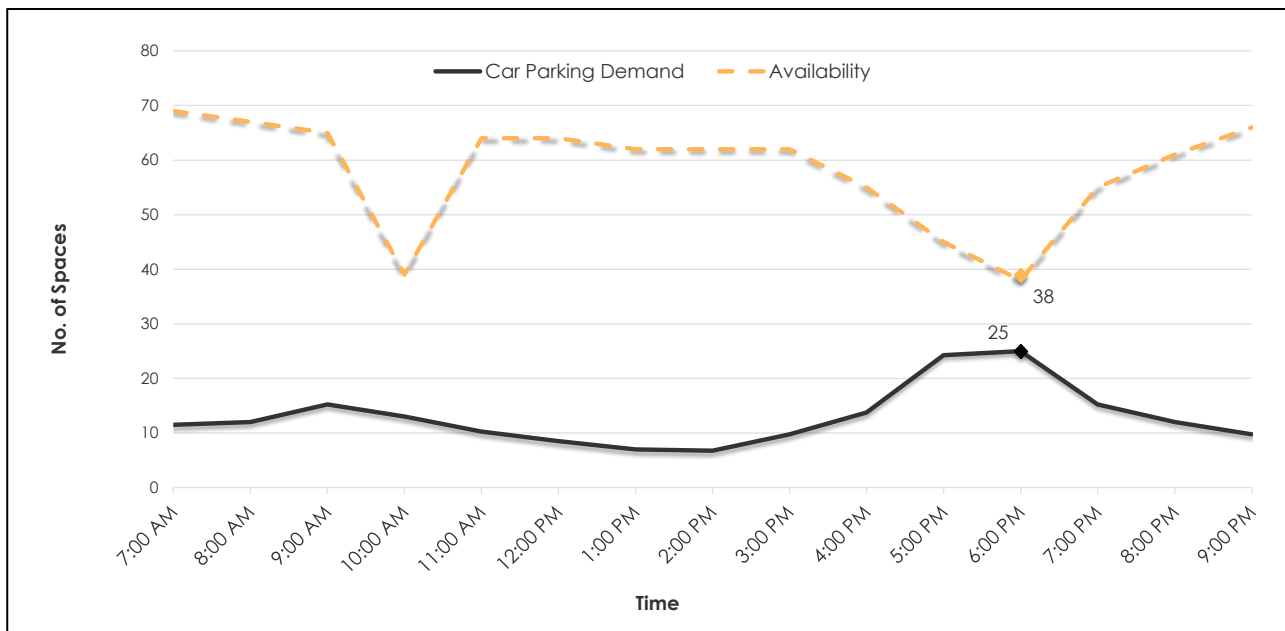


It is noted that **onemilegrid** conducted a site inspection during the Thursday 12<sup>th</sup> June survey period and can confirm the above survey observations for car parking within the broader subject site.

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To assess the impact on car parking across the survey period on a weekday (highest car parking occupancy), a comparison of the car parking demand generated by the site (from Figure 5), against the availability of car parking at the subject site was undertaken, as shown in Figure 9.

**Figure 9 Car Parking Demand vs Availability**



### Adequacy of Proposed Car Parking Provision

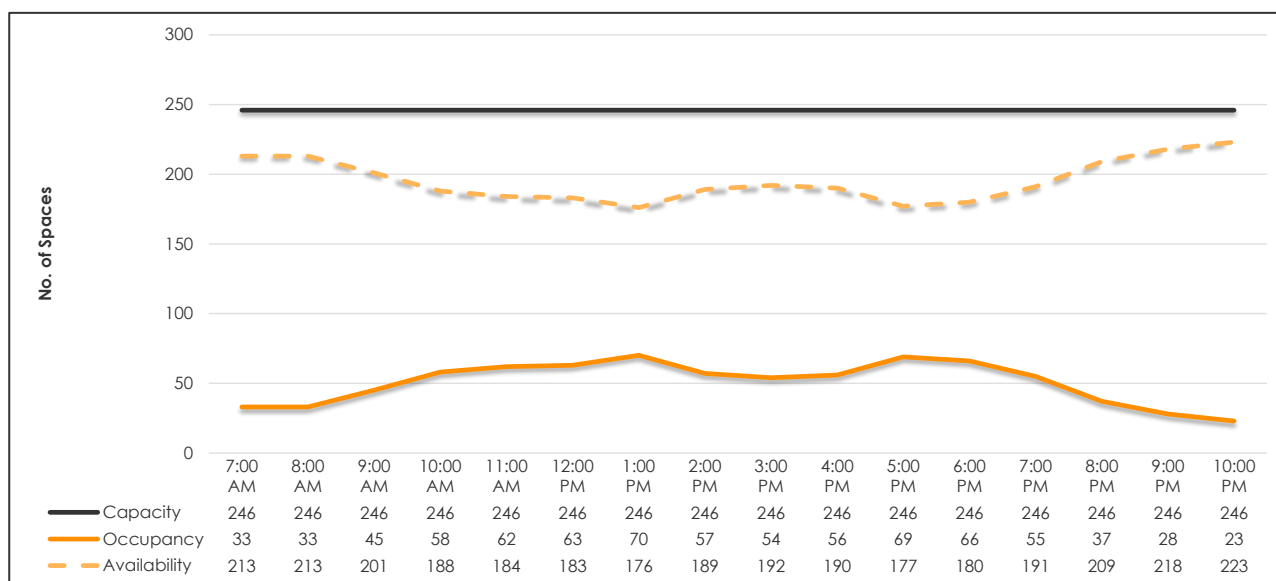
As shown in the above figures, there is sufficient car parking available to accommodate the demands generated by the proposed gymnasium during the peak times on both weekdays and weekends, with a minimum surplus of 13 car parking spaces expected to occur at 6:00PM on a weekday.

It is further noted that the car parking surveys undertaken for the other shared parking areas included within the plan of subdivision (Lot 3-5, Lot 7-9) and 98, 104, 108-110 Princes Highway showed that there was a minimum of 180 car parking spaces on a weekday (shown in Figure 10) and 176 spaces on a Saturday (shown in Figure 11).

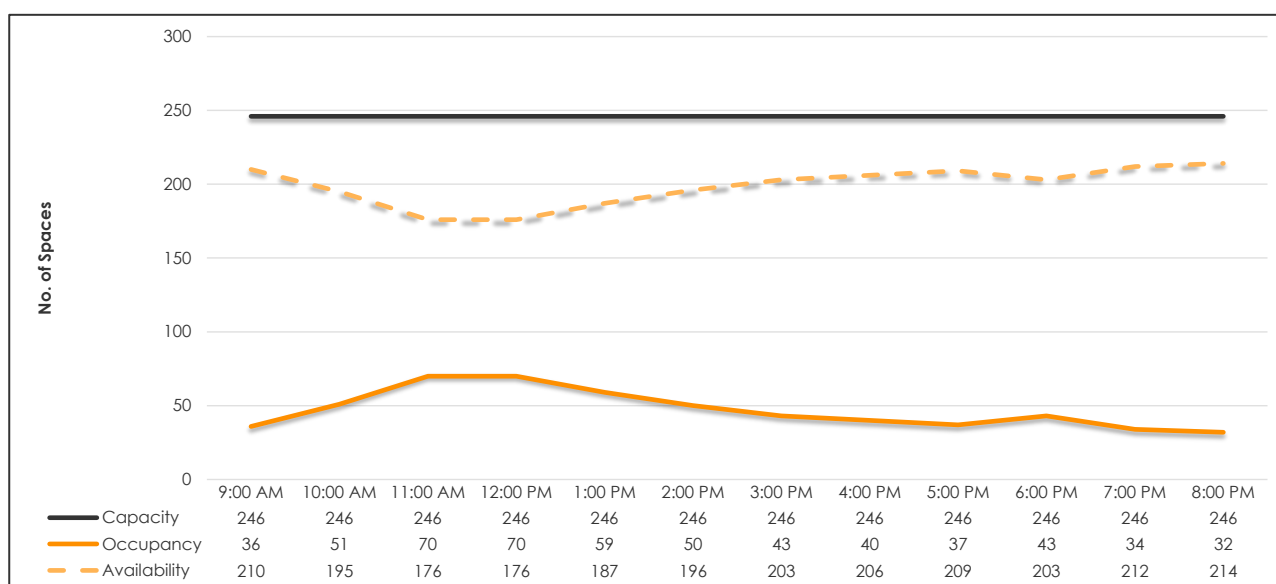
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**Figure 10 Car Parking Survey Results (Other Shared Parking Areas) – Thursday 12<sup>th</sup> June 2025**



**Figure 11 Car Parking Survey Results (Other Shared Parking Areas) – Saturday 14<sup>th</sup> June 2025**



The above car parking surveys ensure that patrons of the other uses within the overall commercial area will not be impacted with an increased demand of car parking by the subject site.

