

5.4 T200500-1 APP – application to amend planning permit T200500 that allows for the use and development of a place of worship and associated works to delete requirements of condition 1

Responsible GM: Peter Benazic
Author: Dean Haeusler

Recommendation(s)

That a Notice of Decision to grant Planning Permit application T200500-1 be issued to delete requirements of condition 1 (d) (ii), (vi) and (vii) of the permit at L1 LP140615, Army Road, Pakenham VIC 3810.

Attachments

- 1. Locality Map [5.4.1 1 page]
- 2. Development Plans [5.4.2 7 pages]
- 3. CONFIDENTIAL Copy of Objections Circulated to Councillors only [5.4.3 2 pages]

Executive Summary

APPLICATION NO.:	T200500
APPLICANT:	Natalie Gray
LAND:	L1 LP140615, Army Road (Corner of Murphy Road), Pakenham VIC 3810
PROPOSAL:	Deletion of condition 1 d) ii, vi and vii of planning permit T200500
PLANNING CONTROLS:	General Residential Zone - Schedule 1 Development Contributions Plan Overlay - Schedule 1
NOTIFICATION & OBJECTIONS:	Notices sent to owners and occupiers of adjoining properties. Two (2) objections were received.
KEY PLANNING CONSIDERATIONS:	Neighbouring amenity
RECOMMENDATION:	Notice of decision to grant a permit

Background

Planning permit T200500 was issued by Council on 2nd February 2021 allowing for the use and development of the land for a place of worship and associated works.

As part of the approved permit, a condition was applied requiring amended plans that must be submitted and approved by Council, prior to receiving stamped plans.



Condition 1 d) is the subject is this amendment which requires an amended landscape plan to show:

- All buildings and vegetation within 3 metres of the fence lines;
- Canopy trees along the full length of the Murphy Road and Army Road frontages; and
- 2 metre-wide landscaped screening along the southern and western property boundaries.

Subject Site



The site is 2.695 hectares in size and located on the south-east corner of the Murphy Road and Army Road.

The site has a frontage to Murphy Road of 205.07 metres (northern boundary), an eastern boundary of 124.97 metres, an irregular southern boundary with three lengths totalling 230.14 metres in length and a western boundary of 123.08 metres. A 9-metre-wide tree expanse of trees runs along the road reservation adjacent to the western boundary.

There are presently no formal crossovers to the site from Murphy Road, a crossover to the site is located on Army Road adjacent to the southern boundary and there is no easement on title.

The topography of the land is mostly flat with the site sloping slightly to the south-east.

The subject site is located in an established residential precinct of Pakenham, just north of the Pakenham Activity Centre. The immediately adjoining allotments to the subject site contain single dwellings and garages and unit developments. Unit developments and in-fill subdivisions is emerging in the area, with several allotments currently developed with multiple dwellings. The houses are largely single storey and are constructed of a variety of materials.



To the north-west of the Army Road and Murphy road intersection is Pakenham Hills Primary School.

The main commercial street of Pakenham Activity Centre is located 1000 metres south of the subject site with localised shopping 500 metres to the east. Within a 3-kilometre radius of the subject site there are pre-schools, primary and secondary schools, childcare centres, public open space and access to medical cares.

Relevance to Council Plan

1.4 Our People - Improved health and wellbeing for all

1.4.4 Support children, young people, families, older adults and people of all abilities by providing a range of accessible services and facilities.

2.1 Our Community - Our diverse community requirements met

2.1.3 Support opportunities for participation in a diverse range of arts, cultural and tourism activities.

Proposal

Introduction of new permit trigger	Change to Permit preamble or affected land	
Not applicable	Not applicable	
Deletion/amendment/inclusion of Permit conditions	Amendment to the endorsed plans	
Condition 1 d) of the permit requires the submission and approval of an amended landscape plan with various changes to Council's satisfaction. The applicant is seeking to delete 1d) ii, vi and vii detailed below: 1) Before the development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show: d) Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show: ii) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.	An amended landscape plan has been submitted to satisfy the requirements of condition 1 d), subject to the deletion of the three requirements being sought.	



- vi) Canopy trees capable of reaching a height of 8 metres and a width of 6 metres at maturity (minimum one and a half (1.5) metres tall at the time of planting) generally consistent with the layout and density of plantings shown on the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture in the area between the proposed carpark and Murphy Road, continuing in the following additional areas.
 - the full extent of the Murphy Road frontage to the eastern property boundary.
 - the full extent of the Army Road frontage to the southern property boundary.

vii) A screening vegetation strip at least two (2) metres wide along the full extent of the existing rear fence lines along the southern and eastern property boundaries. The strip must be planted with screening shrubs capable of growing a minimum of 2m tall and at a density sufficient for them to completely screen the fence line at maturity.

