
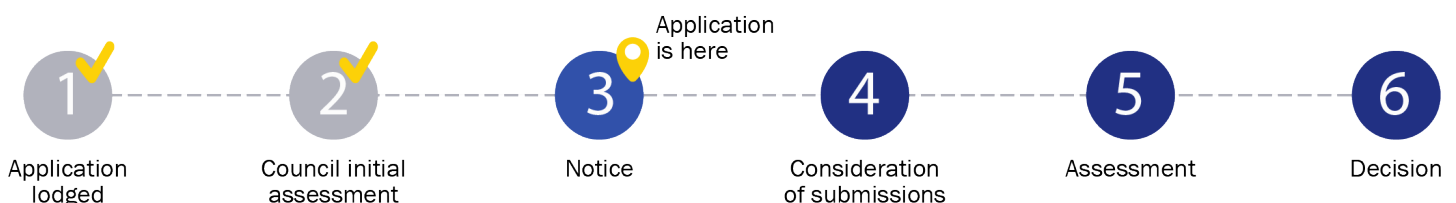


Notice of an Application for an Amendment to a Planning Permit

The land affected by the application is located at:	L4 PS435535 V12384 F413 74 Princes Highway, Pakenham VIC 3810
The application is to:	Amendments to Planning Permit T000898 (Issued for the Use and development of the land for seven (7) convenience restaurants, sale and consumption of liquor, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1) to amend Condition 14 to increase operational hours to 6.00am until 12.00am (the next day) – Sunday to Saturday (7 days a week).

APPLICATION DETAILS	
The applicant for the amendment to the permit is:	SLR Consulting Australia Pty Ltd
Application number:	T000898 - 4
<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 cardinia.vic.gov.au/advertisedplans or by scanning the QR code.</p>	

HOW CAN I MAKE A SUBMISSION?		
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:		24 January 2025
<p>WHAT ARE MY OPTIONS?</p> <p>Any person who may be affected by the proposed amendment to permit may object or make other submissions to the responsible authority.</p> <p>If you object, the Responsible Authority will notify you of the decision when it is issued.</p>	<p>An objection must:</p> <ul style="list-style-type: none"> • be made to the Responsible Authority in writing; • include the reasons for the objection; and • state how the objector would be affected. 	<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>



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ePlanning

Amendment Summary

Portal Reference	M32410EZ
Reference No	T000898 - 3

Basic Information

Proposal Type	Change Of Use, Advertising Has Occurred
Proposed Use	Use and development of the land for seven (7) convenience restaurants, sale and consumption of liquor, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1, generally in accordance with the substituted plans known as TP1.P and TP2-J and the endorsed plans.
Current Use	Convenience Restaurant.
Cost of Works	\$50,000
Amended Cost of Works	\$0
Amendments	Permit Conditions
Proposed Changes	This application seeks approval to amend Condition 14 of the permit, seeking the following amendments to operational hours: Approved Hours: 7.00am until 11.00pm â€” Sunday to Thursday; and 7.00am until 12.00am (the next day) â€” Friday to Saturday. Proposed Hours 6.00am until 12.00am (the next day) â€” Sunday to Saturday (7 days a week).
Site Address	88-90 & 82-86 & 76-80 & CM1 PS435535 & 74 Princes Highway and 1 Deveney Street Pakenham VIC 3810

Contacts

Type	Name	Address	Contact Details
Applicant	[REDACTED] SLR Consulting Australia Pty Ltd	10/8-14 Kings Road, New Lambton NSW 2305	W: 0413-474-032 M: 0413-474-032 E: gmoses@slrconsulting.com
Owner	[REDACTED]		
Preferred Contact	[REDACTED] SLR Consulting Australia Pty Ltd	10/8-14 Kings Road, New Lambton NSW 2305	W: 0413-474-032 M: 0413-474-032 E: gmoses@slrconsulting.com

Fees

Regulation Fee Condition	Amount	Modifier	Payable
11 - Class 2 Amendment to a permit (other than a permit to develop land for a single dwelling per lot or to use and develop land for a single dwelling per lot or to undertake development ancillary to the use of land for a single dwelling per lot) to change the statement of what the permit allows or to change any or all of the conditions which apply to the permit.	\$1,453.40	100%	\$1,453.40
Total			\$1,453.40



Civic Centre
20 Siding Avenue, Officer, Victoria

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

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

Email: mail@cardinia.vic.gov.au


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

Documents Uploaded


Date	Type	Filename
03-09-2024	Additional Document	Planning Report - 74 Princes Highway Pakenham.pdf
03-09-2024	Additional Document	Acoustic Report - 74 Princes Highway Pakenham.pdf
03-09-2024	Additional Document	Certificate of Title - 74 Princes Highway Pakenham.pdf

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

Lodged By

Site User	 SLR Consulting Australia Pty Ltd	10/8-14 Kings Road, New Lambton NSW 2305	W: 0413-474-032 M: 0413-474-032 E: gmoses@slrconsulting.com
Submission Date	03 September 2024 - 12:23:PM		

Declaration

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



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Purton Road, Pakenham, Victoria



Postal Address
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P.O. Box 7, Pakenham VIC, 3810
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8.30am-5pm
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After Hours: 1300 787 624
Fax: 03 5941 3784

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

Page 1 of 2

VOLUME 12384 FOLIO 414

Security no : 124120341467L
Produced 03/12/2024 09:31 AM

LAND DESCRIPTION

Lot 4 on Plan of Subdivision 435535H.

PARENT TITLES :

Volume 08429 Folio 818 to Volume 08429 Folio 819

Volume 10640 Folio 410

Created by instrument PS435535H/D2 17/06/2022

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

CARLEI DEVELOPMENTS PTY LTD of 10 530 COLLINS STREET MELBOURNE VIC 3000
PS435535H/D2 17/06/2022

ENCUMBRANCES, CAVEATS AND NOTICES

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

AGREEMENT Section 173 Planning and Environment Act 1987
AV825261R 06/07/2022

DIAGRAM LOCATION

SEE PS435535H FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

Street Address: 74 PRINCES HIGHWAY PAKENHAM VIC 3810

ADMINISTRATIVE NOTICES

NIL

OWNERS CORPORATIONS

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

Page 2 of 2

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS435535H

DOCUMENT END

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Document Type	Plan
Document Identification	PS435535H
Number of Pages (excluding this cover sheet)	4
Document Assembled	03/12/2024 09:31

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PLAN OF SUBDIVISION	Stage No.	LTO use only EDITION 2	PLAN NUMBER PS 435535H
----------------------------	-----------	----------------------------------	----------------------------------

Location of Land
 Parish: NAR NAR GOON
 Township:
 Section:
 Crown Allotment:
 Crown Portion: 9 (PART)

LTO base record: DCMB
 Title References:
 Vol 10389 Fol 401

Last Plan Reference: LOT 4, PS 413099A
 Postal Address: 78 PRINCES HIGHWAY,
 PAKENHAM, 3810.

AMG Co-ordinates: E 366600
 (Of approx. centre of plan) N 5785000 Zone 55

Council Certification and Endorsement

Council Name: SHIRE OF CARDINIA Ref: **3.00/039**

~~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.
 Date of original certification under section 6 26 / 6 / 2000
 3. ~~This is a statement of compliance issued under section 21 of the Subdivision Act 1988.~~

Open Space

(i) A requirement for public open space under section 18 Subdivision Act 1988 ~~has~~ / has not been made.
 (ii) ~~The requirement has been satisfied.~~
 (iii) ~~The requirement is to be satisfied in Stage~~

~~Council Delegate~~
~~Council seat~~
~~Date~~

Re-certification under section 11(7) of the Subdivision Act 1988
 Council Delegate
~~Council seat~~
 Date **19/11/01**

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Vesting of Roads or Reserves	
Identifier	Council/Body/Person
NIL	NIL

Notations

Depth Limitation: Does not apply	Staging This is/is not a staged subdivision Planning Permit No. T000210
THE COMMON PROPERTY IS ALL THE LAND IN THE PLAN EXCEPT THE LOTS	Survey:- This plan is / is not based on survey. To be completed where applicable. This survey has been connected to permanent marks no(s). In Proclaimed Survey Area no.

Easement Information

Legend: E - Encumbering Easement or Condition in Crown Grant in the Nature of an Easement
 A - Appurtenant Easement R - Encumbering Easement (Road)

Easements and rights implied by section 12(2) of the Subdivision Act 1988 apply to all the land in this plan.

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	SEWERAGE SEWERAGE	2	LP 148216 THIS PLAN	LAND IN LP 148216 SOUTH EAST WATER LTD.
E-2	Pipeline, Channel, Carriageway SEWERAGE WATER SUPPLY	3	LP 143719 (Sec 17A Dandenong Valley Authority Act) LP 143719 PS 413099A	Dandenong Valley Authority LAND IN LP 143719 LOT 3 ON PS 413099A
E-3	WAY	SEE DIAG.	THIS PLAN	LOT 1 ON THIS PLAN
E-4	SEWERAGE	0.50	THIS PLAN	SOUTH EAST WATER LTD.
E-5	DRAINAGE	1.83	LP58251	LOTS ON LP58251
E-5 & E-6	SEWERAGE	SEE DIAG.	PS435535H/D2	SOUTH EAST WATER CORPORATION

LTO use only _____
 Statement of Compliance / Exemption Statement

Received


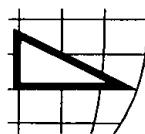
Date **7/13/02**

LTO use only _____
 PLAN REGISTERED
 TIME **2.11**
 DATE **10/4/02**

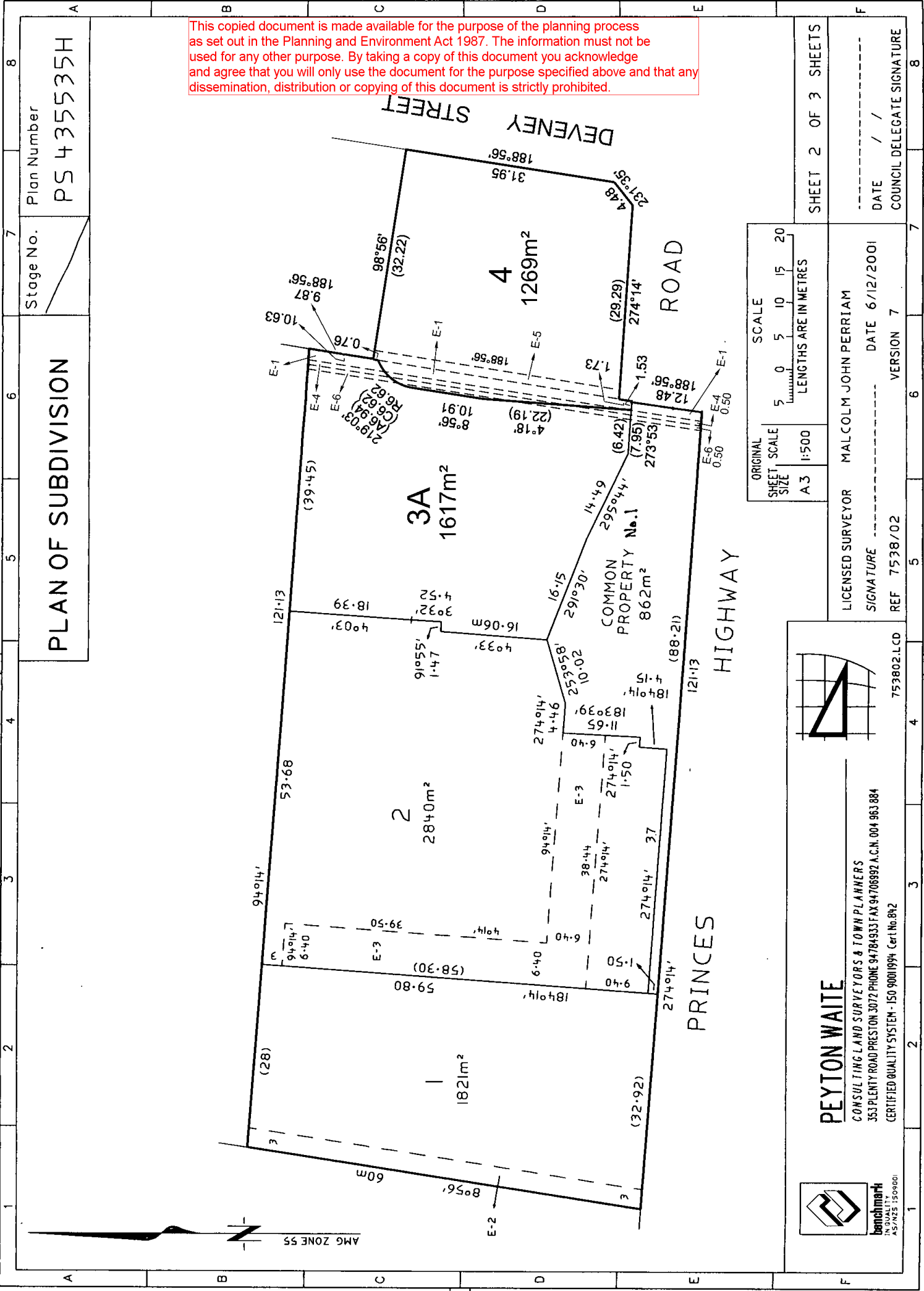
[Signature]
 Assistant Registrar of Titles

LICENSED SURVEYOR MALCOLM JOHN PERRIAM
 REF 7538/02 VERSION 7 DATE 6/12/2001 SIGNATURE _____

Sheet 1 of 3 Sheets

 benchmark <small>IN QUALITY AS/NZS 1509:001</small>	<h2 style="margin: 0;">PEYTON WAITE</h2> <p style="margin: 0; font-size: small;">CONSULTING LAND SURVEYORS & TOWN PLANNERS 353 PLENTY ROAD PRESTON 3072 PHONE 94784933 FAX 94706992 A.C.N. 004 963 884 CERTIFIED QUALITY SYSTEM - ISO 9001:1994 Cert No. 842</p>	 753802.LCD	DATE / / COUNCIL DELEGATE SIGNATURE Original sheet size A3
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PLAN OF SUBDIVISION

Stage No.

