

5 Ordinary Business

5.1 T220208 - Use and Development of a Place of Worship at 14 O'Sullivan Street Pakenham - July 2023

File Reference:	{file-reference}
Responsible GM:	Lili Rosic
Author:	Frances Stipkovic

Recommendation(s)

That Council refuse to grant Planning Permit T220208 for the use and development of a Place of Worship at Lot 17 PS747005 known as 14 O'Sullivan Street, Pakenham VIC 3810 on the following grounds:

- 1) The proposal is incompatible with the industrial location, sought to be protected by:
 - a. Clause 33.01 Industrial 1 Zone
 - b. Clause 11.02-6S (Regional and Local Places Planning)
 - c. Clause 13.07-1S (Land use compatibility
 - d. Clause 17.03-2S (Sustainable Industry)
 - e. Clause 17.03-3S (State-significant Industrial land), and
 - f. Clause 21.04-4 (Industry)
- 2) The proposal undermines the protection of State-significant Industrial land, sought to be protected by Clause 17.03-3S (State significant Industrial land).
- 3) Built form outcomes are contrary to the industrial area and do not provide functionality or adaptability, as sought by:
 - a. Clause 15.01-1S (Urban Design)
 - b. Clause 15.01-2S (Building Design)
 - c. Clause 21.06-1 (Urban Design)
- 4) The proposed site has limited accessibility, contrary to Clause 19.02-4S (Social and Cultural Infrastructure) and Clause 21.05-6 (Community services and facilities).
- 5) The proposal does not appropriately respond to Clause 65 Decision Guidelines of the Cardinia Planning Scheme.

Attachments

- 1. T 220208 PA Locality Map [**5.1.1** 1 page]
- 2. T 220208 PA Development Plans [5.1.2 6 pages]

Executive Summary

APPLICATION NO.:	T220208
APPLICANT:	Glory Architecture
LAND:	Lot 17 PS747005 14 O'Sullivan Street, Pakenham VIC 3810



PROPOSAL:	Use and development of the land for a Place of Worship		
PLANNING CONTROLS:	Clause 33.01 - Industrial 1 Zone (IN1Z)		
NOTIFICATION & OBJECTIONS:	The proposal was advertised pursuant to Section 52 of the <i>Planning and Environment Act</i> 1987. To date, zero (0) objections have been received		
KEY PLANNING CONSIDERATIONS:	Appropriateness of use within state significant industrial land. Built Form Outcomes		
RECOMMENDATION:	Refusal		

Background

T220208 was lodged in March 2022, with the Planning Officer requiring further information (and highlighting some concerns with the proposal) via a "Request for Further Information" in May 2022.

A response to Council's Request for Further Information was lodged in June 2022. External referral responses (Transport for Victoria) were received in July 2022.

The application proceeded to notice (advertising) in October 2022, with a Statutory Declaration confirming notification was actioned appropriately in November 2022. No objections have been received at the time of writing this report.

As the Officer Recommendation recommends refusal of the application, the application is required to proceed to a Council Meeting for a decision.

The application was most recently heard at Council's Town Planning Committee Meeting on 1 May 2023, where it was decided to defer consideration of the application for two (2) months. There have been no relevant changes to the Cardinia Planning Scheme, site context or the application material since this meeting.

Subject Site

The site is located on the eastern side of O'Sullivan Street, located within both an established and emerging 'triangular' industrial area in the south-east of Pakenham bounded by:

- Railway Line 530m to the north
- Pakenham Bypass 450m to the south and further east
- Racecourse Road 220m to the west

The site is located centrally on O'Sullivan Street, with the O'Sullivan Street / Bald Hill Road intersection to the north, and the O'Sullivan / Peet Street intersection to the south. O'Sullivan Street runs generally north-south and includes a pedestrian footpath on the eastern boundary adjacent to the property boundary of the subject site.

The rectangular 3,746m2 site has a 38m frontage to O'Sullivan Road and 98.59m side boundaries and is generally flat, and currently void of any substantial information as the site is cleared and ready for development.



The surrounding land includes a mix of developed sites, sites under construction or vacant sites. The developed sites reflect the industrial zoning of the site, with a mixture of multi-unit industrial factorette / warehousing complexes, interspersed with larger individual industrial / warehousing buildings.

Industry, warehousing and restricted retail business listed typologies within the vicinity include hardware, acrylic warehousing, art supplies, distillery, farm equipment, animal feed stores, plumbing supplies, lighting supplier, furniture warehousing, automotive parts, Kennards Hire, Camper and Caravan sales.

Dominant built form characteristics reflect a typical industrial and warehousing precinct, including large 'boxy' built form to allow ease-of-use and access for large vehicles and transferrable business opportunities. Built form generally extends through the site, with small landscaping buffers at the street front, with car parking opportunities to the front, side and rear.



Figure 1 - Subject Site (Nearmap, accessed February 2023)





Figure 2 - Subject site and wider surrounds (Nearmap, accessed February 2023)

Registered Restrictions

Section 173 Agreement AD662045K is registered on title and requires the provision of water supply and sewerage through South East Water. The Agreement further imposes drainage requirements including payment of contributions to Melbourne Water. The Agreement further requires land consolidation prior to the issuing of a Statement of Compliance.