The reasoning set by the applicant for the deletion is that the requirements are disproportionate to the scale of the proposal and the area that the works occupy relative to the size of the property. The applicant instead seeks to contain landscaping to the 'development area' only, defined by the internal fencing (shown in red on figure 2 below).

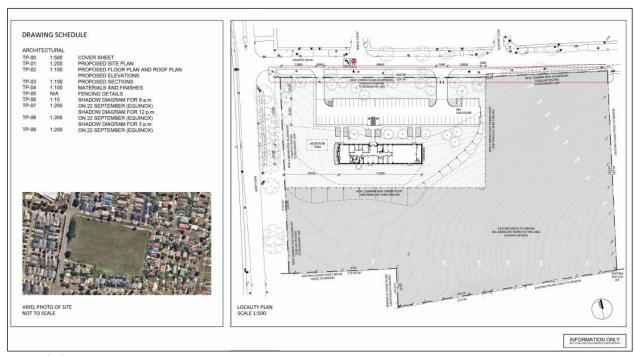


Figure 1: Subject site and approved development



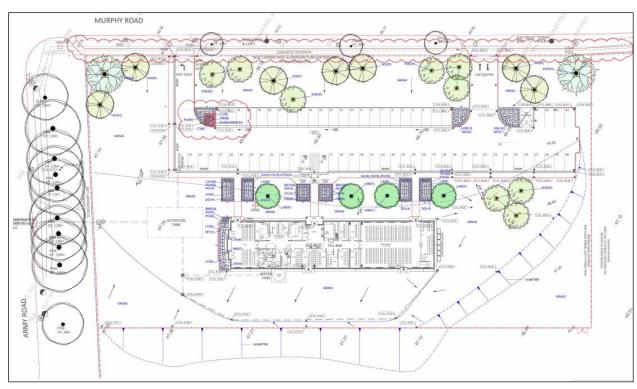


Figure 2: Initial landscape plan

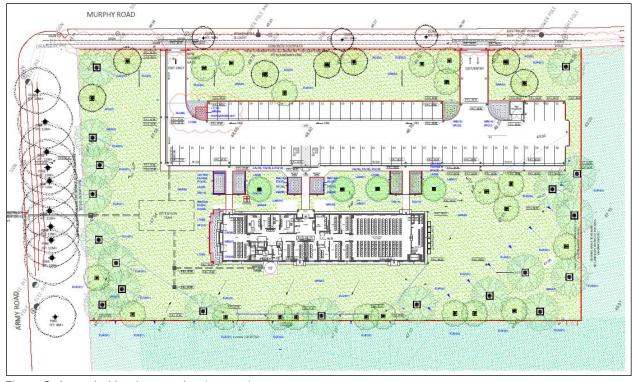


Figure 3: Amended landscape plan (current)

Planning Scheme Provisions

Zone

General Residential Zone - Schedule 1

Overlays

Development Contributions Plan Overlay - Schedule 1



Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

•	Clause 11.03-1s	Activity Centres
•	Clause 15.01-1s	Urban Design
•	Clause 15.01-2s	Building design
•	Clause 15.01-5s	Neighbourhood Character
•	Clause 15.02-1s	Energy and resource efficiency
•	Clause 19.02-4a	Social and Cultural Activities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

• Clause 21.01-4 Strategic Vision

• Clause 21.05-1 Community Services and Facilities

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

Clause 52.06 Car parking

Clause 65 Decision GuidelinesPakenham Development Contribution Plan

Planning Permit Triggers

There are no new permit triggers for assessment by this amendment.

Public Notification

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

Sending notices to the owners and occupiers of adjoining land.

Council has received two (2) objections to date.

The grounds of the objections include:

- Noise
- Visual screening
- Extended hours of operation

Referrals

Internal referrals - Parks and Gardens department

The amended landscape plan was submitted to the Parks and Gardens department for review. The initial landscape plan (figure 2) limited landscaping to the northern frontage of the building along Murphy Road including a group of garden beds and scattered small to medium sized native trees.



The proposed changes were not supported by the department who identified the sensitive residential location and the likely future removal of the Army Road reservation trees that would result in very limited screening and softening of the built form from this aspect.

In response to the concerns raised by Council and two objections received during public notice, an amended landscape plan was submitted (figure 3) that has introduced landscaping along the west, south and east sides of the building and car park.

The Parks and Gardens department have reviewed the latest version of the plan and are satisfied with the additional landscaping and reduction in the distribution of planting proposed.

Discussion

Relevant considerations under the Planning and Environment Act 1987

Section 72(1) of the Planning and Environment Act 1987 states that "a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit".

Section 73 outlines the procedure for applications to amend permits. It states that sections 47 to 62 (with any necessary changes) apply to an application to the responsible authority to amend a permit as if the application were an application for a permit.