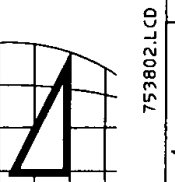
PS 435535H

Plan Number

ORIGINAL	SCALE
SHEET SCALE	5 0 5 10 15 20
SHEET SIZE	LENGTHS ARE IN METRES
A3	1:500

SHEET 2 OF 3 SHEETS

LICENSED SURVEYOR MALCOLM JOHN PERRIAM
 SIGNATURE _____ DATE 6/12/2001
 REF 7538/02 VERSION 7



PEYTON WAITE

CONSULTING LAND SURVEYORS & TOWN PLANNERS
 353 PLENTY ROAD PRESTON 3072 PHONE 947849333 FAX 94706992 A.C.N. 004 963 884
 CERTIFIED QUALITY SYSTEM - ISO 9001:1994 Cert No. 892



1 2 3 4 5 6 7 8

PS435535H

FOR CURRENT BODY CORPORATE DETAILS
SEE BODY CORPORATE SEARCH REPORT

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Owners Corporation Search Report

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OWNERS CORPORATION 1
PLAN NO. PS435535H

The land in PS435535H is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1, 2, 3A, 4.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

VICTORIA BODY CORPORATE SERVICES PTY LTD 64 FENNEL STREET PORT MELBOURNE VIC 3207

PS435535H/D2 17/06/2022

Owners Corporation Manager:

NIL

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

NIL

Additional Owners Corporation Information:

NIL

Notations:

NIL

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 1	2525	2525
Lot 2	3325	3325
Lot 3A	2075	2075
Lot 4	2075	2075
Total	10000.00	10000.00



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 03/12/2024 09:31:36 AM

**OWNERS CORPORATION 1
PLAN NO. PS435535H**

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Mortgage Form version 1.5

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Produced 03/12/2024 09:31:37 AM

Status	Registered	Dealing Number	AV811138T
Date and Time Lodged	01/07/2022 01:32:23 PM		

Lodger Details

Lodger Code	16089P
Name	NATIONAL AUSTRALIA BANK LTD
Address	
Lodger Box	
Phone	
Email	
Reference	476369169 mta rego -

MORTGAGE

Jurisdiction	VICTORIA
--------------	----------

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Estate and/or Interest being mortgaged

FEE SIMPLE

Land Title Reference

12384/414

Mortgagor

Name	CARLEI DEVELOPMENTS PTY LTD
ACN	004996472

Mortgagee

Name	NATIONAL AUSTRALIA BANK LIMITED
ACN	004044937
Australian Credit Licence	230686
Address	
Floor Type	LEVEL
Floor Number	1
Street Number	800
Street Name	BOURKE
Street Type	STREET

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Mortgage Form version 1.5

Locality MELBOURNE
State VIC
Postcode 3000

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference AA5608
(b) Additional terms and conditions
Nil

Mortgagee Execution

- The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents,:
 - has taken reasonable steps to verify the identity of the mortgagor or his, her or its administrator or attorney; and
 - holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
- The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.
- The Certifier has retained the evidence supporting this Registry Instrument or Document.

Executed on behalf of	NATIONAL AUSTRALIA BANK LIMITED
Signer Name	WADE STUART MCNABB
Signer Organisation	NATIONAL AUSTRALIA BANK LIMITED
Signer Role	AUTHORISED SIGNATORY
Execution Date	01 JULY 2022

File Notes:

NIL

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Status	Registered	Dealing Number	AV825261R
Date and Time Lodged	06/07/2022 12:02:59 PM		

Lodger Details

Lodger Code	19590S
Name	RUSSO PELLICANO CARLEI
Address	
Lodger Box	
Phone	
Email	
Reference	PC:JT 215125 CARLEI

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
--------------	----------

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Estate and/or Interest

FEE SIMPLE

Land Title Reference

12384/414

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	CARDINIA SHIRE COUNCIL
Address	
Property Name	CARDINIA SHIRE OFFICE
Street Number	20
Street Name	SIDING
Street Type	AVENUE
Locality	OFFICER
State	VIC
Postcode	3809

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Additional Details

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.

Executed on behalf of	CARDINIA SHIRE COUNCIL
Signer Name	PIETRANGELO CARLEI
Signer Organisation	RPC LAWYERS PTY. LTD.
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	06 JULY 2022

File Notes:

NIL

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Dated: 22nd June, 2022

Consent agreement under Section 173 of the Planning and Environment Act 1987 to build over an easement

Cardinia Shire Council

and

Carlei Developments Pty Ltd

Land: Lot 4 No.74 Princes Highway, Pakenham
Certificate of Title Volume 12384 Folio 414
Lot 4 on a Plan of Subdivision 435535H

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Table of contents

1.	Meaning of words	4
2.	Consent to build over easement	5
3.	Specific obligations of the owner	5
3.1	No Claim Against Council and Indemnity	5
3.2	Council's Right of Entry	5
3.3	Payment of Council's costs	5
3.4	Payment of Council's additional costs	6
3.5	Compliance with Council's directions	6
3.6	Removal of floor surface	6
3.7	Provision of access	6
3.8	No excavation or filling without consent	6
4.	Certified costs	6
5.	Further obligations of the owner	6
5.1	Non Derogation	6
5.2	Notice and registration	7
5.3	Further actions	7
5.4	Costs to be paid	7
6.	Commencement of building	7
7.	Agreement under Section 1762 of the Act	7
8.	Owner's warranties	7
9.	Successors in title	7
10.	General matters	8
10.1	Notices	8
10.2	A notice or other communication is deemed served:	8
10.3	No waiver	8
10.4	Severability	8
10.5	No fettering of Council's powers	8
11.	Commencement of agreement	8
12.	Ending of agreement	9
13.	Interpretation	9

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Planning and Environment Act 1987

Consent agreement to build over an easement

THIS AGREEMENT is made the _____ 22nd _____ day of _____ June, 2022 _____

BETWEEN

CARDINIA SHIRE COUNCIL
of 20 Siding Avenue, Officer in the State of Victoria

("Council")

and

Carlei Developments Pty Ltd
Of 10/530 Collins Street, Melbourne in the State of Victoria

("the Owner")

Introduction

- A. The Owner is the registered proprietor of land which is subject to an easement for existing or future drainage and/or sewerage services.
- B. The Owner has sought permission from Council to construct or erect a building over the Easement.
- C. Council has agreed to consent to the construction of a building over the Easement on the basis that the Owner enters into this Agreement.
- D. This Agreement sets out the rights of Council and the responsibilities of the Owner in relation to building over the Easement.

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It is agreed

1. Meaning of words

In this agreement unless the context admits otherwise

- 1.1 "the Act" means the Planning and Environment Act 1987.
- 1.2 "this Agreement" means this agreement and any agreement executed by the parties expressed to be supplemental to this Agreement.
- 1.3 "Building" means the building or structure or part of the building or structure which the Owner proposes to construct or erect over the Easement.
- 1.4 "Easement" means the easement identified in the Plan.
- 1.5 "Land" means the land situated at Lot 4 No.74 Princes Highway, Pakenham, being the land referred to in Certificate of Title Volume 12384 Folio 414 and any reference to the Land in this Agreement includes any lot created by the subdivision of the Land.
- 1.6 "Mortgagee" means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Land or any part of it.
- 1.7 "Owner" means the person registered or entitled from time to time to be registered as proprietor of the Land and includes a Mortgagee-in-possession.
- 1.8 "the Plan" means the plan attached to this Agreement and marked with the letter "A" showing that part of the Easement over which the building will be constructed.
- 1.9 "Works" includes inspecting, constructing, repairing, cleansing, removing, renewing, altering, maintaining or reinstating any drain or pipe in the Easement or other works laid or to be laid in the Easement.

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2. Consent to build over easement

Council consents to the construction of the Building over the Easement

- 2.1 on the conditions set out in this agreement, and
- 2.2 subject to any other requirements or conditions of which written notice is given by Council to the Owner prior to the date of this Agreement.

3. Specific obligations of the owner

The owner agrees

3.1 No Claim Against Council and Indemnity

not to make any claim for damages or loss of any kind against Council for any damage or injury caused to the Building or the contents of the Building by reason of:

- any settlement or subsidence of the Building;
- by reason of any leakage in or flooding or bursting breakage or subsiding of any drain or pipe within the Easement; or
- otherwise by reason of any Works of Council in connection with the Easement; and

will hold harmless and keep Council indemnified against all actions claims demands damages expenses and/or costs by or at the instance of any person or body whatsoever for or by reason of any such damage or injury or by reason of any such settlement or subsidence or any such leakage flooding bursting breaking or subsiding;

3.2 Council's Right of Entry

to permit Council, its agents, servants, workmen or contractors at any time to enter into and upon the Building and the Easement for the purpose of inspecting, constructing, repairing, cleansing, removing, renewing, altering, maintaining or reinstating any drain or pipe in the Easement or other works laid or to be laid in the Easement and to carry out all other works and things as may be necessary but without any liability whatsoever.

3.3 Payment of Council's costs

to pay Council so much of the reasonable cost and expense for any required "Works" as may be due to:

- any damage or injury caused to any drain or pipe or other works of Council in the Easement by the Building or the construction of the Building;
- anything directly or indirectly caused by or resulting from the Building or connected with the Building; or
- by reason of the increased difficulty of executing such work in consequence of the erection of the Building over the Easement;

3.4 Payment of Council's additional costs

to pay Council any additional reasonable costs incurred by it in inspecting, constructing, repairing, cleansing, removing, renewing, altering, maintaining or reinstating any drain, pipe or other works of Council by reason of the erection of the Building over the Easement;

3.5 Compliance with Council's directions

to at all times carry out and comply with all and any reasonable directions of Council's building surveyor in relation to the construction of any Building on any part of the Easement or the carrying out of any building work in or over the Easement;

3.6 Removal of floor surface

to ensure that any floor surface constructed on or over the Easement relative to the construction of the Building will be constructed in such a manner so as to be capable of being removed if access to any drain or pipe laid in the Easement becomes necessary; and

3.7 Provision of access

to provide Council with proper means of ingress and egress to and from the Easement at all times.

3.8 No excavation or filling without consent

that the Owner will not carry out or conduct or allow to be carried out or conducted any filling over the Easement or any excavation within the Easement without the consent of Council.

4. Certified costs

The costs and expenses referred to in clause 3.3 and clause 3.4 of this Agreement must be certified by any member of Council's staff authorised to do so and such certification will be final and binding upon the parties.

5. Further obligations of the owner

The Owner also agrees that:

5.1 Non Derogation

nothing in this Agreement will in any manner whatsoever affect or derogate from any rights of Council or the rights of any person or body in respect of the Easement or from a requirement imposed by or under any legislation concerning easements to obtain the consent or approval of any person or body to the construction of the Building over the Easement;

5.2 Notice and registration

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgagees, transferees and assigns;

5.3 Further actions

5.3.1 the Owner will do all things necessary to give effect to this Agreement;

5.3.2 the Owner will make application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Land in accordance with Section 181 of the Act and do all things necessary 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;

5.4 Costs to be paid

the Owner will be responsible for payment of all costs and expenses (including legal expenses) incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement.

6. Commencement of building

Council and the Owner agree that unless the proposed Building is commenced within twelve months from the date of this Agreement or any extension of that time which Council may agree in writing, this Agreement will lapse.

7. Agreement under Section 173 of the Act

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

8. Owner's warranties

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Land which may be affected by this Agreement.

9. Successors in title

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Land, successors in title shall be required to:

9.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and

9.2 execute a deed agreeing to be bound by the terms of this Agreement.

10. General matters

10.1 Notices

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

10.1.1 by delivering it personally to that party;

10.1.2 by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

10.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or prepaid post.

10.2 A notice or other communication is deemed served:

10.2.1 if delivered, on the next following business day;

10.2.2 if posted, on the expiration of two business days after the date of posting; or

10.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

10.3 No waiver

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

10.4 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 will remain operative.

10.5 No fettering of Council's powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Land or relating to any use or development of the Land.

11. Commencement of agreement

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

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12. Ending of agreement

If the Agreement lapses under the provisions of clause 6, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register.