## Conclusions

It is proposed to change the use of the existing retail tenancy to allow for the site to operate as a gymnasium. No changes are proposed to the existing car parking provision, with the existing 5 car parking spaces on-site being retained and an additional 68 parking spaces from other tenancies able to be used by the site (Lot 1 and Lot 6 at 112 Princes Highway).

Considering the analysis presented above, it is concluded that the existing supply of car parking available to be used by the site is considered appropriate with the car parking surveys confirming that there is sufficient car parking available to accommodate the anticipated parking demand.

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

Page 1 of 1

VOLUME 10821 FOLIO 606

Security no : 124123731874L  
Produced 16/04/2025 09:42 AM

**LAND DESCRIPTION**

Lot 2 on Plan of Subdivision 516658Q.  
PARENT TITLE Volume 10150 Folio 845  
Created by instrument PS516658Q 12/08/2004

**REGISTERED PROPRIETOR**

**ENCUMBRANCES, CAVEATS AND NOTICES**

COVENANT W018061K 29/04/1999

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.

AGREEMENT Section 173 Planning and Environment Act 1987  
AB560405R 16/09/2002

**DIAGRAM LOCATION**

SEE PS516658Q 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: 112 PRINCES HIGHWAY PAKENHAM VIC 3810

**OWNERS CORPORATIONS**

The land in this folio is affected by  
OWNERS CORPORATION 1 PLAN NO. PS516658Q

DOCUMENT END

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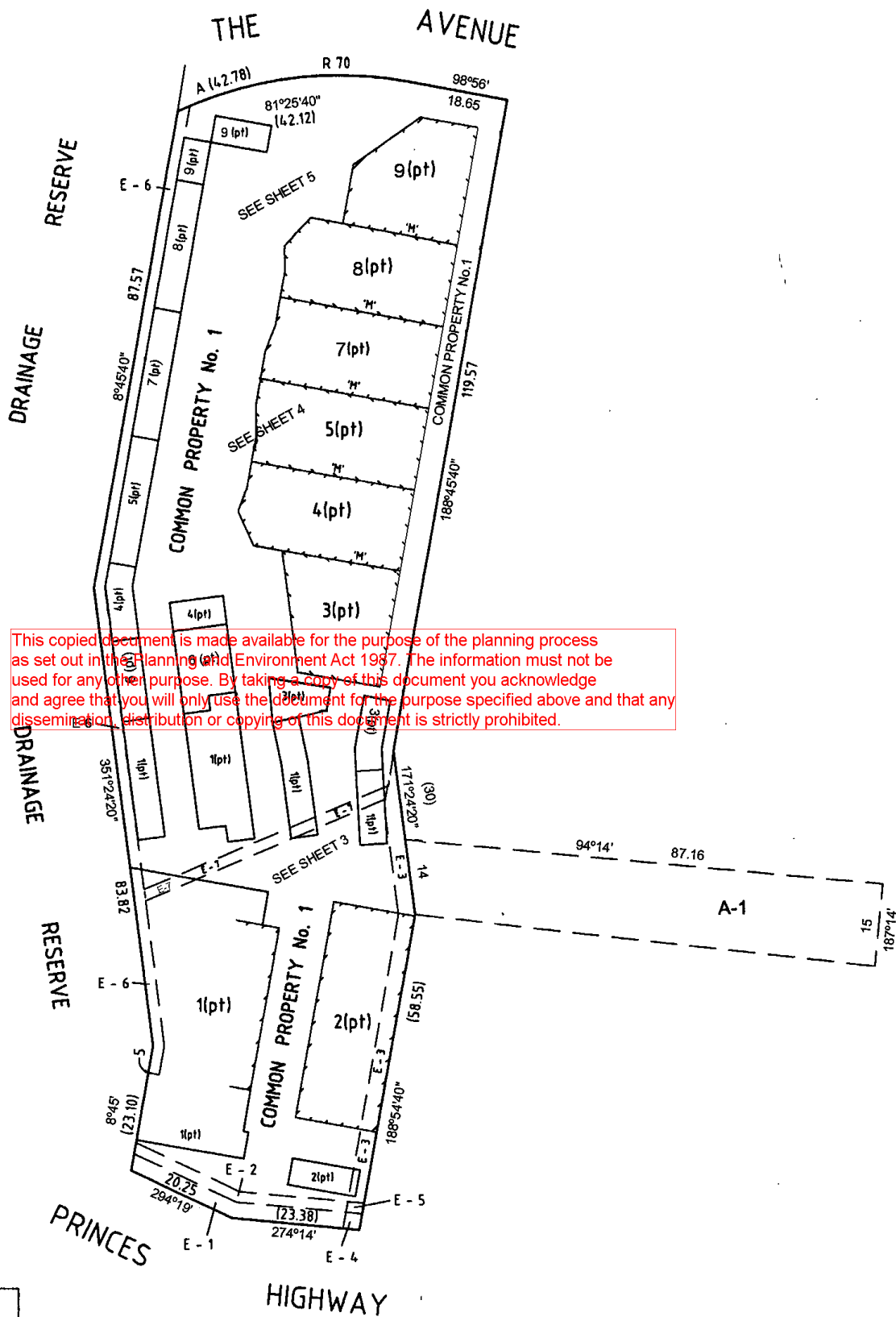
<b>PLAN OF SUBDIVISION</b>			LTO use only <b>EDITION 3</b>	Plan Number <b>PS 516658 Q</b>
<b>LOCATION OF LAND</b>  <b>Parish:</b> NAR NAR GOON <b>Township:</b> --- <b>Section:</b> --- <b>Crown Allotment:</b> --- <b>Crown Portion:</b> 8 (PT) <b>LTO Base Record:</b> DCMB <b>Title Reference:</b> V. 10150 F. 845 <b>Last Plan Reference:</b> LOT 1 PS 311545 W <b>Postal Address:</b> Princes Highway <small>(at time of subdivision)</small> PAKENHAM 3810  <b>MGA Co-ordinates</b> E 368 350 <small>(of approx. centre of land in plan)</small> N 5 785 140 <div style="text-align: right;">Zone: 55</div>			<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b>  <b>COUNCIL NAME:</b> CARDINIA SHIRE COUNCIL <b>REF:</b> S04/031  <div style="display: flex; justify-content: space-between;"> <div> 1. This plan is certified under section 6 of the Subdivision Act 1988.  2. This plan is certified under section 11(7) of the Subdivision Act 1988.  <del>Date of original certification under section 6</del> / /  3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. </div> <div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold; font-size: 2em; opacity: 0.5;"> APPLIES TO MASTER PLAN (STAGE 1) ONLY </div> </div> <b>OPEN SPACE</b> <div style="display: flex; justify-content: space-between;"> <div> (i) A requirement for public open space under section 18 of the Subdivision Act 1988 has been made.  (ii) The requirement has been satisfied.  (iii) The requirement is to be satisfied in Stage..... </div> <div> Council Delegate  <del>Council Seal</del>  Date 27 5 / 2004    <del>Re-certified under section 11(7) of the Subdivision Act 1988</del>  <del>Council Delegate</del>  <del>Council Seal</del>  Date / / </div> </div>	
<b>Vesting of Roads or Reserves</b>				
Identifier	Council / Body / Person			
Nil	Nil			
<b>Notations</b>				
<div style="display: flex; justify-content: space-between;"> <div> Depth Limitation: DOES NOT APPLY   Lot 1 consists of 5 parts.  Lot 2 consists of 2 parts.  Lot 3 consists of 3 parts.  Lot 4 consists of 3 parts.  Lot 5 consists of 2 parts.  Lot 6 consists of 2 parts.  Lot 7 consists of 2 parts.  Lot 8 consists of 2 parts.  Lot 9 consists of 3 parts. </div> <div style="border: 1px solid red; padding: 5px; width: 60%;"> This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited. </div> <div> This is a staged subdivision  Planning Permit No.  Location of Boundaries defined by Buildings  Median Denoted thus: — M —   Exterior Face : All other Boundaries   <u>Survey</u>  This plan is based on Survey  This survey has been connected to permanent marks no(s) 61 &amp; 109  In Proclaimed Survey Area No. 71 </div> </div>				
<b>Easement Information</b>				
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road) Section 12(2) of the Subdivision Act 1988 applies to all land herein.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1 & E-4	Drainage	3	LP130913	All Lots on LP130913
E-2 & E-5	Drainage	2	PS 311545 W	Melbourne Water Corporation
E-3	Drainage & Sewerage	3	Inst. X747876J	All Lots on PS 413527 F
E-3, E-4, & E-5	Sewerage	3	Inst. X747876J	South East Water Limited
E-3, E-4 & E-5	Water Supply	3	Inst. X747876J	All Lots on PS 413527 F
E-6	Sewerage	2	Inst. X747876J	South East Water Limited
E-7	Sewerage	2	This Plan	South East Water Limited
E- 1	Sewerage	3	This Plan	South East Water Limited
A-1	Carriageway	See Plan	C/E X785182 N	Lot 1 on PS 311545 W
Sheet 1 of 6 sheets				
<b>NOBELIUS LAND SURVEYORS</b>  P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 Fax 03 5941 7359 rob@nobelius.com.au			<b>LICENSED SURVEYOR: R. P. NOBELIUS</b>  SIGNATURE..... DATE 20 / 4 / 04  REF: P3409 VERSION A	
			<div style="display: flex; justify-content: space-between;"> <div> .....  DATE 27 / 5 / 2004  COUNCIL DELEGATE SIGNATURE  Original sheet size A3 </div> <div> THIS IS AN LR  COMPILED PLAN  CHECKED 23/09/2005  B.Greenland  Assistant Registrar of Titles </div> </div>	