Before deciding on an application to amend a plan or permit, the responsible authority must consider:

- The relevant planning scheme or any changes to the scheme;
- All objections and other submissions which it has received and which have not been withdrawn;
- Any significant social / economic / environmental effects which the responsible authorities considered the amendments may have; and
- Any decision and comments of a referral authority which it has received.

In addition to the above, before deciding on an application to amend a plan or permit, the responsible authority, if the circumstances appear to so require, may consider:

- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- Any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority All objections and other submissions which it has received and which have not been withdrawn;
- Any agreement made pursuant to section 173 affecting the land the subject of the application; and
- Any other relevant matters.

It is noted that this assessment is limited to the matters that are the subject of the amendment. The assessment cannot revisit the already-approved elements of the development or address other matters that are unrelated to the amendments sought through this specific application.

The responsible authority, in undertaking an assessment of this application has considered all of the above, pursuant to Section 60 of the *Planning and Environment Act 1987*.



Assessment

It is the view of the responsible authority that the proposal is consistent with Section 60 of the Act by way of the following:

- The changes are generally of a minor nature and are consistent with the intent of the original permit and condition 1 d).
- The Planning Scheme has not changed in any significant way since the issue of this permit, with the permit having only recently been issued and all planning controls and relevant policies remaining unchanged.
- There will be no significant social, economic or environmental effects as a consequence
 of this amendment.

Objections

The amended permit application was advertised by notice to adjoining landowners and occupiers. Following this process two (2) objections were received from properties at 1 Conrad Court, located adjacent to and south-east of the subject site.

Concerns raised in the objections relate to the loss of visual amenity and the effect of noise through the deletion of parts of condition 1 d). The hours of operation were also raised through one objection however it is noted that the approved hours are not proposed to change.

In response to the objections and Council concerns, the permit applicant has amended the landscape plan by broadening the distribution and increasing the volume of landscaping throughout the development area, particularly to the south-eastern aspect. A combination of Eucalyptus Vaminalis, Eucalyptus Polyanthemos and Eucalyptus 'Euky Dwarf' have been selected along the southern and eastern interfaces that will provide visual screening at varying heights once mature.

As there is no proposed changes to the building/car park design and layout or to the use of the land, the impacts of noise is limited to whether a reduction of landscaping to the development area only will result in an increase in the perception of noise from the distribution required by condition 1d) vi & vii.

Are the changes to the Planning Permit considered appropriate?

The changes to condition 1d) of the permit are considered appropriate to the scale of development when considered against the site context and balance of undeveloped area.

The existing siting of the building and car park concentrate activity within the north-west corner of the site, allowing separation of over 60 metres and 75 metres from the nearest southern and western boundaries respectively.

While a screening of vegetation along these property boundaries may result in a different effect on noise, the wording of the current condition required a mature height of two metres that is unlikely to result in a tangle impact beyond the height of the paling fence lines. By contrast, the use of medium and large tree species focused in the development area is considered to provide a similar effect on visual amenity and suppression of noise once the trees reach a mature size.

A reduced extent of landscaping along the road frontages to concentrate on the development area only will continue to ensure landscaping objectives are achieved through the breaking-up of built form and hard surfacing from beyond the site.



It is noted that if the remainder of the land were to be further developed, or the current proposal expanded, a planning permit would likely be required, and the landscaping response reviewed at this point in time.

As a consequence of the updated landscape plan, the landscaping will act to sufficiently minimise the visual impact imposed by the development from sensitive site interfaces with a suitable selection of shrubs, and a focus on medium and larger tree species that have greater longevity and potential for screening once mature.

Deletion of condition 1 d) ii - Recommendation

Deletion of this condition is appropriate as the buildings and works are not located within proximity to property neighbouring boundaries or vegetation.

Deletion of condition 1 d) vi - Recommendation

Deletion of this condition is appropriate as the proposed landscaping will ensure the building and car park and still sufficiently screened from the road frontages.

Deletion of condition 1 d) vii - Recommendation

Deletion of this condition is appropriate as the proposed landscaping will ensure sufficient screening is provided along the south and western sides of the development area.

Conclusion

It is recommended that the amendment is supported and the landscape plan endorsed with the development plans.

Conditions

ADDRESS OF THE LAND: L1 LP140615, Army Road (Corner of Murphy Road), Pakenham VIC

3810

THIS PERMIT ALLOWS: Use and development of the land for a place of worship and

associated and works, generally in accordance with the approved

plans

	Pursuant to Section 72-76B of the <i>Planning and Environment Act</i> 1987 the permit has been amended to:
XX Month, 20XX	Deletion of condition 1 d) ii, vi & vii

- 1) Before the development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The internal pedestrian path to be no less than 1.5 metres in width.
 - b) A 1.5 m wide concrete footpath to be provided along the entire site frontage to Murphy Road.
 - c) A 1.5 m wide concrete pedestrian path, including pram ramps, to link to the existing pedestrian path on the eastern side of Army Road.