13. Interpretation

In this Agreement unless the context admits otherwise:

- 13.1 The singular includes the plural and vice versa.
- 13.2 A reference to a gender includes a reference to each other gender.
- 13.3 A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 13.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 13.5 A word or expression used in this Agreement has its ordinary meaning unless that word or expression is defined in this Agreement. If a word or expression is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
- 13.6 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 13.7 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 13.8 The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Land PROVIDED THAT if the Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

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Signed sealed and delivered as a deed by the parties

SIGNED by and on behalf, and with the authority of the Cardinia Shire Council by [redacted] in the exercise of a power conferred by an Instrument of Delegation in the presence of:

[redacted]

SIGNED by Carlei Developments Pty Ltd in the presence of:

[redacted]

[redacted]

Mortgagee's consent

National Australia Bank as Mortgagee of registered mortgage No. AV317641P consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

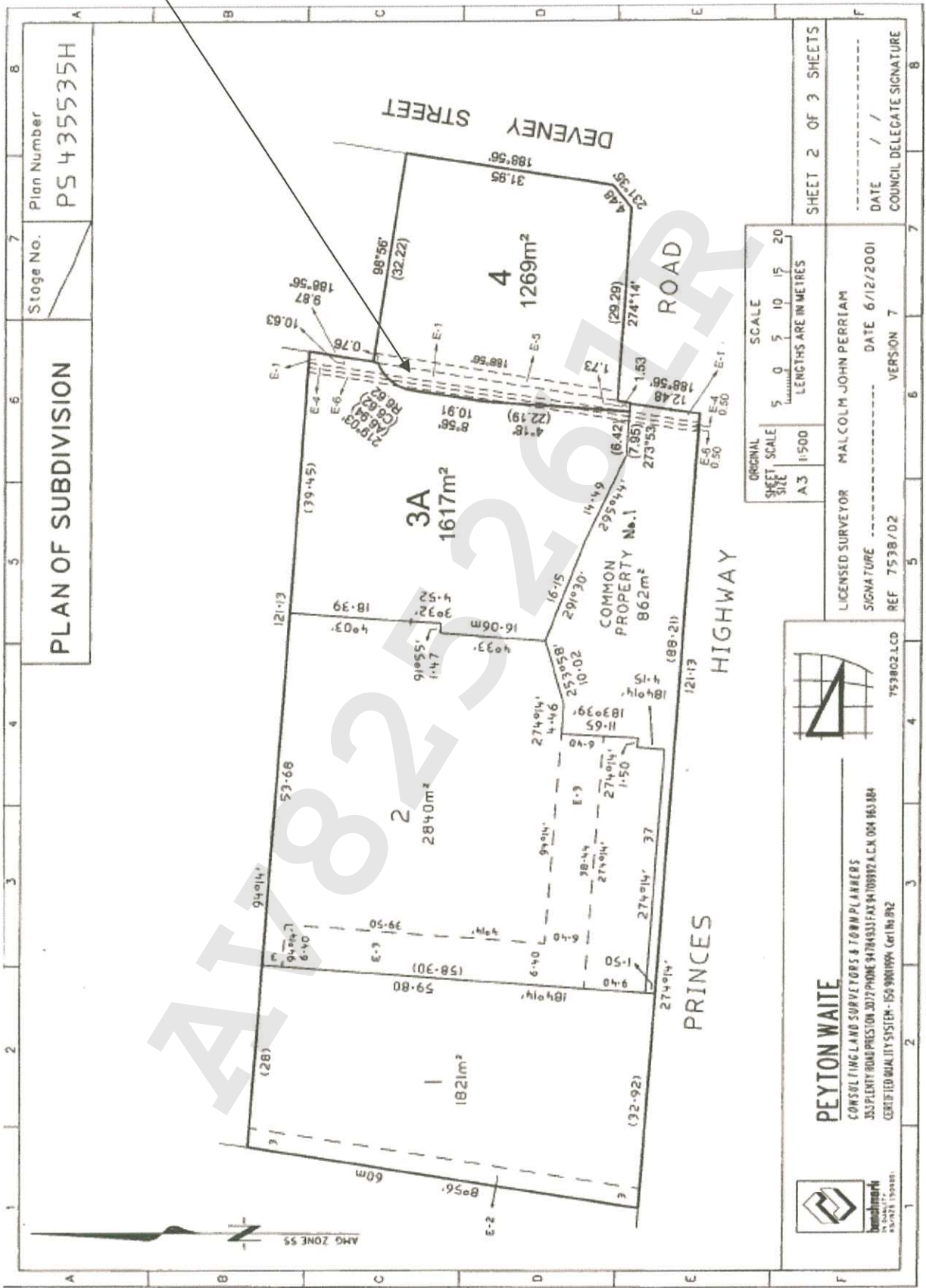
[redacted]



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Subject Easement

A



PLAN OF SUBDIVISION
 Stage No. PS 435535H
 Plan Number

SHEET 2 OF 3 SHEETS
 DATE / /
 COUNCIL DELEGATE SIGNATURE

ORIGINAL SCALE 1:500
 SHEET SCALE A3
 LENGTHS ARE IN METRES

LICENSED SURVEYOR MALCOLM JOHN PERRIAM
 SIGNATURE
 DATE 6/12/2001
 REF 7538/02
 VERSION 7



PEYTON WAITE
 CONSULTING LAND SURVEYORS & TOWN PLANNERS
 353 SPLEENY ROAD PRESTON 3072 PHONE 94784933 FAX 94708992 A.C.N. 084 163 884
 CERTIFIED QUALITY SYSTEM - ISO 9001:1994 Cert No 8952



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2 December 2024

SLR Ref No.: 640.031505.00001-L0.1-v0.2-RFIResponse-20241202.docx

Attention: [REDACTED]
Cardinia Shire Council
PO Box 7,
Pakenham VIC 3810

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SLR Project No.: 640.031505.00001

RE: Response to Request for Information

T000898-4

**74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway,
89-90 Princes Highway, and 1 Deveney Street, Pakenham VIC 3810**

1.0 Introduction

This correspondence has been prepared by SLR Consulting Australia Pty Ltd (SLR) on behalf of Guzman Y Gomez Pty Ltd (GYG) in response to the request for information (RFI) for T000898-4, relating to the proposed extension of trading hours at the Convenience Restaurant (GYG) at 74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway, 88-90 Princes Highway, Pakenham and 1 Deveney Street, Pakenham VIC 3810. It is noted the specific lot to which this application relates is Lot 4 PS435535 (74 Princes Highway).

This letter provides a formal response to Cardinia Shire Council's (Council) Request for Additional Information letter, dated 01 October 2024 to assist in the assessment of T000898-4.

The section below provides a response to each of the items raised.

2.0 Response to Further Information Required

1. Current Copy of Certificate of Title

Provide a current copy (searched with 3 months of submission of this application) of the Certificate of Title and any registered covenants, agreements or restrictions. You can obtain a current copy of the Certificate of Title from www.landata.vic.gov.au.

Response: A current copy of the Certificate of Title has been included at **Appendix A** of this response.

2. Amended Town Planning Submission

Submit an amended Town Planning Submission that addresses the following:

- a. Correctly identifies that Amended Planning Permit T000898-2 was issued on 221 June 2023 (i.e. not currently under assessment as stated).*
- b. Correct 'Error! Reference source not found..' message in Line 5, Page 2.*
- c. Provide a full response to the General Residential Zone (note: it appears that the first part of the assessment against Clause 32.08 – General Residential Zone is missing from Page 7).*

- d. Delete reference to SLO4 which does not apply to the land.
- e. Provide a response to Clause 53.04 – Convenience Restaurant and Take-Away Food Premises.
- f. Provide an assessment of the surrounding restaurants / businesses opening hours.

Response: An amended Planning Report has been prepared, incorporated the above amendments. Refer to **Appendix B** for the updated Planning Report.

3. Acoustic Assessment

Provide an amended Acoustic Assessment which:

- a. Provides a new (current) measurement of noise associated with the site (Section 5.0 refers to an assessment conducted on 2 August 2022).
- b. Takes into account, assesses compliance with noise limits and provides recommendations to reduce noise (if any) for vehicle noise and speaker noise from the drive-thru area during the extended hours.

Response: An Acoustic Assessment (dated 15 April 2024) prepared by Clarity Acoustics was provided at Appendix A of the submitted application.

Table 2 of the submitted assessment includes background measurements applicable to the extension of hours. Table 5 of the assessment includes measurement results from 2022 of individual noise sources (at 1 m from each source). There is no reason for the individual noise source noise levels to have changed since 2022 as the noise sources have not changed.

With regards to noise limits and recommendations, speaker noise from the drive thru, this is accounted for – the speaker is described as the customer order device or COD in the report.

Regarding vehicle movements within the drive-thru, Regulation 117 states that non-commercial vehicles (except for maintenance activities) are not assessed in a Noise Protocol Assessment. The Acoustician has advised that the assessment to consider vehicles in the drive-thru under the Environmental Reference Standard (ERS), is non-binding. Vehicles in the drive-thru would likely easily meet the ERS requirements as they are averaged over an 8-hour period for the night.

4. Traffic Assessment

Provide a Traffic Assessment prepared by a suitably qualified person assessing the impact of extended hours on traffic movements at the site on the surrounding road network.

Response: A Traffic Impact Assessment has been prepared by WGA to assess the appropriateness of the proposed extended operating hours from a traffic engineering perspective – refer to **Appendix C**.

The assessment found the proposal will have negligible impact to the operation of the subject sites access points and the broader road network. It was found the extent of the impacts anticipated during extended hours of operation will be less than what is currently experienced across the road network during the current early morning/late evening operating hours. As such, the proposed extended operating hours are considered appropriate from a traffic perspective.

Refer to the Traffic Impact Assessment located at **Appendix C** for further detail.

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We trust that the information provided is sufficient, however, if any clarification is needed or further information is required, please do not hesitate to contact the undersigned.

Regards,

SLR Consulting Australia

Senior Project Consulting - Planning
gmoses@slrconsulting.com

Associate Project Consultant - Planning
mkennedy@slrconsulting.com

Appendices:

Appendix A – Architectural Plans (v2.0)

Appendix B – Planning Report (v2.0)

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2 December 2024

SLR Ref No.: 640.031505.00001-L0.1-v0.4-PlanningReport-20241202.docx

Attention: General Manager
Cardinia Shire Council
PO Box 7
Pakenham VIC 3810

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SLR Project No.: 640.031505.00001

**RE: Section 72 Application to amend Planning Permit T000898-3
74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway,
89-90 Princes Highway, and 1 Deveney Street, Pakenham VIC 3810**

1.0 Introduction

This letter has been prepared by SLR Consulting Australia Pty Ltd on behalf of Guzman Y' Gomez in support of a s72 application to amend Planning Permit T000898-3 at 74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway, 88-90 Princes Highway, Pakenham and 1 Deveney Street, Pakenham VIC 3810. The permit allows *'The use and development of land for the purpose of seven (7) convenience restaurants with associated car parking and business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1, generally in accordance with the substituted plans known as TP1.P and TP2-J and the endorsed plans.'*

This amendment is submitted to Cardinia Shire Council seeking approval to modify the approved operational hours under Condition 14 of the permit. The amendments relate to the existing Pakenham GYG operation. The built form of the site will remain unchanged, including car parking, landscaping, access and signage. This application should be read in conjunction with the appended information, including the Noise Impact Assessment located at **Appendix A**.

1.1 Background

T000898 was issued at the direction of the Victorian Civic and Administrative Tribunal for the use and development of the land for Town Planning Committee Meeting 7 June 2021 for the purpose of six (6) convenience restaurants with associated car parking generally in accordance with the substituted plans TP1.P and TP2-J on 20 December 2001. A search of Cardinia Shire Council's ePlanning Portal found the following applications for the site:

- **T000898-1** – *Amendments to Planning Permit T000898 for changes to the permit to allow for the use and development of the land for a seventh convenience restaurant (located on 78 Princes Hwy and 1 Deveney St, Pakenham) and associated works, sale and consumption of liquor, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1 (Approved 08 July 2021)*
- **T000898- PC1** – *T000898-1 PC1 (Con. 1.1a-k and n (SMP)) - Plans to Comply Application Amendments to Planning Permit T000898 for changes to the permit to allow for the use and development of the land for a seventh convenience restaurant (located on 78 Princes Hwy and 1 Deveney St, Pakenham) and associated works, sale and consumption of liquor, to display business identification and illuminated*

signage and alteration to access to a road in a Road Zone Category 1 (Plans to Comply Issued 09 September 2021)

- **T000898-PC2** – T000898-1 PC2 (Con. 1.1 (I) LMP) - Plans to Comply Application (Plans to Comply issued 21 October 2021)
- **T000898-2** - Provision of acoustic and non-acoustic plant screening to the roof (Approval issued 21 June 2023).
- **T000898 SC0074-23** – Amended endorsed plans issued under a Secondary Consent on 14 September 2023 to include a new illuminated pylon sign.
- **T000898-3** – Amended endorsed plans, including amendments to the existing access arrangements and signage.

This application seeks further amendments to the approved planning permit under T000898-3, as detailed within **Section 3.0**.