# PLAN OF SUBDIVISION

Stage No.

Plan Number

PS 516658 Q



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NOBELIUS LAND SURVEYORS



P.O. BOX 481  
PAKENHAM 3810  
Ph 03 5941 4112  
Fax 03 5941 7359  
rob@nobelius.com.au

ORIGINAL  
SCALE  
1 : 800

SHEET  
SIZE  
A3

SCALE

8 0 16 32

LENGTHS ARE IN METRES

LICENSED SURVEYOR: R. P. NOBELIUS

SIGNATURE..... DATE / /

REF: P3409

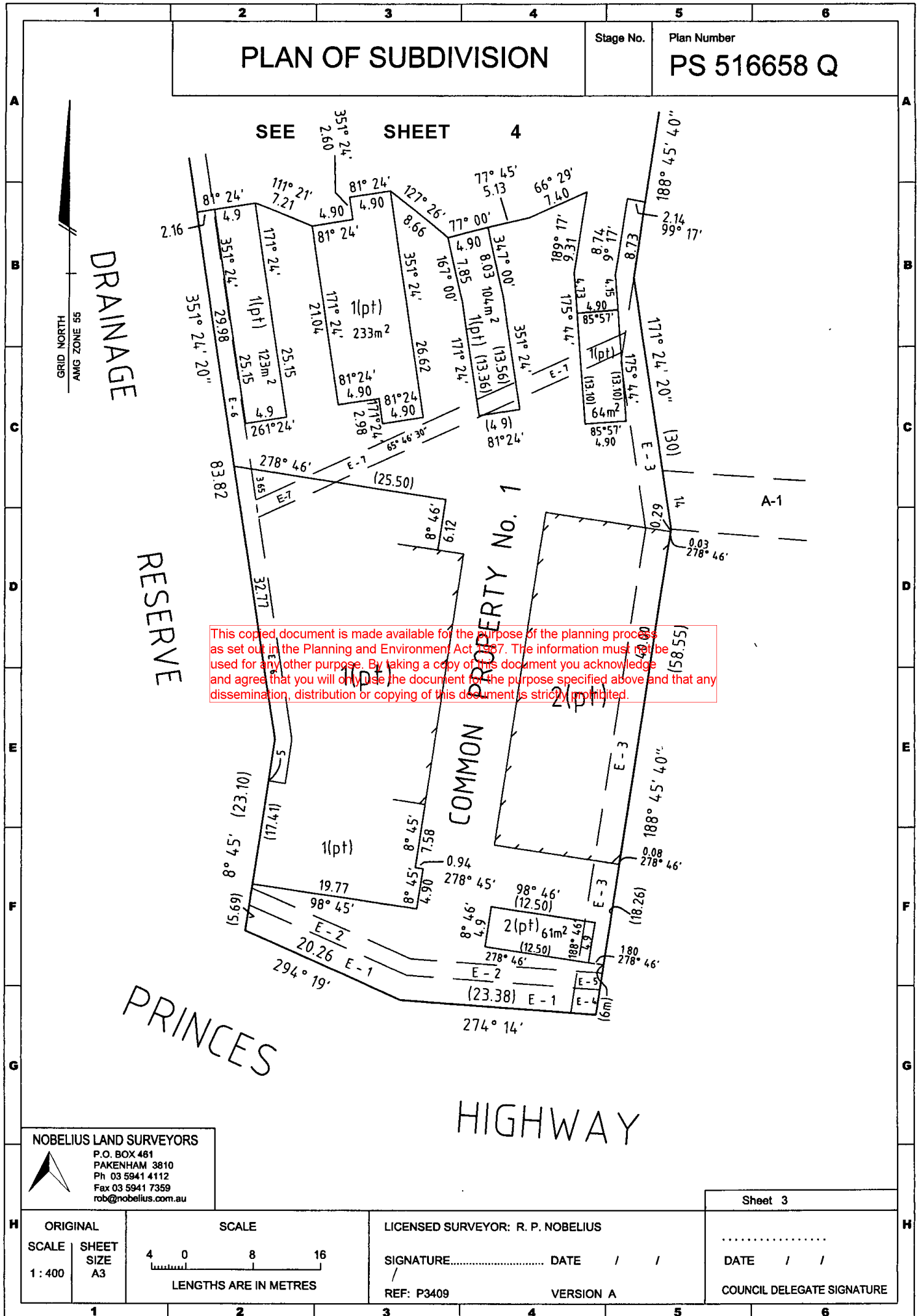
VERSION

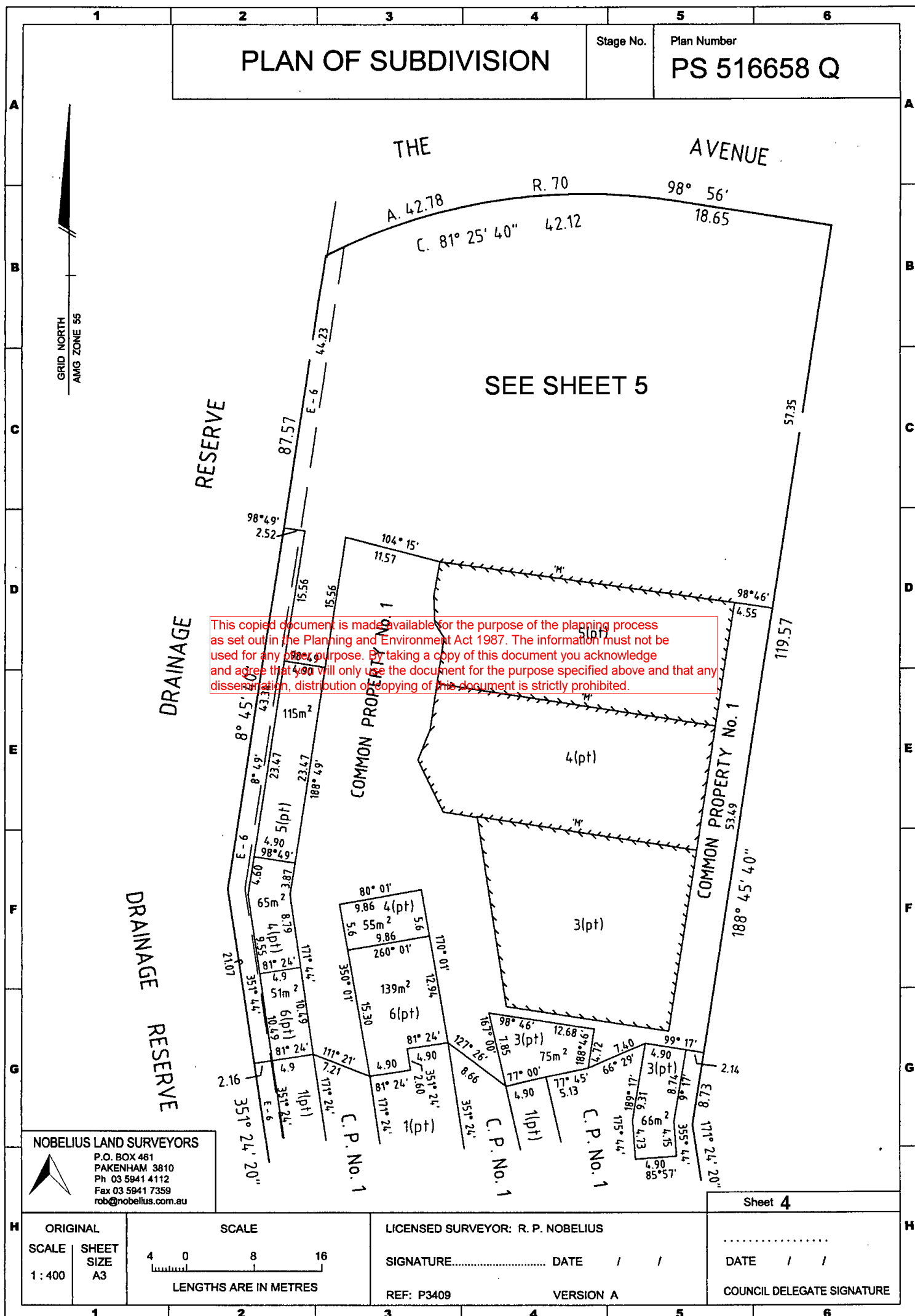
Sheet 2

DATE / /

COUNCIL DELEGATE SIGNATURE









# MODIFICATION TABLE

RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

MASTER PLAN (STAGE 1) REGISTERED DATE 12/08/04 TIME: 2PM

**WARNING: THE IMAGE OF THIS PLAN/DOCUMENT HAS BEEN DIGITALLY AMENDED.**

**NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL PLAN/DOCUMENT.**

# PLAN NUMBER

**PS 516658Q**

[illegible]



BY LETTER \$63 + \$10mA.

W018061K  
290499 2109 88-E \$63  
\$10.00 M/A FEE

**APPLICATION TO RECORD A COVENANT**  
**SECTION 88 (1) TRANSFER OF LAND ACT 1958**

Lodged at the Land Titles Office by:



Name: Kellehers  
Phone: 9429 8111  
Address: 497 Swan Street, Burnley  
Ref: 97521 <FLYNN>  
Customer Code: 3359J

CF 10150-875  
MADE AVAILABLE  
TO ISSUE TO N

The applicant applies for the recording in the Register of the covenant in relation to the burdened land.

**Burdened land:** Volume 10150 Folio 845

CF

CAVEAT

**Applicant:** The Roman Catholic Trusts Corporation for the Diocese of Sale

**Benefited Land:** Certificates of Title Volume 8144 Folio 670, Volume 3944 Folio 792, Volume 7462 Folio 072, Volume 8330 Folio 753, Volume 7770 Folio 142, Volume 8184 Folio 845 and Volume 9389 Folio 183

**Covenant:** As attached.

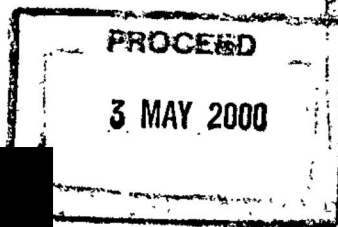
