
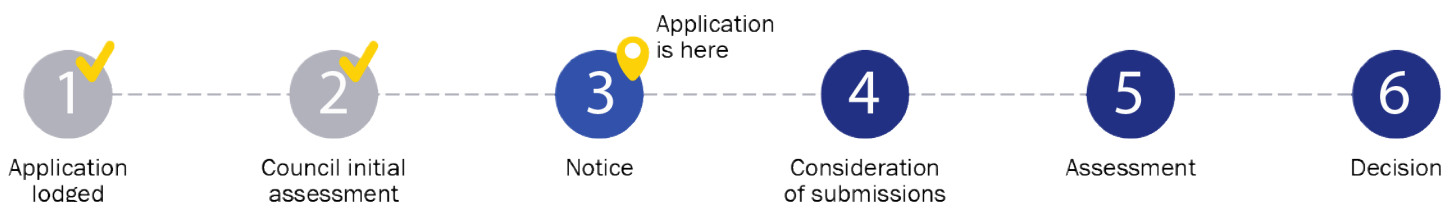


Notice of an Application for an Amendment to a Planning Permit

The land affected by the application is located at:	L1 PS815176 V11992 F194 We 1/9 Southeast Boulevard, Pakenham VIC 3810
The application is to:	Section 72 amendment to the permit to amend plans to include Part Common Property for the Use of the land for a food and drink premises, and the sale and consumption of liquor (producer's licence) in association with industry (micro-brewery)

APPLICATION DETAILS	
The applicant for the amendment to the permit is:	LiquorPlan
Application number:	T210338 - 1
<p>You may look at the application and any documents that support the application at the office of the Responsible Authority: Cardinia Shire Council, 20 Siding Avenue, Officer 3809.</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:		31 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	M424824Z
Reference No	T210338

Basic Information

Proposal Type	Change Of Use, Advertising Has Occurred
Proposed Use	Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit
Current Use	The site is now currently used in accordance with the Existing Permit
Cost of Works	\$0
Amended Cost of Works	\$0
Amendments	What the permit Allows Changed
Proposed Changes	- Amend Preamble to include reference to, "Use of land for the sale and consumption of liquor where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increasedâ€¢. - Endorse submitted the Application Plan under Condition 1 (Existing Endorsed Plan to be superseded). - Amend /add any other relevant condition as the Council reasonably requires.
Site Address	We 1/9 Southeast Boulevard Pakenham VIC 3810

Covenant Disclaimer

Does the proposal breach, in any way, an encumbrance on title such as restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope? No such encumbrances are breached

Note: During the application process you may be required to provide more information in relation to any encumbrances.

Contacts

Type	Name	Address	Contact Details
Applicant	[Redacted] LiquorPlan	PO BOX 200, Ballan VIC 3342	W: 0410-762-304 M: 0410-762-304 E: applications@liquorplan.com.au
Owner	[Redacted]		
Preferred Contact	[Redacted] LiquorPlan	PO BOX 200, Ballan VIC 3342	W: 0410-762-304 M: 0410-762-304 E: applications@liquorplan.com.au

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



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

Total **\$1,453.40**

Documents Uploaded

Date	Type	Filename
04-11-2024	Site Plan	Southeast Boulevard Application Plan D1.pdf
04-11-2024	Additional Document	Southeast Boulevard2 Amendment Application Letter Planning Report D1.pdf
04-11-2024	Additional Document	Southeast Boulevard2 Site Context Plan D1.pdf
04-11-2024	Additional Document	Southeast Boulevard Title Document 1-11-24.pdf
04-11-2024	Additional Document	Southeast Boulevard Title Plan.pdf
04-11-2024	Additional Document	Southeast Boulevard Title Agreement.pdf
04-11-2024	Additional Document	Southeast Boulevard OC Report.pdf
04-11-2024	Additional Document	Southeast Boulevard Permit Document.pdf
04-11-2024	Additional Document	Southeast Boulevard Permit Endorsed Plans.pdf
04-11-2024	Additional Document	Southeast Boulevard Existing Licence 32810184 Document.pdf
04-11-2024	Additional Document	Southeast Boulevard Existing Licence 32810184 Endorsed Red Line Plan.pdf
04-11-2024	Additional Document	Southeast Boulevard Common Property Licence Agreement Redacted.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	[REDACTED] LiquorPlan	PO BOX 200, Ballan VIC 3342	W: 0410-762-304 M: 0410-762-304 E: info@liquorplan.com.au
Submission Date	04 November 2024 - 04:16:PM		

Declaration

By ticking this checkbox, I, **[REDACTED]** 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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Monday to Friday 8.30am–
5pm
Phone: 1300 787 624
After Hours: 1300 787 624
Fax: 03 5941 3784

Planning Enquiries
 Phone: 1300 787 624
 Web: www.cardinia.vic.gov.au

Application to AMEND a Planning Permit

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

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

A This form cannot be used to:

- amend a permit or part of a permit if the Victorian Civil and Administrative Tribunal (VCAT) has directed under section 85 of the Act that the responsible authority must not amend that permit or that part of the permit (as the case requires); or
- amend a permit issued by the Minister under Division 6 of Part 4 of the Act (these applications must be made to the Minister under section 971 of the Act).

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

i Click for further information.

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Clear Form

The Land **i**

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

Street Address *

Unit No.: 1	St. No.: 9	St. Name: Southeast Boulevard
Suburb/Locality: Pakenham		Postcode: 3810

Formal Land Description *

Complete either A or B.

A This information can be found on the certificate of title.

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

A	Lot No.: 1	<input type="radio"/> Lodged Plan <input type="radio"/> Title Plan <input checked="" type="checkbox"/> Plan of Subdivision	No.: PS815176
OR			
and adjoining area of common property			
B	Crown Allotment No.:	Section No.:	
Parish/Township Name:			

Planning Permit Details **i**

What permit is being amended?*

Planning Permit No.:	T210338 PA
----------------------	------------

The Amended Proposal **i**

A You must give full details of the amendment being applied for. Insufficient or unclear information will delay your application

What is the amendment being applied for?*

- Indicate the type of changes proposed to the permit.
- List details of the proposed changes.

If the space provided is insufficient, attach a separate sheet.

This application seeks to amend:	
<input checked="" type="checkbox"/> What the permit allows	<input checked="" type="checkbox"/> Plans endorsed under the permit
<input checked="" type="checkbox"/> Current conditions of the permit	<input type="checkbox"/> Other documents endorsed under the permit
<p>Details:</p> <p>Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit. The following amendments to the Existing Permit are required:</p> <ul style="list-style-type: none"> • Amend Preamble to include reference to, "Use of land for the sale and consumption of liquor where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased". • Endorse submitted the Application Plan under Condition 1 (Existing Endorsed Plan to be superseded). • Amend /add any other relevant condition as the Council reasonably requires 	
<p>A Provide plans clearly identifying all proposed changes to the endorsed plans, together with: any information required by the planning scheme, requested by Council or outlined in a Council checklist; and if required, include a description of the likely effect of the proposal.</p>	

Development Cost i

Estimate cost of development*

If the permit allows **development**, estimate the cost difference between the development allowed by the permit and the development to be allowed by the amended permit.

Cost of proposed amended development:	Cost of the permitted development:	Cost difference (+ or -):
\$ 0	\$ 0	\$ 0

Insert 'NA' if no development is proposed by the permit.

You may be required to verify this estimate.

Existing Conditions i

Describe how the land is used and developed now *

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

Have the conditions of the land changed since the time of the original permit application? Yes No
If yes, please provide details of the existing conditions.

Food and drink premises, micro brewery

Provide a plan of the existing conditions if the conditions have changed since the time of the original permit application. Photos are also helpful.

Title Information i

Encumbrances on title *

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

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

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

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Applicant and Owner Details

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

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

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

Owner *

The person or organisation who owns the land

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

Name:			
[Redacted]			
Organisation (if applicable): LiquorPlan			
Postal Address:		If it is a P.O. Box, enter the details here:	
Unit No.:	St. No.:	St. Name: PO Box 200	
Suburb/Locality: Ballan		State: VIC	Postcode: 3342


Contact information for applicant OR contact person below	
Business phone:	Email: applications@liquorplan.com.au
Mobile phone: 0410 762 304	Fax:

Contact person's details*			Same as applicant <input checked="" type="checkbox"/>
Name:			
Title:	First Name:	Surname:	
Organisation (if applicable):			
Postal Address:		If it is a P.O. Box, enter the details here:	
Unit No.:	St. No.:	St. Name:	
Suburb/Locality:		State:	Postcode:

Name:			Same as applicant <input type="checkbox"/>
Title:	First Name:	Surname:	
Organisation (if applicable): A & N WHATELEY ENTERPRISES PTY LTD			
Postal Address:		If it is a P.O. Box, enter the details here:	
Unit No.:	St. No.: 5	St. Name: CREMIN DRIVE	
Suburb/Locality: PAKENHAM		State: VIC	Postcode: 3810
Owner's Signature (Optional):			Date:
			day / month / year

Declaration

This form must be signed by the applicant*

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

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[Redacted Signature]		This application is true and correct; that of the amended proposal and that the n.
Date: 5/12/2024		day / month / year

Need help with the Application?

If you need help to complete this form, read More Information at the end of this form or contact Council's planning department. General information about the planning process is available at planning.vic.gov.au

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

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


<input checked="" type="radio"/> No	<input type="radio"/> Yes	If 'Yes', with whom?:
		Date:
		day / month / year



Checklist

Have you:

- Filled in the form completely?
- Paid or included the application fee?
- Attached all necessary supporting information and documents?
- Completed the relevant council planning permit checklist?
- Signed the declaration above?

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

Lodgement

Lodge the completed and signed form and all documents with:

Cardinia Shire Council
PO Box 7
Pakenham VIC 3810

In person: 20 Siding Avenue, Officer

Contact information:

Telephone: 1300 787 624
Fax: (03) 5941 3784
Email: mail@cardinia.vic.gov.au
DX: 81006

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

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The Land

It is important that your application to amend a planning permit includes details of the land, consistent with the Planning Permit. Refer to a copy of your Planning Permit, when completing the street address section of the form.

Also ensure you provide up-to-date details for the formal land description, using the current copy of the title.

Planning Permit Details

You must identify the permit being amended by specifying the permit number. This can be found at the beginning of the permit.

The Amended Proposal

First select the type of amendment being applied for. This may include an amendment to:

- the use and/or development allowed by the permit
- conditions of the permit.
- plans approved by the permit.
- any other document approved by the permit.

Then describe the changes proposed to the permit, including any changes to the plans or other documents included in the permit.

Development Cost

In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help Council calculate the application fee, you must provide an accurate cost estimate of the proposed development to be allowed by the amended permit and the difference between the development allowed by the permit.

Council may ask you to justify your cost estimates. Costs are required solely to allow Council to calculate the permit application fee.

Fees are exempt from GST.

The cost difference is calculated as follows:

$$\begin{array}{r} \text{Development} \\ \text{cost related to} \\ \text{the Application to} \\ \text{Amend a Planning} \\ \text{Permit} \end{array} - \begin{array}{r} \text{Development} \\ \text{cost related to the} \\ \text{Application for} \\ \text{Planning Permit} \end{array} = \text{Cost Difference}$$

If the estimated cost of the proposed amended development is less than the estimated cost of the development allowed by the permit, show it as a negative number.

Example 1

Where the cost of the development to be allowed by the amended permit is lower than the cost of the development allowed by the permit:

$$\$180,000 - \$195,000 = -\$15,000$$

Example 2

Where the cost of the development to be allowed by the amended permit is higher than the cost of the development allowed by the permit:

$$\$250,000 - \$195,000 = \$55,000$$

▲ Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook.

▲ Contact the Council to determine the appropriate fee. Go to planning.vic.gov.au to view a summary of fees in the Planning and Environment (Fees) Regulations.

Existing Conditions

How should land be described?

If the conditions of the land have changed since the time of the original permit application, you need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (for example, single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant land).

Please attach to your application a plan of the existing conditions of the land, if the conditions have changed since the time of the original permit application. Check with the local Council for the quantity, scale and level of detail required.

It is also helpful to include photographs of the existing conditions.

Title Information

What is an encumbrance?

An 'encumbrance' is a formal obligation on the land, with the most common type being a 'mortgage'. Other common examples of encumbrances include:

- **Restrictive Covenants:** A 'restrictive covenant' is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on type of building materials to be used).
- **Section 173 Agreements:** A 'section 173 agreement' is a contract between an owner of the land and the Council which sets out limitations on the use or development of the land.
- **Easements:** An 'easement' gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A 'building envelope' defines the development boundaries for the land.

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

What documents should I check to find encumbrances

Encumbrances are identified on the title (register search statement) under the header 'encumbrances, caveats and notices'. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

What about caveats and notices?

A 'caveat' is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchaser, mortgagee or chargee claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of 'notices'. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a Council from granting a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the Council for advice on how to proceed.

You may be able to modify your proposal to respond to the issue. If not, separate procedures exist to change or remove the various types of encumbrances from the title. The procedures are generally quite involved and if the encumbrance relates to more than the subject property, the process will include notice to the affected party.

▲ You should seek advice from an appropriately qualified person, such as a solicitor, if you need to interpret the effect of an encumbrance or if you seek to amend or remove an encumbrance.

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Why is title information required?

Title information confirms the location and dimensions of the land specified in the planning application and any obligations affecting what can be done on or with the land.

As well as describing the land, a full copy of the title will include a diagram or plan of the land and will identify any encumbrances, caveats and notices.

What is a 'full' copy of the title?

The title information accompanying your application must include a 'register search statement' and the title diagram, which together make up the title. In addition, any relevant associated title documents, known as 'instruments', must also be provided to make up a full copy of the title.

Check the title to see if any of the types of encumbrances, such as a restrictive covenant, section 173 agreement, easement or building envelope, are listed. If so, you must submit a copy of the document (instrument) describing that encumbrance. Mortgages do not need to be provided with planning applications.

▲ Some titles have not yet been converted by Land Registry into an electronic register search statement format. In these earlier types of titles, the diagram and encumbrances are often detailed on the actual title, rather than in separate plans or instruments.

Why is 'current' title information required?

It is important that you attach a current copy of the title for each individual parcel of land forming the subject site. 'Current' title information accurately provides all relevant and up-to-date information.

Some councils require that title information must have been searched within a specified time frame. Contact the Council for advice on their requirements.

▲ Copies of title documents can be obtained from Land Registry: Level 10, 570 Bourke Street, Melbourne; 03 8636 2010; www.landata.vic.gov.au – go direct to "titles & property certificates"

Applicant and Owner Details

This section provides information about the permit applicant, the owner of the land and the person who should be contacted about any matters concerning the permit application.

The applicant is the person or organisation that wants the permit. The applicant can, but need not, be the contact person.

In order to avoid any confusion, the Council will communicate only with the person who is also responsible for providing further details. The contact may be a professional adviser (e.g. architect or planner) engaged to prepare or manage the application. To ensure prompt communications, contact details should be given.

Check with Council how they prefer to communicate with you about the application. If an email address is provided this may be the preferred method of communication between Council and the applicant/contact.

The owner of the land is the person or organisation who owns the land at the time the application is made. Where a parcel of land has been sold and an application made prior to settlement, the owner's details should be identified as those of the vendor. The owner can, but need not, be the contact or the applicant.

See **Example**.

Declaration

The declaration should be signed by the person who takes responsibility for the accuracy of all the information that is provided. This declaration is a signed statement that the information included with the application is true and correct at the time of lodgement.

The declaration can be signed by the applicant or owner. If the owner is not the applicant, the owner must either sign the application form or must be notified of the application which is acknowledged in the declaration

▲ Obtaining or attempting to obtain a permit by wilfully making or causing any false representation or declaration, either orally or in writing, is an offence under the *Planning and Environment Act 1987* and could result in a fine and/or cancellation of the permit

Need help with the Application?

If you have attended a pre-application meeting with a Council planner, fill in the name of the planner and the date, so that the person can be consulted about the application once it has been lodged. This will help speed up the processing of your application.

Checklist

You should provide sufficient supporting material with the application to describe the proposal in enough detail for the council to make a decision. It is important that copies of all plans and information submitted with the application are legible.

There may be specific application requirements set out in the planning scheme for the use or development you propose. The application should demonstrate how these have been addressed or met.

The checklist is to help ensure that you have:

- provided all the required information on the form
- included payment of the application fee
- attached all necessary supporting information and documents
- completed the relevant Council planning permit checklist
- signed the declaration on the last page of the application form.

▲ The more complete the information you provide with your application, the sooner Council will be able to make a decision.

Lodgement

The application must be lodged with the Council responsible for the planning scheme in which the land affected by the application is located. In some cases the Minister for Planning or another body is the responsible authority instead of Council. Ask the Council if in doubt.

Check with council how they prefer to have the application lodged. For example, they may have an online lodgement system, prefer email or want an electronic and hard copy. Check also how many copies of plans and the size of plans that may be required.

Contact details are listed in the lodgement section on the last page of the form.

▲ **Approval from other authorities:** In addition to obtaining a planning permit, approvals or exemptions may be required from other authorities or Council departments. Depending on the nature of your proposal, these may include food or health registrations, building permits or approvals from water and other service authorities.