2.0 The Site and Surrounds

The entire site is located across five (5) parcels of land, including Lot 1, Lot 2, Lot 3A, Lot 4 and Lot CM1 of PS435535, and is generally referred to as 74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway, 88-90 Princes Highway, and 1 Deveney Street Pakenham VIC 3810. The entire site is bound by Princes Highway (TRZ2) to the north, and Deveney Street to the east. It is noted the proposed amendments to trading hours relates to the approved Convenience Restaurant (GYG) located on Lot 4 PS435535 (74 Princes Highway).

Existing vehicle access arrangements to the site are provided via an ingress driveway and a separate egress driveway off Princes Highway. A separate egress driveway is also provided via the Princes Highway service Road. Additionally, a combined ingress/egress driveway providing direct access to Lot 4 PS435535 (74 Princes Highway) is provided off Deveney Street. Currently located on Lot 4 PS435535 (74 Princes Highway) is the existing convenience restaurant building (GYG), along with associated car parking and landscaping.

Princes Highway is identified as a Transport Road Zone 2 (TRZ2) Road. Located north, south and east of the site is residential development, containing one and two storey dwellings. West of the site is commercial development, including food and drink and retail premises. Located further east of the site is a health and medical use, namely Oz Skin Cancer Clinics Pakenham. Refer to the below figures for the site and surrounds.

Refer to **Figure 1** and **Figure 2** for the cadastral plan and site aerial.

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Figure 1 Cadastral Plan (Source: VicPlan)

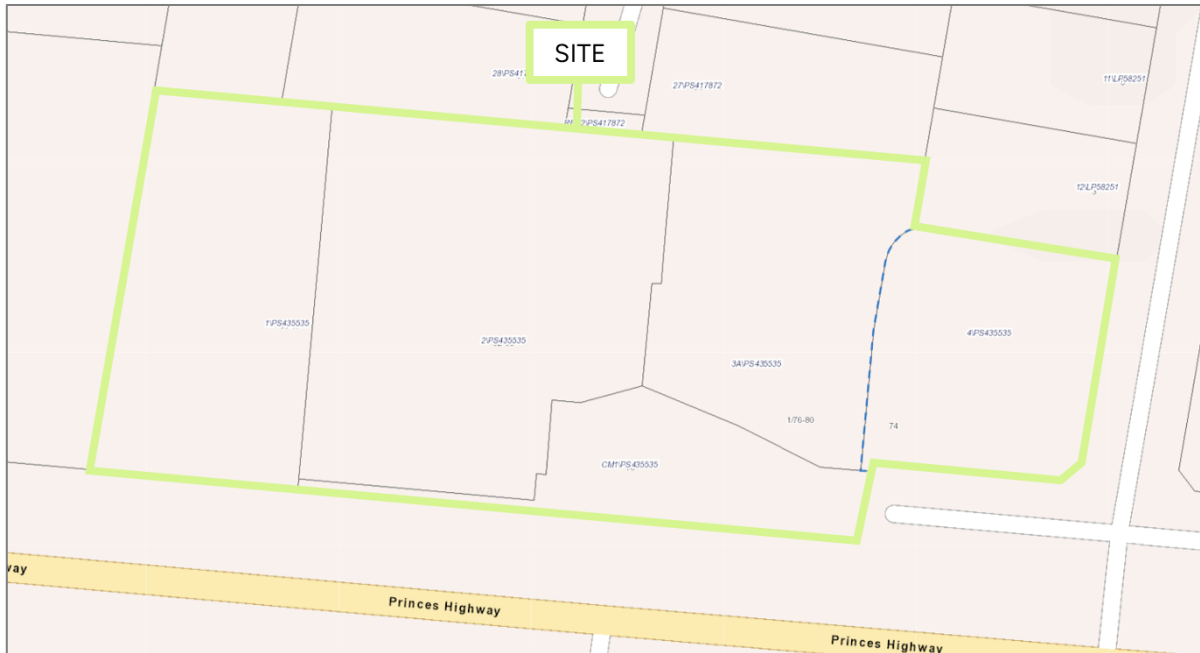


Figure 2 Site Aerial (Source: Near Maps)



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3.0 Proposed Amendment

In accordance with Planning Permit No. T000898-3, written consent from the responsible authority is required to alter the approved development.

This application seeks approval to amend Condition 14 of the permit, seeking the following amendments to operational hours:

Approved Hours:

7.00am until 11.00pm – Sunday to Thursday; and

7.00am until 12.00am (the next day) – Friday to Saturday.

Proposed Hours

6.00am until 12.00am (the next day) – Sunday to Saturday (7 days a week).

Specifically, the changes to the approved conditions are detailed below.

3.1 Amendments to Conditions

Existing Condition 14:

14. The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of:

a) 6:00am and 12:00am midnight - Thursday to Saturday; and

b) 6:00am to 11:00pm - Sunday to Wednesday; and

The one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public:

c) 7:00am until 11:00pm – Sunday to Thursday; and

d) 7:00am until 12:00am (the next day) – Friday to Saturday.

Proposed Condition 14:

14. The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of:

a) 6:00am and 12:00am midnight - Thursday to Saturday; and

b) 6:00am to 11:00pm - Sunday to Wednesday; and

The one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public:

c) ~~7:00am~~ 6.00am until ~~11:00pm~~ 12.00am (the next day) – Sunday to Thursday 7 days a week. (~~Sunday to Saturday~~); and

d) ~~7:00am until 12:00am (the next day)~~ – Friday to Saturday.

Justification:

The proposal does not include buildings and works or amendments to the endorsed plans under T000898-3. The proposal does not alter the approved built form or signage of the building. The GYG premises is currently an approved Convenience Restaurant. The proposal will not alter the approved land use on site (74 Princes Highway, Pakenham).

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The proposed amendments to trading hours as detailed above are of a minor nature and remain compliant with all relevant acoustic requirements for the site. The commercial premises located west of the site across 82-90 Princes Highway are inclusive of:

- Noodle Box, Princes Fish and Chips, Bubba Pizza and Subway located at 76-80 Princes Highway, Pakenham.
- Hungry Jacks located at 82-86 Princes Highway, Pakenham.
- Vinnies located at 88-90 Princes Highway, Pakenham.

As mentioned above, the approved operating hours under T00898 for the above sites are as follows:

- 6.00am to 12.00am midnight – Thursday to Sunday.
- 6.00am to 11.00pm – Sunday to Wednesday.

The proposed 6:00 am opening time aligns with the operational hours of the six (6) existing premises on the site, as detailed above and stipulated in Condition 14 (a) and (b) of the current permit. Additionally, the closure time of 12.00am midnight, 7 days a week requires an extension of 1 hour Sunday-Thursday to be consistent with the existing approved closing time on Friday and Saturday for the GYG premises. Given this consistency, the early opening is not anticipated to create any additional amenity impacts for the surrounding residential areas beyond those already assessed and approved. Additionally, as per the Acoustic and Traffic response supporting the planning letter in direct response to the further information letter dated 1st October, these documents ensure that the early morning opening will maintain the established pattern of activity for the adjoining sites, which has been deemed appropriate and manageable in terms of its impact on the surrounding environment.

Since the existing premises have operated within the proposed hours without significant adverse effects on nearby residents, extending these hours to the GYG premises is not expected to introduce any additional amenity impacts. Amenity impacts, inclusive of acoustic impacts and traffic generation have been previously assessed for the additional hours proposed. The findings demonstrated that these factors were within acceptable limits and did not compromise the amenity of the local community, as detailed further below. Applying the same operational parameters to the GYG premises reflects a continuation of established practices, ensuring that any potential impacts remain consistent with what has already been evaluated and approved.

The supporting Acoustic Report acknowledges that extending operating hours from 11 pm to midnight appears negligible given that the amenity impacts associated with late-night trading have already been comprehensively evaluated and approved for Friday and Saturday nights. The acoustic considerations during this additional hour are likely to be minimal, as the existing framework for noise mitigation and control has been established and implemented effectively during the 'late-night' trading hours on a Friday and Saturday. Therefore, SLR consider that the late-night period has already been considered, and thus, it is appropriate to extend the operational hours to midnight 7-days a week. Any potential increase in ambient sound levels during this relatively short time frame can be reasonably expected to fall within the accepted parameters. Thus, from an acoustic management standpoint, the proposed operational hours extension is unlikely to introduce significant concerns, provided the established regulatory guidelines and noise abatement measures remain in place.

The noise levels of the site are deemed to comply with the permissible levels specified in the State Environment Protection Policy No. N-1 (as amended), which remains compliant with Condition 15 of the consent. The proposal will provide a convenient service for local



residents, visitors and passing traffic for the additional operational hours sought and is considered within the character of the area. The proposal is expected to cause minimal adverse impacts on the environment or amenity of the surrounding area. Overall, this extension of hours is considered to be minor and inconsequential to the site and surroundings as a whole.

A Noise Impact Assessment has been prepared by Clarity Acoustics to support the proposed extension of hours and assess the potential environmental noise impacts of the proposal. The report concludes the extended trade is appropriate for the site and complies with the relevant noise protocols and criteria. Refer to the NIA located at **Appendix A** for further details.

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4.0 Planning Controls

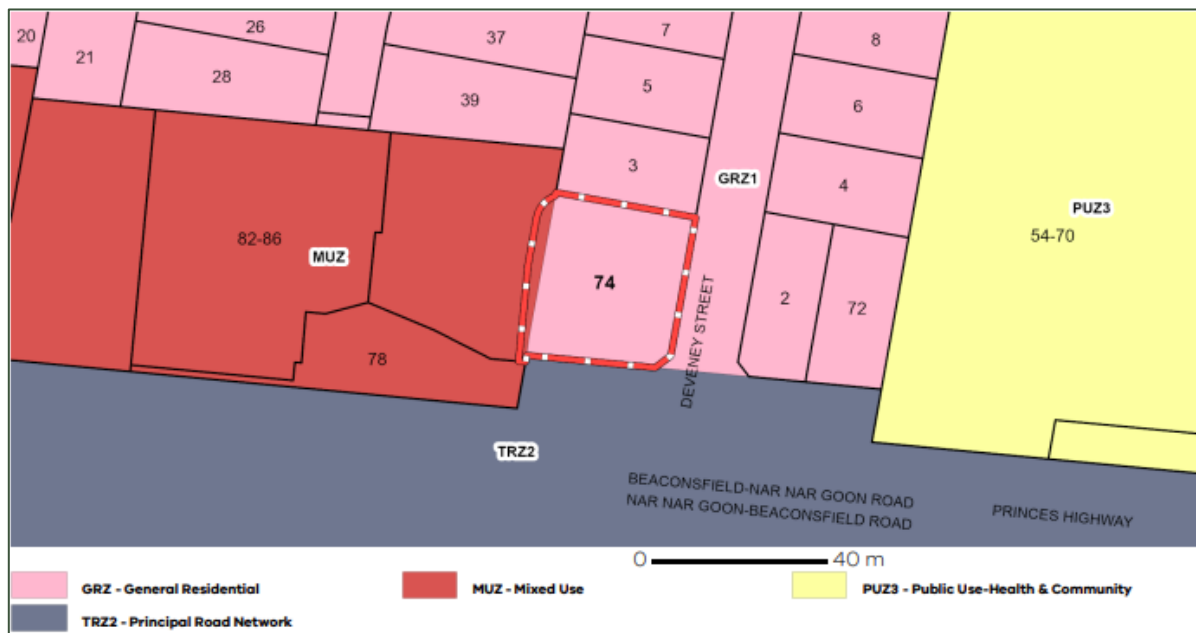
Compliance with all legislative requirements under the Cardinia Peninsula Planning Scheme remains unchanged under this application. The proposed amendment will result in substantially the same development with the primary uses on site remaining as approved under T000898, with minor amendments to the approved trading hours only. No buildings and works are proposed.

4.1 Zoning

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The entire site is shown on the Cardinia Planning Scheme map as being located across two zones, including the Mixed-Use Zone (MUZ) and the General Residential Zone (GRZ), refer to **Figure 3**. This application relates to the GYG premises located at 74 Princes Highway, Pakenham (Lot 4 PS435535), located predominantly within the GRZ and partially within the MUZ.

Figure 3 Zoning Map Extract (Source: VicPlan)



4.1.1 Clause 32.04 Mixed Use Zone

Clause 32.04 of the Planning Scheme states the purpose of the MUZ zone is:

- 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.



The proposed use of the site is consistent with the purpose of the MUZ, in that it contributes to the range of uses within the area and compliments the mixed-use nature of the locality. The proposal is maintaining the approved use of the site and responds to the character of the area.

Clause 32.04-12 Application Requirements

The application requirements for an application within the MUZ has been summarised within **Table 1**.

Table 1 Clause 32.04-12 Application Requirements

Application Requirement	Comment
<p>General</p> <p>Any application requirements specified in a schedule to this zone.</p>	<p>No application requirements specified in the Schedule to the MUZ.</p>

Clause 32.04-15 Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider the decision guidelines under Clause 32.04-15 of the MUZ as summarised in **Table 2**.