**Date:**

22 April 1999

**Signed:**



A Current Legal Practitioner  
Under the Legal Practice Act 1996



NOTICE SENT

22 MAR 2000

RE CAVEAT:

V657034W

**ORDER TO REGISTER**

Please register this Application to Record a Covenant and return the title to Clayton Utz of Level 18, 333 Collins Street, MELBOURNE, 3000.



CLAYTON UTZ

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**W018061K**  
290499 2109 88-E \$63  
\$10.00 M/A FEE



THIS AGREEMENT is made the 23<sup>rd</sup> day of December One thousand Nine Hundred and Ninety Eight BETWEEN CARDINIA SHIRE COUNCIL formerly Shire of Pakenham of Shire Offices, Henty Way, Pakenham of the one part and THE ROMAN CATHOLIC TRUSTS CORPORATION FOR THE DIOCESE OF SALE of the other part.

WHEREAS the said CARDINIA SHIRE COUNCIL (formerly the Pakenham Shire Council) is the registered proprietor of an estate in fee simple <sup>in</sup> and the land hereinafter described subject to the encumbrances affecting the same being the whole of the land comprised in Certificate of Title Volume 10150 Folio 845 (hereinafter called the 'Servient Tenement').

AND WHEREAS the said THE ROMAN CATHOLIC TRUSTS CORPORATION FOR THE DIOCESE OF SALE is the registered proprietor of all those pieces of land being the whole of the land more particularly described in Certificates of Title Volume 8144 Folio 670, Volume 3944 Folio 792, Volume 7462 Folio 072, Volume 8330 Folio 753, Volume 7770 Folio 142, Volume 8184 Folio 845 and Volume 9389 Folio 183 (hereinafter called the "Dominant Tenement")