Section 173 Agreement AU853697B is registered on title and prohibits the further subdivision of Lot 6 on Plan of Subdivision 747005 (subject site is Lot 17).

The proposal will not result in a breach of either Agreement.

Proposal

Approval is sought for the use and development of the land for a Place of Worship (Church).

It is acknowledged several errors and conflicting information is provided within the application material. For clarity, therefore, the Officer's assessment / calculations of the proposal detailed in this report may conflict with the written submission provided by the applicant.

<u>Use</u>

Sought opening hours and capacity regards:

- Monday Friday: 4:00PM 8:30PM, maximum of 50 patrons and 4 staff at any one time
- Saturday Sunday: 8:00AM 8:30PM, maximum of 200 patrons and 10 staff at any one time

Associated with the place of worship, administrative tasks will be undertaken on site, small group gatherings and 'special interest group' meeting opportunities.

Development

The built form is to be located near to the south-east corner of the site, with the predominant area of car parking to be located within the frontage of the site.



The double-storey built form is to have an overall floor area of 1,232m2, and will have an overall building height of 10.5m2 at its highest point but it is acknowledged the built form has a varied roofline.

The 887m2 ground floor is to incorporates a large stage and stadium area of 21m x 16m (336m2), with 5 separated rooms to be used for various related activities accessed off an entryway lobby area, as well as kitchen and bathroom facilities.

The 345m2 upper floor, accessed via an internal stairwell, incorporates two separated rooms and a large void above the stage/stadium area below.

External materials, colours and finishes include grey and light Gray rendered concrete, timber look composite cladding, dark red wall cladding and monument colorbond roofing.

Car Parking, Access and Landscaping

The existing crossover is to be modified to result in two access points, with a proposed 74 car parks to be provided (46 to the front of the building, 28 to the side and rear) inclusive of two access points. Landscaping pockets are provided along property boundaries.



Figure 3 - Ground Floor Site Plan

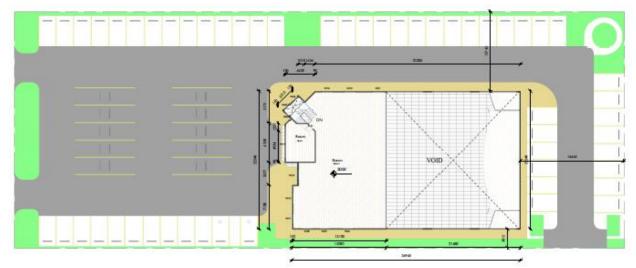


Figure 4 - Upper Floor Plan



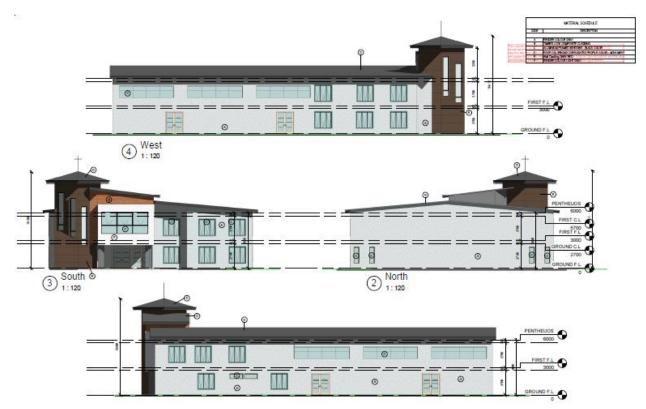


Figure 5 - Elevation Plans (noting elevation labels are incorrect).

Planning Scheme Provisions

The relevant clauses of the PPF are:

- Cause 11.01-1S Settlement
- Clause 11.02-6S Regional and Local Places
- Clause 13.05-1S Noise management
- Clause 13.07-1S Land use compatibility
- Clause 15.01-1S Urban Design
- Clause 15.01-2S Building design
- Clause 17.03-2S Sustainable industry
- Clause 17.03-3S State significant industrial land
- Clause 19.02-4S Social and cultural infrastructure

The relevant clauses of the LPPF are:

- Clause 21.04-4 Industry
- Clause 21.06-1 Urban design
- Clause 21.05-6 Community services and facilities

The relevant Particular and General Provisions are:

- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

Planning Permit Triggers

The proposal for the use and development of land for a Place of Worship requires a planning permit under the following clause of the Cardinia Planning Scheme:

• Pursuant to Clause 33.01-1 of the Industrial 1 Zone, a permit is required to use the land for a Place of Assembly (Place of Worship) being a Section 2 – Permit Required use.



• Pursuant to Clause 33.01-4 of the Industrial 1 Zone, a permit is required to construct a building or carry out works.

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.
- Placing one sign on site.

A statutory declaration has been submitted confirming the completion of public notice.

At the time of writing this report, Council has received zero (0) objections and one submission in support of the application.

Referrals

Internal referrals

No internal referrals were required.