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Applicant and Owner Details

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

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

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

Owner *

The person or organisation who owns the land

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

Name:		
Title: MR	First Name: LEN	Surname: BROWNING
Organisation (if applicable): RESPONSIBLE DEVELOPERS PTY LTD		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.: 4	St. No.: 12	St. Name: ARDOUR LANE
Suburb/Locality: WYCHEPROOF	State: VIC	Postcode: 3527
Contact information for applicant OR contact person below		
Business phone: 9123 4567	Email: tcpl@bigpond.net.au	
Mobile phone: 0412 345 678	Fax: 9123 4567	
Contact person's details* Same as applicant <input type="checkbox"/>		
Name:		
Title: MR	First Name: ANDREW	Surname: HODGE
Organisation (if applicable): TOWN PLANNING CONSULTANTS		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.:	St. Name: PO BOX 111
Suburb/Locality: PARKDALE	State: VIC	Postcode: 3194
Name: Same as applicant <input checked="" type="checkbox"/>		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:
Owner's Signature (Optional):		Date: day / month / year

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

Page 1 of 2

VOLUME 11992 FOLIO 194

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Produced 01/11/2024 11:03 AM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 815176S.
PARENT TITLE Volume 11949 Folio 579
Created by instrument PS815176S 16/06/2018

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
A & N WHATELEY ENTERPRISES PTY LTD of 5 CREMIN DRIVE PAKENHAM VIC 3810
AR412757X 03/09/2018

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT AM092458F 08/08/2015

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
AN411070C 23/12/2016

NOTICE Section 45 Melbourne Strategic Assessment (Environment Mitigation Levy) 2020
AT390551T 01/07/2020

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DIAGRAM LOCATION

SEE PS815176S FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

Street Address: WAREHOUSE 1 9 SOUTHEAST BOULEVARD PAKENHAM VIC 3810

ADMINISTRATIVE NOTICES

NIL

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

Page 2 of 2

OWNERS CORPORATIONS

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS815176S

DOCUMENT END

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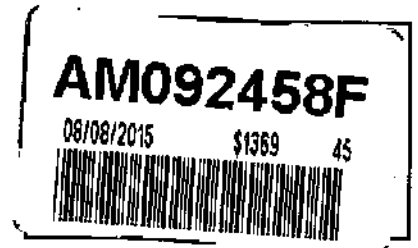
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Transfer of Land

Creating an Easement and/or Restrictive Covenant

Section 45 Transfer of Land Act 1958



Lodged by **National Australia Bank Limited 9E**
Name:
Phone:
Address:
Reference: **TRANS ID 3550985**
C/W 425214 618. 1.1
Customer Code:

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed -

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; and
- subject to any easements reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: *(volume and folio)*
Certificate of Title
Volume Folio
11554 411

Estate and Interest: *(e.g. "all my estate in fee simple")*
All its estate in fee simple

Consideration:
\$9,595,300.00

Transferor: *(full name)*
CARDINIA SHIRE COUNCIL

Transferee: *(full name and address including postcode)*
FOURPAK PROPERTIES PTY LTD A.C.N. 606 214 779 of 9 Embrey Court Pakenham VIC 3810

Directing Party: *(full name)*

Creation and/or Reservation of Easement and/or Restrictive Covenant

The Purchaser must include in the instrument of the transfer of land a covenant ("the covenant") in the following form which will run with the land and appear on the certificate of title and folio of the Register to issue from the Land Titles Office in relation to the Land:

16001211A

T2

Page 1 of 5

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Transfer of Land

Creating an Easement and/or Restrictive Covenant

Section 45 Transfer of Land Act 1958



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“The Transferee with the intent of binding the owner for the time being of the land in this transfer (“the land”) COVENANTS with the Transferor and each of the owners of the land in Plan of Subdivision No. 721508R (apart from the land) that the Transferee will not:

- (a) Erect or permit or suffer any building or buildings to be erected or to remain on the land hereby transferred unless:
 - I. Erection of the building or buildings are commenced within three (3) years of the date of registration of Plan of Subdivision No. 721508R and completed within twelve (12) months following commencement or such latter date as may be approved in writing by SouthEast Business Park Pty Ltd;
 - II. The plans and specifications of the said building or buildings including landscaping plans have been approved in writing by SouthEast Business Park Pty Ltd; and
 - III. The said building or buildings and landscaping plans and specifications are in conformity with the SouthEast Business Park Design Guidelines.
- (b) Use or permit or suffer any part of the land hereby transferred to be used for purposes of a bank, café/take-away food premises, restaurant, motor vehicle repairs and panel-beating as defined in the Cardinia Planning Scheme without the prior written consent of SouthEast Business Park Pty Ltd which consent shall be given or denied at the absolute discretion of SouthEast Business Park Pty Ltd.
- (c) Cause a plan of subdivision affecting the land hereby transferred (without prior written approval from SouthEast Business Park Pty Ltd) to be lodged with the Registrar of Titles for approval.
- (d) Erect or cause to be erected on the land hereby transferred any building other than a building of which one hundred percent (100%) of the wall area (save for the provision of windows and doors) of the front wall and any side wall fronting a road is constructed of brick or block masonry or concrete with applied paint or aggregate finish or such other materials and finish as may be approved by SouthEast Business Park Pty Ltd.

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Transfer of Land Creating an Easement and/or Restrictive Covenant

Section 45 Transfer of Land Act 1958



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- (e) Erect or cause to be erected on the land hereby transferred any Building other than a building of which the whole (save for the provision of window and doors) of any wall not facing any street or road is constructed up to a height of 2.1 metres above ground level of brick, masonry or such other materials as may be approved in writing by SouthEast Business Park Pty Ltd.
- (f) Use or permit to be used for the purposes of external walls (including doors) on any building or buildings any cladding material unless the same is finished with a durable paint or permanent colour surface.
- (g) Suffer or store or permit goods, materials, containers or any other commodities or any tank, plant and machinery or rubbish to be stored or places outside any building erected on the land hereby transferred unless they are substantially screened from view from the road frontage and from any secondary road by a wall of at least 2.45 metres in height or by other means approved by SouthEast Business Park Pty Ltd.
- (h) (i) Use or permit or suffer that part of the land hereby transferred situated within any setback area required pursuant to the provisions of the Cardinia Planning Scheme (hereinafter called "the landscaped area") to be used otherwise than for the purpose of a maintained landscape garden or for the purpose of access to any building on the land hereby transferred; and
 - (ii) Develop or permit or suffer the landscaped area to be developed as a landscaped garden or for the purposes of access of any building erected on the land hereby transferred unless and until the plans and specifications for the landscaped area have been approved in writing by SouthEast Business Park Pty Ltd which approval is not to be unreasonably withheld.
- (i) Use or permit or suffer any part of the land hereby transferred to be used for the purpose of a motor vehicle wrecking or junk/scrap metal yard or container storage or recycling facility.
- (j) Erect or cause to be erected any front or side fence forward of the Landscape Set-back referred to below without the prior written consent of SouthEast Business Park Pty Ltd.

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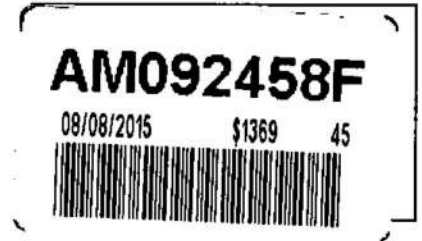
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Transfer of Land

Creating an Easement and/or Restrictive Covenant

Section 45 Transfer of Land Act 1958



Continued from previous page

Landscape Set-back

Street Frontage	No Service Road Min distance (m)	Service Road
Koo Wee Rup Road	3	3
SouthEast Blvd	3	N/A
Greenhills	3	3
McGregor	3	3
All other roads	3	N/A

- (k) Erect or cause to be erected any fence constructed of a material other than coated chain or mesh, steel pickets or materials to match the walls of the Building where that fence faces the road frontage or a secondary road, without the prior written consent of SouthEast Business Park Pty Ltd.
- (l) Erect or cause to be erected any side and rear boundary fence not facing a road other than in industrial chain mesh with a minimum height of 2.1m and a maximum height of 2.5m, without the prior written consent of SouthEast Business Park Pty Ltd.
- (m) Erect or cause to be erected on the land before any building is erected on the land any sign or hoarding advertising the land for sale other than a sign approved by SouthEast Business Park Pty Ltd for a period of four (4) years from registration of Plan of Subdivision No. 521508R.
- (n) Erect or cause to be erected on the land any Building unless the Building includes a Rainwater Tank with a minimum storage capacity of not less than 5000 litres, and which is plumbed or connected to the Buildings Toilet facilities.

Covenants in Clauses (a) (b) and (c) above shall cease to operate 10 years after registration of Plan of Subdivision No. 721508R.

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Page 4 of 5

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Transfer of Land

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Section 45 Transfer of Land Act 1958



This is page 5 of *Approved Form T2* ^{3/10/15} between Cardinia Shire Council and Fourpak Properties Pty Ltd

Signature of the Parties



Insert panel heading below

Continued from previous page

"AND IT IS AGREED that the benefit each of these covenants runs with the land in Plan of Subdivision No. 721508R (apart from the Land) and that the burden runs with the Land".

Dated: 3-10-15

Executed by Fourpak Properties Pty Ltd A.C.N. 606 214 779 by being signed by:

Director....

Full name:

Usual address:

Director....

Full name:

Usual address:



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Transfer of Land

Creating an Easement and/or Restrictive Covenant

Section 45 Transfer of Land Act 1958

AM092458F

08/08/2015 \$1369 45



This is page 6 of *Approved Form T2* dated 30/06/15

between CARDINIA SHIRE COUNCIL
& FOURPM PROPERTIES PLL

Signature of the Parties

Insert panel heading below

Continued from previous page

Signed by and on behalf, and with the authority of)
the CARDINIA SHIRE COUNCIL by [REDACTED] Chief)
Executive Officer, [REDACTED] General Manager Corporate)
Services in the exercise of a Power conferred by an)
Instrument of Delegation dated 20th August 2007 in the)



presence of:



Witness

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Application by
Responsible Authority,
for the making of a recording of an
Agreement

Privacy Collection Statement
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Lodged by:
Name Mepstead Lawyers
Phone (03) 59415166
Address 108 Main Street, Pakenham
Ref TM:AS
Customer Code 2715T

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

Land Volume 11554 Folio 411

Authority or council - Cardinia Shire Council, 20 Siding Avenue OFFICER VIC 3809

Section and Act under which agreement made: Section 181(1) Planning and Environment Act 1987

A copy of the Agreement is attached to this application

Dated this 19th day of December 2016

Signature of authority
Name of officer

MANAGER STRATEGIC &
ECONOMIC DEVELOPMENT

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AGREEMENT

This Agreement is made pursuant to Section 173 of the Planning and Environment Act on the
day of

Parties: **Cardinia Shire Council** of Henty Way, Pakenham, Victoria, 3810 ('the Council')

And

Fourpak Properties Pty Ltd (A C N 606 214 779) of 9 Embrey Court Pakenham,
Victoria, 3810 ('the Owner')

RECITALS

- A. The Council is the responsible authority under the Planning and Environment Act 1987 for the Pakenham Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. Council and the Owner have agreed that without limiting or restricting their respective powers to enter into this Agreement and in so far as it can be so treated, this Agreement is made pursuant to Section 173 of the Act as set out in Condition No 10 of Planning Permit No. T160305

THE PARTIES AGREE

1. DEFINITIONS

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

Act means the Planning and Environment Act 1987

Agreement means this agreement and any agreement executed by the parties expressed to be supplemented to this agreement.

Lot means a lot on the endorsed plan.

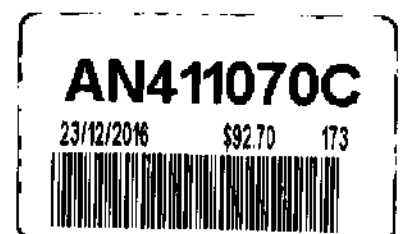
Mortgage means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

Owner means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.

Party or parties means the Owner and Council under this Agreement as appropriate.

Planning Scheme means the Cardinia and any other planning scheme that applies to the Subject Land.

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Subject Land means Lot A on Plan of Subdivision No. 721508R and being the land in Certificate of Title Volume 11554 Folio 411 Greenhills Road Pakenham Vic 3810

2. INTERPRETATION

In this Agreement unless the context admits otherwise:

- 2.1 The singular includes the plural and vice versa.
- 2.2 A reference to a gender includes reference to each other gender.
- 2.3 A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5 A term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
- 2.6 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.
- 2.7 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.8 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 Subject Land provided that if the Subject 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.

3. SPECIFIC OBLIGATIONS OF THE OWNER

Before the development starts, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to provide for the following:

- 3.1 Within six (6) months of the intended occupier of the site ceasing operation, all vehicle crossovers along Greenhills Road must be removed and reinstated. Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
- 3.2 After the removal of the crossovers along Greenhills Road, no vehicle access will be permitted from Greenhills Road, except with the written consent of the Responsible Authority

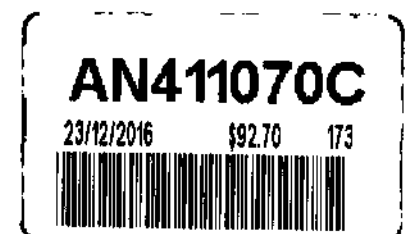
4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that the Owner will:

4.1 Notice and Registration

bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns.

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4.2 Further actions

- 4.2.1 do all things necessary to give effect to this Agreement;
- 4.2.2 consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgement 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.

4.3 Council's costs to be paid

Immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) if and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt to Council by the Owner.

4.4 Compliance

- 4.4.1 comply with the requirements of all statutory authorities in relation to the development of the Subject Land;
- 4.4.2 comply with all statutes, regulations, local laws and planning controls in relation to the Subject Land; and
- 4.4.3 take all necessary steps to comply with the obligations of each clause in this Agreement;

4.5 Mortgage to be Bound

obtain the consent of any mortgagee to be bound by the covenants in this Agreement if the mortgagee in possession of the Subject Land;

4.6 Indemnity

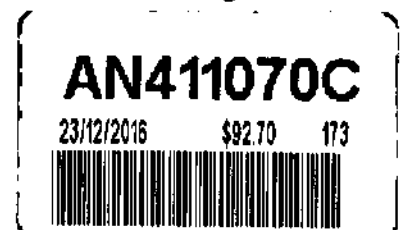
Indemnify and keep indemnified Council, its officers, employees, agents, workmen and contractors from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought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

4.7 Non-compliance

if the Owner has not complied with this Agreement within 21 days after service of a notice by Council specifying any non-compliance, do the following:

- 4.7.1 all Council, its officers, employees, contractors or agents to enter the Subject Land and rectify the non-compliance;
- 4.7.2 pay to Council on demand, Council's reasonable costs and expenses incurred as a result of the non-compliance which (until paid) are and remain a charge on the Subject Land;

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- 4.7.3 pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 on all moneys outstanding under this Agreement until they are paid in full; and the Owner agrees:
- 4.7.4 to accept a certificate signed by the Chief Executive Officer of Council (or the nominee of the Chief Executive Officer) as a prima facie evidence of the costs and expenses incurred by Council in rectifying the Owner's non-compliance with this Agreement; and
- 4.7.5 that any payments made for the purposes of this Agreement are appropriated first in payment of any interest and any unpaid costs and expenses of Council and then applied in repayment of this principal sum;

4.8 Standard of Works

Comply with requirements of this Agreement and to complete all works required by this Agreement at its cost and to the satisfaction of Council; and

4.9 Council Access

Allow Council, its officers, employees, contractors or agents or any of them, to enter the Subject Land (at any reasonable time) to assess compliance with this Agreement.

5. 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 as a Deed pursuant to Section 173 of the Act, and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed for specified.

6. 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 Subject Land may be affected by this Agreement.

7. SUCCESSORS IN TITLE

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

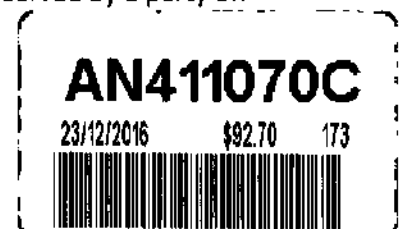
- 7.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2 execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1 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:

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- 8.1.1 by delivering it personally to that party;
- 8.1.2 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
- 8.1.3 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.

8.2 Service of Notice

A notice or other communication is deemed served:

- 8.2.1 if delivered, on the next following business day;
- 8.2.2 if posted, on the expiration of 7 business days after the date of posting;

or

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

8.3 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 judgement 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.

8.4 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.

8.5 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 Subject Land or relating to any use or development of the Subject Land.

9. COMMENCEMENT OF AGREEMENT

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

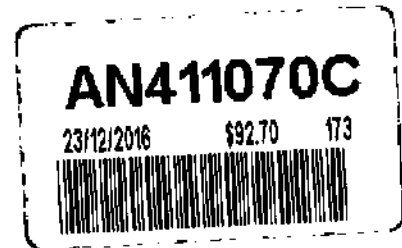
10. ENDING OF AGREEMENT

- 10.1 Agreement ends when the Owner has complied with all of the obligations imposed on the Owner under this Agreement.
- 10.2 If this Agreement relates to more than one lot and the owner of that lot has complied with all of the obligations in relation to that lot, the owner of that lot may request Council to end this Agreement in relation to that lot.

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- 10.3 As soon as reasonably practicable after the Agreement has ended, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under Section 183(1) of the act to cancel the recording of this Agreement on the register.



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SIGNED SEALED AND DELIVERED as a Deed by the parties on the date set out at the commencement of this Agreement.

SIGNED by and on behalf, and with



of the **CARDINIA SHIRE COUNCIL** by

in the exercise of

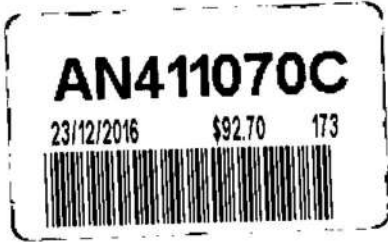
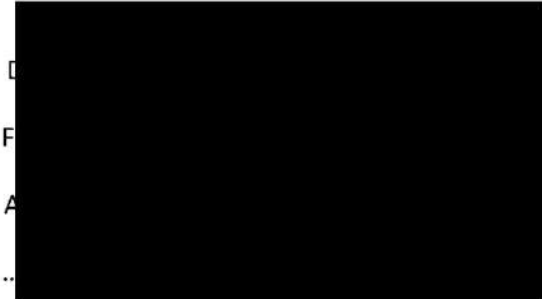
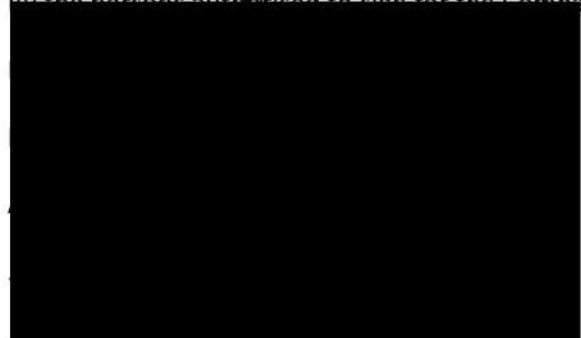
power conferred by an Instrument of

Delegation dated *15 February 2016*



SIGNED by ^{*20 PH*} ~~FOUR-PAC~~ *fourpak* PTY LTD by being signed

By the persons authorised to sign for the Company:



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Registrar of Titles
Land Titles Office
Marland House
570 Bourke Street
MELBOURNE

APPLICATION TO REGISTER AN AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987

Certificate of Title Volume 11554 Folio 411
Registered Proprietor: Fourpak Properties Pty Ltd ACN 606 214 779

National Australia Bank Limited A.B.N. 12 004 044 937 as Mortgagee pursuant to Registered Mortgage number AM092459D hereby consents to the within Agreement.