Table 2 Clause 32.04-15 Decision Guidelines

Decision Guideline	Comment
<p>General</p> <ul style="list-style-type: none"> 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 Mixed Use Zone or Residential Growth Zone 	<p>This planning report is considered to give due regard to the Municipal Planning Strategy and Planning Policy Frameworks.</p> <p>The proposed extension of hours is considered to be in accordance with the objectives of the Mixed Use Zone. No buildings and works are proposed that will result in overshadowing impact to adjoining dwellings.</p>
<p>Use for industry, service station and warehouse</p> <ul style="list-style-type: none"> The effect that existing uses on adjoining or nearby land may have on the proposed use. The design of buildings, including provision for solar access. The availability and provision of utility services. The effect of traffic to be generated by the use. The interim use of those parts of the land not required for the proposed use. 	<p>Not Applicable – the proposed use is not for industry, service station or warehouse.</p>



Decision Guideline	Comment
<ul style="list-style-type: none"> Whether the use is compatible with adjoining and nearby land uses. For non-residential uses, the proposed hours of operation, noise and any other likely off-site amenity impacts. 	
<p>Subdivision</p> <ul style="list-style-type: none"> The pattern of subdivision and its effect on the spacing of buildings. For subdivision of land for residential development, the objectives and standards of Clause 56. 	Not Applicable – No subdivision proposed.
<p>Construction and Extension of one dwelling on a lot</p> <ul style="list-style-type: none"> The objectives, standards and decision guidelines of Clause 54. 	Not Applicable – the proposal is not for the construction or extension of a dwelling.
<p>Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings</p> <p>For two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. This does not apply to an apartment development of five or more storeys, excluding a basement.</p> <p>For an apartment development of five or more storeys, excluding a basement, the objectives, standards and decisions guidelines of Clause 58</p>	Not Applicable – the proposal is not for residential development.

4.1.2 Clause 32.08 General Residential Zone

Clause 32.08 of the Planning Scheme states the purpose of the GRZ zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- To encourage development that respects the neighbourhood character of the area.*
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposed use of the site is consistent with the purpose of the GRZ, in that it will continue to contribute to the range of non-residential uses in an appropriate location while being complimentary to the nature of the locality and serving the local community. The proposal is maintaining the approved use of the site and responds to the character of the area.

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Clause 32.08-2 Table of Uses

The table of uses listed at Clause 32.08-2 identifies uses that do not require a permit, those that do and those that are prohibited within the GRZ.

A Convenience Restaurant falls within *Section 2 – Permit Required*. The proposal does not alter the approved use of the premises, being a Convenience Restaurant as such, consideration of this clause is not required.

Clause 32.08-12 Application Requirements

The relevant application requirements for an application within the GRZ under Clause 32.08-12 are summarised in **Table 3**.

Table 3 Clause 32.08-12 Application Requirements

Application Requirement	Comment
For a residential development of four storeys or less, the neighbourhood and site description and design response as required in Clause 54 and Clause 55.	N/A – not a residential development.
For an apartment development of five or more storeys, an urban context report and design response as required in Clause 58.01.	N/A – not an apartment development.
For an application for subdivision, a site and context description and design response as required in Clause 56.	N/A – no subdivision proposed.
Plans drawn to scale and dimensioned which show: <ul style="list-style-type: none"> • Site shape, size, dimensions and orientation. • The siting and use of existing and proposed buildings. • Adjacent buildings and uses. • The building form and scale. • Setbacks to property boundaries. 	N/A – no buildings and works proposed.
The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of good and materials, hours of operation and light spill, solar access and glare.	<p>A Noise Impact Assessment has been prepared for the proposed extension of trading hours, addressing any potential amenity impacts to nearby sensitive uses (residential). The extended operating hours are concluded to be reasonable for the site and surrounds.</p> <p>No additional impact to adjoining land is determined, particularly in regard to traffic, delivery hours, noise, light spill, solar or glare are determined.</p> <p>Refer to Appendix A and Section Error! Reference source not found. for further detail.</p>
Any other application requirements specified in a schedule to this zone.	No application requirements specified in the schedule.



Clause 32.08-14 Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider the relevant decision guidelines under Clause 32.08-14 as summarised in **Table 4**.

Table 4 Clause 32.08-14 Decision Guidelines

Decision Guideline	Comment
General	
<ul style="list-style-type: none"> The Municipal Planning Strategy and the Planning Policy Framework. 	This planning report is considered to give due regard to the Municipal Planning Strategy and Planning Policy Frameworks.
<ul style="list-style-type: none"> The purpose of this zone. 	The proposed use remains compatible with the purpose of the zone. Refer to Section 4.1 .
<ul style="list-style-type: none"> The objectives set out in a schedule to this zone. 	There are no objectives specified in the Schedule to the MUZ.
<ul style="list-style-type: none"> Any other decision guidelines specified in a schedule to this zone. 	There is no decision guidelines specified in the Schedule to the MUZ.
<ul style="list-style-type: none"> The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone. 	The proposal does not involve building and works, and as such, will not result in overshadowing impacts to rooftop solar energy systems.
Non-Residential Use and Development	
<ul style="list-style-type: none"> Whether the use or development is compatible with residential use. 	The proposal maintains the existing use (Convenience Restaurant). The use remains compatible with the surrounding residential land use.
<ul style="list-style-type: none"> Whether the use generally serves local community needs. 	The existing use serves local community needs in providing a food and drink offering. The extension of operating hours will further service the community in providing food and drink opportunity during extended trading hours, in a convenient location (via Princes Highway).
<ul style="list-style-type: none"> The scale and intensity of the use and development. 	The proposal results in a minor intensification of the use, in extending the existing operational hours of the premises. However, the extension of hours is considered appropriate for the site and its location as detailed throughout this report. No buildings and works are proposed, as such, the scale of the development is not altered.
<ul style="list-style-type: none"> The design, height, setback and appearance of the proposed buildings and works. 	N/A – no buildings and works proposed.
<ul style="list-style-type: none"> The proposed landscaping. 	N/A – no change to landscaping proposed.

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Decision Guideline	Comment
<ul style="list-style-type: none"> The provision of car and bicycle parking and associated accessways. 	N/A – no change to the provision of car and bicycle parking, and associated accessways proposed.
<ul style="list-style-type: none"> Any proposed loading and refuse collection facilities. 	N/A – no change to loading and refuse collection facilities proposed.
<ul style="list-style-type: none"> The safety, efficiency and amenity effects of traffic to be generated by the proposal 	<p>While the proposal does seek to extend the operational hours of the premises, the traffic generated from the extended trade is considered to be able to be accommodated by the existing road network.</p> <p>The extended trade will not result in adverse impact to the safety, efficiency and amenity of the existing road network.</p>

4.1.3 Schedule 1 to Clause 32.08 General Residential Zone (General Residential Areas)

The site is located in Schedule 1 of the GRZ (GRZ1). The below details the relevant requirements under the GRZ1 and are therefore not relevant to this application.

1.0 Neighbourhood Character Objectives

None Specified.

5.0 Application Requirements

None Specified

6.0 Decision Guidelines

None Specified.

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4.2 Overlays

There are no overlays applicable to the site.

4.3 Planning Policy Frameworks

The following Planning Policy Frameworks (PPFs) apply to the proposed works:

4.3.1 13.05-1S Noise Management

The objective of this Clause is to assist the management of noise effects on sensitive land uses. A Noise Impact Assessment has been prepared for the proposed trading hours extension by Clarity Acoustics, refer to **Appendix A**. The assessment measures the potential environmental noise impact of the proposed extended trading hours for surrounding sensitive receivers.

Noise levels of the subject site were calculated using the proprietary noise modelling software. The noise modelling criteria considers the following:

- The noise prediction methodology detail in Appendix D of the NIA.
- Source noise level data for noise sources associated with the operation of the subject site as summarised in Table 3 of the NIA.



- Attenuation of noise provided by distance between the source and receiver, built form of the subject site and any existing intervening screening structures
- Reflections from built form, adjacent buildings, screening structures and the ground surface
- Adjustments for specific noise characteristics such as tonality or intermittency, where necessary
- Duration of exposure at the receiver locations, assessed over a 30-minute period in accordance with the requirements of the Noise Protocol.

Predicted noise levels from the operation were calculated, with the main sources of noise identified to be the mechanical plant and the Customers Order Display (CODs) screens.

The NIA concludes compliance with the noise limit is predicted to be achieved at the nearest affected dwellings during the proposed extended hours. The assessment of environmental noise associated with the proposed extension of hours in accordance with the Noise Protocol and found that compliance is achieved based on the existing mitigation and controls based on previously imposed permit conditions being complied with.

Refer to the NIA located at **Appendix A** for further details.

4.3.2 Clause 13.07-1S Land use compatibility

The aim of this clause is to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

The land use of a Convenience Restaurant remains compatible with the MUZ and GRZ, in providing a service to the surrounding community. The site contains several commercial premises and fronts a TRZ2 zoned road and is therefore considered compatible with the immediate surrounds.

It was concluded by the NIA (refer **Appendix A**) to be appropriate for the site and compliant with applicable noise proposals. As such, no adverse amenity impacts are expected to result from the proposed amendments. Furthermore, the land use is considered to remain compatible with the site and surrounds.

4.3.3 17.01-1S Diversified Economy

The objective of this Clause to strengthen and diversify the economy. In extending the operating hours, Guzman Y Gomez will contribute to the preservation and reinforcement of the existing retail service. The continuous operation requires a workforce, thereby sustaining and potentially expanding local employment opportunities. The extended operations of Guzman Y Gomez improve access to jobs by offering employment opportunities during additional hours. This is particularly beneficial for individuals with varying schedules, promoting inclusivity in the workforce.

The proposed extended hours of operation of Pakenham Guzman Y Gomez aligns with strategies to protect and strengthen employment areas, encourage growth in diverse sectors, and enhance job accessibility.

4.3.4 17.02-1S Business

The objective of this Clause is to encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

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As discussed, the extended Guzman Y Gomez hours of operation seeks to cater to a diverse range of community members, including those with non-traditional schedules. This ensures that the restaurant is available to meet the needs of customers who may seek food and drink during unconventional hours.

The operation of Guzman Y Gomez enhances convenience and accessibility for the community. People can access retail services at late night and early morning hours, providing flexibility for those with varying schedules or preferences. The extended hours increases availability of the food and drink service, and ensures that the community has access to a variety of commercial services, including dining options, during extended hours. The additional hours requires a larger workforce, leading to increased employment opportunities in the community. This aligns with the objective of encouraging development that meets the community's needs, including job creation in the retail and service sectors.

4.4 Particular Provisions

4.4.1 Clause 53.04 Convenience Restaurants and Take-Away Food Premises

The requirements of this clause apply to the proposed use of a Convenience Restaurant and Take-Away Food Premises in residential zoned land.

An assessment of the relevant Decision Guidelines within Clause 53.04-2 has been provided at **Table 5**.

Table 5 Clause 53.04-2 Decision Guidelines

Decision Guideline	Comment
Any policy in this scheme relating to convenience restaurants or take-away food premises.	This planning report has responded to any applicable policy within the planning scheme.
Whether the location is appropriate for a convenience restaurant or take-away food premises having regard to: <ul style="list-style-type: none"> • Amenity of the neighbourhood. • Proximity of the land to non-residential uses and zones. • Effect of the use on heritage and environment features. • Capacity of the land to contain significant off-site effects. • Access to land in a Transport Zone 2 or Transport Zone 3. • The suitability of the land for a residential use. 	The subject site contains an existing Convenience Restaurant. An assessment of the suitability of the existing location has been provided within T000898.
The effect on the amenity or character of the street or neighbourhood having regard to: <ul style="list-style-type: none"> • Massing and proportions of any building. • Ground floor height above ground level. • Ceiling heights. • Roof form and pitch. • Facade articulation. • Window and door proportions. 	The proposal does not result in amendments to the built form of the existing Convenience Restaurant.



Decision Guideline	Comment
<ul style="list-style-type: none"> • Building features including verandas, towers, eaves, parapets and decorative elements. • Building materials, patterns textures and colours. 	
<p>Whether the site layout and the design of buildings, noise attenuation measures, landscaping, car parking, vehicle access lanes, loading bays, rubbish bins, plant and equipment, lights, signs, drive through facilities and playgrounds are designed to prevent significant loss of amenity to adjoining land due to noise, emission of noise, emission of light or glare, loss of privacy, litter or odour.</p>	<p>The proposed development does not alter the site layout, building design, landscaping, car parking, vehicle access, loading bays, rubbish bins, plant and equipment, lights, signs or drive through facilities.</p> <p>The existing noise mitigation measures will continue to be implemented during the extended operational hours.</p>
<p>Whether any special measure may be necessary to protect the amenity of adjoining land in residential use, including buffer planting, noise attenuation measures and litter collection arrangements.</p>	<p>In accordance with the Acoustic Report prepared for this application (Appendix A), the continued implementation of the existing mitigation measures is appropriate for the proposed extension of hours.</p>
<p>The adequacy of traffic measures to:</p> <ul style="list-style-type: none"> • Provide safe pedestrian movement. • Achieve safe, efficient vehicle movement on site and access to and egress from the land. • Avoid disruption to traffic flow on land in a Transport Zone 2 or Transport Zone 3. • Prevent inappropriate use of local residential streets. 	<p>Existing traffic measures will continue to be imposed. No change to traffic conditions is proposed or expected as a result of the extended trading hours.</p>
<ul style="list-style-type: none"> • The adequacy of car parking, loading and drive through queuing spacing to accommodate customers at peak periods and employee requirements on the land. 	<p>No change to car parking, loading or drive through queuing is proposed. The existing arrangements are suitable for the proposed extension of hours.</p>

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4.5 General Provisions

4.5.1 Clause 65 Decision Guidelines

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in section 60 of the Act.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

This Planning Report provides a comprehensive assessment of the considerations outlined in Clause 65. The report provides analysis of the relevant planning issues applying to the proposed development. In accordance with this assessment, the proposed works are considered acceptable and compliant with Clause 65.