External authorities

One Section 55 referral was required to Transport for Victoria (TfV) who are a determining authority for this matter.

TfV do not object to the granting of any planning permit. No conditions are required to be imposed on any Permit granted.

Discussion

Planning Policy Framework

Several State and Local policies are relevant to this application for use and development of a Place of Worship which must be considered on its merit from a wider strategic perspective at both a Local and State strategic level.

The Local Planning Policy Framework seeks to support and expand on the Planning Policy Framework, including several key policies relevant to this application, and as such this assessment considers 'themes' of policy.

Industry and Land Use Compatibility

<u>Clause 11 Settlement</u> and Clause 11.01-1S Settlement identifies that the structure, function and character of each settlement considers its context and framework. Balancing strategic objectives should result in improved land use and development outcomes at a local level. Clause 11.02-6S Regional and Local Places Planning seeks to facilitate integrated place-based planning by considering characteristics and needs of local places in planning for future land use and development.

<u>Clause 13 Environmental Risks and Amenity</u> identifies that "planning should identify, prevent and minimise the risk of harm to ... amenity through land use and development compatibility." Specifically, Clause 13.05-1S Noise Management seeks to assist the management of noise effects by ensuring that development is not prejudiced. In greater detail, Clause 13.07-1S Land Use Compatibility seeks to protect community amenity, human health and safety while facilitating

appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site



impacts. Applicable strategies include:

- Ensure that use or development of land is compatible with adjoining and nearby land uses.
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively

<u>Clause 17 Economic Development</u> includes Clause 17.03-2S Sustainable industry which seeks to ensure the availability of land for industry, which is supported by strategies such as:

- Protect and carefully plan existing industrial areas to, where possible, facilitate further industrial development.
- Preserve locally significant industrial land for industrial or employment generating uses, unless long-term demand for these uses can be demonstrably met elsewhere.
- Avoid approving non-industrial land uses that will prejudice the availability of land in identified industrial areas for future industrial use.

Additionally, Clause 17.03-3S State Significant Industrial Land seeks to protect industrial land, including the Officer/Pakenham Industrial Precinct by way of ensuring inappropriate and incompatible uses or development does not occur.

<u>Clause 21.04-4 Industry</u> identifies key issues including to develop industry, manufacturing and service industries that provide services to local residents and businesses, supporting employment and a high standard of urban design.

The Place of Worship will provide for cultural and spiritual activities with no link to manufacturing, warehouses or an industrial-type use in the locally and regionally significant industrial precinct.

The site is situated within the centre of an emerging industrial precinct where a lower level of general amenity is expected, particularly from emissions of odour and noise that are not typically experienced in commercial and residential areas.

Through the introduction of a community land use such as that being proposed, a higher likelihood of conflict between existing and future industrial activities is anticipated due to these expectations, undermining the protection of industrial land uses that benefit from as-of right use of the land.

The applicant's submission that *"it is expected that abutting and surrounding properties will be closed on weekends and weekdays after 5PM"* has not been substantiated, and it is acknowledged that weekend trade is possible for some industries however many businesses are typically closed.

The sole objective of Council's local policy (Clause 21.04-4) is to develop manufacturing and service industries that provide services to local residents and businesses, support local employment and reflect a high standard of urban design. The wider scope of all land use strategies generally seeks to limit non-industrial uses, except those undertaken in association with industry.

The precinct benefits from strong freight connectivity due to its proximity to the arterial road networks and Princes Freeway while the site's location enjoys substantial separation from sensitive land uses such as residential areas, emphasising a capacity to accommodate various industries that can otherwise be constrained.



The purpose-built community use has no link to industry or manufacturing and removes the capacity of the site to support the encouraged uses. Furthermore, the introduction of a place of worship undermines the viability of more appropriate land uses locating in the precinct and increases the likelihood of conflict.

As a result, the proposal is fundamentally inconsistent with the objective and key strategies of these policies which directs for the need to protect land from encroachment and incremental erosion by inappropriate land uses and development.

Much of the policy direction and consideration has been substantiated through VC215 (March 2023), providing additional clarity on the importance of supply, protection and enhancement of industrial land.

As such, the proposal is considered incompatible with this industrial location.

Built Form

<u>Clause 15 Built Environment and Heritage</u> broadly seeks to *"recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods"* via ensuring that planning respects existing and preferred built form and streetscape character, and results in functional, accessible, safe and diverse physical and social environments.

Clause 15.01-1S Urban Design has an objective to *"to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity."* Further, Clause 15.01-2S Building Design seeks to *"achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development."* A number of similar strategies overarchingly seek for development to minimise impact of development on neighbouring properties and the public realm, and to encourage development to retain existing vegetation.

Additionally, Clause 21.06-1 Urban Design seeks for "long term benefits" of good design, resulting in more attractive, functional and sustainable built environments. It is noted that "Good design is based on the principle of being site responsive, designing to take into account the character and constraints of a site and wider area" and a key issue is identified as a need to enhance the design and built form of industrial areas. The relevant objective is "to promote a high standard of design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety" by way of strategies including:

- Ensure that all development takes into account the character and constraints of the site and wider area.
- Ensure development contributes to the character, identity and sense of place of the area, particularly in newly developing areas.
- Ensure new development is designed to address public spaces and enhance the public realm.
- Maintain and improve the appearance and function of industrial precincts by ensuring high quality urban design including site layout, streetscape, building design and landscaping.
- Ensure that landscaping areas within development are adequately maintained to enhance the appearance of the area.