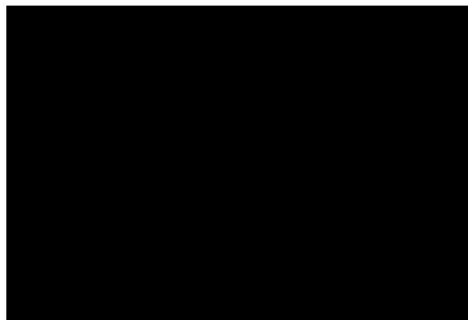
NOW THIS DEED WITNESSETH that in consideration of the Terms of Settlement dated 31 March 1998 signed by Counsel for the REVEREND JOSEPH FLYNN and other persons being the Representors in Application No. 28247AO1 in the Liquor Licensing Commission of Victoria and Counsel for the said CARDINIA SHIRE COUNCIL the said CARDINIA SHIRE COUNCIL with the intent that the burden of the Covenant hereinafter set out shall be attached to and run at law and in equity with the Servient Tenement or any part or parts thereof and that the benefit of this Covenant shall be attached to and remain at law and in equity with each and every lot contained within the Dominant Tenement DOES HEREBY for itself, its heir executors administrators and transferees the registered proprietor or proprietors for the time being of the Servient Tenement or any part thereof COVENANT with the said THE ROMAN CATHOLIC TRUSTS CORPORATION FOR THE DIOCESE OF SALE, its heirs executors administrators and trustees the registered proprietor or proprietors for the time being of the Dominant Tenement or any part or parts thereof that the said CARDINIA SHIRE COUNCIL its heirs executors administrators and trustees the registered

proprietor or proprietors for the time being of the Servient Tenement ~~will not~~ at any time use or allow to be used the said Servient Tenement or any part thereof for the purposes of or in connection with a hotel and will not at any time ~~construct, build, lay or cause to be constructed, built or laid out, or allow to permit access and egress~~ for vehicles through the said Servient Tenement in any manner that provides or would provide a link either direct or indirect between the land lying immediately east of the Servient Tenement being all the land contained in Certificates of Title Volume 10355 Folios 146 and 147 being the land highlighted in yellow on the plan attached hereto and land lying west of the Servient Tenement being the land highlighted in green on the said plan which land is a proposed Government Road and the land lying north of the Servient Tenement being the land highlighted in pink on the said plan being portion of a road known as The Avenue and it is intended that the above Covenant shall be set out as an encumbrance on any Certificate or Certificates of Title to be issued in respect of the said Servient Tenement and shall run with the land.

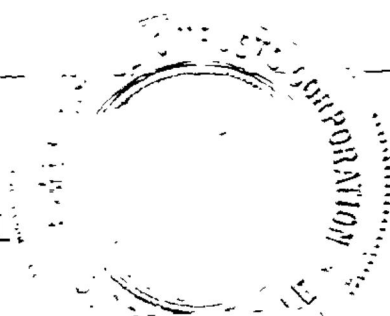
IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

THE COMMON SEAL OF  
CARDINIA SHIRE COUNCIL

was hereunto affixed  
in the presence of :



For and on behalf of  
THE ROMAN CATHOLIC TRUSTS CORPORATION  
FOR THE DIOCESE OF SALE



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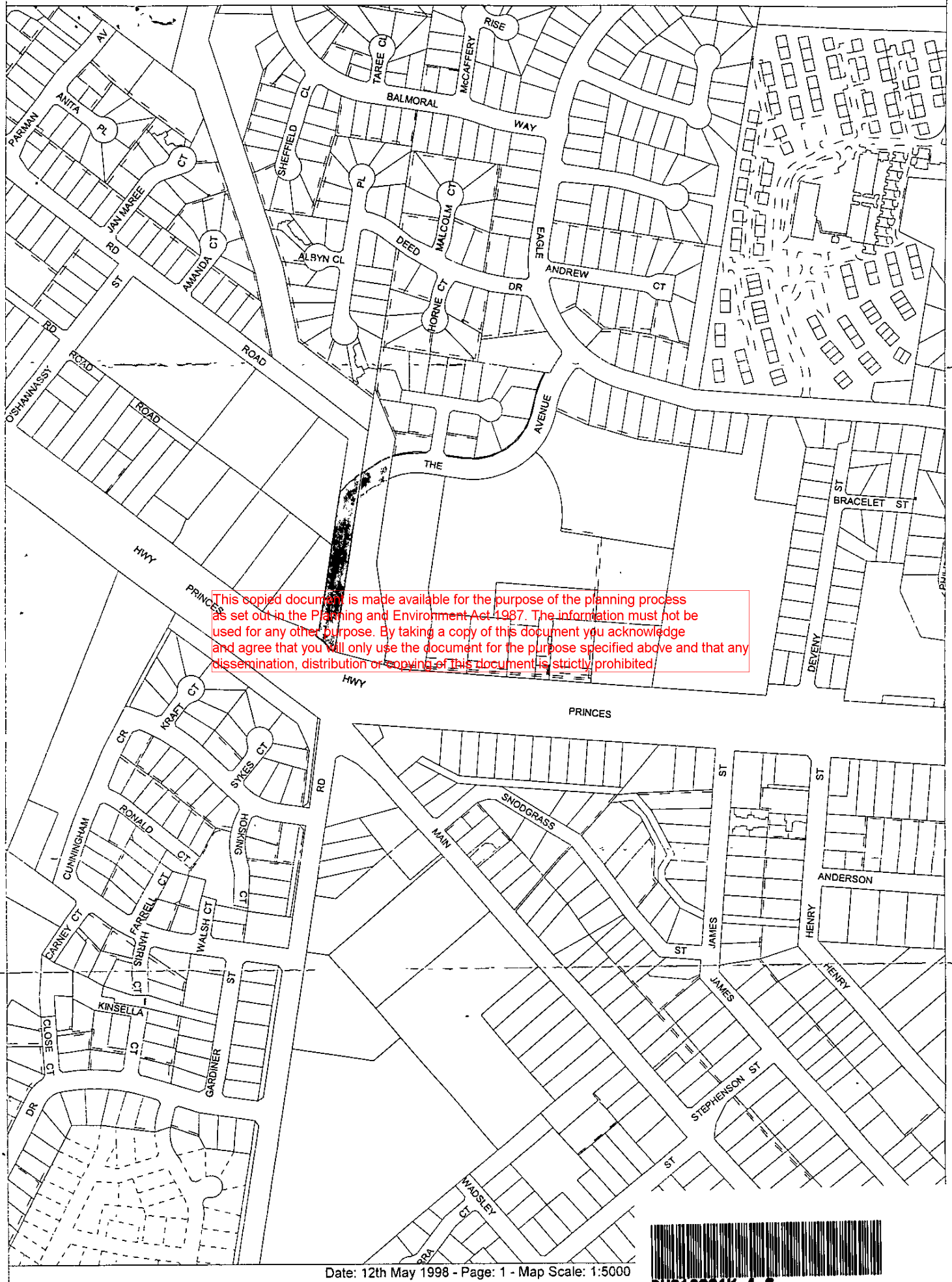
**W018061K**  
290499 2109 88-E \$63  
\$10.00 M/A FEE