Dated this 29th day of November 20 16

EXECUTED by **NATIONAL AUSTRALIA BANK LIMITED** by being signed sealed and delivered in Victoria by its Attorney

_____)
S _____)
who holds the position of **Power of Attorney** under)
Power of Attorney dated 1/3/2007 (a certified)
copy of which is filed in Permanent Order Book)
No 277 Page No 025 Item 35) in the presence of:)
_____)



...
S



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Document Type	Plan
Document Identification	PS815176S
Number of Pages (excluding this cover sheet)	2
Document Assembled	01/11/2024 11:03

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<h1>PLAN OF SUBDIVISION</h1>	<h2>EDITION 1</h2>	<h1>PS 815176 S</h1>
------------------------------	--------------------	----------------------

<p>LOCATION OF LAND</p> <p>PARISH: Nar Nar Goon TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: 49 (Pt) CROWN PORTION: --- TITLE REFERENCE: Vol: 11949 Fol: 579</p> <p>LAST PLAN REFERENCE: Lot 5 PS 735759L POSTAL ADDRESS: Commercial Drive, Pakenham 3810 (at time of subdivision)</p> <p>MGA CO-ORDINATES: E: 367 170 ZONE: 55 (of approx centre of land N: 5 782 240 GDA 94 in plan)</p>	<p>Council Name: Cardinia Shire Council</p> <p>Council Reference Number: S18/016 Planning Permit Reference: T170546 SPEAR Reference Number: S116618C</p> <p>Certification</p> <p>This plan is certified under section 6 of the Subdivision Act 1988</p> <p>Statement of Compliance</p> <p>This is a statement of compliance issued under section 21 of the Subdivision Act 1988</p> <p>Public Open Space</p> <p>A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made</p> <p>Digitally signed by: Sonia Higgins for Cardinia Shire Council on 08/05/2018</p>
---	---

VESTING OF ROADS AND/OR RESERVES		NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON	<p>This is a Spear Plan</p> <p>Building Boundaries are defined by thick continuous lines.</p> <p><u>Location of Boundaries defined by Buildings</u></p> <p>Median : Denoted thus 'M'</p> <p>Exterior Face of Wall : All other Boundaries</p> <p>Lots 2 - 5 (Inclusive) are made up of 2 parts.</p>	
Nil	Nil		
NOTATIONS		<p>LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS</p> <p>FOR DETAILS OF ANY OWNERS CORPORATIONS INCLUDING PURPOSE, RESPONSIBILITY, ENTITLEMENT & LIABILITY SEE OWNERS CORPORATION SEARCH REPORT, OWNERS CORPORATION ADDITIONAL INFORMATION AND IF APPLICABLE, OWNERS CORPORATION RULES.</p>	
DEPTH LIMITATION: DOES NOT APPLY			
<p>SURVEY: This plan is based on survey.</p> <p>STAGING: This is not a staged subdivision. Planning Permit No. T170546</p> <p>This survey has been connected to permanent marks No(s). 514, 515 & 516. In Proclaimed Survey Area No.71</p>			

EASEMENT INFORMATION

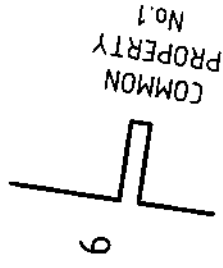
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

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

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
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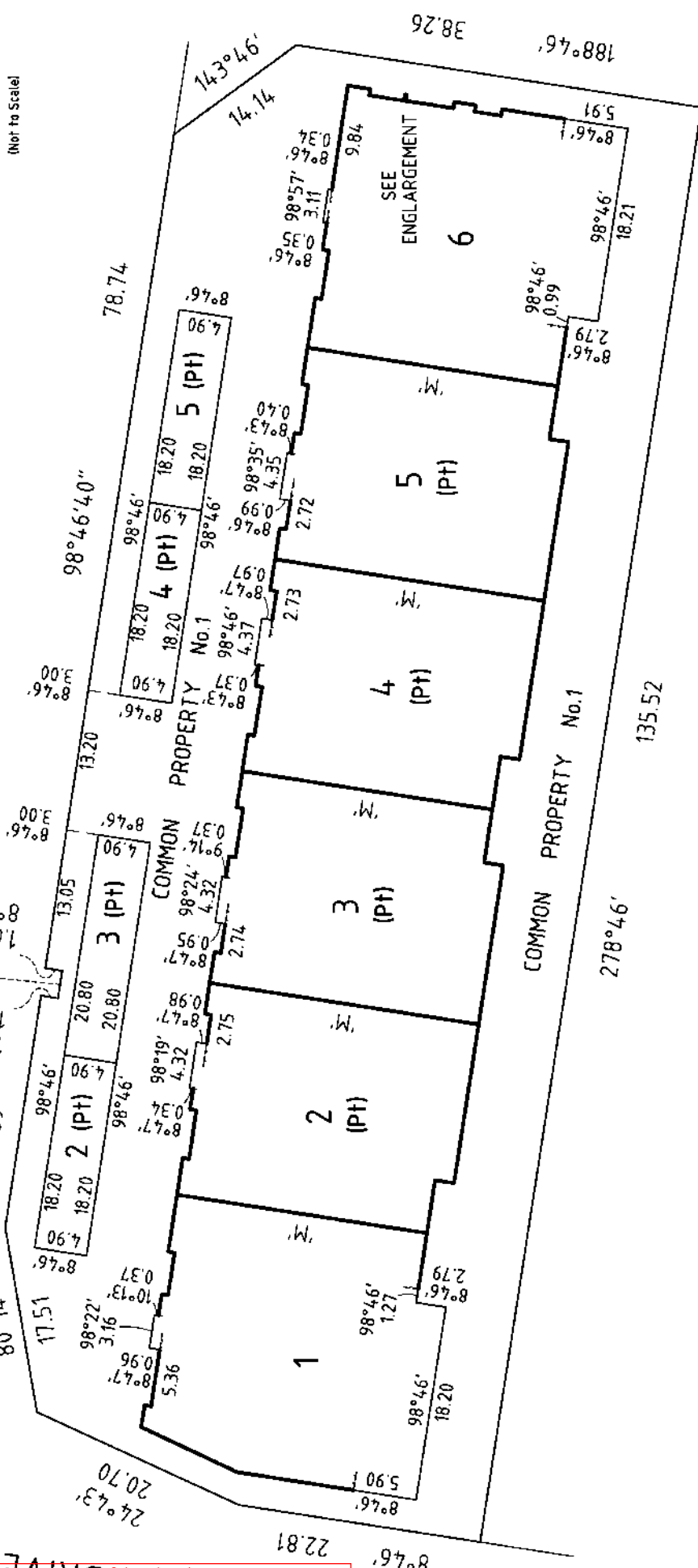
<p>NOBELIUS LAND SURVEYORS P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au</p>	<p>SURVEYORS FILE REF: 15896</p> <p>Digitally signed by: Benjamin Stephen Nobelius (Nobelius Land Surveyors Pty Ltd), Surveyor's Plan Version (Version A), 09/03/2018, SPEAR Ref: S116618C</p>	<p>ORIGINAL SHEET SIZE: A3</p>	<p>SHEET 1 OF 2</p>
	<p>PLAN REGISTERED TIME: 10:13 AM DATE: 16/06/2018 Assistant Registrar of Titles</p>		

PS 815176 S



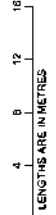
BOULEVARD

SOUTHEAST



SHEET 2

ORIGINAL SHEET SIZE: A3



SCALE 1:400

Digitally signed by:
 Cardinia Shire Council,
 08/05/2018,
 SPEAR Ref: S116618C

Digitally signed by: Benjamin Stephen Nobelius (Nobelius Land Surveyors Pty Ltd),
 Surveyor's Plan Version (Version A),
 09/03/2018, SPEAR Ref: S116618C

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



Amended by: Benjamin Stephen Nobelius, 15/06/2018.

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PRODUCER'S LICENCE

Licence No. 32810184

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorised to supply liquor up to and including 31 December 2024

Licensee	PAKENHAM BREWING PTY LTD (ACN:646 391 022)		
Address for service of notices	PO BOX 36 PAKENHAM 3810	Licensed premises address	1/9 SOUTH EAST BOULEVARD PAKENHAM 3810
Trading as	SMILEY BREWING CO.		

GENERAL INFORMATION

A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the responsibility of the licensee to ensure they comply with these and all conditions of a planning permit above what is specified on the liquor licence. Where the trading hours on your planning permit are less than the trading hours on this liquor licence, you must comply with the hours on the planning permit.

Any reference to the Liquor Regulator below is a reference to the Victorian Liquor Commission, or any successor statutory office, body or officer however named, under the Liquor Control Reform Act 1998 or successor legislation, that has powers and carries out regulatory functions equivalent to the Victorian Liquor Commission.

TYPE OF LICENCE

This licence is a producer's licence and authorises the licensee to supply liquor that is the licensee's product at any time and on any premises to a person who holds a licence under the Liquor Control Reform Act 1998.

This licence also authorises the licensee during the trading hours specified below to:

- supply liquor that is the licensee's product for consumption on or off the licensed premises; and
- supply liquor that is not the licensee's product for consumption on the licensed premises.

AMENITY

The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence. The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.

TRADING HOURS

Sunday, Good Friday and ANZAC Day	Between 10am and 11pm
On any other day	Between 7am and 11pm

AUTHORISATION TO SUPPLY LICENSEE'S PRODUCT AT EVENTS OFF THE LICENSED PREMISES

The licensee may supply liquor that is the licensee's product in sealed containers, bottles or cans and sales by the glass at events that are conducted off the licensed premises and that are not a major event within the meaning of Section 14B of the Liquor Control Reform Act 1998 and are not a horse racing event, subject to the following conditions:

- the licensee must keep a register of all events at which it has supplied its product and produce the records for inspection upon request by an authorised person.
- the licensee must have the consent of the event organisers to supply liquor at the event.
- any persons supplying liquor at a promotional event must have completed a responsible service of alcohol course approved by the Commission.
- liquor may be supplied at a promotional event between the hours of 7am and 8pm

End of Conditions - Printed on 30/10/2024

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Owners Corporation Search Report

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Produced: 01/11/2024 11:03:49 AM

OWNERS CORPORATION 1
PLAN NO. PS815176S

The land in PS815176S is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1 - 6.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

FACEY OWNERS CORP, 10A E J COURT DANDENONG SOUTH MELBOURNE VIC 3175

AX736335R 16/02/2024

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:

1. AR793889Y 20/12/2018

Additional Owners Corporation Information:

OC039658X 16/06/2018

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	25	25
Lot 2	25	25
Lot 3	25	25
Lot 4	25	25
Lot 5	25	25
Lot 6	25	25



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 01/11/2024 11:03:49 AM

**OWNERS CORPORATION 1
PLAN NO. PS815176S**

Entitlement and Liability:

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

Land Parcel	Entitlement	Liability
Total	150.00	150.00

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

VOLUME 11992 FOLIO 200
No Coft exists

Security no : 124121047927U
Produced 08/01/2025 08:10 AM

LAND DESCRIPTION

Common Property 1 on Plan of Subdivision 815176S.
PARENT TITLE Volume 11949 Folio 579
Created by instrument PS815176S 16/06/2018

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
OWNERS CORPORATION 1 PLAN NO. PS815176S of FACEY OWNERS CORP, 10A E J COURT
DANDENONG SOUTH MELBOURNE VIC 3175
PS815176S 16/06/2018

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT AM092458F 08/08/2015

Any encumbrances affecting Common Property that are derived from an encumbrance shown on titles to lots affected by the Owners Corporation.

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
AN411070C 23/12/2016

NOTICE Section 45 Melbourne Strategic Assessment (Environment Mitigation Levy) 2020
AT390564J 01/07/2020

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DIAGRAM LOCATION

SEE PS815176S FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

Street Address: COMMERCIAL DRIVE PAKENHAM VIC 3810

OWNERS CORPORATIONS

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS815176S

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

DOCUMENT END

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Document Identification	PS815176S
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Document Assembled	08/01/2025 08:10

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<h1>PLAN OF SUBDIVISION</h1>	<h2>EDITION 1</h2>	<h1>PS 815176 S</h1>
------------------------------	--------------------	----------------------

<p>LOCATION OF LAND</p> <p>PARISH: Nar Nar Goon TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: 49 (Pt) CROWN PORTION: --- TITLE REFERENCE: Vol: 11949 Fol: 579</p> <p>LAST PLAN REFERENCE: Lot 5 PS 735759L POSTAL ADDRESS: Commercial Drive, Pakenham 3810 (at time of subdivision)</p> <p>MGA CO-ORDINATES: E: 367 170 ZONE: 55 (of approx centre of land in plan) N: 5 782 240 GDA 94</p>	<p>Council Name: Cardinia Shire Council</p> <p>Council Reference Number: S18/016 Planning Permit Reference: T170546 SPEAR Reference Number: S116618C</p> <p>Certification</p> <p>This plan is certified under section 6 of the Subdivision Act 1988</p> <p>Statement of Compliance</p> <p>This is a statement of compliance issued under section 21 of the Subdivision Act 1988</p> <p>Public Open Space</p> <p>A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made</p> <p>Digitally signed by: Sonia Higgins for Cardinia Shire Council on 08/05/2018</p>
--	---

VESTING OF ROADS AND/OR RESERVES		NOTATIONS
IDENTIFIER	COUNCIL/BODY/PERSON	<p>This is a Spear Plan</p> <p>Building Boundaries are defined by thick continuous lines.</p> <p><u>Location of Boundaries defined by Buildings</u></p> <p>Median : Denoted thus 'M'</p> <p>Exterior Face of Wall : All other Boundaries</p> <p>Lots 2 - 5 (Inclusive) are made up of 2 parts.</p>
Nil	Nil	
NOTATIONS		<p>LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS FOR DETAILS OF ANY OWNERS CORPORATIONS INCLUDING PURPOSE, RESPONSIBILITY, ENTITLEMENT & LIABILITY SEE OWNERS CORPORATION SEARCH REPORT, OWNERS CORPORATION ADDITIONAL INFORMATION AND IF APPLICABLE, OWNERS CORPORATION RULES.</p>
DEPTH LIMITATION: DOES NOT APPLY		
<p>SURVEY: This plan is based on survey.</p> <p>STAGING: This is not a staged subdivision. Planning Permit No. T170546</p> <p>This survey has been connected to permanent marks No(s). 514, 515 & 516. In Proclaimed Survey Area No.71</p>		

EASEMENT INFORMATION

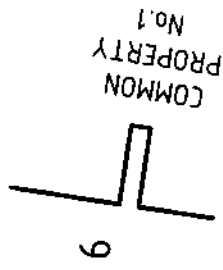
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

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

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
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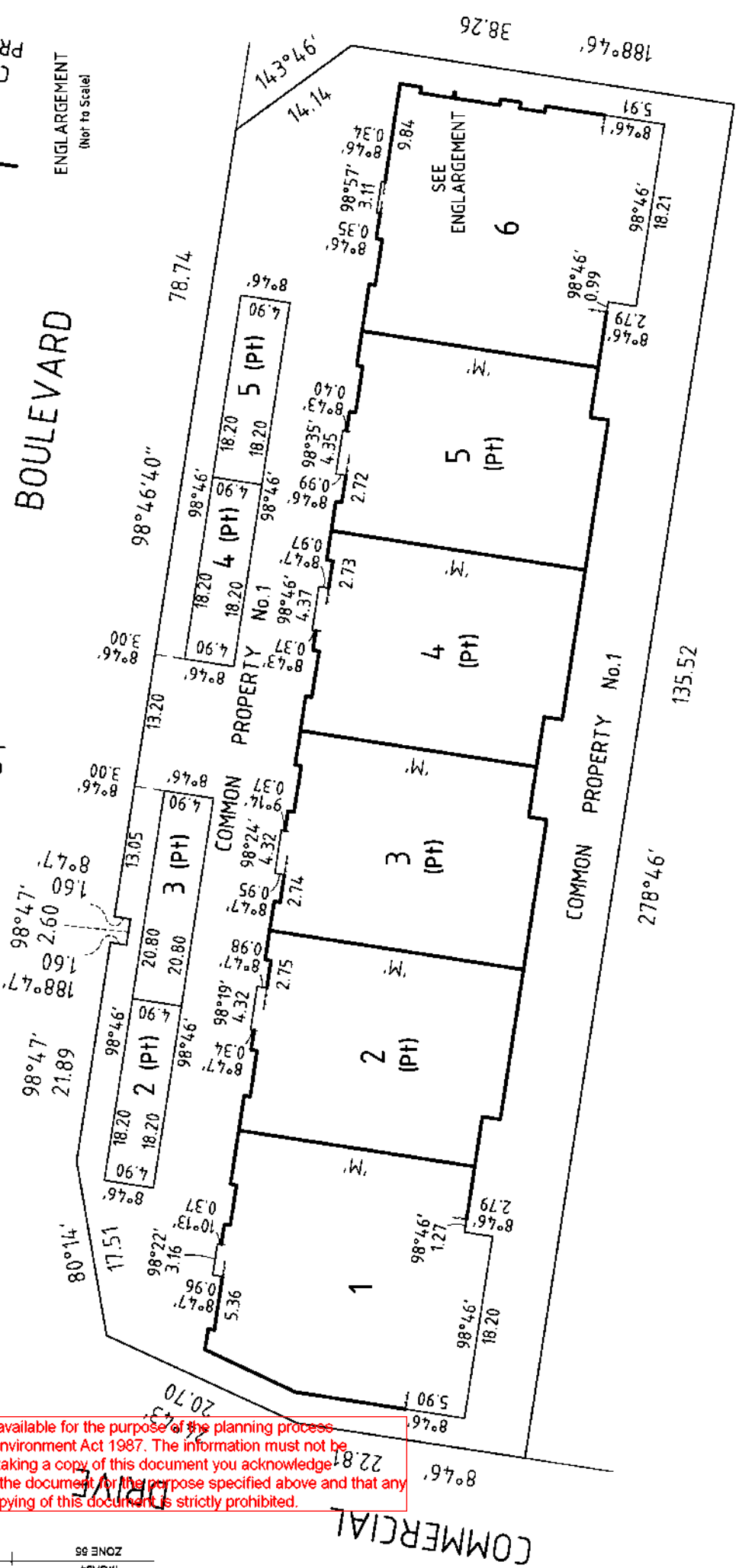
<p>NOBELIUS LAND SURVEYORS</p> <p>P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au</p>	<p>SURVEYORS FILE REF: 15896</p> <p>Digitally signed by: Benjamin Stephen Nobelius (Nobelius Land Surveyors Pty Ltd), Surveyor's Plan Version (Version A), 09/03/2018, SPEAR Ref: S116618C</p>	<p>ORIGINAL SHEET SIZE: A3</p>	<p>SHEET 1 OF 2</p>
	<p>PLAN REGISTERED TIME: 10:13 AM DATE:16/06/2018 Assisted by: [Redacted] Titles</p>		

PS 815176 S

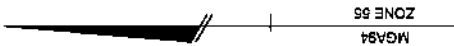


SOUTHEAST

BOULEVARD



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P.O. BOX 461
PAKENHAM 3810
Ph 03 5941 4112
mail@nobelius.com.au



Amended by: Benjamin Stephen Nobellius, 15/06/2018.