- d) Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show:
 - i) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii) Delete.
 - iii) Details of surface finishes for all areas, including pathways and driveways.
 - iv) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v) 1200mm organic mulch diameter around any proposed trees to be planted in lawn.
 - vi) Delete
 - vii) Delete
 - viii) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.
 - e) Revised Sustainable Management Plan generally in accordance with the "The Church of Jesus Christ Latter-day Saints, Sustainable Management Plan, Job: 10875, Date: August 2020, Revision 02 prepared by BRT Consulting" but amended to show:
 - i) a detailed plan is to be provided to the responsible authority showing the details of the 25kW solar energy system. This is to confirm the solar array layout and inclusion. This is required as the 25kW solar energy system is referred to in appendix B of the Sustainable Management Plan.
 - ii) Plans that demonstrate outcomes of the Sustainable Management Plan.
- 2) The use and development of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.
- 3) The layout of the access, use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
- 4) Once the development starts, it must be continued and completed to the satisfaction of the Responsible Authority.
- 5) Except with the written consent of the Responsible Authority, the use of the land for a place of worship may only operate:
 - Monday to Thursday: 6am 10pm.
 - Friday and Saturday: 7am 12am.
 - Sunday: 8am 9pm.
 - 6) Except with the written consent of the Responsible Authority, a maximum of 170 patrons associated with the use of the land for a place or worship are permitted on the land at any time.
 - 7) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
 - 8) Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.



- 9) No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes at any time without the written consent of the Responsible Authority.
- 10) All waste material not required for further onsite processing must be regularly removed from the subject land. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
- All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
- 12) External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
- 13) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
- 14) No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

Buildings and Works

- 15) Before the development starts by such later date as is approved by the Responsible Authority in writing:
 - a) a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted to and approved by the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
 - b) a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard Pruning of Amenity Trees AS4373-2007.
 - c) A fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street tree/s nominated to be removed for the development. Replacement will be undertaken by Council contractors within the streetscape in the next planting season.
- 16) Before the development is occupied or by such later date as is approved by the Responsible Authority in writing:
 - a) all proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.



- a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
- c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
- d) A report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Management Plan and the associated details on the approved plans, have been implemented in accordance with the Sustainable Management Plan and approved plans.
- 17) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Arboricultural Assessment prepared by Shane Laszczyk Arbor Advocacy Dated 30 June 2020.
- 18) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for vehicles or pedestrians.
- 19) The development must be constructed in accordance with the requirements, recommendations and details of the Sustainable Management Plan to the satisfaction of the Responsible Authority, and the associated details shown on the approved plans.

Commencement of Use

- 20) Before the use commences, as defined by the issue of a Certificate of Occupancy under the Building Act 1993, the following must be satisfied:
 - a) All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed in accordance with approved plans, drained and the parking areas delineated to the satisfaction of the Responsible Authority.
 - b) A bin storage area must be provided and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) The outfall drainage for the development must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
- 21) The use and development must be managed so that the amenity of the area is not detrimentally affected through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.

To the satisfaction of the Responsible Authority.

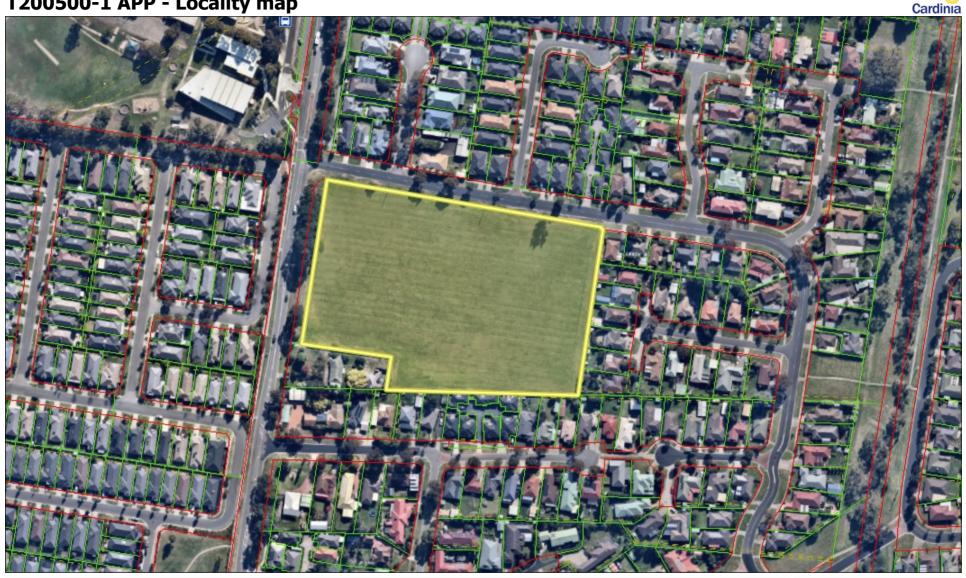
22) The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.