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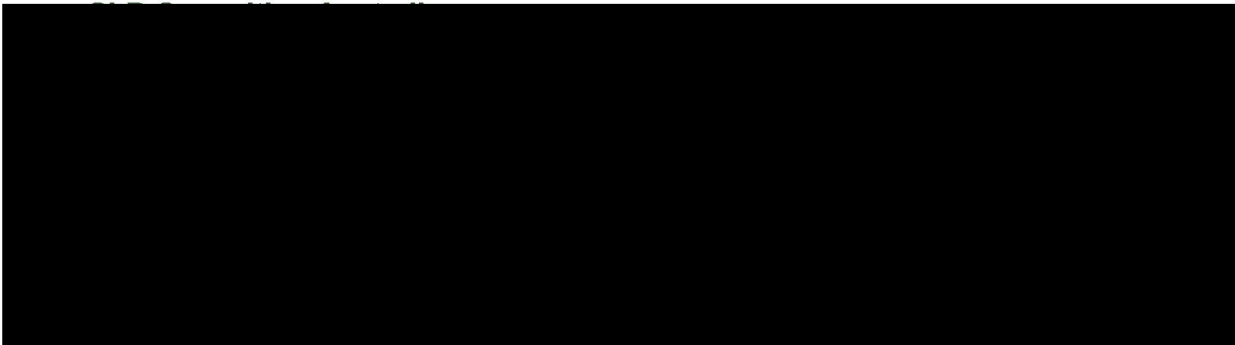
5.0 Conclusion

This s72 Application proposes amendments to Planning Permit T000898-3 seeks approval for amendments to the operational hours of 74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway, 88-90 Princes Highway, and 1 Deveney Street, Pakenham VIC 3810. This application relates to the GYG premises located at 74 Princes Highway, Pakenham VIC 3810.

The purpose of the modification is to amend the approved operational hours under Condition 14 of the permit. The proposed amendments do not alter the approved built form or design of the building, and remain consistent with all relevant local, state and particular planning provisions.

Given the minor nature of the proposed modifications and the absence of any significant environmental impacts, the s72 application to amend the Planning Permit No. T000898-3, is deemed in the public's interest and justified in Council's support. If you have any queries with any of the above, please don't hesitate to contact me on (02) 4940 0442.

Regards,



Appendices

Appendix A – Noise Impact Assessment

Appendix B – Certificate of Title

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Appendix A – Noise Impact Assessment

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Report R01 24038

15 April 2024

74 Princes Highway, Pakenham
Extension of Hours Acoustic Report

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ABN 86 301 701 872

PROJECT SUMMARY:

R01 24038
74 Princes Highway, Pakenham
Extension of Hours Acoustic Assessment

PREPARED FOR:

SLR Consulting Australia Pty Ltd
Level 11, 176 Wellington Parade
East Melbourne VIC 3002

ATTENTION:



REFERENCE	REV	STATUS	DATE	AUTHOR	REVIEWER
R01 24038	-	ISSUED	15 APR 2024	R LEO	



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Contents

1.0	INTRODUCTION	4
2.0	PROJECT DESCRIPTION	4
3.0	VICTORIAN GUIDELINES AND LEGISLATION	6
4.0	EXISTING NOISE ENVIRONMENT	6
5.0	MEASUREMENT OF NOISE ASSOCIATED WITH THE SUBJECT SITE	7
6.0	ASSESSMENT OF OPERATIONAL NOISE AGAINST THE NOISE PROTOCOL	8
6.1	Assessment methodology	8
6.2	Noise Limits	8
6.3	Predicted noise levels	9
7.0	CONCLUSION	9
APPENDIX A	GLOSSARY OF TERMINOLOGY	
APPENDIX B	PLANNING MAP	
APPENDIX C	RELEVANT LEGISLATION AND GUIDELINES	
APPENDIX D	NOISE PREDICTION METHODOLOGY	

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1.0 INTRODUCTION

A Guzman Y Gomez restaurant operates at 74 Princes Highway in Pakenham. The restaurant currently operates between 0700 hours – 2300 hours, Sunday to Thursday and 0700 hours to midnight, Friday and Saturday.

The applicant seeks to extend the hours of operation to 0600 hours – midnight, 7 days a week.

Clarity Acoustics Pty Ltd (CA) has been engaged by Guzman Y Gomez to undertake an assessment of the potential acoustic impact of the extended hours of operation. This report provides details of the proposed site operations, relevant noise criteria, an assessment of operational noise and recommended noise controls.

A glossary of acoustic terminology used in this report is provided in APPENDIX A.

2.0 PROJECT DESCRIPTION

The GYG restaurant is part of the subject land located on the corner of Princes Highway and Deveney Street at 74 Princes Highway in Pakenham.

The restaurant is bounded by:

- Princes Highway to the south
- Deveney Street to the east
- Dwellings on Deveney Street to the north
- Other commercial uses to the west.

The subject site is located in a General Residential 1 Zone (GR1Z) with Public Use Zone 3 (PUZ3), Mixed Use Zone (MUZ), Principal Road Network (TRZ2), Activity Centre Zone (ACZ) and further GRZ1 in the immediate environs. The relevant planning map for the subject site is provided in APPENDIX B.

The nearest noise sensitive receivers are the single storey dwelling directly to the north of the subject site at 3 Deveney Street and the single storey dwelling to the north-east of the subject site at 4 Deveney Street.

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An aerial photograph of the subject site and nearest affected receivers is provided in Figure 1.

Figure 1 - Aerial photograph of the subject site and surrounds (source: Nearmap)



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3.0 VICTORIAN GUIDELINES AND LEGISLATION

A summary of the key noise legislation in relation to the proposed extension of hours is provided in Table 1 below.

Table 1 – Relevant legislation and standards

Legislation/ Guideline	Description
Environment Protection Act 2017 (the Act)	Legislative framework for the protection of the environment in Victoria that establishes obligations for environmental noise control.
Environment Protection Regulations 2021 (S.R. No. 47/2021)	The Environment Protection Regulations set out the framework for noise from residential, commercial, industrial and trade premises as well as from indoor and outdoor entertainment venues and events. The Regulations require that noise levels from commercial, industrial and trade premises and indoor and outdoor entertainment venues and events are set to protect noise sensitive areas from unreasonable noise.
EPA Publication 1826-4 <i>Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues</i> (Noise Protocol)	<p>The Noise Protocol outlines the EPA's approach to the determination of noise limits and to the measurement, prediction and analysis of noise.</p> <p>Part I of the Noise Protocol outlines the methodology to establish noise limits applicable to noise from commercial, industrial or trade premises in both urban and rural areas of Victoria. Operational noise levels from the subject site must comply with the noise limits derived under Part I of the Noise Protocol.</p>

A detailed description of the noise legislation referred to in Table 1 and their application is provided in APPENDIX C.

4.0 EXISTING NOISE ENVIRONMENT

Noise limits under Part I of the Noise Protocol are set accounting for existing background noise levels in the vicinity of the nearby properties. Accordingly, attended measurements of night time background noise levels in the vicinity of the subject site were conducted.

The measured night time background noise levels are detailed in Table 2 and have been used to derive noise limits applicable to the subject site under Part I of the Noise Protocol.

Table 2 – Measured background noise levels, dB

Measurement date/time	Measured average background noise level, $L_{A90, 10 \text{ minute}}$
10 August 2022 between 2300 and 2330 hours	37
11 March 2024 between 2330 hours and midnight	37
19 March 2024 between 0600 and 0630 hours	44

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5.0 MEASUREMENT OF NOISE ASSOCIATED WITH THE SUBJECT SITE

Nearfield measurements of mechanical plant noise levels associated with the restaurant were conducted on Tuesday, 2 August 2022 using a Svantek 979 Class 1 Sound and vibration meter (serial number 69401). The equipment was checked before and after the noise survey using a Class 1 calibrator (Svantek SV35 – serial number 58085) and no significant calibration drifts were observed.

A summary of the measured mechanical plant noise levels is provided in Table 3.

Table 3 – Measured mechanical plant noise levels, dB

Description	Measured noise level, L_{Aeq}
Kitchen Exhaust Fan-1 (KEF1) at 1 m	85 dB
Kitchen Exhaust Fan-2 (KEF2) at 1m	77 dB
AC unit at 1 m	65 dB
Coolroom condenser at 1 m	65 dB
Customer order device at 1m	76 dB

It is noted that subsequent to the measurement of noise from the subject site, KEF1 has been set to operate at 85 % of the full operational fan speed during the night period (after 2200 hours)

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6.0 ASSESSMENT OF OPERATIONAL NOISE AGAINST THE NOISE PROTOCOL

Noise associated with the operation of the subject site in the proposed extended hours must comply with the noise limits derived under Part I of the Noise Protocol. Compliance is determined by comparing the predicted effective noise level (L_{eff}) from the operation of the site to the derived noise limits at the nearest affected receivers.

The following sections detail the methodology for noise prediction from the proposed development, outline the noise limits applicable to the subject site under the Noise Protocol and compare the predicted noise levels with the background derived noise limits for the subject site.

6.1 Assessment methodology

Noise levels from the subject site have been calculated using the proprietary noise modelling software SoundPLAN v8.2 which implements International Standard ISO 9613-2:1996 *Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* (ISO 9613-2).

The noise modelling considers the following:

- The noise prediction methodology outlined in APPENDIX D
- Source noise level data for noise sources associated with the operation of the subject site as summarised in Table 3
- Attenuation of noise provided by distance between the source and receiver, built form of the subject site and any existing intervening screening structures
- Reflections from built form, adjacent buildings, screening structures and the ground surface
- Adjustments for specific noise characteristics such as tonality or intermittency, where necessary
- Duration of exposure at the receiver locations, assessed over a 30-minute period in accordance with the requirements of the Noise Protocol.

6.2 Noise Limits

Noise limits applicable to the subject site have been calculated in accordance with the methodology prescribed in the Noise Protocol and the measured background noise levels as outlined in Table 2. The derived noise limits are provided in Table 4 and further detail on their derivation is provided in APPENDIX C.

Table 4 – Noise limits derived under the Noise Protocol, dB

Period	Time Period (relevant to the proposed extended hours of operation)	Noise limit, L_{eff}
Early morning	0600-0700 hours, Monday to Sunday	47
Night	2300 hours-midnight, Sunday to Thursday	44

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6.3 Predicted noise levels

Predicted noise levels from the operation of noise sources associated with the subject site are provided below based on the assumptions that the worst-case 30-minute period operation of the CODs would be 9 orders per COD. Predicted noise levels from the proposed operation of the subject site during the extended hours are presented in Table 5.

Table 5 - Predicted operational noise levels, dB L_{eff}

Source	Predicted noise level at receiver	
	3 Deveney Street	4 Deveney Street
CODs	< 20	<20
Mechanical plant	44	38
Cumulative noise level	44	38
Noise Limit	47/44	47/44
Compliance?	Yes	Yes

As detailed in Table 5, compliance with the noise limit is predicted to be achieved at the nearest affected dwellings during the proposed extended hours. It should be noted that the assumption of COD use is conservative, however, even if the COD usage was doubled compliance would still be achieved.

7.0 CONCLUSION

A Guzman Y Gomez restaurant operates at 74 Princes Highway in Pakenham. The restaurant currently operates between 0700 hours – 2300 hours, Sunday to Thursday and 0700 hours to midnight, Friday and Saturday.

The applicant seeks to extend the hours of operation to 0600 hours – midnight, 7 days a week.

Clarity Acoustics has carried out an assessment of environmental noise associated with the proposed extension of hours in accordance with the Noise Protocol and found that compliance is achieved based on the existing mitigation and controls.