new air constructed, built or laid out any way

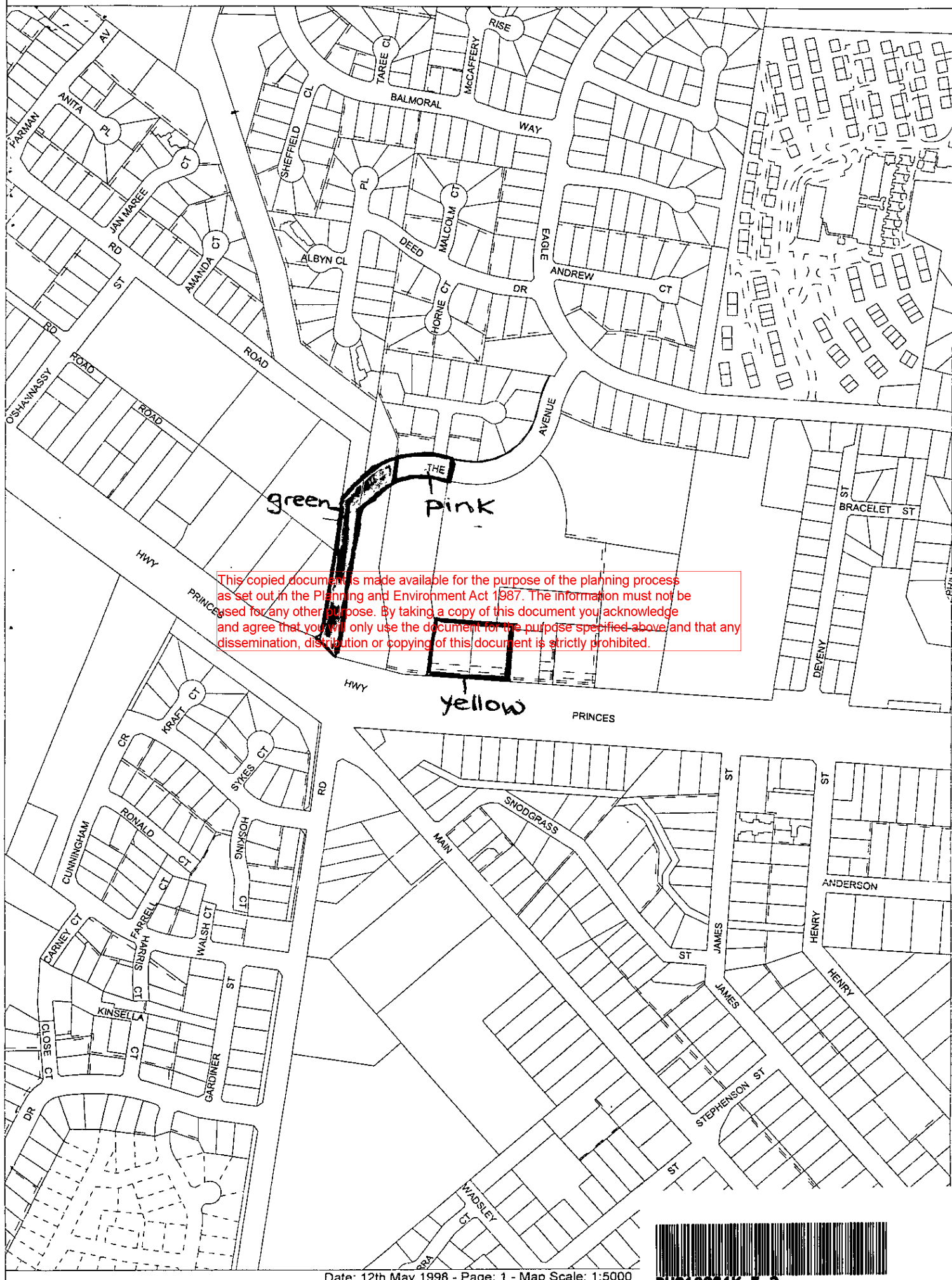


# Cardinia Shire Council





# Cardinia Shire Council



# URGENT NOTICE TO CAVEATOR

Pursuant to Section 90 (1)  
of the Transfer of Land Act 1958

DATE **22 MAR 2000**



Natural Resources and Environment

AGRICULTURE • RESOURCES • CONSERVATION • LAND MANAGEMENT

## LAND VICTORIA

283 Queen Street, Melbourne DX 250639

Telephone: (03) 9603 5555 Facsimile: (03) 9603 5556

KELLEHERS.  
497 SWAN ST  
BURBURY 3121

As Caveator

Under Caveat No. V657034W

Registered Proprietor BAKENHAM SHIRE COUNCIL.

Please note: dealing/s has/have been lodged for registration.

- |                                                                               |                                            |
|-------------------------------------------------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/> Dealing No. <u>W018061K</u>               | <input type="checkbox"/> Dealing No. _____ |
| <input type="checkbox"/> Dealing No. _____                                    | <input type="checkbox"/> Dealing No. _____ |
| <input type="checkbox"/> Dealing No. _____                                    | <input type="checkbox"/> Dealing No. _____ |
| <input type="checkbox"/> Transfer to _____                                    |                                            |
| <input type="checkbox"/> Mortgage to _____                                    |                                            |
| <input type="checkbox"/> Variation of Mortgage _____                          |                                            |
| <input type="checkbox"/> Creation of Easement by _____                        |                                            |
| <input type="checkbox"/> Application under section 31* by _____               |                                            |
| <input type="checkbox"/> Application under section 49* by _____               |                                            |
| <input type="checkbox"/> Application under section 50* by _____               |                                            |
| <input checked="" type="checkbox"/> Other <u>APPLICATION UNDER X 88(1) BY</u> |                                            |

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\* Transfer of Land Act 1958

This is a copy of the notice sent

**22 MAR 2000**



Registrar of Titles

### FOR LAND TITLES OFFICE USE ONLY

- |                                                                                                       |                                          |
|-------------------------------------------------------------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Time expired. No action taken.                                    | <input type="checkbox"/> Caveat remains. |
| <input type="checkbox"/> Caveat will lapse to permit registration of _____                            |                                          |
| <input checked="" type="checkbox"/> Caveat will lapse (as to) <u>W 10150-845</u> <u>as to part of</u> | Caveat remains.                          |
| on the registration of <u>W 018061K</u>                                                               | (Caveat remains.)                        |
| <input type="checkbox"/> Consent lodged caveat will remain in operation.                              |                                          |
| <input type="checkbox"/> Other _____                                                                  |                                          |

Date **3 MAY 2000**



DO NOT DETACH.



DW018061K-6-1



Form 13

**AB560405R**



Section 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A  
RECORDING OF AN AGREEMENT**

*Planning and Environment Act 1987*

Lodged at the Land Titles Office by:

**Name:**

**Phone:**

**Address:**

**Ref:**

Elbourne

**Customer Code: 1167E**

The Authority having made an agreement referred to in section 181(1) of the *Planning and Environment Act 1987* requires a recording to be made in the Register for the land.

Land: Certificate of Title Volume 10150 Folio 845



DAB560405R-1-3

Authority: Cardinia Shire Council of Henty Way, Pakenham, 3810

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*

A copy of the agreement is attached to this application

Signature for the Authority:

Name of officer:

Office held:

Date:

{703315/MJD/SXG3913:1}

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# Maddock Lonie & Chisholm

LAWYERS



DATED

The 19<sup>th</sup> day of March

2002

CARDINIA SHIRE COUNCIL

- and -

CRESSINA PTY LTD  
(ACN 098 799 225)

## SECTION 173 AGREEMENT

Subject Land: Lot 1 (PS311545) Cnr Princes Highway and The Avenue, Pakenham

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DAB560405R-2-1

AB560405R

16/09/2002 \$59

173



A MEMBER OF

adviser asia

ADELAIDE, COLOMBO, DUBAI, HONG KONG,  
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,  
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

140 WILLIAM STREET MELBOURNE VICTORIA AUSTRALIA 3000

EMAIL: [info@maddocks.com.au](mailto:info@maddocks.com.au)

WEB SITE: [www.maddocks.com.au](http://www.maddocks.com.au)

TELEPHONE: + (61 3) 9288 0555

FACSIMILE: + (61 3) 9288 0666

DX 259 MELBOURNE

OUR REF: GOC:MJD:703315

{703315/MJD/LJB6256:1}





AB560405R-4-8

**THIS AGREEMENT** is made on the 19<sup>th</sup> day of March 2002

**BETWEEN**

**CARDINIA SHIRE COUNCIL**  
of Municipal Offices, Henty Way, Pakenham, 3810  
Victoria

**(Council)**

**AND**

**CRESSINA PTY LTD (ACN 098 799 225)**  
of 239 Rathdowne Street, Carlton, 3053

**(Owner)**

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**RECITALS**

- A. The Owner is the registered proprietor of the subject land.
- B. The Council is the Responsible Authority pursuant to the Act for the Scheme.
- C. The Council has sold the subject land to the Owner on condition of the sale that the Owner enter into the terms of this Agreement with the Council.
- D. The subject land is encumbered by Mortgage No. \_\_\_\_\_ in which  
is named as the mortgagee.
- E. The Council and the Owner have agreed that without limiting or restricting their respective powers to enter into this Agreement and in so far as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

**THE PARTIES AGREE**

**1. DEFINITIONS**

In this Agreement unless expressed or implied to the contrary:

**Act** means the Planning and Environment Act 1987;

**Agreement** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement;

**approved** means approved in writing by Cardinia;

**business day** means Monday to Friday excluding public holidays in Victoria;

**Cardinia** means the Council acting in its capacity as an owner or former owner of the subject land but not as a responsible authority or planning authority under the Act;

**complete** in respect of any works or any part of any works means the completion of those works or the specified part of those works in accordance with plans and specifications approved by the Council to the satisfaction of the Council;

**AB560405R**

16/09/2002 \$59 173



2.