Whilst the built form can be considered appropriate and attractive in its own right, the contextual siting of the built form requires close attention.

These clauses seek for functional design that respects the sense of place and local context of the area in which it sits. "Long term benefits" and "site responsive" design is equally important



in a residential, commercial or industrial setting. However, an industrial setting is unique in that adaptable built form outcomes are required for potential future occupants in years to come.

Site layout and building design in industrial areas should be adaptive to suit a wide range of businesses to future proof and respect the industrial area.

However, the design is unique and specific in its design to accommodate the use sought (Place of Worship) and will be at odds with 'standard' industrial design which incorporates large floor areas, promotes large vehicle movement and generally incorporates high site coverage.

Whilst at a micro level, the design is articulated and attractive, the design is more appropriate for a commercial or residential area (noting community services can be co-located in established and emerging residential areas) and not that of an industrial area.

The design of the built form appears specific to a niche use, and it does not have a lifespan beyond the specific needs of the Place of Worship (or other similar community uses). The high proportion of parking required for this use results in an underutilisation of the site that cannot be resolved through building design alone and will not be appropriate for a large swathe of industrial or warehousing uses in the future.

As such, the built form is not appropriate and does not reflect the emerging and expected built form character of the area and is not adaptable nor functional.

Community Infrastructure and Services

<u>Clause 19 Infrastructure</u>, and in particular Clause 19.02-4S Social and Cultural Infrastructure seeks to provide fairer distribution of and access to, social and cultural infrastructure with relevant strategies including:

- Encourage the location of social and cultural infrastructure in activity centres.
- Ensure social infrastructure is designed to be accessible.

<u>Clause 21.05-6 Community services and facilities</u> also identifies the importance of access to a range of services and facilities and that these are provided in response to community need. Key strategies of this policy seek to:

- Establish community facilities in the most accessible location for local residents having regard to their service catchment.
- Facilitate the establishment of commercial activities (eg: medical practitioners) community based organisations (eg: churches) and early years services (ie childcare) which serve the needs of the community in activity centres and in residential areas where they can be provided in a manner which minimises any impacts on the amenity of the area.

The proposed site is located well beyond the Pakenham Activity Centre in an area that has been strategically considered for industrial activity due to the location outside residential catchments yet relative proximity to the arterial road network.

As such, the site has very limited accessibility. Given the locational attributes in conjunction with the proposed evening/weekend operation, accessibility is significantly prejudiced by such a location.

Due to the collective benefits provided by community uses such as Places of Worship, the land use and community would benefit from an area that has been designed with greater transport integration, services and infrastructure.

Industrial 1 Zone



The purpose of the zone is to implement the Municipal Planning Strategy and the Planning Policy Framework. It also seeks to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

The table of uses contained in this provision list Place of Worship (identified under Place of Assembly) as a Section 2 use, where planning permission is required. In addition, buildings and works also require planning approval under the zone.

The relevant decision guidelines for the assessment of use and buildings and works applications under the zone require the consideration of:

The Municipal Planning Strategy and the Planning Policy Framework.

The most applicable policies that support this zone are discussed above, identifying concerns of the proposals response to various policies that seek to protect industrial areas from inappropriate and conflicting land uses, and built form outcomes reflecting an industrial character.

For reasons outlined in the above chapter, the proposal is considered inconsistent with the purposes, objectives and key strategies identified within the Planning Policy and Local Planning Policy Framework.

The effect that nearby industries may have on the proposed use.

The precinct is developing with recent examples of warehousing and industry uses reflecting the vision for the important industrial precinct. It is noted that many industry uses do not require planning permission in this precinct and therefore a complete register of these land uses and their proximity to the site is not available.

Due to the primary function of the area, there is a higher likelihood of off-site impacts to more sensitive land uses such as a Place of Worship.

The availability of and connection to services.

It is understood all necessary services are available to the property.

The effect of traffic to be generated on roads.

Whist the proposal satisfies technical parking requirements, the out-of-centre location and limited public transport options is expected to place emphasis on private vehicle use. Noting this type of land use attracts a higher number of visitors to the site (particularly on weekends), it is considered that the surrounding road network can accommodate the associated vehicle movement. It is further noted that the peak periods for the proposed Place of Worship will occur on weekends (maximum 200 patrons) however many surrounding businesses are unlikely to be operating during this time.

Built form, parking and landscaping

For reasons outlined above when assessing the Planning Policy Framework and Local Planning Policy Framework in relation to built form outcomes, a warehouse-style built form is proposed to better integrate with the precinct and provide some degree of utility beyond its intended purpose for a Place of Worship.

Particular and General Provisions

Several particular and general provisions are required to be considered.