- 23) The areas shown on the endorsed plans for access and car parking must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority. Access ways must be in accordance with Clause 52.06 of the Cardinia Shire Planning Scheme.
- 24) The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
- 25) All wastewater from the proposal must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
- 26) Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
- 27) The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.
- 28) Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 29) Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
- 30) Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

T200500-1 APP - Locality map





127.0 20-May-2021 63.50 127.0 Meters Notes 1: 2,500 Data Source State & Local Government. © CARDINIA SHIRE COUNCIL

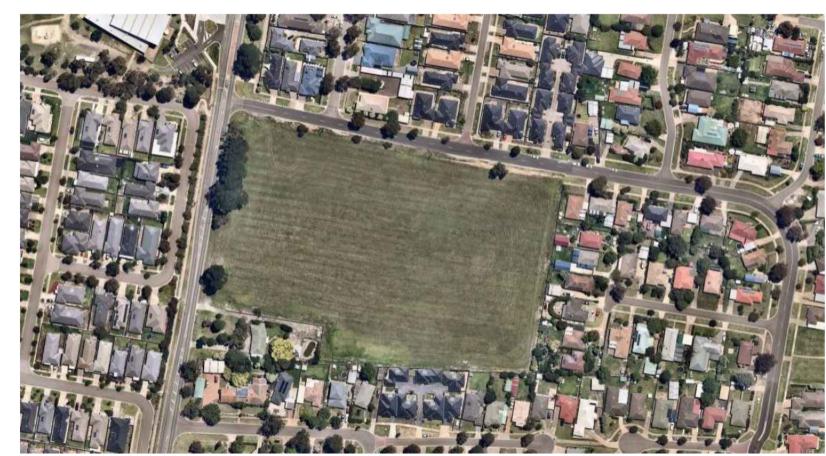
ATTACHMENT 5.4.2 TOWN PLANNING COMMITTEE MEETING 7 JUNE 2021

PROJECT No. 40020 NEW PAKENHAM MEETING HOUSE FOR THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS LOT 1, ARMY ROAD, PAKENHAM VIC 3810