SCALE 1:400
LENGTHS ARE IN METRES
Digitally signed by: Benjamin Stephen Nobellius (Nobellius Land Surveyors Pty Ltd),
Surveyor's Plan Version (Version A),
09/03/2018, SPEAR Ref: S116618C

ORIGINAL SHEET SIZE: A3
Digitally signed by: Cardinia Shire Council,
08/05/2018,
SPEAR Ref: S116618C

SHEET 2



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Produced: 08/01/2025 08:10:52 AM

OWNERS CORPORATION 1
PLAN NO. PS815176S

The land in PS815176S is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1 - 6.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

FACEY OWNERS CORP, 10A E J COURT DANDENONG SOUTH MELBOURNE VIC 3175

AX736335R 16/02/2024

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:

1. AR793889Y 20/12/2018

Additional Owners Corporation Information:

OC039658X 16/06/2018

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	25	25
Lot 2	25	25
Lot 3	25	25
Lot 4	25	25
Lot 5	25	25
Lot 6	25	25



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 08/01/2025 08:10:52 AM

**OWNERS CORPORATION 1
PLAN NO. PS815176S**

Entitlement and Liability:

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

Land Parcel	Entitlement	Liability
Total	150.00	150.00

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Statement End.

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M 0410 762 304

E applications@liquorplan.com.au W www.liquorplan.com.au

ABN: 14 242 281 164

1 November 2024

Senior Statutory Planner
Cardinia Shire Council
PO Box 7
Pakenham 3810

Dear

**Application for Amendment to Existing Permit T210338 PA
1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property
Use of land for the sale and consumption of liquor in association with an existing Food and drink
premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied
under an existing Producer's Licence is to be increased (no change to existing approved maximum
capacity, trading times or music provision), via an amendment to an existing permit**

Please find attached my planning application, including: an Application (floor/"red line") Plan; a Site Context Plan; Title Documents; and (if required by the Council) a completed separate Application Form in PDF (if not required, please refer to the online Application Form). If the Application Fee has not been paid prior to lodgement, could you please send me an invoice for the application fee?

INTRODUCTION

The application involves the proposed Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit.

The proposed sale and consumption of liquor on and off the premises under the existing Producers Licence for the proposed extended Food and drink premises-Manufacturing sales use is appropriate given the site's Industrial 1 1 Zone and the modest nature and scale of the proposal (there will be no change to the approved trading times or patron capacity, only the proposed provision of an external patron area).

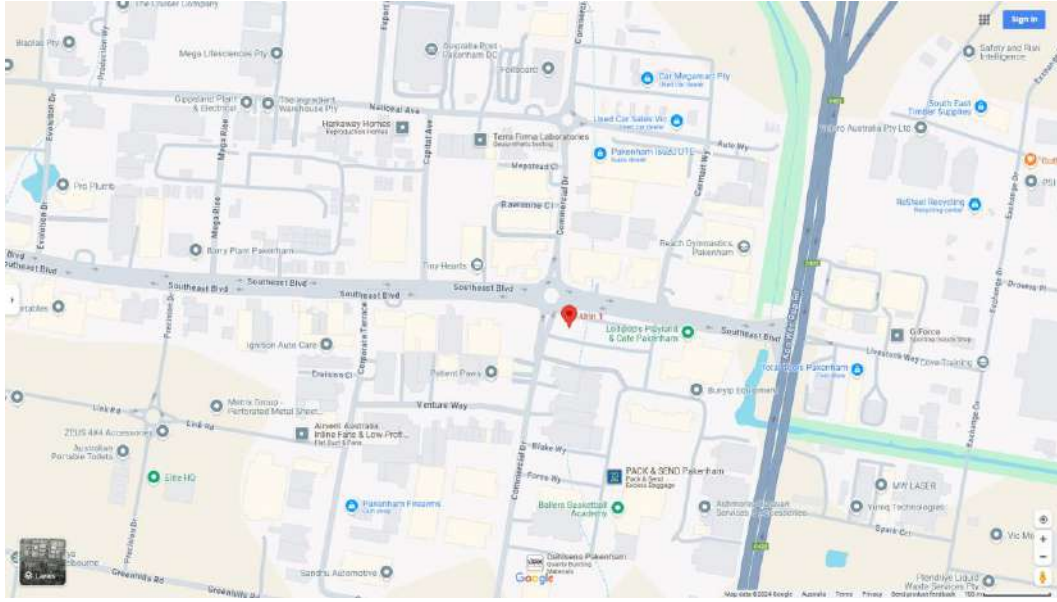
There are no apparent existing dwellings and/or other accommodation uses near the site but in any case, all amenity impacts associated with the proposed expanded sale/consumption of liquor at the existing approved licensed premises will be limited.

EXISTING CONDITIONS

The Site¹ and its Neighbourhood

¹ Also referred to in this submission as "the Subject Site"

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Locality plan (from Google) including public transport, with site marked with red peg



Cadastral/zoning map (from VicPlan) with site highlighted in blue and approximate setback between site and nearest non-industrial zoned site indicated. A more detailed zoning map is provided below

The site a lot and an adjoining area of common property, which are both part of a larger site that abuts the south side of Southeast Boulevard and the east side Commercial Drive, in an industrial area of Pakenham. Pakenham South Employment PSP Area, Pakenham.

The lot forming most of the site (which adjoins the intersection) is roughly rectangular with an area of 501sqm. The relevant area of common property, which will now become part of the site, is about 75sqm.

The site is developed with an industrial building, which is now currently used in accordance with the Existing Permit (below). The relevant area of common property is simply an open, concreted area that has no apparent purpose (ie it does not contain linemarking that would indicate its use for car parking and nor is it shown as such on the Title Plan). There is designated car parking behind the building.

Issued by the Council at its own direction, Planning Permit T210338 PA (the Existing Permit) is as follows:

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Application for Amendment to Existing Permit
1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property

Form 4

PLANNING PERMIT

Planning Scheme: Cardinia Planning Scheme
Responsible Authority: Cardinia Shire Council

PLANNING PERMIT NUMBER: T210338 PA

ADDRESS OF THE LAND: L1 PS815176 V11992 F194, We 1/9 Southeast Boulevard, Pakenham VIC 3810

THIS PERMIT ALLOWS: Use of the land for a food and drink premises, manufacturing sales and the sale and consumption of liquor (producer's license) in association with industry (micro-brewery) and a reduction of car parking requirements, generally in accordance with the approved plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- The use and layout as shown on the approved plans must not be altered or modified without the consent in writing of the responsible authority.
- No more than ninety (90) patrons are permitted on the premises at any one time without the further written consent of the responsible authority.
- The food and drink premises may only operate in conjunction with the use of the premises for industry (micro-brewery).
- The use may only occur during the following times, unless with further consent of the responsible authority:
 - For both manufacturing sales and food and drink premises:
 - Wednesday and Thursday 4 pm to 10 pm.
 - Friday 4 pm to 11 pm.
 - Saturday and Sunday 12 pm to 11 pm.
- The areas set aside for car parking shown on the endorsed plans must be made available for use free of charge to employees and visitors at all times and must not be used for any other purposes.
- The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried out entirely within the site and must not interfere with other traffic.
- The use must not detrimentally affect the amenity of the area, through:
 - transport of materials, goods or commodities to or from the land;
 - appearance of any building, works or materials;
 - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, gas or oil; or
 - presence of vermin;
 or in any other way, to the satisfaction of the responsible authority.
- Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017.
- All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes must be kept in a storage area screened from view to the satisfaction of the responsible authority.

Date issued: 16 June 2022
Signature for the Responsible Authority: *[Signature]*

Page 1 of 3

Form 4

PLANNING PERMIT

Planning Scheme: Cardinia Planning Scheme
Responsible Authority: Cardinia Shire Council

PLANNING PERMIT NUMBER: T210338 PA

ADDRESS OF THE LAND: L1 PS815176 V11992 F194, We 1/9 Southeast Boulevard, Pakenham VIC 3810

THIS PERMIT ALLOWS: Use of the land for a food and drink premises, manufacturing sales and the sale and consumption of liquor (producer's license) in association with industry (micro-brewery) and a reduction of car parking requirements, generally in accordance with the approved plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Liquor

- With the exception of packaged liquor, no alcohol is to be taken outside of the licensed area at any time.
- Except with the further written consent of the responsible authority, the sale and consumption of liquor must occur only within the red line area, as specified on the endorsed plan.
- Alcoholic and non-alcoholic beverage production must not exceed 5,000 litres per day in accordance with Clause 63.30 of the Cardinia Planning Scheme.
- At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as "the manager").
The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the responsible authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1950; and/or to take action on his/her behalf in accordance with a direction by such officer.
- The licensed premises must not detrimentally affect the amenity of the area due to off-site impacts to the satisfaction of the responsible authority.

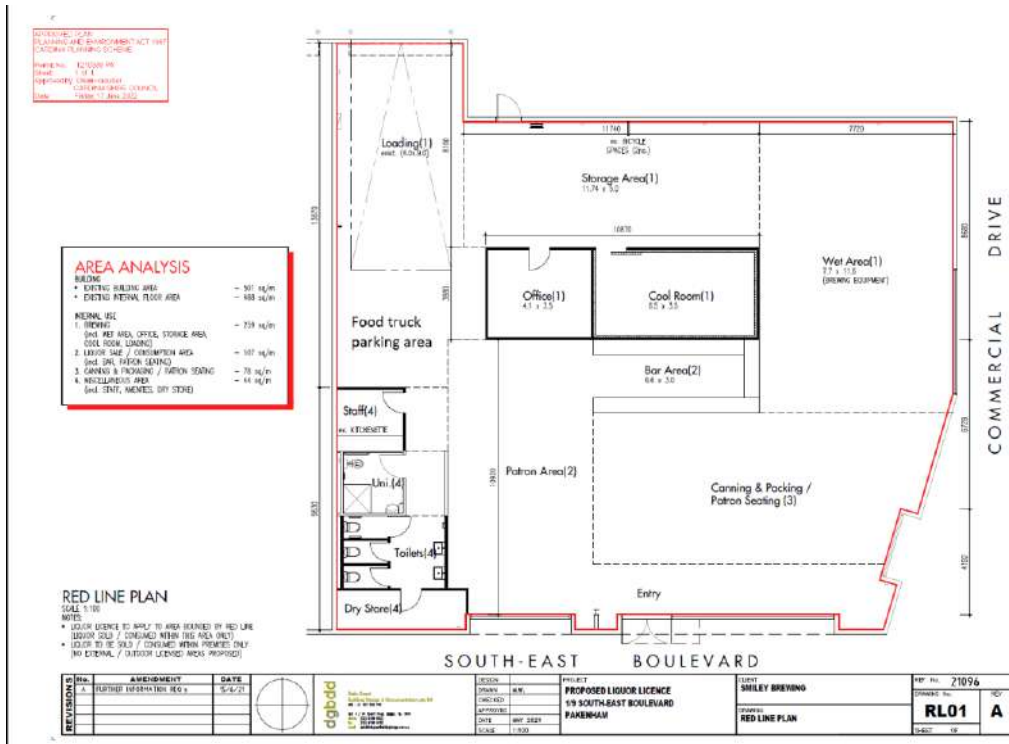
Expiry

- This permit for the use of land expires if:
 - the use does not start within two (2) years after the issue of the permit; or
 - the use is discontinued for a period of two (2) years.
 In accordance with Section 96 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Date issued: 16 June 2022
Signature for the Responsible Authority: *[Signature]*

Page 2 of 3

Existing Permit Document (Page 3 is a backing paper only)



Pedestrian access to the existing licensed area is directly via the entry at the front of the site.

The designated carpark (at the rear of the site) contains 7 car spaces.

LiquorPlan – the town planners specialising in permit applications for licensed premises

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Liquor is currently supplied under the following:

PRODUCER'S LICENCE Licence No. 32810184

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorized to supply liquor up to and including 31 December 2024

Licensee: **PAKENHAM BREWING PTY LTD (ACN 046 391 025)**

Address for service of notices: **PO BOX 36 PAKENHAM 3810**

Trading as: **SMILEY BREWING CO.**

Licensed premises address: **1/9 SOUTH EAST BOULEVARD PAKENHAM 3810**

GENERAL INFORMATION
 A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the responsibility of the licensee to ensure they comply with these and all conditions of a planning permit above what is specified on the liquor licence. Where the trading hours on your planning permit are less than the trading hours on the liquor licence, you must comply with the hours on the planning permit.

Any reference to the Liquor Regulator below is a reference to the Victorian Liquor Commission or any successor statutory office, body or officer however named, under the Liquor Control Reform Act 1998 or successor legislation, that has powers and carries out regulatory functions equivalent to the Victorian Liquor Commission.

TYPE OF LICENCE
 This licence is a producer's licence and authorises the licensee to supply liquor that is the licensee's product at any time and on any premises to a person who holds a licence under the Liquor Control Reform Act 1998.

This licence also authorises the licensee during the trading hours specified below to:
 - supply liquor that is the licensee's product for consumption on or off the licensed premises; and
 - supply liquor that is not the licensee's product for consumption on the licensed premises.

AMENITY
 The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorized under this licence. The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment venues as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. 10-2.

TRADING HOURS
 Sunday, Good Friday and ANZAC Day: Between 10am and 11pm
 On any other day: Between 7am and 11pm

AUTHORISATION TO SUPPLY LICENSEE'S PRODUCT AT EVENTS OFF THE LICENSED PREMISES
 The licensee may supply liquor that is the licensee's product in sealed containers, bottles or cans and sold by the glass at events that are conducted off the licensed premises and that are not a major event within the meaning of Section 14B of the Liquor Control Reform Act 1998 and are not a horse racing event, subject to the following conditions:
 - the licensee must keep a register of all events at which it has supplied its product and produce the records for inspection upon request by an authorized person;
 - the licensee must have the consent of the event organizers to supply liquor at the event;
 - any persons supplying liquor at a promotional event must have completed a responsible service of alcohol course approved by the Commission;
 - liquor may be supplied at a promotional event between the hours of 7am and 11pm

End of Conditions - Printed on 10/10/2024

Existing Licence Document

32810184
 69734A01
 69734P01

APPROVED PLAN
 15/07/2021
 Delegate of the V.C. S.L.R.

AREA ANALYSIS

BUILDING	
• EXISTING BUILDING AREA	- 501 sq/m
• EXISTING INTERNAL FLOOR AREA	- 498 sq/m
INTERNAL USE	
• TRADING	- 233 sq/m
(incl. WET AREA, OFFICE, STORAGE AREA, COOL ROOM, LOADING)	
• LEISURE SALE / CONSUMPTION AREA	- 159 sq/m
(incl. BAR, PATRON SEATING)	
• WET-USE AREA	- 49 sq/m
(incl. DRAINAGE, W/ PATRON SEATING AS REQ'D)	
• WET/INDUSTRIAL AREA	- 44 sq/m
(incl. STAFF, ANOICES, DRY STORES)	

RED LINE PLAN
 SCALE: 1:100
 NOTES:
 • LEISURE LICENCE TO APPLY TO AREA BOUNDARY BY RED LINE (LEISURE ONLY / CONSUMED WITH THIS AREA ONLY)
 • LEISURE TO BE SILD / FORMED WHEN PREMISES ONLY (NO EXTERNAL / OUTDOOR LEISURE AREAS PROPOSED)

COMMERCIAL DRIVE

SOUTH-EAST BOULEVARD

Page 1/1

REV. NO.	AMENDMENT	DATE	ISSUE NO.	PROJECT	REV. NO.
1			1	PROPOSED LIQUOR LICENCE 1/9 SOUTH-EAST BOULEVARD PAKENHAM	21096
DRAWN BY: SMILEY BREWING					21096
CHECKED BY: SMILEY BREWING					RL01
DATE: MAY 2024					REV. NO.
SCALE: 1:100					REV. NO.

Existing Licence Endorsed (Red Line) Plan

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The site is in a predominantly industrial neighbourhood. There are no apparent residential/dwelling uses anywhere near the site (even the nearest land NOT in an Industrial zone is more than 200m from the site).

Public transport near the site includes trains at Pakenham Railway Station (2.5km by foot from the site). To the extent that it is relevant, the train services in this case are also in the Night Network, meaning that there is all night public transport access on Friday and Saturday. Pakenham Railway Station is a Premium Station, which means that it is staffed from first to last train and also provides public toilets. Pakenham in general is serviced by taxis. While distant, routes to/from the site and the nearest public transport and main taxi access points, are not through traditional residential areas.

Southeast Boulevard and Commercial Drive are both industrial roads with two lanes of sealed carriageway in each direction and footpaths on each side. Mainly unrestricted onstreet kerbside parking is available throughout the adjoining road network; near the site, onstreet parking along both Southeast Boulevard and Commercial Drive is unrestricted.

The area has a high proportion of buildings fronting the street, straight street/road alignments, wide footpaths, no major pedestrian bottlenecks such as narrow bridges or walkways, orderly landscaping, and good public lighting. Being an industrial area, however, the neighbourhood has no bicycle parking, rubbish bins, street benches or public toilets, although when I visited, I also did not observe any liquor-related litter or other evidence of public liquor consumption near the site.

Please refer also to the also-submitted Site Context Plan.

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The site and its neighbourhood. Photos taken approx. 1pm-2pm Fri 10 Oct 24. Note: because I am cognisant of privacy considerations (ie limiting photos containing identifiable people, cars etc), the area shown may have in fact been busier when I visited than it may seem in these photos

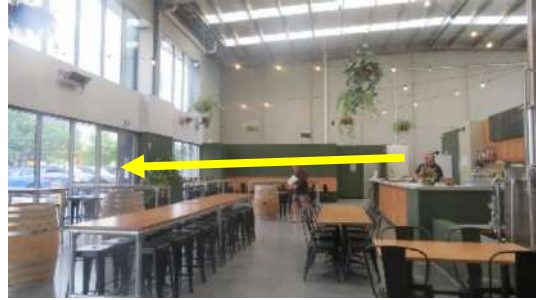


The site (viewed from Southeast Boulevard)



Area in front of site looking west (A-frame sign marks approx. eastern end of proposed external patron area). Patron entry is at left

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Bar and internal patron area (just inside patron entry) including bottom right close up of beer taps. Note: large number of taps. While unfortunately I did not take a more direct photo, the top right photo shows that the bar is located directly opposite an extensive area of glazing (sightline shown with arrow), through which the proposed patron area is fully visible from the bar



(Internal) signage behind bar



Other liquor sold from bar and stage at west side of patron area. Note: under a Producer's licence, liquor that is not the producer's own product may be sold for consumption (only) on the premises



Existing toilets (L) and onsite food truck (R)



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Internal brewing and storage areas, and (bottom) external car park at rear of site (with access off Commercial Drive)



Car parking and access next to front of site



Intersection of Southeast Boulevard and Commercial Drive, a key feature of the immediate environs of the site



Commercial Drive looking north (L) and south (R) from next to site

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The area along Southeast Boulevard between Koo Wee Rup Road and the site (going generally east to west)

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The area along Southeast Boulevard west of the site

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THE PROPOSAL

The proposal is the Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit²:

- The licensed area will continue to cover all of the existing internal area of the building but will now be extended into some of the external common property area at the front of the site.
- No new external building or works, or additional car or bicycle parking spaces are proposed, other than planter boxes and an additional bollard, which will separate the proposed licensed external patron area from the adjoining car parking accessway and ensure patron safety.
- Patron access to/from the licensed premises will be only via the existing front entry. Except for emergencies, the rear external opening will be unavailable to patrons at all times.
- There will be a minimum of 1 staff on the licensed premises at any time when liquor is sold or consumed on the licensed premises. This includes that there will continue to be a responsible person responsible for the management or control of the licensed premises (ie an adult in the role of manager or acting manager, and including being responsible for security, patron management and complaints).
- Other staff will be engaged on an as-required basis based on estimated actual patron numbers. Relevant Responsible Service of Alcohol (RSA) requirements will apply to all staff serving liquor.
- No change is proposed to the existing permitted/licensed trading times (Wednesday and Thursday 4 pm to 10 pm; Friday 1 pm to 11 pm; and Saturday and Sunday 12 pm to 11 pm), however these will now also apply to the external area in front of the building.
- No change is proposed to the existing permitted/licensed maximum patron capacity, ie there will be a maximum of 90 patrons on the licensed premises at any one time (the expanded licensed area will simply allow for a larger area to be occupied by the same number of patrons).
- If the capacity on the licensed premises appears to be at or approaching 80% of this maximum, a staff member will carry out a rough count of patrons on the premises, and if it looks like this will increase so as to exceed the permitted/licensed patron capacity, monitor the entry(s)/exit(s) (including counting patrons going in/out) to ensure that this does not occur.
- While patrons will have the option of drinking liquor on its own, food will continue to be available during all permitted/licensed trading hours. Table and chairs will continue to be provided for all patrons. No gaming or sexually-explicit entertainment is proposed.
- No music other than would comply with Condition 8 of the Existing Permit is proposed (Condition 8 requires, "Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017").
- A waste storage area on the site will continue to be used for the storage of waste including from the proposed sale/consumption of liquor. No bottle crushers are proposed. Waste will continue to be separated into recyclables and general rubbish, for collection by a private service from the site's rear.