Clause 52.05 Signs

For clarification purposes only, the planning application does not seek permission for any signage pursuant to Clause 52.05 Signs, and no detail is provided on plans.

As such, it is considered that signage does not form part of this proposal.

Clause 52.06 Car Parking

The purpose of Clause 52.06 is 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 car parking requirements for the proposal.

A planning permit is otherwise required to reduce the number of parking spaces required.

The car parking requirements for the proposal are outlined in Clause 52.06-5 are as following:

Туре	Rate	Parking required
Place of Assembly	0.3 spaces to each patron permitted	200 max patrons x 0.3 spaces
	Total required	60 spaces

As the maximum patronage on site at any one time is 200, the resulting car parking requirement is 60 spaces. As 74 car parking spaces are provided, the proposal meets the required car parking provision.

Additionally, the development satisfies all Design Standards for access, parking space dimensions and urban design.

However, as detailed above, concerns are raised with the overprovision of car parking at the lack of landscaping opportunity throughout the site which could otherwise provide amenity benefit to the site.

Clause 53.18 Stormwater Management and drainage infrastructure

The purpose of Clause 53.18 is to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

It is acknowledged that if a permit were to be issued, suitable conditions could be placed on the permit to capture relevant information and requirements regarding stormwater management.

Clause 65 Decision Guidelines

Before deciding on an application, Clause 65 requires to be given to the planning policy framework, the purpose and any other matters required to be considered by a zone or other provision and the impacts a use will have on current and future development and operation of the transport system.

As highlighted in the policy response and the assessment against the zone, the proposal is not considered appropriate for the site and does not reflect orderly planning for an emerging industrial precinct.



Conclusion

An application seeking to use and develop land for a Place of Worship is required to appropriately respond to purposes, objectives, strategies and decision guidelines of wideranging Planning Policy Framework and Local Planning Policy Framework considerations, as well as zoning controls and Particular and General Provisions of the Cardinia Planning Scheme.

The proposal will result in the introduction of a community service/facility at odds with policy direction for the site located within the Industrial 1 Zone, limiting and negating any perceived community benefit.

Community services of a religious and cultural nature are encouraged within the Cardinia Planning Scheme, however are directed to be located in appropriate locations. The proposal is at odds with the Industrial 1 Zone and relevant planning policy and is likely to operate in an increased risk area in terms of amenity outcomes, whilst the built form and extensive car parking is at odds with the emerging character of the area, and is not adaptable, functional or 'future proofed' for other industrial or warehousing needs.

The land use and built form conflict may impact the productivity and functionality of the industrial precinct and is inconsistent with various key policies and provisions of the Cardinia Planning Scheme.

As such, it is recommended that Council refuse to grant a planning permit for T220208 for the use and development of a Place of Worship.

TOWN PLANNING COMMITTEE MEETING 3 JULY 2023



PROPOSED NEW CHURCH

PROJECT DETAILS:

PROJECT : PROPOSED NEW CHURCH

CLIENT : Owner

- ADDRESS: 14 OSULLIVAN STREET PAKENHAM VIC 3810
- **JOB No.** : 2111.11
- **STATUS :** Project Status

DATE : 25/3/2022

PAGE

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I.			REV DATE DESCRIPTION	DRAWING REVISIONS / ISSUE	DRAWING STATUS				
		MINAMOSAAD	Builder:			CONTRACTOR MUST VERIFY ALL DIMENSIONS			
	K					AND LEVELS AT THE JOB PRIOR TO COMMENCING			
		REGISTERED BUILDING DESIGNER DP-AD 43733				ANY WORK OR MAKING ANY SHOP DRAWINGS.			
	RCHITECTURE					DO NOT SCALE DRAWINGS.			
		0452 424 045 mina@gloryarchitecture.com.au				ALWAYS USE WRITTEN DIMENSIONS.			
COPYRIGHT © GLORY ARCHITECTURE This drawing is copyright and the property of Glory Architecture It shall not be lent, copied, reproduced, or used									