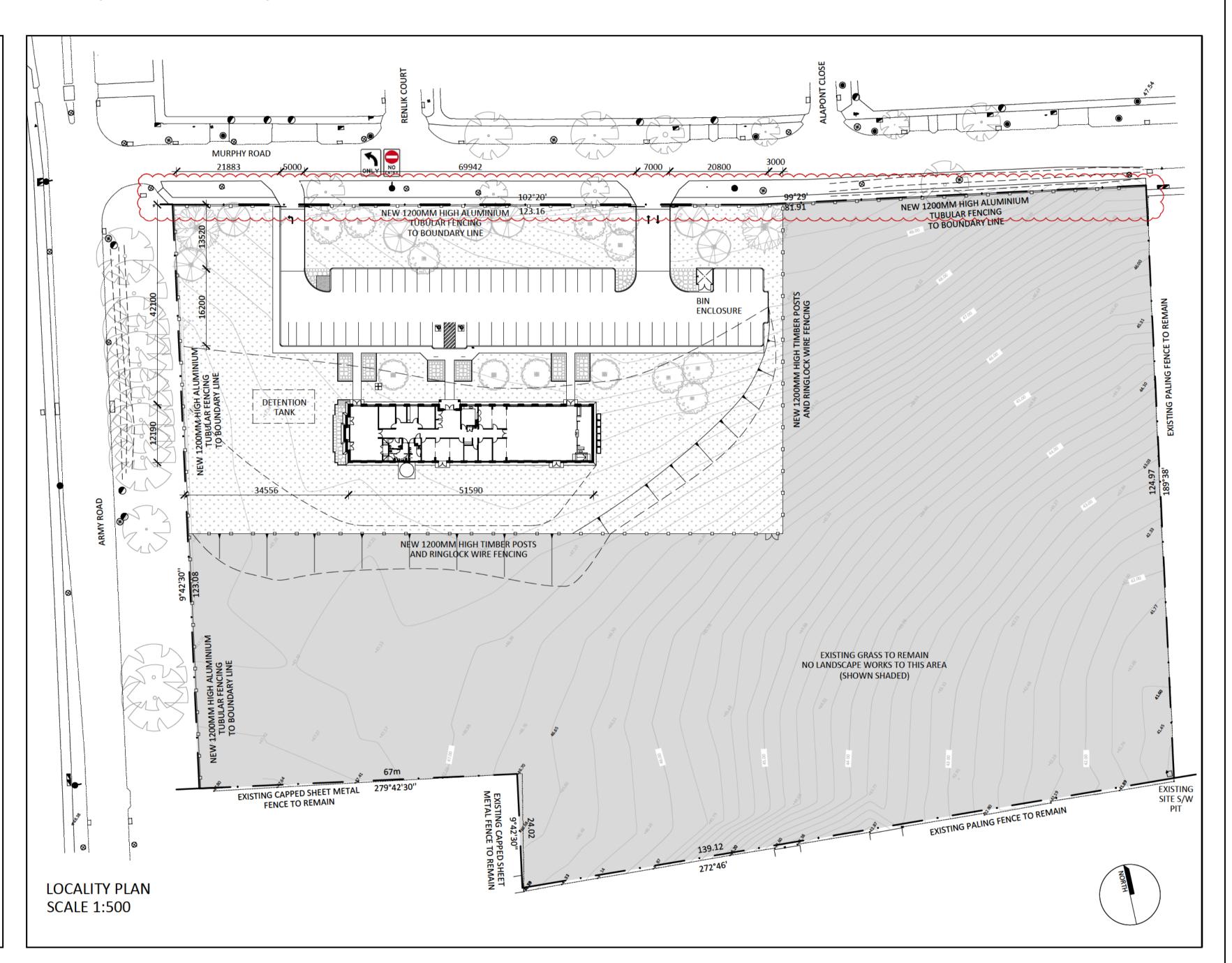
DRAWING SCHEDULE

NOT TO SCALE

ARCHITECTURAL				
TP-00	1:500	COVER SHEET		
TP-01	1:250	PROPOSED SITE PLAN		
TP-02	1:100	PROPOSED FLOOR PLAN AND ROOF PLAN		
		PROPOSED ELEVATIONS		
TP-03	1:100	PROPOSED SECTIONS		
TP-04	1:100	MATERIALS AND FINISHES		
TP-05	N/A	FENCING DETAILS		
TP-06	1:10	SHADOW DIAGRAM FOR 9 a.m.		
TP-07	1:200	ON 22 SEPTEMBER (EQUINOX)		
		SHADOW DIAGRAM FOR 12 p.m.		
TP-08	1:200	ON 22 SEPTEMBER (EQUINOX)		
		SHADOW DIAGRAM FOR 3 p.m.		
TP-09	1:200	ON 22 SEPTEMBER (EQUINOX)		