AB560405R-5-6

**development** includes subdivision;

**easement** means the easement marked E-1 on the Plan of Creation of Easement attached in the Schedule of this Agreement;

**Owner** means the person or persons from time to time registered or entitled to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple in the subject land or any part of it;

**planning approval** means and includes any planning permit issued in accordance with the Act;

**Scheme** means the Cardinia Planning Scheme;

**Service Station** has the same meaning as defined by the Scheme;

**subject land** means the whole of the land described in Certificate of Title Volume 10150 Folio 845 being situated at and known as Lot 1 (PS311545) Cnr Princes Highway and The Avenue, Pakenham or any part of that land;

**Supermarket** has the same meaning as defined by the Scheme;

**Termination Date** means the date upon which the Council expressly notifies the Owner in writing that the Council no longer requires the Owner to comply with its obligations as specified in this Agreement;

**Warehouse** has the same meaning as defined by the Scheme, excluding a Commercial Display Area and the distribution and retail selling of goods and services; and

**works** mean any works required to be performed pursuant to the terms of this Agreement.

## 2. AGREEMENT UNDER SECTION 173 OF THE ACT

The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and in so far as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

## 3. EFFECT OF AGREEMENT

3.1 This Agreement is effective from the date of this Agreement.

3.2 The Owner's use and development of the subject land is subject to the conditions and obligations set out in this Agreement which provide for the use or development of the subject land for the specified purposes and which are intended to achieve or advance the objectives of the Scheme.

3.3 The Owner's obligations will take effect as separate and several covenants which will be annexed to and run at law and equity with the subject land to bind the Owner and each successor, assign or transferee of the Owner

AB560405R

16/09/2002 \$59

173



3.

including the registered proprietor, the mortgagee in possession and the beneficial owner for the time being of the subject land.

#### 4. OWNER'S WARRANTIES

Without limiting the operation or effect of this Agreement, the Owner warrants that:

- 4.1 except for the parties to this Agreement, any mortgagee who has consented to this Agreement, and any other persons disclosed in writing to the Council before the signing of this Agreement, no other person has any interest either legal or equitable in the subject land which may be affected by this Agreement or by development or use of the subject land pursuant to the Scheme or any permit or approved plan under the Scheme;
- 4.2 the Owner has obtained all necessary authorities and consents to bind all other persons who have any interest either legal or equitable in the subject land.

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#### 5. SUCCESSORS IN TITLE

Without limiting the operation or effect of this Agreement, the Owner must ensure that, until this Agreement is recorded on the folio of the register which relates to the subject land, the Owner's successors in title will:

- 5.1 give effect to, do all acts and sign all documents requiring those successors to give effect to this Agreement; and
- 5.2 execute a deed agreeing to be bound by this Agreement.

#### 6. COVENANTS OF OWNER

##### 6.1 Owner's Covenants

The Owner covenants that it will:

##### 6.1.1 *Restrictions on Development and Use*

Not use or develop the subject land for a Warehouse, Service Station or Supermarket or any combination of the same or any associated uses without first obtaining the consent in writing of Cardinia which Cardinia may grant or withhold in its absolute discretion;

##### 6.1.2 *No Rezoning*

Not seek or support any change in the zoning of the subject land under the Scheme without the consent in writing of Cardinia which may be granted or withheld by Cardinia in its absolute discretion;

##### 6.1.3 *Contribution to Maintenance and Repair of Easement*

**AB560405R**

16/09/2002 \$59 173



DAB560405R-6-4

4.

Be liable for half the cost of maintenance and repair of the easement from time to time to a standard reasonably required for use as a carriageway easement;

## 6.2 Notice

The Owner covenants to bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns.

## 6.3 Compliance

The Owner covenants to:

- 6.3.1 comply with the requirements of all statutory authorities in relation to the development of the subject land;
- 6.3.2 comply with all statutes, regulations, local laws and planning controls in relation to the subject land; and
- 6.3.3 take all necessary steps to comply with the obligations of each clause in this Agreement;

## 6.4 Registration

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The Owner covenants to:

- 6.4.1 consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the folio of the Register which relates to the subject land in accordance with Section 181 of the Act; and
- 6.4.2 do all things necessary to enable the Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section.

## 6.5 Mortgagee to be Bound

The Owner covenants to obtain the consent of any mortgagee to be bound by the covenants in this Agreement if the mortgagee becomes mortgagee in possession of the subject land.

## 6.6 Council's Costs to be Paid

The Owner covenants to pay immediately on demand to the Council the Council's reasonable costs and expenses (including legal expenses) incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement which (until paid) are and remain a charge on the subject land.

**AB560405R**

16/09/2002 \$59

173



5.

## 6.7 Indemnity

The Owner covenants to indemnify and keep indemnified the Council, its officers, employees, agents, workmen and contractors from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgment or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.

## 6.8 Standard of Works

The Owner covenants to comply with the requirements of this Agreement and to complete all works required by this Agreement as expeditiously as possible at its cost and to the satisfaction of the Council.

## 6.9 Council Access

The Owner covenants to allow the Council and its officers, employees, contractors or agents or any of them, to enter the subject land (at any reasonable time) to assess compliance with this Agreement.

## 7. GENERAL

### 7.1 Further Assurance

This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and accept that you will not be permitted to copy, reproduce, copy, or in any way disseminate, distribution or copying of this document is strictly prohibited.

**Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Agreement.**

### 7.2 No Waiver

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

### 7.3 Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement remain operative.

### 7.4 No Fettering of Council's Powers

This Agreement does not fetter or restrict the power or discretion of the Council to make or impose requirements or conditions in connection with any use or development of the subject land or the granting of any planning approval, the approval or certification of any plans of subdivision or consolidation applicable to the subject land or the issue of a Statement of Compliance in connection with any such plans.

AB560405R

16/09/2002 \$59 173



6.

## 7.5 Parties' Intentions

The parties wish to record their intentions that nothing herein contained or stated to the contrary will prohibit or prevent the subject land being used by the Owner for commercial showrooms and/or display and the distribution and retailing selling of goods and services, subject to the Owner obtaining any necessary planning approvals.

## 8. ENDING OF AGREEMENT

8.1 This Agreement ends on the Termination Date.

8.2 As soon as reasonably practicable after the Termination Date, the Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under s.183(2) of the Act to cancel the recording of this Agreement on the register.

## 9. NOTICES

### 9.1 Service of Notice



DAB560405R-9-9

A notice or other communication required or permitted to be served by a party on another party shall be in writing and may be served:

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9.1.1 by sending it by pre-paid post addressed to that party at that party's address specified in this document or subsequently notified to each party as that party's address for service; or

9.1.3 by facsimile to the person's number for service specified in this document or subsequently notified to each party.

### 9.2 Time of Service

A notice or other communication is deemed served:

9.2.1 if served personally, upon service;

9.2.2 if posted within Australia to an Australian address, two business days after posting and in any other case, seven business days after posting;

9.2.3 if served by facsimile, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; or

9.2.4 if received after 6.00 pm in the place of receipt or on a day which is not a business day, at 9.00 am on the next business day.