² Under the Liquor Control Reform Act, a Producer's licence authorises the licensee (a) to supply liquor that is the licensee's product at any time and on any premises to another licensee; and (b) to supply during ordinary trading hours and at any other time determined by the Commission and specified in the licence, (i) liquor that is the licensee's product for consumption on or off the licensed premises; and (ii) liquor that is not the licensee's product for consumption on the licensed premises; and (c) to supply packaged liquor that is the licensee's product during ordinary trading hours and at any other time determined by the Commission and specified in the licence to a person who makes an off-premises request". The "ordinary trading hours" under the Liquor Control Reform Act in relation to a producer's licence are (i) the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or ANZAC Day; and (ii) the hours between 10 a.m. and 11 p.m. on Sunday, Good Friday and ANZAC Day. Any licence/variation will be sought via a (separate) application to Liquor Control Victoria (LCV)

- Given the industrial nature of the neighbourhood, it is not proposed to limit the hours either of delivery/unloading of goods associated with the proposal or the emptying or collection of waste.
- Given the nature of the immediate neighbourhood (including setbacks from the nearest residential areas), it is not proposed to specifically keep doors and windows closed during permitted/licensed trading times.
- The licensed premises will be non-smoking. Patrons wishing to smoke will be directed to the area next to the site entry (outside the proposed external patron area) and requested to remain respectful of the neighbours while they are there. Smoking will be limited to 5 persons at any time.
- In the event that queuing is required, it will be actively supervised, including by advising patrons of wait times, and monitoring incoming prospective patrons for signs of intoxication.
- It is not proposed that there would be any formal "passouts". However, while patrons will be free to enter and exit the premises, those doing so will be actively monitored by staff. A prominent notice(s) and staff will advise patrons that they are not allowed to take liquor off the premises except in packaged form.

PLANNING CONTROLS AND POLICY

The Planning and Environment Act 1987

The Planning and Environment Act 1987 authorises the making of planning schemes, as well as setting out the procedures associated with applications for permits (or amendments to permits) under those schemes.

Section 72 of the Act, "Application for amendment of permit", states:

(1) A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.

(2) This section does not apply to—

(a) a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or

(b) a permit issued under Division 6.

Section 73, "What is the procedure for the application?" states:

(1) Subject to this section, sections 47 to 62 (with any necessary changes) apply to an application to the responsible authority to amend a permit as if—

(a) the application were an application for a permit; and

(b) any reference to a permit were a reference to the amendment to the permit.

(2) If the responsible authority decides to grant an amendment to a permit subject to conditions, the conditions must relate to the amendment to the permit; and

(3) Any conditions to which an amendment to a permit is subject form part of the permit when it is issued.

The application is appropriately made, with the authorisation of the permit holder. The permit has been acted on and is still "live". The permit was not issued under Division 6 or at the direction of the Tribunal.

It should be further noted that any decision on an amendment is limited by Section 73 above and (except as allowed by Clause 52.27) is not an opportunity to revisit the "entire" existing use as though it were an application for an entirely new permit.

The following amendments to the Existing Permit are required:

- Amend Preamble to include reference to, "Use of land for the sale and consumption of liquor where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased".
- Endorse submitted the Application Plan under Condition 1 (Existing Endorsed Plan to be superseded).

- Amend /add any other relevant condition as the Council reasonably requires.

The Cardinia Planning Scheme

Land use in the municipality is subject to Cardinia Planning Scheme, a combination of state, regional and local provisions. All clauses referred to in this submission are from Cardinia Planning Scheme.

Clause 73.03 Land use terms

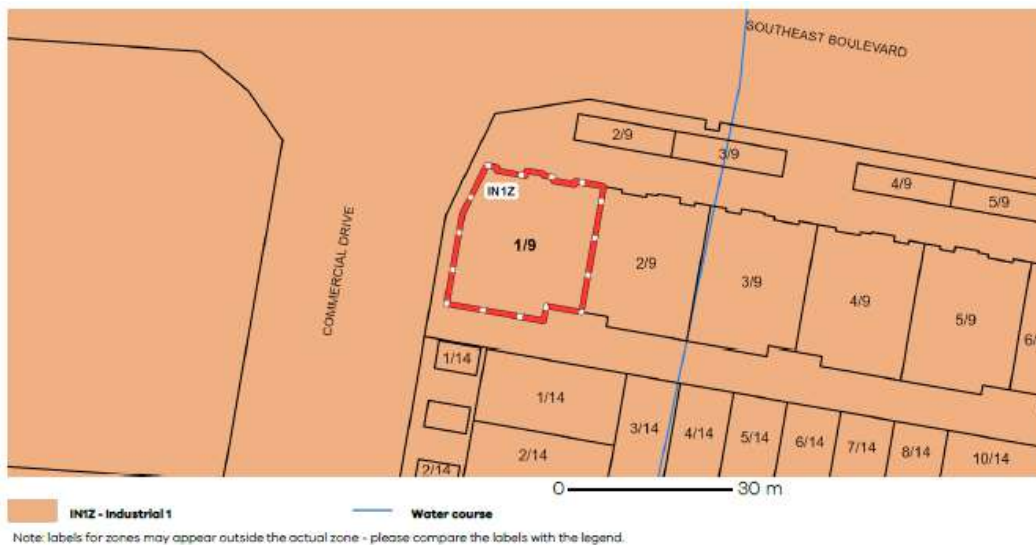
Food and drink premises is defined at Clause 73.03 Land use terms as, "Land used to prepare and sell food and drink for immediate consumption on, or off, the premises".

The definition of "Manufacturing sales" at Clause 73.03 Land use terms is "Land used, as an incidental part of an industry, to retail goods made materially different on the land by that industry". It is understood that the permit preamble references both uses (which was a matter that was the subject of considerable correspondence re the original application) because the approved use is simultaneously BOTH Food and drink premises and Manufacturing sales. Food and drink premises and Manufacturing sales and Manufacturing sales are also both nested in "Retail premises".

Both Manufacturing sales and Food and drink premises are nested in Retail premises.

Introduction to provisions that may trigger a permit requirement for the proposal

Under Cardinia Planning Scheme, the site is in the Industrial 1 Zone (IN1Z). There is nothing of relevance in the zone schedule. No overlays affect the site. Both adjoining roads and also in the IN1Z.



Zoning map with site highlighted in red in centre. There are no relevant overlays

Clause 33.01 Industrial 1 Zone (IN1Z)

As a form of "Retail premises (other than Shop)", both Manufacturing sales and Food and drink premises is each a Section 2 (Permit required) use in the IN1Z (no conditions apply). No conditions apply.

The IN1Z also includes:

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

Clause 52.06 Car parking

This includes:

LiquorPlan – the town planners specialising in permit applications for licensed premises

<p>52.06 <small>52.06-1 52.06-2 52.06-3 52.06-4 52.06-5</small></p>	<p>CAR PARKING</p> <p>Purpose</p> <p>To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.</p> <p>To support sustainable transport alternatives to the motor car.</p> <p>To promote the efficient use of car parking spaces through the consolidation of car parking facilities.</p> <p>To ensure that car parking does not adversely affect the amenity of the locality.</p> <p>To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.</p> <p>Scope</p> <p>Clause 52.06 applies to:</p> <ul style="list-style-type: none"> a new use; or an increase in the floor area or site area of an existing use; or an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use. <p>Clause 52.06 does not apply to:</p> <ul style="list-style-type: none"> the extension of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone; or the construction and use of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone unless the rate or a schedule in the zone specifies that a permit is required to construct or extend one dwelling on a lot. <p>Provision of car parking spaces</p> <p>Before:</p> <ul style="list-style-type: none"> a new use commences; or the floor area or site area of an existing use is increased; or an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use. <p>The number of car parking spaces required under Clause 52.06-3 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:</p> <ul style="list-style-type: none"> on the land; or in accordance with a permit issued under Clause 52.06-3; or in accordance with a financial contribution requirement specified in a schedule to the Parking Overlay. <p>If a schedule to the Parking Overlay specifies a maximum parking provision, the maximum provision must not be exceeded except in accordance with a permit issued under Clause 52.06-3.</p>
<p>52.06-3 <small>52.06-3 52.06-3</small></p>	<p>Permit requirement</p> <p>A permit is required to:</p> <ul style="list-style-type: none"> Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-3 or in a schedule to the Parking Overlay; Provide some or all of the car parking spaces required under Clause 52.06-3 or in a schedule to the Parking Overlay on another site; Provide more than the maximum parking provision specified in a schedule to the Parking Overlay. <p>A permit is not required if a schedule to the Parking Overlay specifies that a permit is not required under this clause.</p> <p>A permit is not required to reduce the number of car parking spaces required for a new use of land if the following requirements are met:</p> <ul style="list-style-type: none"> The number of car parking spaces required under Clause 52.06-3 or in a schedule to the Parking Overlay for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-3 or in a schedule to the Parking Overlay for the existing use of the land; The number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences. <p>A permit is not required to reduce the required number of car parking spaces for a new use of an existing building if the following requirements are met:</p> <ul style="list-style-type: none"> The building is in the Commercial 1 Zone, Commercial 2 Zone, Commercial 3 Zone or Activity Centre Zone; The gross floor area of the building is not increased; The reduction does not exceed 30 car parking spaces; The building is not in a Parking Overlay with a schedule that allows a financial contribution to be paid in lieu of the provision of the required car parking spaces for the use. <p>VicSmart applications</p> <p>Subject to Clause 51.06, an application under this clause to reduce the required number of car parking spaces by no more than 10 car parking spaces is a class of VicSmart application and must be assessed against Clause 59.11.</p>
<p>52.06-4 <small>52.06-4 52.06-4</small></p>	<p>Exemption from notice and review</p> <p>An application under Clause 52.06-3 is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of sections 64(1), (2) and (3) and the review rights of section 82(1) of the Act, if:</p> <ul style="list-style-type: none"> the application is only for a permit under Clause 52.06-3; or the application is also for a permit under another provision of the planning scheme and in respect of all other permissions sought, the application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
<p>52.06-5 <small>52.06-5 52.06-5</small></p>	<p>Number of car parking spaces required under Table 1</p> <p>Table 1 of this clause sets out the car parking requirement that applies to a use listed in the Table. A car parking requirement in Table 1 may be calculated as either:</p>

Relevant section of Clause 52.06 Car parking (from Victoria Planning Provisions, but same in Cardinia Planning Scheme)

The site is not in the Principal Public Transport Network Area and there is no relevant Parking Overlay. Under Clause 52.06-1, both Manufacturing sales and Food and drink premises require 4 spaces "To each 100 sqm of leasable floor area" (with any resulting fractions required to be rounded down).

However, Clause 52.06-1 Scope states that: "Clause 52.06 applies to: a new use; or an increase in the floor area or site area of an existing use; or an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use". As none of these circumstances apply (including that no increase in the existing leasable floor area is proposed, a permit is not required under Clause 52.06 (the Existing Permit also grants approval for the reduction of car parking requirements associated with the maximum 90 patrons approved under the Existing Permit and for which no increase is proposed).

Note: Leasable floor area is defined at Clause 73.03 as, "That part of the net floor area able to be leased. It does not include public or common tenancy areas, such as malls, verandahs, or public conveniences".

In turn, Net floor area is defined as "The total floor area of all floors of all buildings on a site. It includes half the width of any party wall and the full width of all other walls. It does not include the area of stairs, loading bays, accessways, or car parking areas, or any area occupied by machinery required for air conditioning, heating, power supply, or lifts".

Gross floor area is defined as, "The total floor area of a building, measured from the outside of external walls or the centre of party walls, and includes all roofed areas". That is, if Gross floor area is measured from "the outside of external walls ... and includes all roofed areas" (but not any area that is outside external walls or unroofed), and Gross floor area includes Net floor area, which in turn includes Leasable floor area, then logically Leasable floor area does not include areas that are either unroofed or outside external walls. A permit is therefore not required under 52.06.

Even if Leasable floor area were considered not part of Gross floor area but only Net floor area (which is specifically referred to in the definition of Leasable floor area), the definition of Leasable floor area states that it includes, "half the width of any party wall and the full width of all other walls". This emphasis on walls indicates that an area not inside a wall is not part of Net floor area.

Further, if it is not firstly inside a building/beneath a roof, whether an external area is “leasable” is also irrelevant to whether it is formally part of Leasable floor area. I am thus confident that Leasable floor area does not include an unroofed area outside a building’s walls.

Thus, as Leasable floor area is part of Net floor area, Net floor area is part of Gross floor area (total floor area) and Gross floor area (total floor area) only includes floor area that is inside a building and/or roofed, Leasable floor area does include unroofed outdoor areas such as the external area.

Clause 52.27 Licensed premises

This includes:

<p>52.27 23/02/2018 V2142</p> <p>LICENSED PREMISES</p> <p>Purpose</p> <p>To ensure that licensed premises are situated in appropriate locations.</p> <p>To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.</p> <p>Scope</p> <p>These provisions apply to premises licensed, or to be licensed, under the <i>Liquor Control Reform Act 1998</i>.</p> <p>Permit required</p> <p>A permit is required to use land to sell or consume liquor if any of the following apply:</p> <ul style="list-style-type: none">• A licence is required under the <i>Liquor Control Reform Act 1998</i>.• A different licence or category of licence is required from that which is in force.• The hours of trading allowed under a licence are to be extended.• The number of patrons allowed under a licence is to be increased.• The area that liquor is allowed to be consumed or supplied under a licence is to be increased. <p>This does not apply:</p> <ul style="list-style-type: none">• To a limited licence.• To a licence to manufacture liquor.• If the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence.• To a variation that reduces the hours of trading allowed under a licence.• To a variation that reduces the number of patrons allowed under a licence.• To a variation that reduces the area within which liquor is allowed to be consumed or supplied under a licence.• To a variation of licence at the initiative of the Victorian Commission for Gambling and Liquor Regulation, pursuant to Section 58 of the <i>Liquor Control Reform Act 1998</i>.• To a variation of licence for a variation prescribed in Part 6, Regulation 31 of the <i>Liquor Control Reform Regulations 2009</i>.• If a different licence or category of licence is required solely as a result of changes to licence categories.• To a licence to sell only packaged liquor for consumption elsewhere issued before 8 April 2011. <p>The schedule to this clause may specify that a permit may not be granted to use land to sell or consume liquor under a particular type of licence.</p> <p>Referral of applications</p> <p>An application must be referred and notice of the application must be given in accordance with Clause 66 of this scheme.</p> <p>Decision guidelines</p> <p>Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</p>	<ul style="list-style-type: none">• The Municipal Planning Strategy and the Planning Policy Framework.• The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.• The impact of the hours of operation on the amenity of the surrounding area.• The impact of the number of patrons on the amenity of the surrounding area.• The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
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Clause 52.27 Licensed premises (from Victoria Planning Provisions, but same in Cardinia Planning Scheme)

There is nothing relevant in the schedule to Clause 52.27. As can be seen, a permit is required under 52.27 because the area in which liquor is allowed to be sold or consumed is to be increased.

Clause 52.34 Bicycle facilities

This includes:

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52.34 1/10/2019 9/1/14	BICYCLE FACILITIES
	Purpose To encourage cycling as a mode of transport. To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.
52.34-1 1/10/2019 9/1/14	Provision of bicycle facilities A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use.
52.34-2 1/10/2019 9/1/14	Permit requirement A permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.
52.34-3 1/10/2019 9/1/14	Exemption from notice and review An application is exempt from the notice requirements of section 52(1)(a), (b) and (c), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.
52.34-4 1/10/2019 9/1/14	Decision guidelines Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate: <ul style="list-style-type: none">• Whether the proposed number, location and design of bicycle facilities meets the purpose of this clause.• The location of the proposed land use and the distance a cyclist would need to travel to reach the land.• The users of the land and their opportunities for bicycle travel.• Whether showers and change rooms provided on the land for users other than cyclists are available to cyclists.• The opportunities for sharing of bicycle facilities by multiple users, either because of variation of bicycle parking demand over time or because of efficiencies gained from the consolidation of shared bicycle facilities.• Australian Standard AS 2990.3 1999 Parking facilities Part 3: Bicycle parking facilities.• Any relevant bicycle parking strategy or equivalent.
52.34-5 1/10/2019 9/1/14	Required bicycle facilities Tables 1, 2 and 3 in this clause set out the number and type of bicycle facilities required. Bicycle facilities are required if the use is listed in columns 1 of the table. The number of bicycle facilities required for a use is the sum of columns 2 and 3 of the tables. If in calculating the number of bicycle facilities the result is not a whole number, the required number of bicycle facilities is the nearest whole number. If the fraction is one-half, the requirement is the next whole number. A bicycle space for an employee or resident must be provided either in a bicycle locker or at a bicycle

Relevant section of Clause 52.34 Bicycle facilities (from Victoria Planning Provisions, but same in Cardinia Planning Scheme)

Under this clause, "Retail premises other than specified in this table" (which includes both Manufacturing sales and Food and drink premises) requires "employee" bicycle parking spaces to be provided at the rate of "1 to each 300 sq m of leasable floor area" and "visitor" bicycle parking spaces to be provided at the rate of 1 to each 500 sq m of leasable floor area.