14 OSULLIVAN STREET PAKENHAM VIC 3810

DESCRIPTION

DEVELOPMENT SUMMARY SITE CONTEXT PLAN SITE & GROUND FLOOR PLAN FIRST FLOOR PLAN **ELEVATIONS** SHADOW DIAGRAM

ORIENTATION PROJECT TRUE NORTH NORTH PROJECT

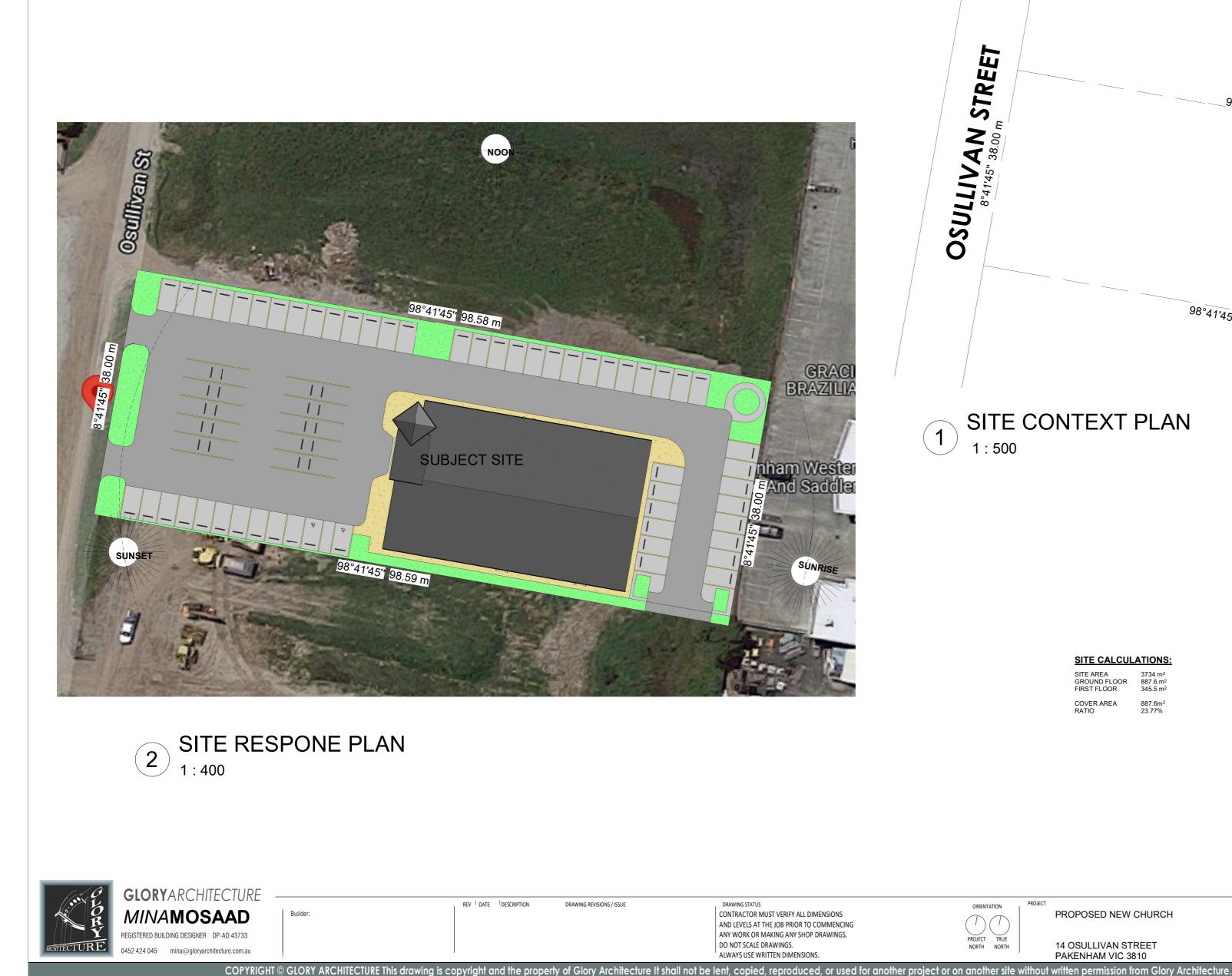