**AB560405R**

16/09/2002 \$59 173





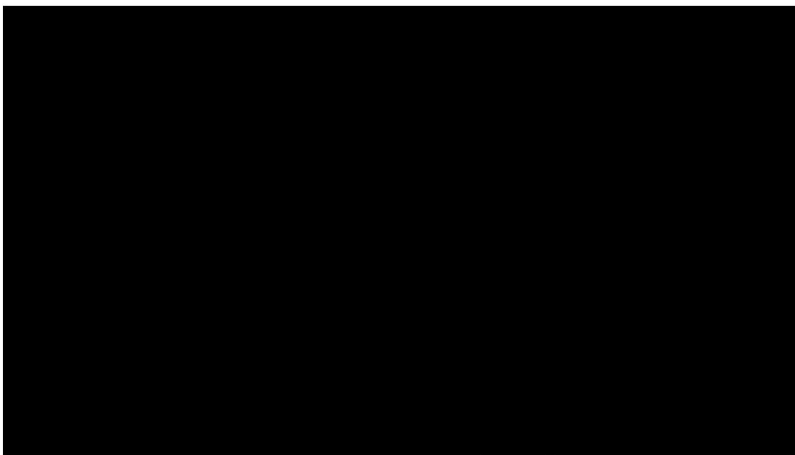
DAB560405R-10-6

## 10. INTERPRETATION

In this Agreement, unless expressed or implied to the contrary:

- 10.1 undefined terms or words have the meanings given in the Act or the Scheme;
- 10.2 the singular includes the plural and the plural includes the singular;
- 10.3 a reference to a gender includes a reference to the other genders;
- 10.4 a reference to a person includes a reference to a firm, corporation or other corporate body;
- 10.5 if a party consists of more than one person this Agreement binds them jointly and each of them severally;
- 10.6 a reference to a "planning scheme" or "the Scheme" includes any amendment, consolidation, or replacement of such scheme and any document incorporated by reference into such scheme;
- 10.7 a reference to a statute includes any statutes amending, consolidating or replacing those statutes and any regulations made under the statutes;
- 10.8 where, in this Agreement, the Council may exercise any power, duty or function, that power may be exercised on behalf of the Council by an authorised or delegated officer;
- 10.9 all headings are for ease of reference only and do not affect the interpretation of this Agreement;
- 10.10 the Recitals to this Agreement form part of this Agreement.

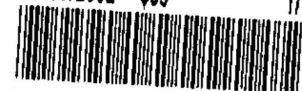
**EXECUTED** by the parties



**AB560405R**

16/09/2002 \$59

173



8.



Director

Full name

Usual address

Director (or Company Secretary)

Full name

3 Usual address



DAB560405R-11-0

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TO WADDOCK LANE & CHIS  
PAGE 02

FROM

10:55AM

10-00-01 03/13

# PLAN OF CREATION OF EASEMENT

LTO use only.  
**EDITION**

Plan Number

Location of Land

**NAR NAR GOON**

Wish:  
Municipality:  
Section:  
Town Allotment:  
Town Portion: 8 (Part)

Base Record Chart No. 3 (3272)

Reference: Vol 10335 Fol 146.  
Vol 10335 Fol 147.

Plan Reference: Lots J & K on  
PS 347450 G

Address: Princes Highway  
PAKENHAM, 3810.

Co-ordinates E 360 280 Zone: 55  
N 5 785 040

## Council Certificate and Endorsement

Council Name: Cardinia Shire Council Act.

- 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 passed under section 21 of the Subdivision Act 1988.

Council delegate

Council seal

Date

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 / /

LTO use only

PLAN REGISTERED

TME

DATE / /

Assistant Registrar

## Notations

Depth Limitation Does not

Purpose of Plan

To create conveyance easement

Grounds for Creation of Eas

By agreement between interested

## Survey

This plan is not based on survey

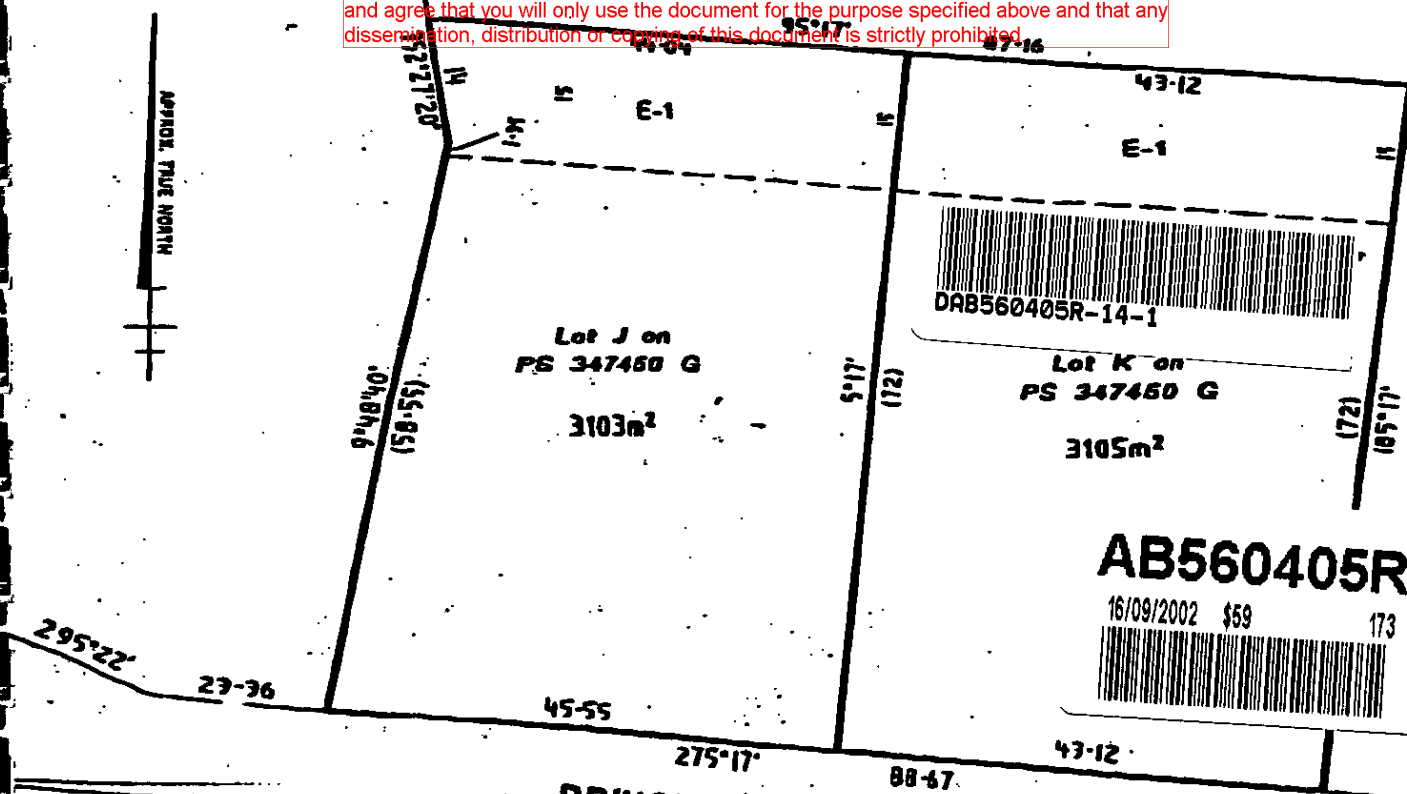
This survey has been conducted in

permanent mark Noid

in Proclaimed Survey Area No.

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Number	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
1	Carriageway	15.00	This Plan	Lot I on PS 311545 W



**TAYLORS**  
LAND SURVEYORS - TOWN PLANNERS  
PROPERTY CONSULTANTS  
100-102 PRINCES HWY, PAKENHAM VIC 3810  
PH: 03 5253 8000 FAX: 03 5253 8001

PRINCES HIGHWAY

SCALE  
0 10 20  
METRES ARE IN METRES

ORIGINAL  
SCALE SHEET  
SIZE  
1:500 A3

LICENSED SURVEYOR : NIKOLAS A. PHIZACKLEA  
Signature \_\_\_\_\_ Date / /  
REF. 6243/CE VERSION 1

27/06/01  
Date / /  
Council Delegate Signa