However, Clause 52.34-1 also states, "Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use". As there is no proposed extension to the floor area (the common property is not floor area), this does not apply. As such, there is also no permit requirement under this clause.

Summary of applicable permit requirements

In this case a planning permit (or an amendment to an existing permit) is required to:

- Use land in the IN1Z for Manufacturing sales-Food and drink premises (Clause 33.01) (amendment to existing permitted use).
- Use land for the sale or consumption of liquor where: the area that liquor is allowed to be consumed or supplied under a licence is to be increased (Clause 52.27).

Note: the proposed installation of the planter boxes and the additional bollard do not require a permit, because the planter boxes will not be permanently fixed to the ground; and while the bollard will be, it falls under the Clause 62.02-2 exemption for a "fence" (being a constructed barrier intended to divide one area from another, in this case for the exclusion of vehicles).

Introduction to relevant state, regional and local planning policy

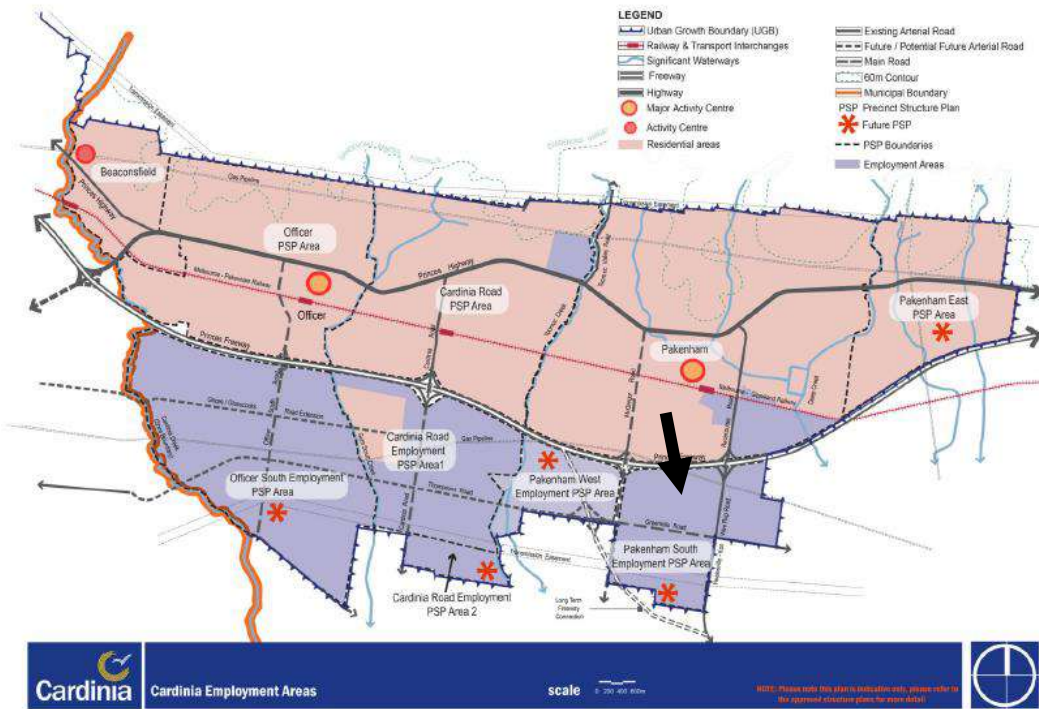
State and Regional Policy

There are several relevant state and regional policies, mainly relating to economic development and land use compatibility (these are listed, and responded to, in the "merits" section of this report).

Local policy

At Clause 21.04-1 Employment, on Figure 1: Cardinia Employment Areas, the site is in the Pakenham South Employment PSP Area.

Figure 1: Cardinia Employment Areas



The site is in the Pakenham South Employment PSP Area on Figure 1: Cardinia Employment Areas in Clause 21.04-1 Employment. Approximate site location indicated with arrow

Relevant sections of the Council’s Municipal Strategic Statement (MSS) include: 21.04 Economic Development/21.04-1 Employment; and 21.06 Particular uses and development/21.06-2 Community safety. These include:

21.04 Economic Development/21.04-1 Employment

21.04-1
 Employment
 Overview

Economic development is critical to the overall well-being of the municipality, both in terms of providing employment opportunities for residents and in attracting commercial investment. The *Cray-Cardinia Growth Area Framework Plan, 2006* identifies a large employment corridor of approximately 2,500 hectares to the south of the Princes Freeway (Pakenham Bypass) in Pakenham and Officer South as well as activity centres to assist in providing opportunities for local employment for the growing resident population in the area. *Plan Melbourne 2010* further identifies the employment corridor as the *Officer-Pakenham State-significant Industrial Precinct* that will be a major provider of employment and business opportunities for residents of Cardinia State and Melbourne’s south-east region. Employment land within Cardinia State’s urban area is shown in Figure 1.

Figure 1: Cardinia Employment Areas



Key Issues

- Recognising the need for innovation, diversification and resilience within the local economy to improve and develop employment opportunities and a strong employment base within the municipality to meet the demands of the growing population.
- Recognising the importance of emerging technology and new types of employment into the future.
- Supporting the development and enhancement of economically sustainable businesses within the municipality including within rural townships.
- Staging and timing of the release of land for employment and providing for high quality urban design to encourage investment.
- Providing infrastructure to service future employment land.

- Improving access to employment areas by residents.
- Acknowledging the high level of commuting by residents for employment to areas outside the municipality.
- Improving provision and access to higher education and skills development for residents.
- Providing additional east-west linkages to connect employment precinct with Melbourne’s south-east.

Objective

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

Strategies

Employment opportunities

- Assist in meeting local and regional employment needs in terms of the supply, type, quality and availability of employment land by facilitating appropriate development.
- Encourage development that provides a diverse mix of employment opportunities including for ‘new economy’ workers and people with business, professional and management skills.
- Encourage development that provides sufficient local jobs to meet the needs of the existing and future community.
- Retain and develop businesses in rural townships to ensure access to a range of commercial services is available to local residents and to provide fit local employment.
- Provide the opportunity for people to work from home where the activity undertaken does not adversely impact on the amenity of the local area.

Infrastructure

- Provide appropriate and timely infrastructure including water, sewerage, drainage, and roads to support the development of employment land.
- Ensure a timely and adequate supply of serviceable land for business and industrial activities both within urban growth areas and rural townships.
- Recognise the significant industrial and employment activity areas in Dandenong, Monash and Kingston as opportunities for employment and work with government agencies to improve transport access and connections to these major employment areas.
- Improve the telecommunication capacity within the municipality through broadband and fibre optic infrastructure.

Skills and education

- Advocate for access to education and training, especially for young people.
- Support the establishment of tertiary and vocational facilities with links to the local economy.

21.06 Particular uses and development/21.06-2 Community safety

21.06-2 Community safety	Community safety Overview Cardinia Shire Council is committed to maintaining and improving community safety within the municipality, and recognises the role that well designed and maintained urban environments play in achieving this goal. The <i>Cardinia Safe Communities Strategy 2017</i> addresses community safety and crime prevention through a strategic, planned, whole-of-government approach, and addresses issues such as young people's issues, a safe environment, alcohol and drugs, vulnerable groups, supporting facilities and community education. The plan also acknowledges the need to integrate community safety and emergency management. Key issues <ul style="list-style-type: none">• Acknowledging the increased incidence of graffiti in the municipality.• Recognising the role of design in increasing safety and the perception of safety of residents.• Implementing and integrating the <i>Cardinia Safe Communities Strategy 2017</i> into all aspects of development within the municipality.• Implementing preventative and management plans including the <i>Municipal Fire Prevention Plan Cardinia Shire Council 2010-2012</i>, <i>November 2010</i>, and the <i>Cardinia Shire Municipal Emergency Management Plan, 2015</i>. Objective 1 To improve community safety and the perception of safety in the municipality. Strategies <ul style="list-style-type: none">• Encourage development that is consistent with safe design principles, including:<ul style="list-style-type: none">- Maximising visibility and surveillance of the public environment.- Providing safe movement through good connections and access.- Maximising activity in public places.- Clearly defining private and public space.- Enabling appropriate management of public space to ensure that it is attractive and well used.• Ensure safe access routes for pedestrians and cyclists in the development of residential, commercial and industrial developments. Objective 2 To minimise the incidence and negative impact of graffiti on the community. Strategies <ul style="list-style-type: none">• Minimise the construction of blank walls and long fences facing onto public spaces where graffiti may occur.• Reduce the risk of graffiti through the appropriate use of anti-graffiti, lighting materials and graffiti resistant materials.
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There is no relevant local policy on licensed premises or the like.

The merits of the application

The proposal will achieve the outcomes sought by Cardinia Planning Scheme, by being associated with an approved Food and drink premises-Manufacturing sales use, which in turn is associated with an approved Industry (micro-brewery) use in the Industrial 1-zoned Pakenham South Employment PSP Area. It will achieve improved economic development outcomes, and through its appropriate location will achieve good amenity outcomes including by being well separated from the nearest traditional residential area.

More specifically, the proposal is consistent with all relevant policy and other provisions:

- 13.05-1S Noise management and 13.07-1S Land use compatibility. Given the combination of its site context (in Pakenham South Employment PSP Area); contained location (in an industrial area); operational nature (expanded Food and drink premises-Manufacturing sales use); location (external area adjoining both Southeast Boulevard and Commercial Drive); scale (small); music (background only); trading times (latest, 11pm); setback distances (see below) from residential and/or other sensitive uses; and most likely (though non-residential areas) walking routes of patron egress to car parking, public transport, taxis etc, the proposal is unlikely to result in unreasonable noise emissions

This includes because noise emissions would also be commensurate with ambient noise levels currently around this busy area which includes significant non-residential uses also in Pakenham South Employment PSP Area and Southeast Boulevard itself.

This is an appropriate distance for the above reasons, and especially given the site's activity centre location, the ceasing of licensed trading at 11pm and that patrons will enter/exit the site via external area adjoining both Southeast Boulevard and Commercial Drive only.

Given the nature of the neighbourhood (including setbacks from the nearest residential areas), it is not proposed to specifically keep doors and windows closed during permitted/licensed trading times.

- 17.01-1S Diversified economy, 17.01-1R Diversified economy - Metropolitan Melbourne, 17.02-1S Business, 17.02-2S Out-of-centre development, 17.03-1S Industrial land supply, 17.03-2S Sustainable industry, 17.04-1S Facilitating tourism and 17.04-1R Tourism in Metropolitan Melbourne. The proposal will help to strengthen and diversify the economy, by being associated with a business use (a commercial use that is associated with an industrial use) on a site that the planning system has

allocated for such use/s, and while it will not relate to a tourism facility per se, it will continue to assist in attracting visitors including tourists to Pakenham.

- 18.01-1S Land use and transport integration, 18.02-1S Walking, 18.02-2S Cycling, 18.02-3S Public transport, 18.01-3R Sustainable and safe transport - Metropolitan Melbourne and 18.02-3R Principal Public Transport Network – by being in a neighbourhood that is walkable (by local working people), having access to bicycle facilities, and having at least some (if distant) public transport access.
- 19.02-3S Cultural facilities, which seeks: “To develop a strong cultural environment and increase access to arts, recreation and other cultural facilities”, with the proposal falling under this broad umbrella.
- 21.04 Economic Development/21.04-1 Employment and 21.06 Particular uses and development/21.06-2 Community safety.

While these clauses do not specifically deal with liquor, Clause 21.04-1 Employment lists as the first of its Key issues (with underlining now added):

Recognising the need for innovation, diversification and resilience within the local economy to improve and develop employment opportunities and a strong employment base within the municipality to meet the demands of the growing population

Even if only incrementally, the expansion of the licensed premises (which will result in diversification of what is now on offer) is consistent with the intent behind this Key Issue. And while it will not necessarily create additional employment, it will help to consolidate the existing employment.

Clause 21.06-2 Community includes the following Strategies

Encourage development that is consistent with safer design principles, including:

- Maximising visibility and surveillance of the public environment.
- Providing safe movement through good connections and access.
- Maximising activity in public places

The provision of the proposed external patron area is consistent with these strategies in that it will maximise both “visibility and surveillance of the public environment” and “activity in public places” (by being located next to Southeast Boulevard and Commercial Drive), while “providing safe movement through good connections and access (by ensuring that car access/safety to and from the adjoining car spaces is not compromised).

- 33.01 Industrial 1 Zone. While the sale/consumption of liquor itself does not require a permit under the Industrial 1 Zone, zoning sets much of the policy context for assessment of the application and it is noteworthy that the proposal is associated with a use for which a permit has already been issued under the Industrial 1 Zone. The fact that both the sale and consumption of liquor and the Manufacturing sales/Food and drink premises use itself are associated with an Industry (micro-brewery) use in the Industrial 1 Zone where such uses are encouraged is a factor strongly in its favour.

That is, without the Industry (micro-brewery) use there would be no Manufacturing sales/Food and drink premises use; selling more beer (and other liquor) via providing a better onsite patron experience will achieve the IN1Z Purpose by making the Industry (micro-brewery) use even more viable.

As above, the IN1Z Purpose includes: "To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities". As it concerns a use (Food and drink premises-Manufacturing sales use) that is associated with manufacturing industry (micro-brewery), this is exactly what the proposal will achieve.

Furthermore, it indirectly encourages the proposal by seeking “To implement the Municipal Planning Strategy and the Planning Policy Framework”. Compliance with both is detailed elsewhere.

It is also relevant that "Accommodation (other than Caretaker's house)" is prohibited in the IN1Z and there are no apparent other sensitive uses nearby that would be significantly impacted by the proposal.

- 52.27 Licensed Premises. This is addressed below.

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52.27 Licensed Premises

As above, the Purpose of Clause 52.27 Licensed premises is:

To ensure that licensed premises are situated in appropriate locations.

To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

In accordance with the first part (“To ensure that licensed premises are situated in appropriate locations”) of 52.27’s Purpose, the proposal relates to a site in an appropriate location (in the Industrial 1 Zone/Pakenham South Employment PSP Area, having suitable access to relevant services and facilities, appropriately separated from the nearest sensitive uses etc).

In accordance with the second part (“To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered”), any impact of the licensed premises on the amenity of the surrounding area will be appropriate both in terms of the location and the nature of the proposal itself.

The following is a brief response to the Clause 52.27 Decision guidelines.

Decision guideline	Response
<i>The Municipal Planning Strategy and the Planning Policy Framework.</i>	The state and local policy support for the proposal is detailed above.
<i>The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.</i>	<p>The proposed sale or consumption of liquor will have only a reasonable impact on the amenity of the surrounding area due to: its nature, hours of operation and scale; and the area including both its planning scheme designation and its excellent available services as well as the site’s own setbacks from sensitive uses:</p> <ul style="list-style-type: none"> • The site is in the Industrial 1-zoned Pakenham South Employment PSP Area. The site is in is in a predominantly industrial neighbourhood. There are no apparent residential/dwelling uses anywhere near the site (even the nearest land NOT in an Industrial zone is more than 200m from the site). • Public transport near the site includes trains at Pakenham Railway Station (2.5km by foot from the site). To the extent that it is relevant, the train services in this case are also in the Night Network, meaning that there is all night public transport access on Friday and Saturday. Pakenham Railway Station is a Premium Station, which means that it is staffed from first to last train and also provides public toilets. Pakenham in general is serviced by taxis. • Mainly unrestricted onstreet kerbside parking is available throughout the adjoining road network; near the site onstreet parking along both Southeast Boulevard and Commercial Drive is unrestricted. • Being an industrial area, the neighbourhood has no bicycle parking, rubbish bins, street benches or public toilets. When I visited, I did not observe any liquor-related litter or other evidence of public liquor consumption near the site. The area has a high proportion of buildings fronting the street, straight street/road alignments, wide footpaths, no major pedestrian bottlenecks such as narrow bridges or walkways, orderly landscaping, and good public lighting. • This is an appropriate distance (together with the proposal’s nature, music provision, scale, trading times and exit point) to prevent any

	associated significant amenity impacts (eg ones that would breach EPA noise policies).
<i>The impact of the hours of operation on the amenity of the surrounding area.</i>	<p>No change is proposed to the existing permitted/licensed trading times (Wednesday and Thursday 4 pm to 10 pm; Friday 1 pm to 11 pm; and Saturday and Sunday 12 pm to 11 pm), however these will now also apply to the external area in front of the building.</p> <p>Planning Practice Note 61, “Licensed premises: Assessing cumulative impact”, Department of Environment, Land, Water and Planning, October 2023 (“PPN61”) states, “Licensed premises open after 11pm are considered a greater risk to the surrounding area”. Conversely, those (such as this one), with a closing time of 11pm, are a lesser risk.</p> <p>The trading hours in this case are also in accordance with the “ordinary” LCV trading hours (as defined by law) for the licence category; not outside the preferred hours in any local planning policy; appropriate to the amenity of the area; and generally within the range of trading hours for similar existing licensed premises in Cardinia (see details of existing licensed premises below).</p>
<i>The impact of the number of patrons on the amenity of surrounding area.</i>	<p>No change is proposed to the existing permitted/licensed maximum patron capacity, ie there will be a maximum of 90 patrons on the licensed premises at any one time (the expanded licensed area will simply allow for a larger area to be occupied by the same number of patrons).</p> <p>PPN61 also states that licensed premises with a patron capacity of over 200 “may pose a greater risk of alcohol-related harm and result in a negative cumulative impact”. Conversely, much of the other policy and documents acknowledge that licensed premises with a patron capacity of 200 or under) have generally positive impacts by providing both diversity and intimacy, and minimising alcohol-related risks³.</p> <p>As there will be a maximum capacity of 90 patrons (or 45% of the largest licensed premises that PPN61 considers, “may pose a greater risk” (those with 200-patrons), the patron capacity will not cause any significant amenity impacts. It is also generally within the range of patron capacities for similar existing licensed premises in Cardinia (see details of existing licensed premises further below).</p>
<i>The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.</i>	This is addressed immediately below.

Cumulative Impact Assessment

General introduction to Cumulative Impact Assessment

Pursuant to page 2 of Planning Practice Note 61, “Licensed premises: Assessing cumulative impact”, Department of Environment, Land, Water and Planning, June 2015 (“PPN61”), a formal Cumulative Impact Assessment is NOT required in this case because , as shown in the data further below, the site is NOT in a

³ The Melbourne Planning Scheme (Clause 02.03-3) states that “Well managed licensed premises contribute positively to the activity, character and image of the City. Small licensed premises are particularly important to the vitality of the Central City as a 24 hour city”

“cluster” of licensed premises (15 existing or proposed licensed premises within 500m of the site, or 3 within 100m) and the proposal does NOT include existing or proposed licensed trading after 11pm⁴.

PPN61 is also a practice note only that essentially expands upon one of the decision guidelines of Clause 52.27. It is not a mandatory requirement of the scheme, and it is generally accepted that its requirements apply most appropriately to licensed premises that are primarily high capacity and/or late-night licensed premises rather than (as in this case) smaller ones with earlier closing times.