PROPOSED NEW CHURCH

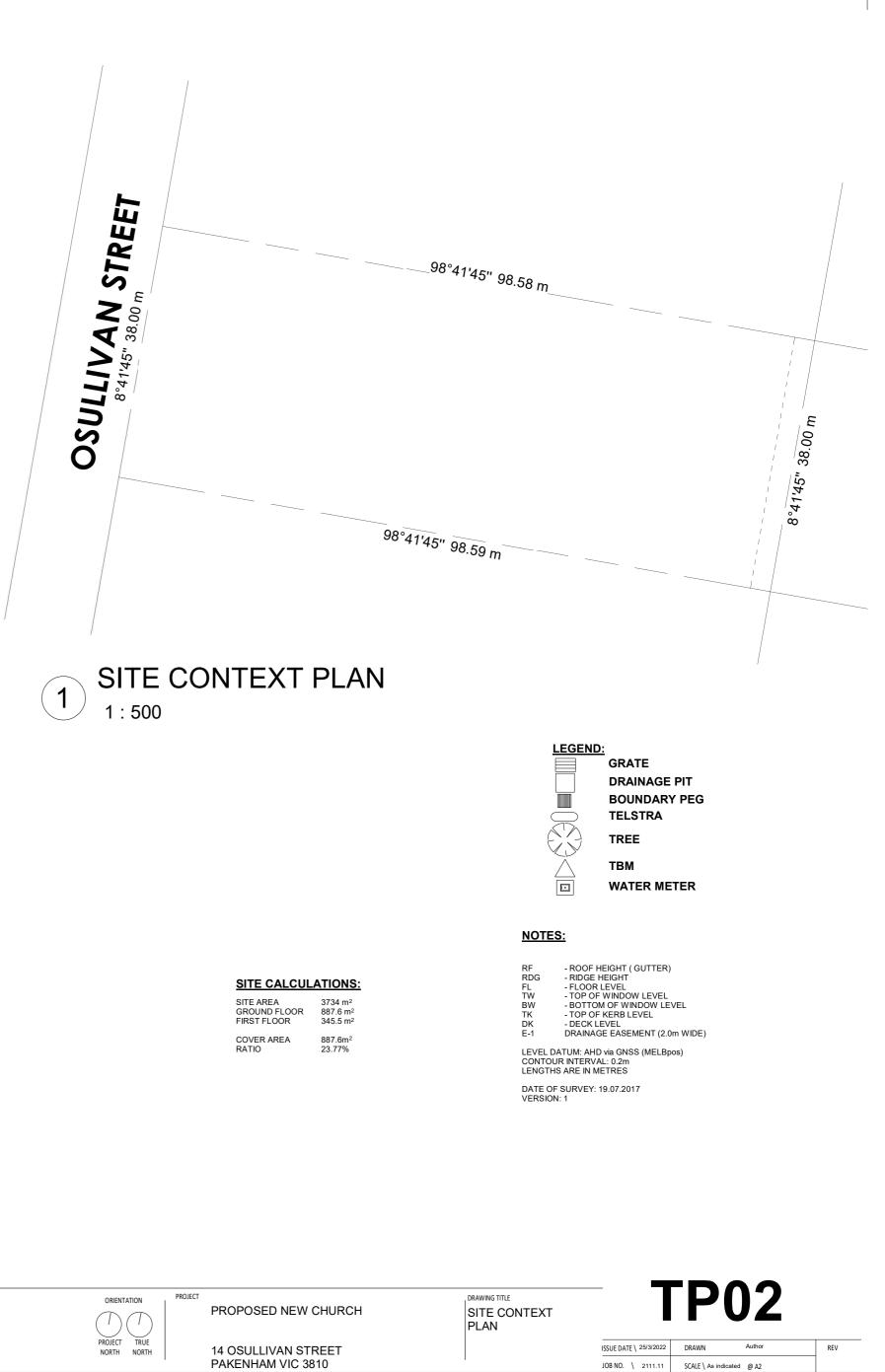
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TP01

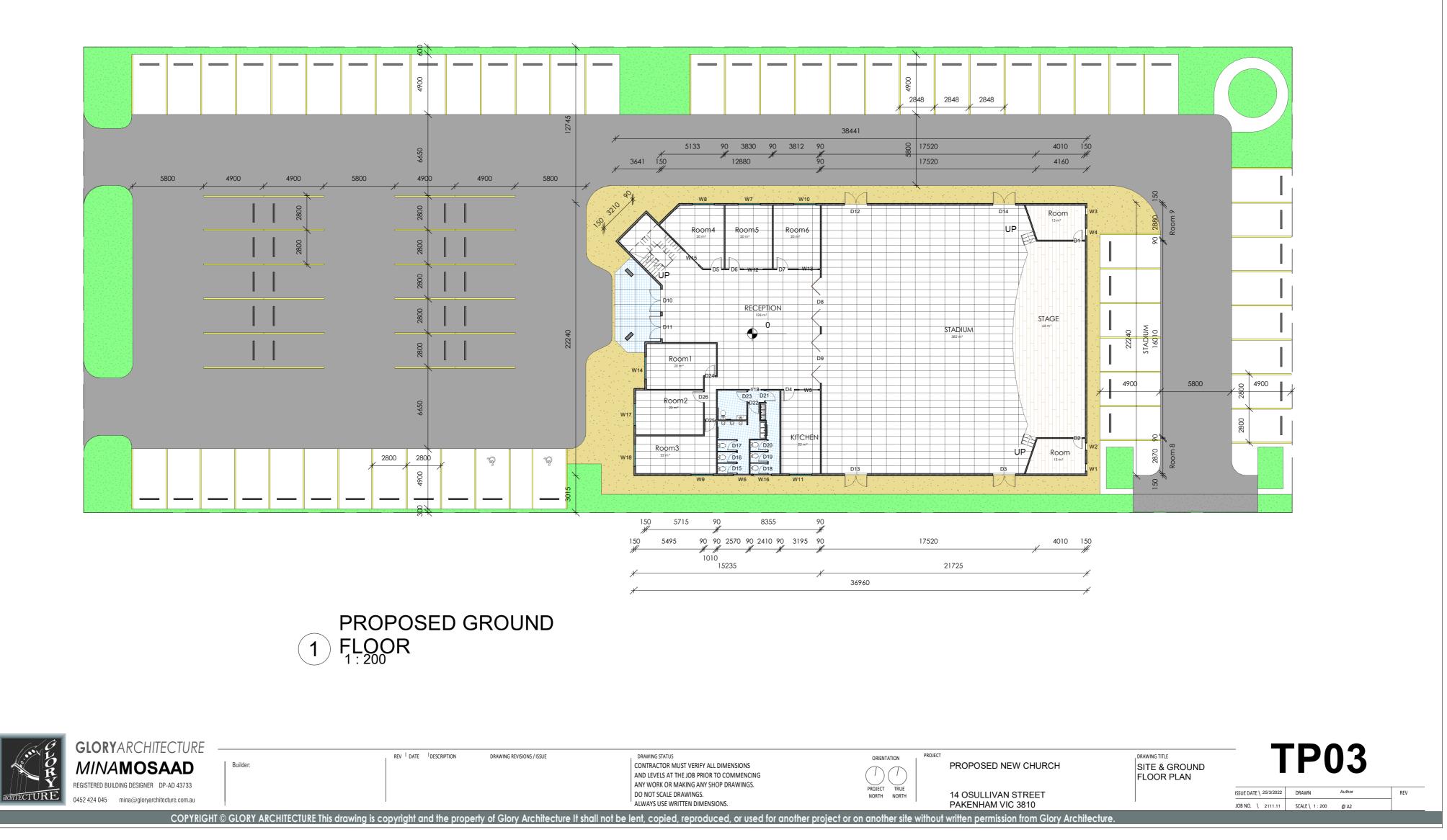
ISSUE DATE \ 25/3/2022 DRAWN Author JOB NO. \ 2111.11 SCALE \ @ A2