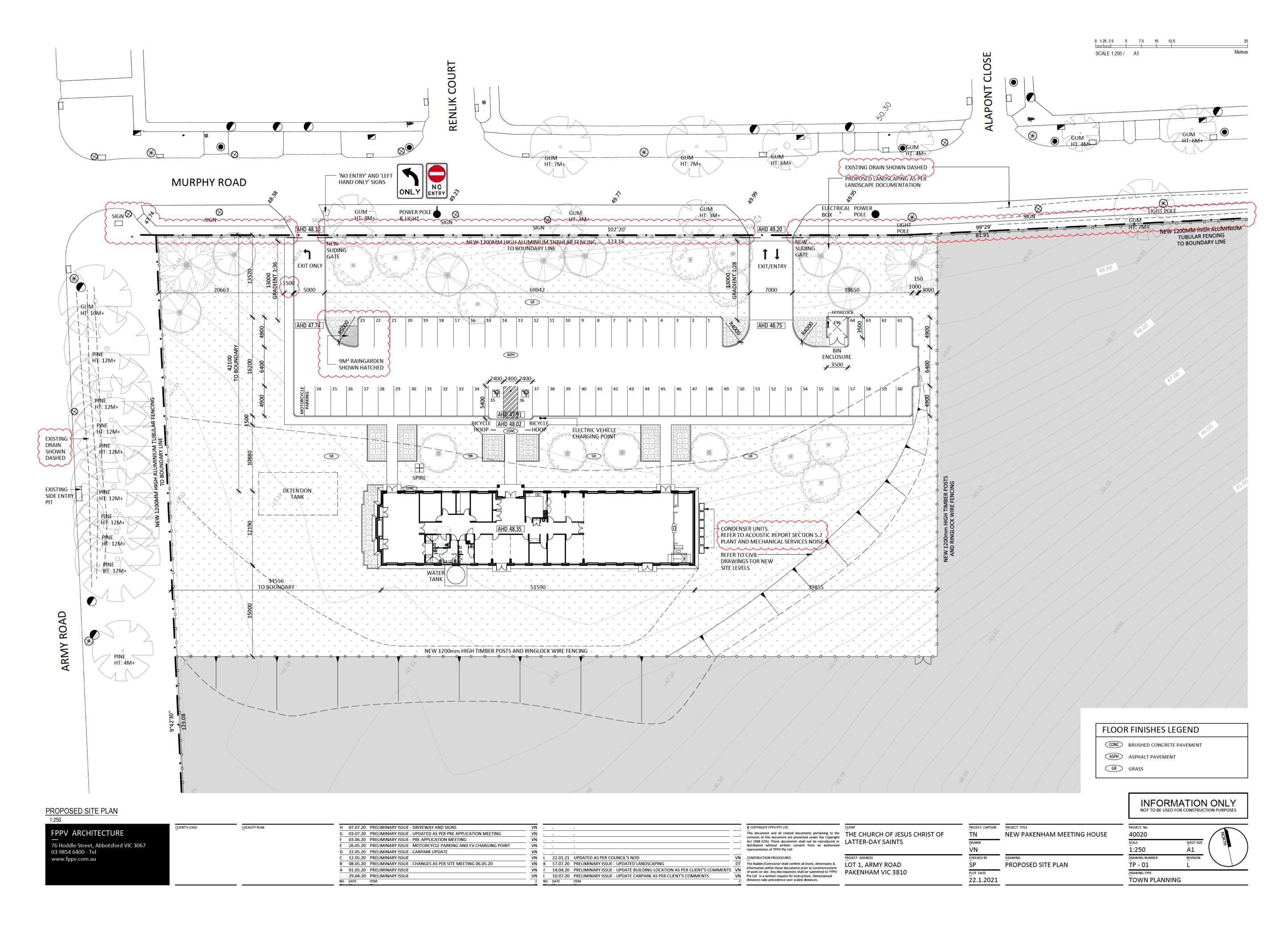
ARIEL PHOTO OF SITE

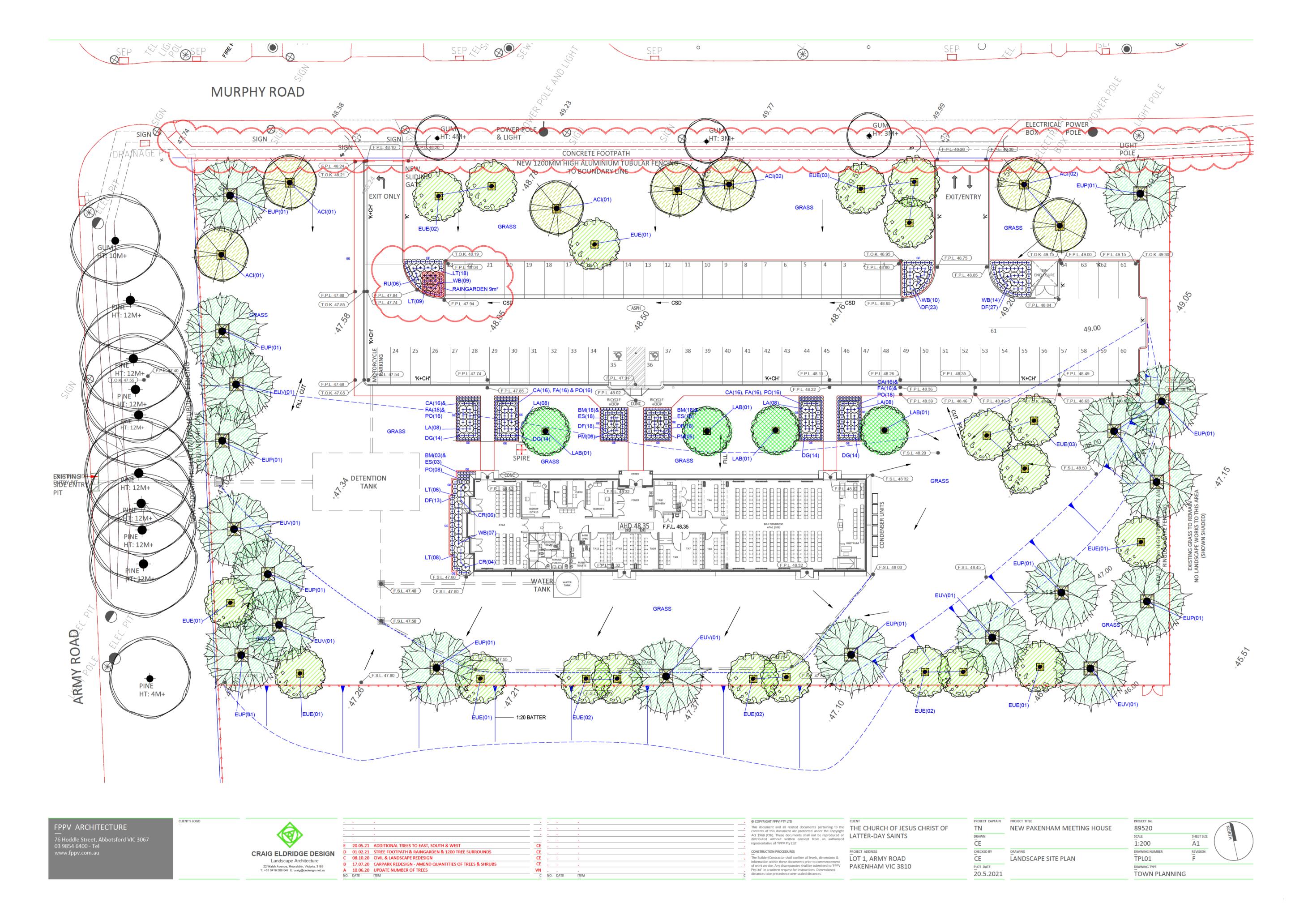


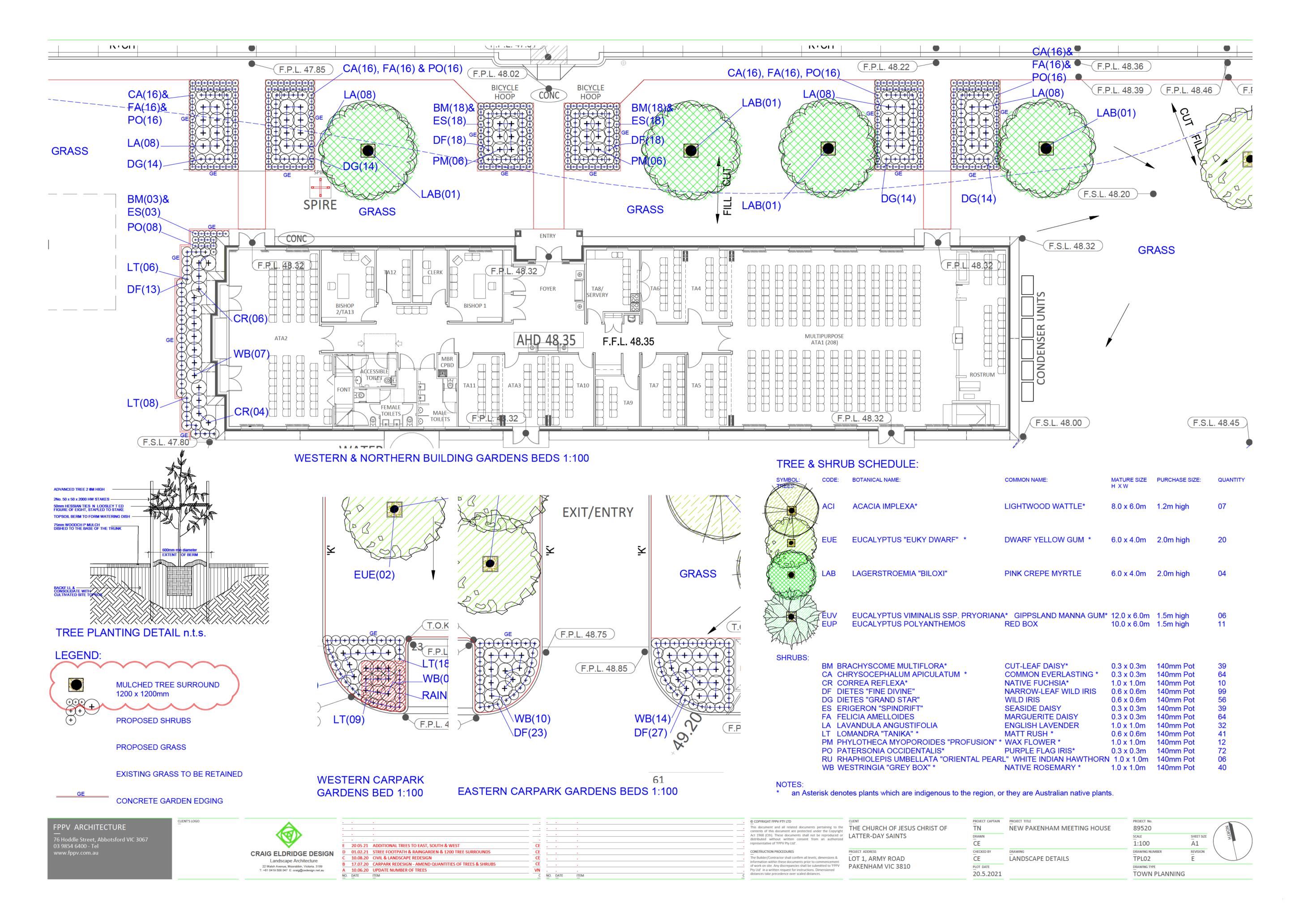
INFORMATION ONLY NOT TO BE USED FOR CONSTRUCTION PURPOSES

FPPV ARCHITECTURE

Town Planning Committee Meeting 7 June 2021







Town Planning Committee Meeting 7 June 2021

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TOWN PLANNING COMMITTEE MEETING 7 JUNE 2021

ATTACHMENT 5.4.2