In addition, the key “drivers” of “cumulative impact” tend to be the patron capacity and trading times of licensed premises. As, in this case, neither of these will change (the proposal will simply expand the licensed area with the same number of patrons over a larger area), there will arguably be NO cumulative impact.

However, as Clause 52.27 requires cumulative impact to be considered, it is appropriate to provide some general comments pursuant to the principles of PPN61 (though the above issues should also be noted).

While the planning scheme does not define “cumulative impact”, the Statement of Policy on “Assessment of the cumulative impact of licensed premises” pursuant to the Liquor Control Reform Act 1998, issued by the Victorian Government on 5 October 2010, includes:

***Cumulative Impact** refers to the impacts that result from a concentration of licensed premises in a defined area. Evidence has identified that cumulative impact is associated with a range of positive and negative outcomes that arise from the combination of many factors such as physical and environmental setting, the mix of premises and their operating conditions.*

The positive outcomes can include the creation of a local ‘identity’ or status as an entertainment destination, enhanced vitality, economic benefits, and an increase in consumer choice. The negative outcomes of cumulative impact can include crime, a loss of amenity, and anti-social behaviours.

Potential cumulative impacts vary between locations, depending on the number and type of licensed premises, and the capacity of the local area to accommodate the concentration e.g. the availability of late night transport.

PPN61 expands upon this, stating⁵:

Cumulative impact refers to both positive and negative impacts that can result from clustering a particular land use or type of land use. Potential cumulative impact from a cluster of licensed premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of venues present, the way they are managed and the capacity of the local area to accommodate those venues.

***Negative** cumulative impacts can include increased occurrences of:*

- *nuisance including noise and anti-social behaviour from intoxicated persons*
- *infrastructure capacity problems including limited availability of transport and car parking for patrons and local residents*
- *violence and perceived threats to safety*
- *crime including vandalism, trespass and property damage.*

***Positive** cumulative impact can include:*

- *the creation of a local ‘identity’ or status as an entertainment or tourism destination*
- *enhanced vitality of an area*
- *economic benefits*
- *increase in consumer choice*
- *increased ability to manage impacts, for example by concentrating venues around transport to aid dispersal of patrons.*

The clustering of licensed premises may lead to a negative impact even though any given venue in the cluster may be well run and have minimal impact. An area might reach a ‘saturation point’ where an additional licensed premises or a particular type of licensed premises is likely to impact negatively on the surrounding area. Alternatively, there may be a positive cumulative impact where an additional premises will enhance the character or vibrancy of an area.

4 PPN61, page 2

5 PPN61, page 2

Thus, a licensed premises proposal can result in positive or negative outcomes for its area. Of note is, although licensed premises can have disbenefits, they also create social and economic benefits. For example, the “Yarra Night Time Economy Strategy 2014-2018” found that the City of Yarra’s Night Time Economy (NTE) contributes 8.4% of jobs to Yarra (2,976 jobs), with the economic benefits of the NTE estimated to outweigh costs at a ratio of 2:1”. As well as providing employment (including for local residents), some of these economic benefits end up (via rates and other taxes) as Council income and is used in part to pay for services such as street cleansing and public rubbish collection.

Planning Practice Note #1
Licensed premises: Assessing cumulative impact
October 2022

Department of Transport and Planning

Cumulative Impact

The purpose of this practice note is to:

1. Explain cumulative impact in relation to licensed premises in the planning system.
2. Provide guidance on preparing and assessing an application under clause 63.27 of the planning scheme for:
 - a new or proposed licensed premises
 - a variation to an existing licensed premises
 - support a council when assessing the cumulative impact of licensed premises as part of a planning permit application.

Licensed premises tend to be likely to require a permit under clause 63.27 include:

- hotels
- nightclubs
- restricted places of assembly
- restricted area premises including:
 - 19 taverns
 - 19 hotels
 - 19 restaurants
 - 19 take-away food premises
 - restricted recreation facility
- other premises that may be licensed to sell or consume liquor

This practice note can assist a council and a permit applicant to identify and address whether the proposal for a new or modified licensed premises is likely to contribute to cumulative impact within an area. A permit applicant should check if the relevant council has an alternative or an additional set of guidelines or requirements to consider.

This practice note may be used for any planning application that would benefit from its use. However, it should be used for all applications for a new or proposed licensed premises that:

1. will be licensed and open after 1/1/2022
2. is in an area where there is a cluster of licensed premises.

Cumulative Impact

Cumulative impact refers to both positive and negative impacts that can result from clustering a particular land use or type of land use. Potential cumulative impact from a cluster of licensed premises will vary between locations, depending on the mix and number of premises and whether the area is designated for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of premises present, the way they are managed and the capacity of the local area to accommodate these premises.

Negative cumulative impacts can include increased occurrences of:

- nuisance including noise and anti-social behaviour from unlicensed premises
- infrastructure capacity problems including limited availability of transport and car parking, the streets and local roads
- violence and perceived threats to safety
- crime including vandalism, trespass and property damage

Positive cumulative impact can include:

- the creation of a local identity or status as an entertainment or tourism destination
- enhanced safety of an area
- economic benefits
- influence on consumer choice
- increased ability to manage impacts, for example by concentrating venues around transport to and from the area

The clustering of licensed premises may lead to a negative impact even though any given venue in the cluster may be well run and have minimal impact. An area might reach a 'tipping point' where an additional licensed premises or a particular type of licensed premises is likely to impact negatively on the surrounding area. Alternatively, there may be a positive cumulative impact where an additional premises enhances the character or vibrancy of an area.

planning.vic.gov.au

Department of Transport and Planning

Cumulative impact decision guidelines

The cumulative impact of licensed premises is referenced in the planning scheme decision guidelines (of clause 63.27 (Licensed Premises)). The relevant decision guideline requires a council to consider:

The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Although this decision guideline needs to be considered for any application required under clause 63.27, the extent of the assessment should be proportional to the likely impact of the proposal. A modest proposal would not require a detailed analysis, but there are instances where a more robust assessment of cumulative impact is required.

The following guidance can assist:

- a council when assessing the extent that a proposed licensed premises will contribute to an overall cumulative impact within an area
- relevant decisions to include appropriate measures in part of their conditions to address and manage any identified negative cumulative impact.

What is a cluster?

To determine whether a cluster of licensed premises exists, the following should be considered:

- the number and type of licensed premises in an area
- their distance from the subject land
- whether they can be seen from the subject land

In a general sense, a cluster would occur where there are:

- three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or
- 10 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.

The diagram below provides an example of how to determine whether a cluster exists.

What is the cumulative impact assessment area?

The area to be included in a cumulative impact assessment should be all land within a 500 metre radius of the proposed premises, unless there is another logical boundary that takes into account relevant features - these might include a major inaccessible physical barrier (for example, a freeway or watercourse) or another nearby cluster of licensed premises.

Department of Transport and Planning

Example of a cumulative impact assessment area

Any?

1. **IMPASSIBLE PHYSICAL BARRIERS**
These licensed premises are separated from the subject land by an impassible barrier and should not be used when determining the cumulative impact assessment area.
2. **CUMULATIVE IMPACT ASSESSMENT AREA**
The area to be included in a cumulative impact assessment should normally be all land within a 500m radius of the subject land, however in this example the area has been restricted by a freeway corridor.
 - 10 or more licensed premises
 - 3 or more licensed premises that are clearly related when assessing cumulative impact.
3. **CLUSTERS**
In this example there is a cluster because:
 - three licensed premises within a 100m radius of the subject land, and
 - 10 licensed premises in the cumulative impact assessment area.

General introduction to the different types or groups of licensed premises

This section is intended to provide an overview of what different groups of licensed premises exist and what amenity impacts each is likely to have. I have described each formal licence category in an attachment.

There are about ten categories of licence, and a similar number of statutory planning land uses with which they can be associated. It is difficult to divide up neatly the different groups of licensed premises because, while some are distinct from the others, there are also many shared features. However, having carried out numerous cumulative impact assessments since 2009, in my opinion, based on both the mix and the focus of the goods and services provided, there are four groups of licensed premises.

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Licensed premises group	Likely potential amenity impacts
<p>The first (and most common) group is “<i>food-based licensed premises</i>”. This serves liquor in the context of its predominant activity being the preparation of meals for consumption on the premises. This is important because page 4 of PPN61 says, “Venues that serve food or meals are shown to be less at risk of excessive alcohol consumption”), and food-based licensed premises <i>usually</i> have both moderate trading hours (closing at/before 11pm) and small patron capacities (less than 100 patrons). They also provide table and chairs for most or all patrons and have high staff-to-patron ratios, which are further positive attributes influencing patron behaviour. Patrons also tend to leave in small groups shortly after finishing meals, rather than waiting until closing and exiting in a flood⁶.</p>	<p>Food-based licensed premises, which include Restaurants and Cafes (not defined in the planning scheme but often referred to generically as Food and drink premises) thus have amongst the least cumulative and other amenity impacts.</p> <p><i>Impacts can include: music noise; patron noise (onsite and offsite), and parking competition and vehicle noise. Music and patron noise are both usually quiet. Anti-social behaviour is largely non-existent.</i></p> <p><i>Note: I have not included plant noise and flue odour, since these would occur whether or not liquor is served. Waste management noise is similar, though for instance emptying bottles and cans into a bin is noisier than food scraps.</i></p>
<p>The second group is the “<i>bar-based licensed premises</i>”, which, while it can have various features such as a public bar, a dining/bistro room, a band room/dance floor, sports bars/gaming/TAB facilities, a bottle shop, function rooms, and accommodation, ultimately revolves around its selling liquor for consumption on the premises (ie at a “bar”)⁷.</p> <p>They almost always operate under On-premises, General, Late-night (General) or Late-night (On-premises) licences, often with larger patron capacities and later trading times (though they can also be both small and early closing); and, being often older than other licensed premises, occupy prominent positions in many towns and suburbs. In the form of pubs in particular, “<i>bar-based licensed premises</i>”, are a central part of Australian (and Victorian) culture and have broad appeal to many sections⁸. Stand-alone Bar uses are becoming increasingly common, however.</p> <p>A sub-group of the second group is the “<i>vertical bar</i>”. The key VCAT decision involving the concept of “cumulative impact”- <i>Swancom Pty Ltd v Yarra CC</i> (includes Summary) (Red Dot) [2009] VCAT 923 (10 June 2009 - makes a distinction between premises providing “vertical” drinking and other licensed premises. At para 71, Swancom says, “A ‘vertical bar’ is characterised as being predominantly stand-up drinking, with limited or no seating, and often in crowded venues”. At para 53 it says, “A late night ‘vertical bar’ will, for example, have a very different impact to a seated restaurant closing at 11 pm”. It would typically operate under a General or an On-premises licence and especially, a</p>	<p>While they often provide meals and other food, they are usually not legally required do so and/or not at all times they are serving liquor. Often combined with late night trading and large maximum patron capacities, this group has the highest amenity impacts potential of the four.</p> <p><i>Impacts can include: music noise; patron noise (onsite and offsite); anti-social behaviour including rowdiness, assault, street fouling, vandalism and litter; waste management noise; and parking competition and vehicle noise.</i></p> <p>Note: this does not mean that they are necessarily inappropriate, which is ultimately dependant on the site context, including existing conditions, zoning (under which the associated land uses often do not require a permit), and policy/the activity centre hierarchy.</p> <p>In general, the higher in the hierarchy an activity centre is, the more appropriate it is to accommodate licensed premises of a commensurate intensity. As well as from a statutory planning perspective, this is also because such areas usually have the best services and facilities, such as public transport, taxi ranks, onstreet and offstreet parking (especially during relevant peak demand times), public toilets, street furniture, rubbish bins and police stations.</p> <p>In addition, more intensive licensed premises are often in fully commercial areas fronting major streets or roads and have other amenity impact mitigation measures (patron management, security, noise attenuation, onsite parking) that are better than for less intensive ones.</p>

6 While these commonly apply to licensed premises trading under BYO Permits and Restaurant and Cafés Licences, they often also include ONES with On-premises licences. Licensed restaurants, cafes, generic Food and drink premises and (in some cases) Function centres, Wineries, Hotels and Bars can sometimes be considered food-based licensed premises. Some also have Limited Licences allowing the delivery of packaged liquor, but this is usually restricted to both a certain quantity of liquor and the delivery of meals

7 This is not to be confused with a tourist Hotel or Motel, which while often having very large, licensed patron capacities and extensive trading times (and which may also have a restaurant) primarily provide accommodation rather than liquor

8 The mix of goods and services provided means that their focus often changes over the course of a trading day – many are similar to cafes (although with beer rather than coffee) during the day, restaurants at mealtimes, and nightclubs later on. They attract a wide range of patrons, including individuals, families, friendship groups, sporting clubs and even small associations. A Bar (or Tavern) is similar, though (often, much) smaller and with less features, including usually no accommodation or ability to sell liquor for consumption off the premises, though this is changing (the real difference is often one of scale – pubs are generally larger, bars generally smaller). These typically operate under On-premises or Late night (On-premises licences) (or in rare cases, Producers licences) Similarly Bottle shops typically do not sell liquor for consumption on the premises but this is also changing. However, I think the main feature of a pub is not so much that it sells liquor for consumption on or off the premises but that it provides a wide range of goods and services including its main focus being what happens “on” the premises rather than “off”.

Licensed premises group	Likely potential amenity impacts
<p>Late night (General) or a Late night (On-premises) licence⁹. True vertical bars (eg Nightclubs) are rare and tend to only exist in highly urban areas.</p>	
<p>The third group is the “<i>packaged liquor-based licensed premises</i>”, which allows the sale of liquor (usually packaged) for consumption off the premises (ie take-away liquor). This can occur under a few different licences, including General, Late-night (General) and Producer’s but (since these licences also allow on-premises consumption of liquor) its clearest example is the Packaged Liquor licence (or in rare cases, a Late night (Packaged Liquor) licence).</p> <p>Bottle shops were once almost exclusively associated with Hotels; but are now almost equally associated with Supermarkets, or are stand-alone (usually in commercial areas). Some bottle shops also now have General licences, allowing them to sell liquor for consumption on or off the premises (usually with small bars and patron capacities). Due to zoning restrictions, these are generally only found in commercial areas.</p> <p>Note: I have included online sales of packaged liquor in the group below.</p>	<p>Because customers purchase liquor that they then consume elsewhere, the sale of liquor from a “bottle shop” generally does not have a direct impact on the amenity of its immediate area.</p> <p><i>Impacts can include: litter; and parking competition and vehicle noise.</i></p>
<p>The fourth group consists of “<i>miscellaneous licensed premises</i>” such as ones associated with sporting clubs/community organisations, ones selling liquor by wholesale, the internet or in other minor ways (such as in hampers) or ones for the sale of liquor manufactured on the same (wineries, breweries, distilleries etc) site.</p> <p>Although many could also be categorised as food-based licensed premises, Function centre, Restricted place of assembly and Restricted recreation facility are in this group. These variously operate under Full Club, Limited, On-premises, Pre-retail, Producer’s, Remote seller’s, or Restricted Club licences.</p>	<p>Either due to their natures (some involve community organisations, or the consumption of liquor is simply not the main activity associated with the use or where patrons are well known to each other, which tempers their behaviour) or locations (eg sporting clubs, wineries and breweries etc tend to be in public open space, rural or industrial areas that are often well-separated from the nearest residential or other sensitive uses), these tend not to have major amenity impacts.</p> <p><i>Impacts can include: limited anti-social behaviour including litter; and parking competition and vehicle noise.</i></p>

The existing licensed premises is a combination of all four of the above groups since it involves the sale and consumption of both food and liquor (and other drinks) on the premises as well as the sale of liquor (licensee’s product only) for consumption off the premises, as well as being associated with a manufacturing use. Even if it is regarded as being essentially a “bar-based licensed premises” (with all other attributes being ancillary to this), give its location (in an industrial area), scale (90 patrons), and trading times (11pm closing), it is still of the type of licensed premises that would have minimal offsite amenity impacts.

Introduction to the “existing conditions” regarding licensed premises in Pakenham

This part of Pakenham is a still-developing area with a limited history as a centre of licensed uses. However, the wider area of Pakenham has a more significant history, and according to <https://liquor.vcglr.vic.gov.au>, there are 63 existing licences in Pakenham (not just within 500m of the site).

Most have a five-star rating - indicating good management over at least the last three years (please refer to the attachments for how the five-star rating system works).

⁹ Post 11pm (or 12am) licensed trading times are often a good indicator of what is a vertical bar; the best example is a late-night, high-capacity Nightclub, Hotel or Bar. However, this also does not mean that every Nightclub, Hotel and Bar is a vertical bar; in fact, many are quite the opposite, providing lower density “lounge” atmospheres with substantial seating and meals (and, as noted below in relation to Hotels, can have different foci at different times). Vertical bars are also not in themselves inappropriate, and many planning schemes encourage them in locations such as Major and Principal Activity Centres

According to Star Rating System Liquor Licensing Fact Sheet, Victorian Commission for Gambling and Liquor Regulation, November 2014 (which is included in the attachments to this report):

What is the star rating system? A star rating is calculated on the basis of whether a non-compliance incident has occurred in respect of the licensed premises. Licensees will receive a discount on their annual licence renewal fees where they have had two or more consecutive years without recording a non-compliance incident. This is calculated on 1 October of each year. All new liquor licences begin at the three star level. They will then receive a star rating based on the following criteria:

One star – Three or more non-compliance incidents in the previous 12 months

Two star – One to two non-compliance incidents in the previous 12 months

Three star – No non-compliance incidents in the previous 12 months

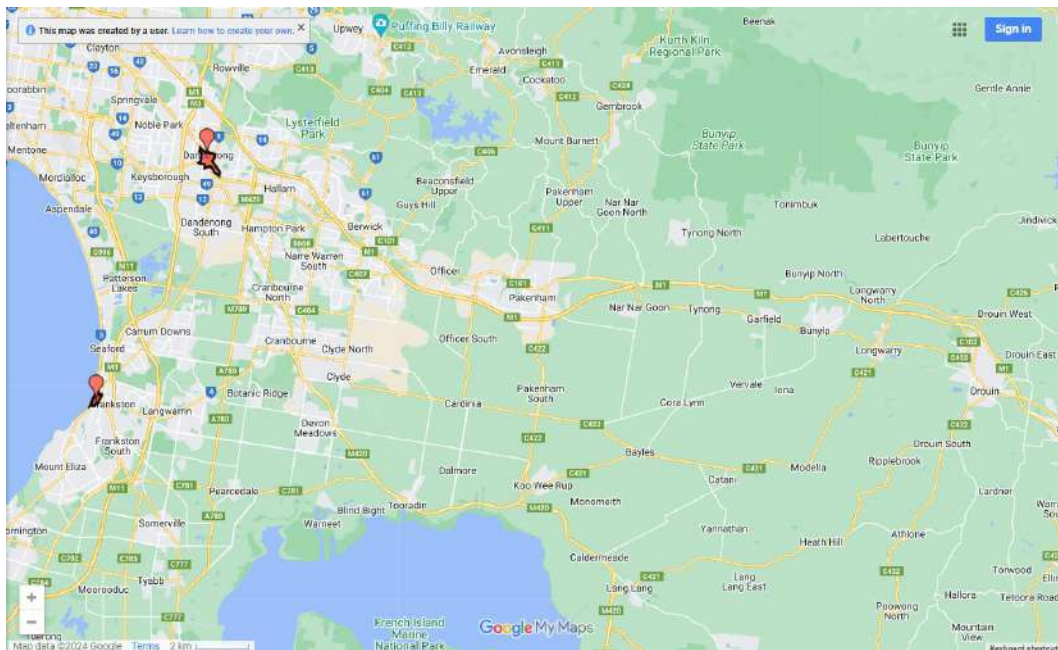
Four star – No non-compliance incidents in the previous 24 months

Five star – No non-compliance incidents in the previous 36 months.