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APPENDIX A GLOSSARY OF TERMINOLOGY

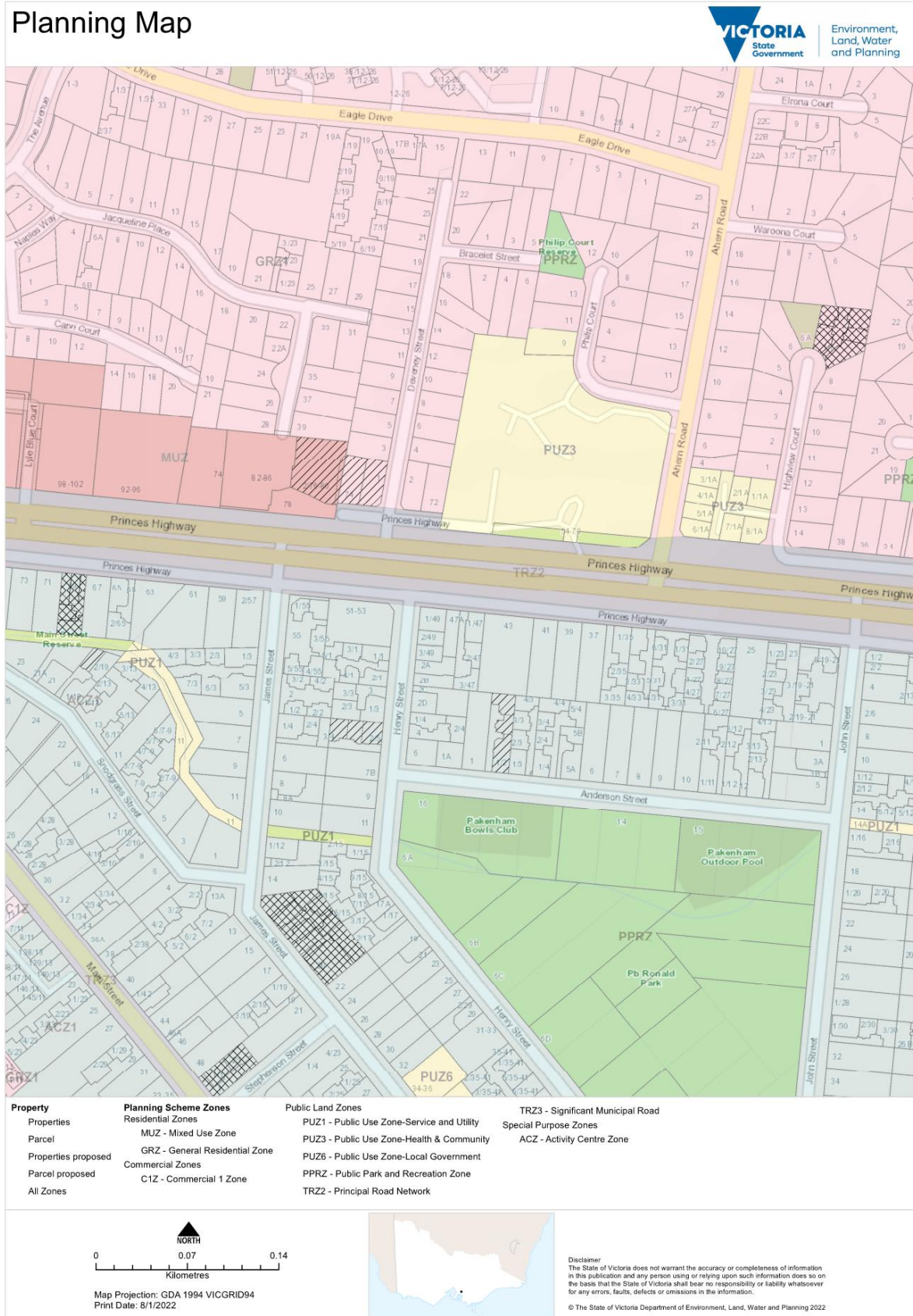
dB	Decibel (dB) a relative unit of measurement widely used in acoustics, electronics and communications. The dB is a logarithmic unit used to describe a ratio between the measured sound level and a reference or threshold level of 0 dB.
A-weighting	The A-weighting filter covers the full audio range - 20 Hz to 20 kHz and the shape is similar to the response of the human ear at lower levels. A-weighted measurements correlate well with the perceived loudness at low sound levels, as originally intended.
Hertz	Hertz (Hz) the unit of Frequency or Pitch of a sound. One hertz equals one cycle per second. 1 kHz = 1000 Hz, 2 kHz = 2000 Hz, etc.
$L_{A90}(t)$	The sound level exceeded for 90% of the measurement period, A-weighted and averaged over time (t) and commonly referred to as the background sound level.
$L_{Aeq}(t)$	A –weighted equivalent continuous sound Level is the sound level equivalent to the total sound energy over a given period of time (t). Commonly referred to as the average sound level.
L_{eff}	The level of noise emitted from the commercial, industrial or trade premises and adjusted, if appropriate, for character and duration.

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APPENDIX B PLANNING MAP



APPENDIX C RELEVANT LEGISLATION AND GUIDELINES

The following sections outline the key noise legislation in Victoria and related guidelines and standards commonly referenced in Victoria in relation to the proposed development.

C1 Environment Protection Act 2017

The Environment Protection Act 2017 (the Act) provides a legislative framework for the protection of the environment in Victoria and establishes obligations for environmental noise control. The Act does not specify noise limits but sets out the legal requirements for compliance with the subordinate legislation tools. Subordinate legislation tools have been designed to support the Act which include the Environment Protection Regulations.

C2 Environment Protection Regulations 2021

The Environment Protection Regulations 2021 (S.R. No. 47/2021) set out the framework for noise from residential, commercial, industrial and trade premises as well as from indoor and outdoor entertainment venues and events. The Regulations require that noise levels from commercial, industrial and trade premises and indoor and outdoor entertainment venues and events are set to protect noise sensitive areas from unreasonable noise.

Regulation 113 (Part 5.3) of the Regulations requires that the prediction, measurement and analysis of noise from commercial, industrial and trade premises and indoor and outdoor entertainment venues and events must be undertaken in accordance with the Noise Protocol (i.e., EPA Publication 1826-4).

C3 1826-4 – Part I

Part I of the Noise Protocol outlines the methodology to establish noise limits applicable to noise from commercial, industrial or trade premises in both urban and rural areas of Victoria. The Noise Protocol also outlines the methodology to undertake a measurement of prediction of the effective noise level at a noise sensitive area from the noise generator.

The subject site is located within the Melbourne Major Urban Area (MUA) boundary and, therefore, noise limits for the subject site are derived using the urban area method.

The calculation of noise limits for commercial, trade and rural premises in urban areas takes into account a zoning noise level, which is based on the land zoning types in the surrounding 200 metre radius of the noise sensitive area, and the background noise level in the vicinity of the relevant noise sensitive areas.

Once a noise limit is established, the noise level from the premises is measured or predicted as a 30-minute equivalent average noise level ($L_{Aeq, 30 \text{ min}}$) and if necessary, adjusted to account for duration, measurement position and noise character (such as tonality, intermittency and impulsiveness) to determine the effective noise level (L_{eff}).

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Table 6 provides a summary of relevant definitions.

Table 6 – Noise Protocol Part I definitions

Term	Definition
Commercial, industrial and trade premises	<p>any premises except the following:</p> <p>(a) residential premises (other than common plant under the control of an owner's corporation);</p> <p>b) a street or road, including every carriageway, footpath, reservation and traffic island on any street or road;</p> <p>(c) a railway track used by rolling stock in connection with the provision of a freight service or passenger service –</p> <p>(i) while travelling on a railway track or tramway track; or</p> <p>(ii) while entering or exiting a siding, yard, depot or workshop;</p> <p>(d) a railway track used by rolling stock in connection with the provision of a passenger service, while in a siding yard, depot or workshop and is –</p> <p>(i) powering up to commence to be used in connection with the provision of a passenger service; or</p> <p>(ii) shutting down after being used in connection with the provision of a passenger service;</p> <p>(e) the premises situated at Lower Esplanade, St Kilda and known as "Luna Park" and being the whole of the land more particularly described in Certificate of Title Volume 1204 Folio 109.</p>
Residential premises	Any building or part of a building used as or for the purposes of a private residence or residential flat
Noise sensitive residential use	a community care accommodation, dependent person's unit, dwelling, residential aged care facility, residential village, retirement village or rooming house
Background noise level	The arithmetic average of the hourly L_{A90} levels that represents the background sounds in a noise sensitive area, in the absence of noise from any commercial, industrial or trade premises which appears to be intrusive at the point where the background level is measured, when measured according to Part I, section A4 of the Noise Protocol
Effective noise level	the level of noise emitted from commercial, industrial and trade premises and, if appropriate, adjusted to take into account the character and duration of the noise and the measurement conditions, as determined in accordance with the Noise Protocol
Day period	Monday-Saturday (excluding public holidays) 0700-1800 hours
Evening period	Monday-Saturday 1800-2200 hours
	Sunday and public holidays 0700-2200 hours
Night period	Monday-Sunday/Public Holidays 2200-0700 hours

-
- Noise sensitive area
- (a) that part of the land within the boundary of a parcel of land that is -
- (i) within 10 metres of the outside of the external walls of any of the following buildings -
a dwelling (including a residential care facility but not including a caretaker's house),
a residential building, a noise sensitive residential use; or
 - (ii) within 10 metres of the outside of the external walls of any dormitory, ward, bedroom or living room of one of more of the following buildings -
a caretaker's house, a hospital, a hotel, a residential hotel, a motel, a specialist disability accommodation, a corrective institution, a tourist establishment, a retirement village,
a residential village; or
 - (iii) within 10 metres of the outside of the external walls of a classroom or any room in which learning occurs in the following buildings (during their operating hours) -
a child care centre, a primary school, a secondary school; or
- (b) in the case of a rural area only, that part of the land within the boundary of -
- (i) a tourist establishment, or
 - (ii) a campground; or
 - (iii) a caravan park.
-

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APPENDIX D NOISE PREDICTION METHODOLOGY

Predictions of operational noise from the subject site have been undertaken on the basis of:

- The sound emissions of noise sources associated with the development as outlined in Table 3.
- A digital noise model of the site and surrounding environment
- International standard(s) used for the calculation of environmental noise propagation.

Details of the prediction methodology are summarised in Table 7 below.

Table 7 - Noise prediction methodology

Detail	Description
Software	Proprietary noise modelling software SoundPLAN v8.2
Method	International Standard ISO 9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation (ISO 9613-2).
Ground conditions	Ground factor of $G = 0.5$ i.e., 50 % hard ground
Atmospheric conditions	Temperature 10°C and relative humidity 70% This represents conditions which result in relatively low levels of atmospheric sound absorption.
Receiver heights	1.5 m above finished floor level

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SLR Consulting Australia
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East Melbourne VIC 3002
Attention: Mitchell Kennedy

1 December 2024
Project #: WGA221485
Doc. WGA221485-LT-TT-0002_A
E: mkennedy@slrconsulting.com

Dear [REDACTED]

GYG PAKENHAM, VIC - S72 AMENDMENT APPLICATION (T000898-3) | RESPONSE TO COUNCIL REQUEST FOR FURTHER INFORMATION - TRAFFIC ENGINEERING ASSESSMENT

1. INTRODUCTION

1.1 General

WGA has been engaged by SLR Consulting Australia (SLR) on behalf of the applicant to provide a response to the traffic engineering-related comments received in a Request for Further Information (RFI) letter issued by Cardinia Shire Council (Council).

The RFI has been issued in relation to a s72 application to amend Planning Permit T000898-3 at 74 Princes Highway, 76-80 Princes Highway, 82-86 Princes Highway, 88-90 Princes Highway, Pakenham and 1 Deveney Street, Pakenham VIC 3810.

The existing permit allows '*The use and development of land for the purpose of seven (7) convenience restaurants with associated car parking and business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1, generally in accordance with the substituted plans known as TP1.P and TP2-J and the endorsed plans.*' The proposed amendment in question seeks approval to modify the approved operational hours under Condition 14 of the permit, associated with the existing 'GYG' convenience restaurant only.

Specifically, the following amendments are contemplated under this application:

- **Permitted hours of operation:**
 - 7.00am – 11.00pm, Sunday to Thursday
 - 7.00am – 12.00am, Friday to Saturday
- **Amended hours of operation sought:**
 - 6.00am – 12.00am, seven (7) days a week

It is noted that no changes to the site's existing layout (built form) or access points are proposed under this application.

An assessment of the appropriateness of the amendments sought from a traffic engineering perspective is provided as follows.

1.2 Documentation Referenced

In the course of preparing this assessment, the following documentation has been referenced:

- Planning report (Ref No.: 640.031505.00001-L0.1-v0.1-PlanningReport-20240830.docx) previously prepared by SLR dated 3 September 2024
- Council RFI letter response (date unknown to WGA)
- Information relating to drive-through transactions for the subject tenancy ('GYG Pakenham')
- Traffic movement count data undertaken by Trans Traffic Survey at the subject tenancy
- SCATS traffic volume data sourced for the pedestrian-operated signals along Princes Highway in the vicinity of the subject tenancy (Site ID: 609).

2. RESPONSE TO RFI COMMENTS

Council RFI comments relating to traffic engineering matters are provided in *italics*, with WGA's response below.

Council Comment – General

4. Traffic Assessment

Provide a Traffic Assessment prepared by a suitably qualified person assessing the impact of extended hours on traffic movements at the site on the surrounding road network.

WGA Response

Anticipated Traffic Generation

Drive-Thru Traffic

In or to gauge the extent of drive-thru traffic likely to be generated by the subject tenancy across the extended hours of operation, WGA liaised with GYG to obtain drive-through transaction data for the subject tenancy across four (4) recent weeks of operation.