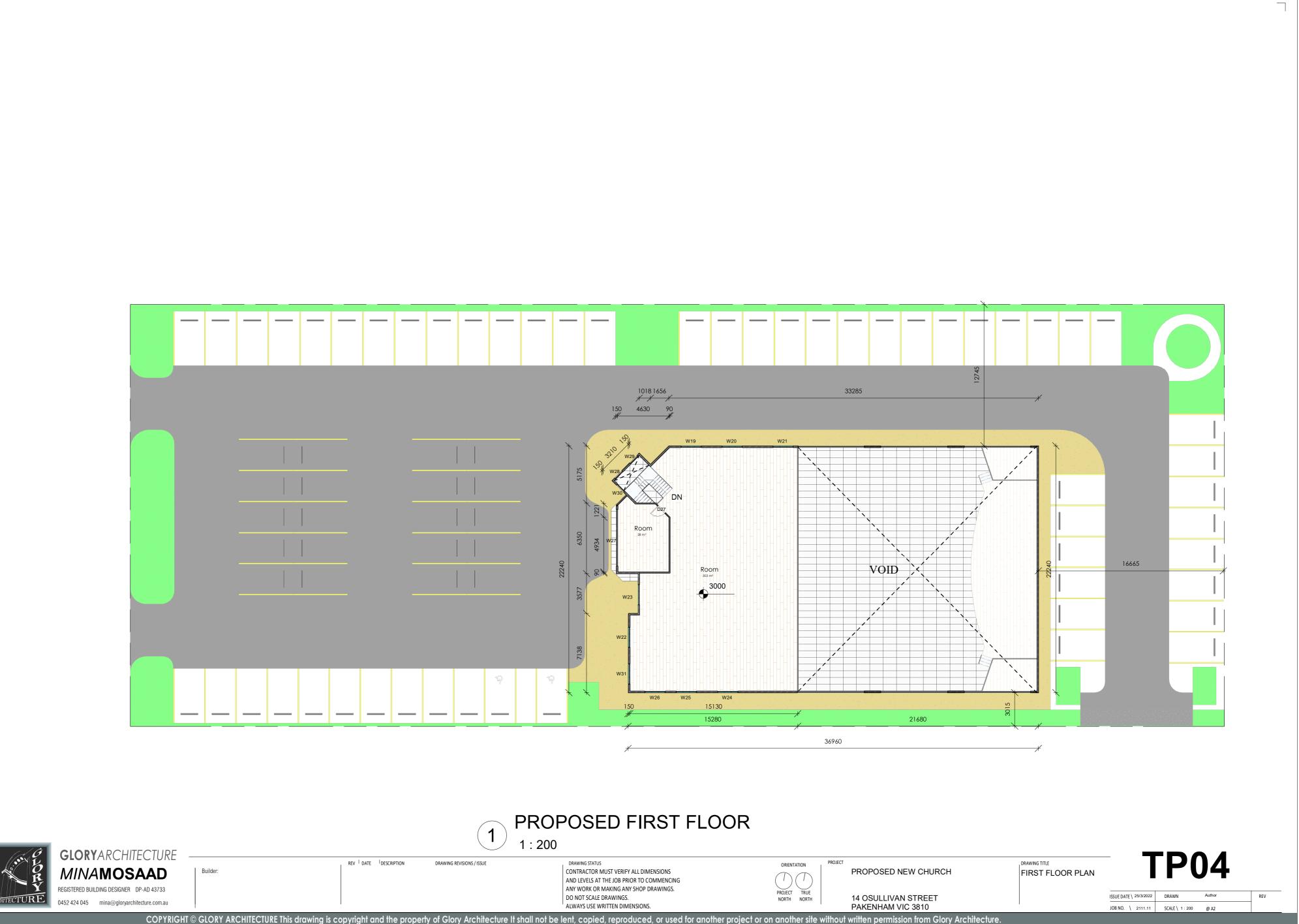
14 OSULLIVAN STREET PAKENHAM VIC 3810 for another project or on another site without written permission from Glory Architecture REV





JOB NO. \ 2111.11 SCALE \ As indicated @ A2







ATTACHMENT 5.1.2