The data supplied covered Monday 28 October 2024 through to Friday 22 November 2024, where the franchisee noted 'typical' operating conditions during this time. A summary of the data (provided by GYG on 26 November for the four (4) weeks prior is provided in Figure 2-1

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Drive Thru - Avg and Total Completed Cars Per Day for Last 4 w

Top Restaurants.		Avg Cars, Last Completed 4 Weeks.								
Restaurant	Avg 4w	Business Hour	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
Pakenham DT	2,528	7	7	8	7	7	8	9	3	49
		8	7	6	11	10	11	9	11	64
		9	12	12	10	12	11	15	16	86
		10	13	9	8	9	12	21	19	91
		11	19	12	15	15	21	17	15	112
		12	32	20	34	37	33	33	36	225
		13	31	26	32	29	34	27	34	213
		14	17	18	23	21	25	24	25	152
		15	15	12	19	16	13	19	20	114
		16	20	13	17	20	23	20	18	130
		17	22	25	23	29	40	29	26	194
		18	38	33	44	45	55	46	40	299
		19	30	35	42	46	61	46	35	295
		20	25	29	34	40	43	32	27	229
		21	18	20	23	29	34	26	20	168
		22	11	11	17	16	19	13	12	98
		23					7	5		12
		Total	315	288	355	380	447	390	354	2,528

Figure 2-1: Average Drive-Through Transactions – GYG Pakenham (28/10/2024 to 22/11/2024)

The following key items are noted from the data supplied relating to GYG Pakenham’s drive-thru feature:

- No more than an average of nine (9) transactions were recorded during the earliest morning period (7.00am – 8.00am) across all weekdays/weekend days
- No more than an average of 17 transactions were recorded during weekdays during the latest evening period (10.00pm – 11.00pm)
- No more than an average of seven (7) transactions were recorded on Friday/Saturday during the latest evening period (11.00pm – 12.00am)

Further to the above, reference is made to data provided by GYG relating to drive-through transaction information for its ‘GYG Campbellfield Plaza, VIC’ site, for the four (4) recent weeks of operation. This site is considered comparable to that of the subject tenancy noting the average number of total transactions recorded across the four (4) week period observed. Further, it is noted that the Campbellfield Plaza restaurant already operates across the hours sought under this proposal.

The data supplied covered Monday 28 October 2024 through to Friday 22 November 2024. A summary of the data (provided by GYG on 26 November for the four (4) weeks prior is provided in Figure 2-2.

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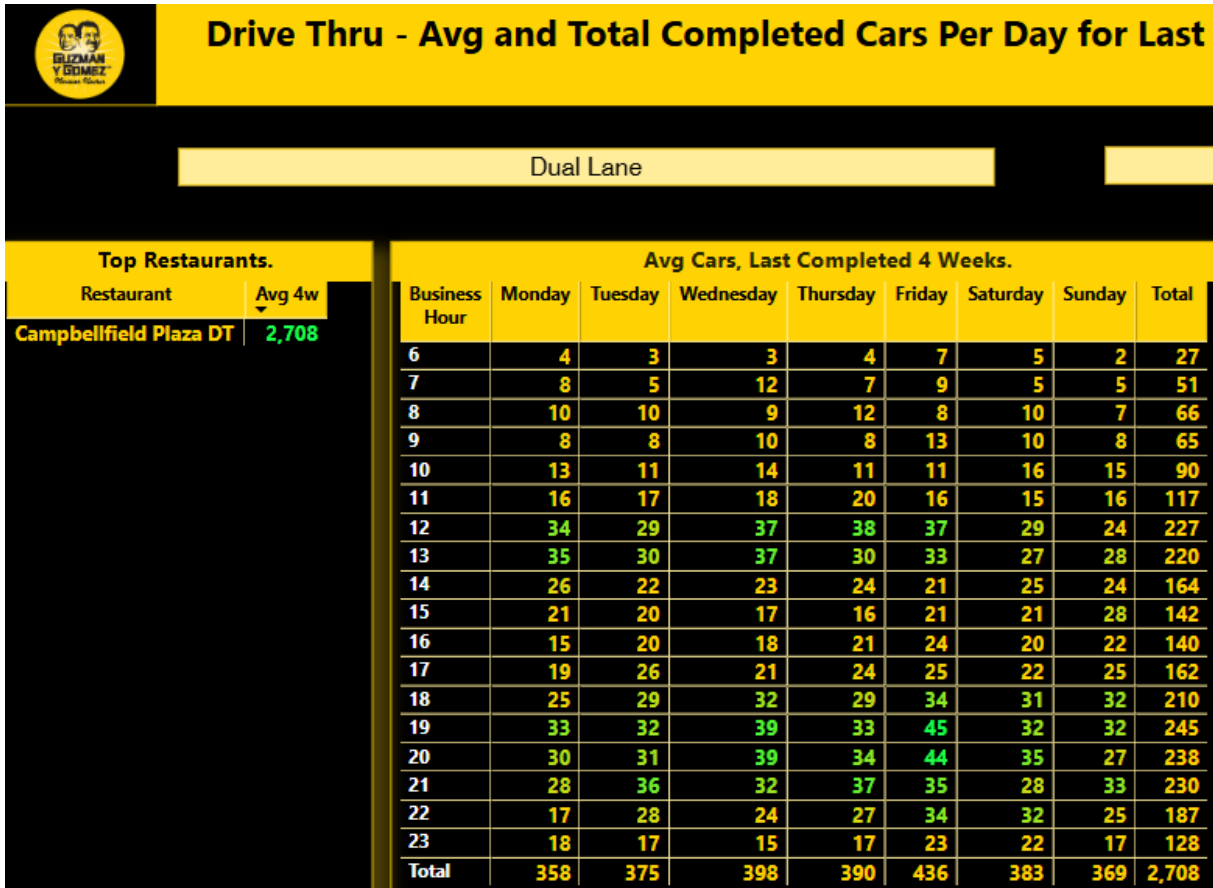


Figure 2-2: Average Drive-Through Transactions – GYG Campbellfield Plaza (28/10/2024 to 22/11/2024)

The following key items are noted from the data supplied relating to GYG Pakenham’s drive-thru feature:

- No more than an average of seven (7) transactions were recorded between 6.00am – 7 00am across all weekdays/weekend days
- No more than an average of 17 transactions were recorded from Sunday-Thursday between 11.00pm – 12.00am

Overall Traffic

In order to gauge the extent of overall¹ traffic likely to be generated by the subject tenancy across the extended hours of operation, WGA commissioned Trans Traffic Survey to undertake turning movement count surveys at the subject tenancy’s two (2) access points.

The surveys were undertaken across the following days and times, in order to capture traffic activity at times **closest** to the proposed extension periods:

- Friday 22 November 2024, between 11.00pm – 12.00am
- Saturday 23 November 2024, between 7.00am-8.00am
- Monday 25 November 2024, between 7.00am – 8.00am

Survey results are summarised below, indicating that a total of:

¹ Drive-thru plus dine in and staff traffic movements

- 14 vehicle movements were generated by the subject site on Friday 22 November 2024 between 11.00 – 12.00pm
- 29 vehicle movements were generated by the subject site on Saturday 23 November 2024, between 7.00am-8.00am
- 16 vehicle movements were generated by the subject site on Monday 25 November 2024, between 7.00am – 8.00am

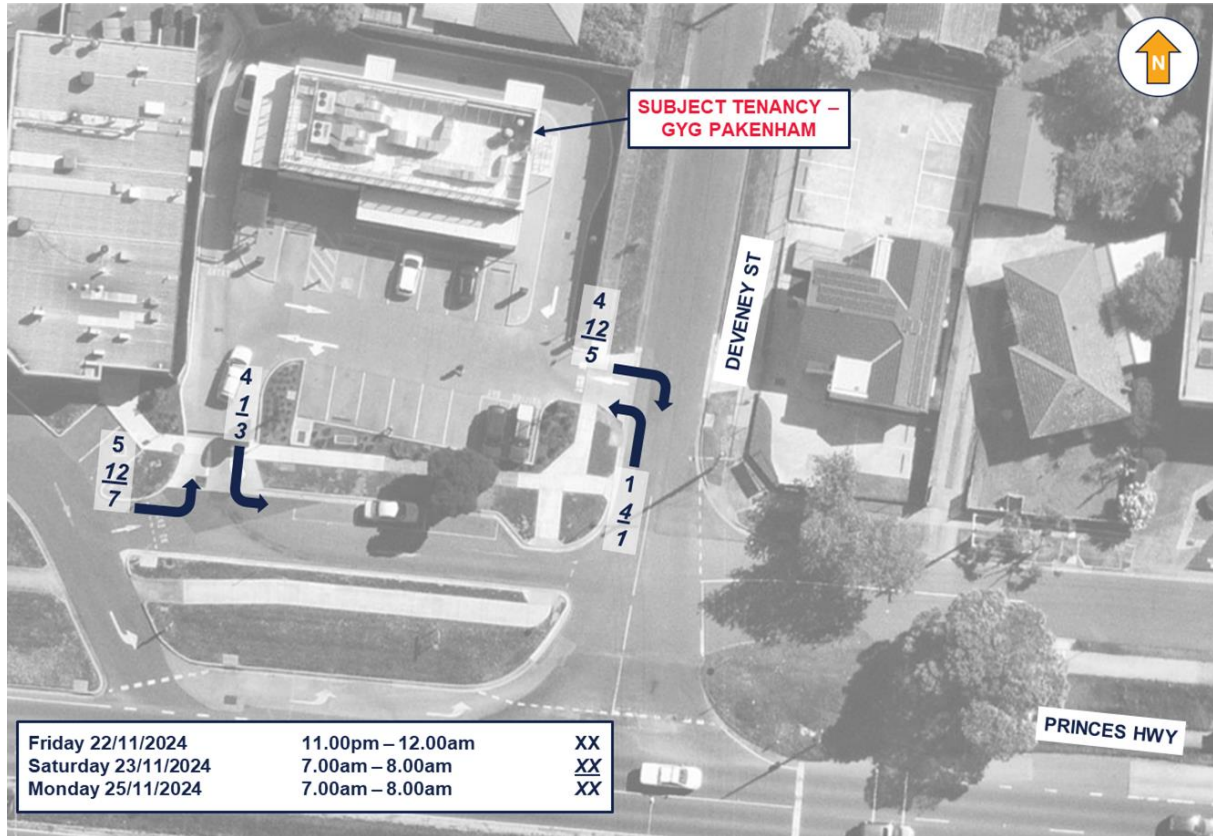


Figure 2-3: Traffic Survey Results – GYG Pakenham (22, 23 and 25 November 2024)

When estimating the extent of overall additional traffic likely to be generated by the proposed development, the GYG Campbellfield Plaza drive-thru data suggests that at least **30% less** drive-thru traffic is expected during the 6.00am – 7.00am and 11.00pm – 12.00am hours of operation. It would be reasonable to assume that the same discount in overall site generated traffic could be expected.

Road Network Considerations

It is widely acknowledged and accepted that a significant portion of traffic generated by quick service restaurant (QSR) developments is made up of passing trade. In some instances, a passing trade percentage of up to 50% is accounted for.

SCATS data available for the nearby pedestrian operated signals on Princes Highway (immediately east of Deveney Street) was sourced to compare variations in through traffic across proposed extension hours and the periods immediately following these. The most recently available data, published publicly by DTP, is summarised in Table 2-1.

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Table 2-1: Summary of Traffic Volumes – Princes Highway Pedestrian-Operated Signals (Site ID: 609)

TIME	TOTAL MOVEMENTS (EASTBOUND + WESTBOUND)	~REDUCTION IN PREDECING / SUBSEQUENT HOUR VOLUMES
Friday 6 September 2024		
6.00am – 7.00am	1,057	-29%
7.00am – 8.00am	1,487	
10.00pm – 11.00pm	723	-32%
11.00pm – 12.00am	448	
Saturday 7 September 2024		
6.00am – 7.00am	381	-51%
7.00am – 8.00am	776	
10.00pm – 11.00pm	592	-21%
11.00pm – 12.00am	468	

Based on the above comparisons, during the anticipated extension hours, an average reduction of ~33% could apply to through traffic along Princes Highway when compared to through traffic volumes across the preceding/subsequent hours.

Noting that site-generated traffic is largely expected to serve as a function² of traffic volumes along the adjoining arterial road network, reduced site-generated traffic activity is forecast during proposed extension periods for the restaurant.

Traffic Impact

On the basis of the proceeding assessment, it is expected that the proposal will pose negligible impacts to the operations of the subject site’s access points and the broader road network.

Clearly, the extent of impacts anticipated during extension hours will be less than what is currently experienced across the road network during the earliest morning/latest evening hours during which the subject tenancy is permitted to operate.

3. CONCLUSION

Based on discussions and analysis outlined within the preceding assessment, we consider that the information contained within this assessment appropriately responds to Council’s RFI comment.

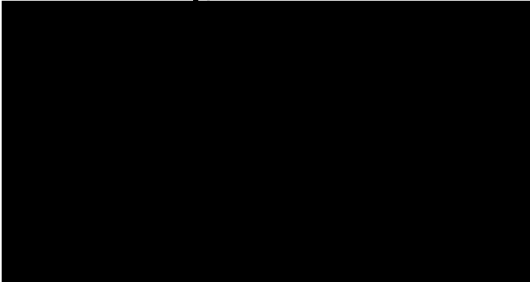
We are therefore in support of the proposal and do not believe there to be any traffic engineering grounds that should otherwise prohibit the issue of planning approval.

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² Due to significant demand generated from passing trade (diverted trips already on the road network)

Should you have any queries relating to this matter please contact our office.

Yours sincerely,



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