As can be seen, a five star rating means that there have been, “No non-compliance incidents in the previous 36 months” As it is the highest rating available it also means in *at least* the previous 36 months (three years).

This part of Pakenham has a high proportion of commercial and/or residential active frontages, good public lighting, wide footpaths, few cul-de-sacs etc - providing a relative level of safety. When I visited, I did not observe any evidence of liquor-related litter or consumption of alcohol in the public area(s) near the site.

The site is not in a “designated area” declared by the Director of Liquor Licensing under Section 147 of the Liquor Control Reform Act to be an entertainment precinct where significant alcohol-related violence or anti-social behaviour occurs. Similarly, there appear to be no recent online media articles suggesting that there is a significant alcohol-related anti-social behaviour problem in Pakenham.



Map from VCGLR website, with the site (marked with an arrow) and the nearest Designated Area(s) shown¹⁰

According to www.austlii.edu.au, there has been only 1 relevant¹¹ (publicly-available) VCAT decisions involving the search terms “52.27 and Pakenham and Cardinia CC” (note: this is for the whole suburb, not

¹⁰ According to its website, “The VCGLR can declare an entertainment precinct where alcohol-related violence and antisocial behaviour has occurred, to be a ‘designated area’. Victoria Police have the power to ban people from licensed premises and designated areas for up to 72 hours for offences including drunkenness, physical assault, destroying or damaging property and failure to leave licensed premises. Police also have the power to seek a court order to ban repeat offenders ... for up to 12 months”

¹¹ “Relevant” here involves only ones concerning the sale/consumption of liquor at sites actually located in Pakenham

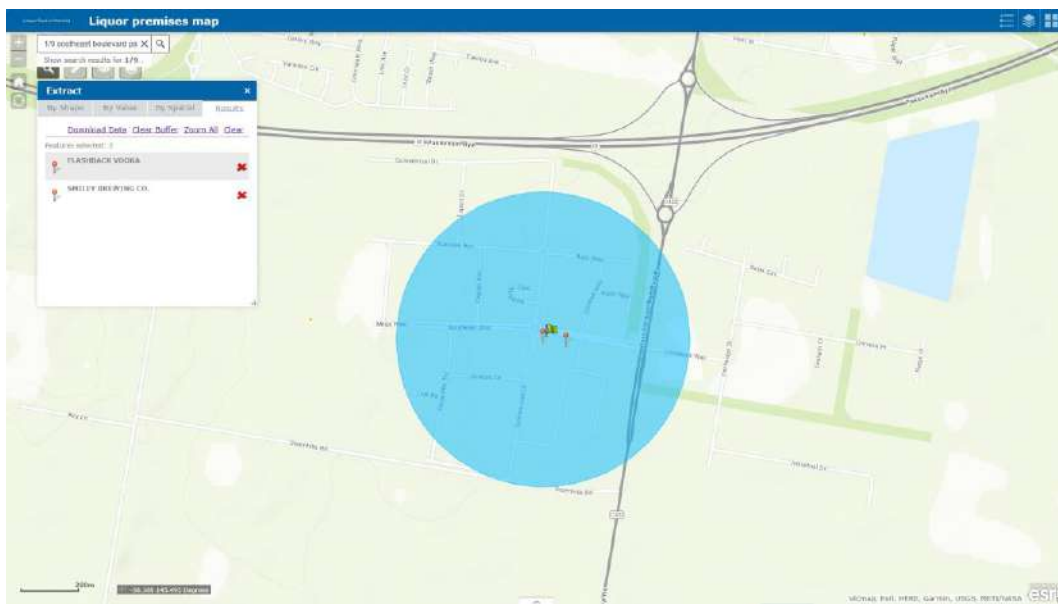
just within 500m of the site) for the last twenty or so years. This is *Pioneers Market Place Pty Ltd v Cardinia CC [2020] VCAT 1461* (23 December 2020). While VCAT refused to issue a permit including for the sale of liquor under Clause 52.27, this was a side issue (the word “liquor” does not appear in the “reasons” sections of the decision) forming only a small part of a much larger proposal described in para 3 of the decision as:

a substantial retail, service and entertainment offer within a new building referred to as Pioneers Marketplace. Key tenants are proposed to include a full line Coles supermarket, a Kmart discount department store (DDS) and 24 specialist retail tenancies, together with a cinema and medical centre.

This number (or lack) of VCAT decisions may be an indicator of general community and Council opposition to, support for and/or apathy regarding licensed premises in Pakenham. Socio-economic factors and the relationship/setbacks between licensed premises and the nearest residential uses/areas may also be relevant.

However, regardless of the “political”, “demographic” or “locational” situations, the proposal’s nature, scale and trading times are all fully respectful of the site context.

Specific details of existing licensed premises within 500m of the site



Map from Liquor Control Victoria (LCV) (former Victorian Commission for Gambling and Liquor Regulation/VCGLR) website, with circle representing a 500m radius around the site (shown with flag) and the pins or dots showing location of existing licensed premises in and around this area. Some pins may represent more than one licensed premises on the same (larger) site; some licensed premises may not be shown

Based on information downloaded from the Liquor Control Victoria (LCV) (former Victorian Commission for Gambling and Liquor Regulation/VCGLR) website, all existing liquor licences or BYO permits relating to sites within 500m of the site (the area that PPN61 requires consideration of) are shown in the following table (a description of each licence category including BYO permit is provided in Attachment 1):

Licence No.	Licence category	Premises name	Street Address ¹²	Number of BYO permits or licences	Percentage of total (rounded to nearest whole number ¹³)
	BYO Permit			0	0%
	Full Club Licence			0	0%
	General Licence			0	0%

¹² Addresses may have been simplified in some cases. All sites are listed as being in Pakenham or an adjoining suburb

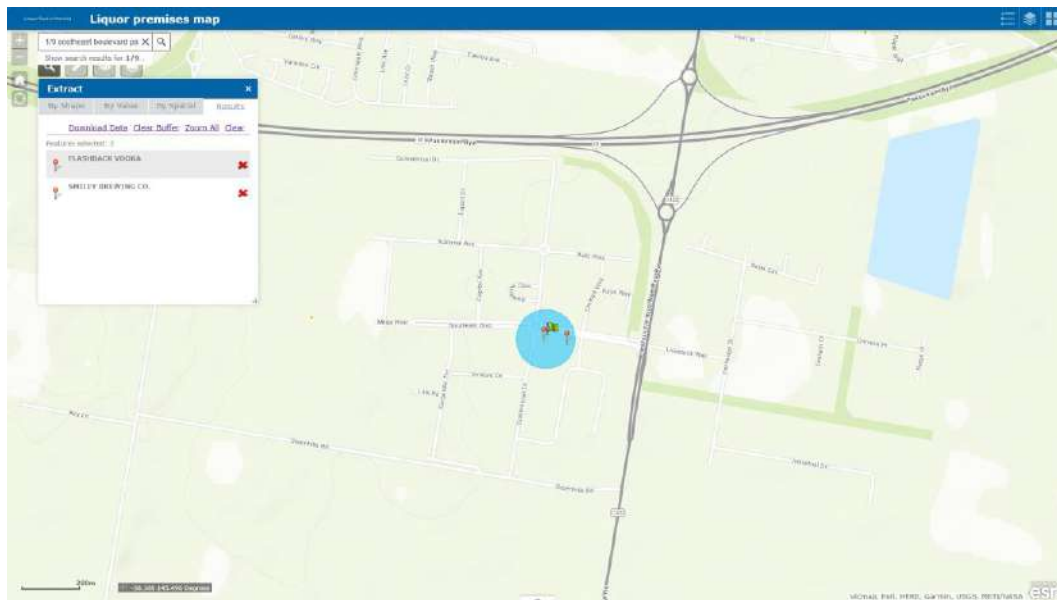
¹³ Numbers may not add up to 100% due to individual rounding

Licence No.	Licence category	Premises name	Street Address ¹²	Number of BYO permits or licences	Percentage of total (rounded to nearest whole number ¹³)
	Late night (general) Licence			0	0%
	Late night (on-premises) Licence			0	0%
	Limited Licence			0	0%
	On-Premises Licence			0	0%
	Packaged Liquor Licence			0	0%
	Pre-retail Licence			0	0%
32810184	Producer's Licence	SMILEY BREWING CO.	1/9 SOUTH EAST BOULEVARD	1	50%
36311158	Remote Seller's Licence	FLASHBACK VODKA	UNIT 5 9 SOUTHEAST BVD	1	50%
	Restaurant and cafe Licence			0	0%
	Restricted Club Licence			0	0%
Total				2	100%

Given the nature/zoning of the area, the above number and category of licensed premises is not surprising.

In terms of their patron capacities and closing times, while I have not downloaded and transcribed the patron capacities for latest closing times for all licences/BYO permits applying to land within 500m of the site, I have done so for licences or permits applying within 100m of the site (below).

The 100m distance is relevant not only because it is one of the only two distances mentioned in PPN61 but also because it is a reasonably large buffer to expect that many issues associated with clusters of licensed premises (eg compounded noise from different licensed premises, footpath congestion due to the arrival/departure of patrons or onstreet queueing of different licensed premises, competition between patrons for taxis and parking, etc) would either not arise or be easily able to dissipate.



Map from Liquor Control Victoria (LCV)/Victorian Gambling and Casino Control Commission (VGCCC) (former Victorian Commission for Gambling and Liquor Regulation/VCGLR) website, with circle representing a 100m radius around the site (shown with flag) and the pins or dots showing location of existing licensed premises in and around this area. Some pins may represent more than one licensed premises on the same (larger) site; some licensed premises may not be shown

These are shown in the below table:

No.	Licence	Premises name	Street Address	Maximum licensed patron capacity ¹⁴	Latest licensed closing time ¹⁵	Comments (based on licences, licensed premises websites, internet-based reviews, site inspections, personal experience etc)
32810184	Producer's Licence	SMILEY BREWING CO.	1/9 SOUTH EAST BOULEVARD	90	11pm	Subject site
36311158	Remote Seller's Licence	FLASHBACK VODKA	UNIT 5 9 SOUTHEAST BVD	NA	11pm	Warehouse/Store. Actual licence shown below

REMOTE SELLER'S LICENCE Licence No. 36311158

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the Schedule, the Licensee is authorized to supply liquor up to and including 31 December 2024.

Licence: FLASHBACK VODKA PTY LTD (ACN 647 870 782)

Address for service of notices: P O BOX 60 BELCONSFIELD WYER 3808

Licensee premises address: UNIT 5 9 SOUTHEAST BVD PAKENHAM 3810

Trading as: FLASHBACK VODKA

GENERAL INFORMATION
A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the responsibility of the licensee to ensure they comply with these and all conditions of a planning permit. Where the trading hours on your planning permit are less than the trading hours on this liquor licence, you must comply with the hours on the planning permit.

Any reference to the Liquor Register below is a reference to the Victorian Liquor Commission, or any successor statutory office, body or officer responsible named, under the Liquor Control Reform Act 1998 or successor legislation, that has powers and carries out regulatory functions equivalent to the Victorian Liquor Commission.

TYPE OF LICENCE
This licence is a remote seller's licence and authorises the licensee to supply packaged liquor only when such liquor is ordered by mail, telephone, facsimile transmission or internet.

RESTRICTIONS ON SALES
The licensee must not use this above licensed premises to provide for:
- personal shopping for liquor
- borrowing liquor stocks or stores
- the display of liquor for sale
- the collection of liquor by customers.

DELIVERY OF LIQUOR
Liquor must be delivered to a person aged 18 or over. The licensee must ensure that delivery arrangements include requiring evidence of age where appropriate.
Liquor must not be delivered and left in unoccupied possession on same day the order is received.
Liquor may only be delivered during the following hours:
- between 9 a.m. and 11 p.m. on any day other than Sunday, Good Friday, ANZAC Day or Christmas Day;
- between 10 a.m. and 11 p.m. on Sunday;
- between 12 noon and 11 a.m. on ANZAC Day.
No deliveries are permitted on Christmas Day or Good Friday.

INFORMATION REQUIRED TO BE DISPLAYED ON WEBSITE/S
The following notice must be prominently displayed on the licensee's website/s:

WARNING
Under the Liquor Control Reform Act 1998 it is an offence:
- To supply alcohol to a person under the age of 18 years (Penalty exceeds \$17,000).
- For a person under the age of 18 years to purchase or receive liquor (Penalty exceeds \$700).

The licensee is required to prominently display the number of this licence on the website/s.

ORDERS FOR LIQUOR
Orders for the supply of liquor may be taken at any time on any day.
Liquor orders may only be taken through the following website/s:

www.flashbackvodka.com.au

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Flashback Vodka Licence Document (from Liquor Licences Online)

As can be seen, there is only one other licensed premises within 500m of the site and this allows online sales of liquor only (the Remote Seller's Licence specifically does not allow "the collection of liquor by customers"). While it has an 11pm closing time, this is for the supply of packaged liquor only "when such liquor is ordered by mail, telephone, facsimile transmission or internet" (ie "by delivery" only).

In summary, within both 500m and 100m of the site, there is only licensed premises other than the subject site and while this is within 100m of the site, it involves only the sale and delivery of packaged liquor for consumption elsewhere not any actual on-premises consumption.

Patron/customer dispersal

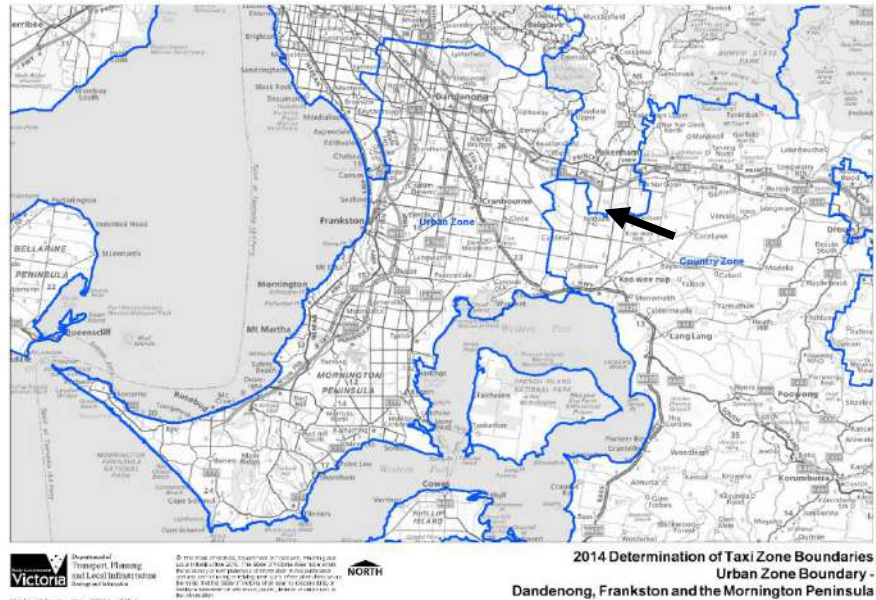
To the limited extent that it is relevant given the number, nature, scale and trading times of the licensed premises, within the entire 500m area, there would no "peak" closing times across licensed premises that would not involve the mass exodus of patrons and a large number of people "on the street": the licence for the only other licensed premises within 500m does not even allow patrons to be on that licensed premises.

14 Either due to their type or age, some licences do not contain a formal patron capacity condition

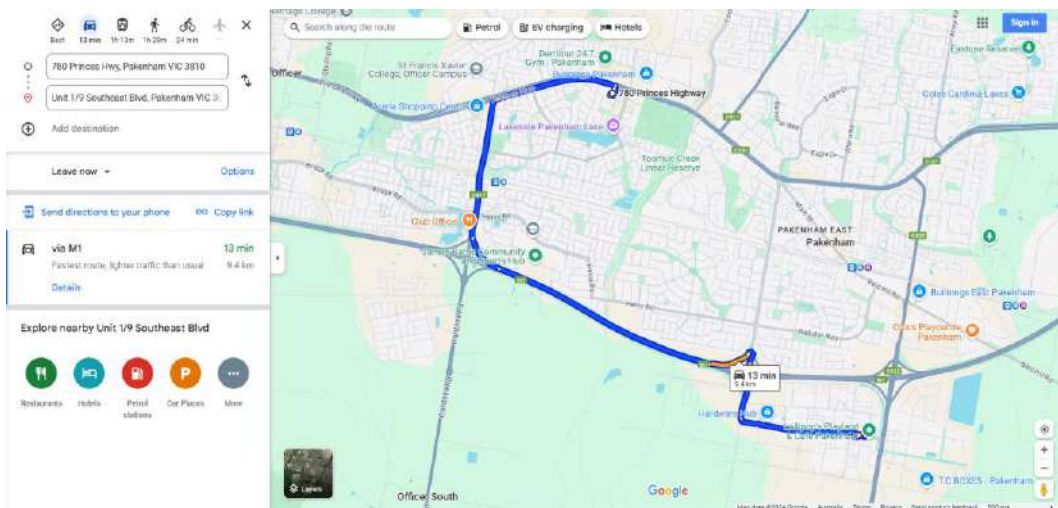
15 Many licences specify different allowable trading/closing times for different days (usually earlier closing times for days earlier in the week, and later ones later in the week). This represents latest closing time at least one day per week excluding special occasions such as New Year's Eve. Some licensed premises, particularly those with Restaurant and café or Packaged Liquor Licences often close earlier in reality than their licences allow

There is unlikely to be any other issue with patron (customer) dispersal from the site: the area's public infrastructure, facilities and character - including car parking, taxis, footpaths, active frontages, police stations, litter collection, public toilets etc¹⁶ – are all suitable to absorb the “incremental increase” in licensed premises represented by the proposal (though, as not change to the existing patron capacity or trading times, this “increase” will arguably negligible, as it is confined to increasing the patron area only).

People leaving the licensed premises and wishing to return to parked cars (or catch taxis or public transport home/elsewhere) would not need to walk through a residential area to do so. Also, the nature of the existing/proposed licensed premises is such that those leaving the licensed premises would in any case depart alone or in small groups (rather than in a big flood such as at the end of a concert).

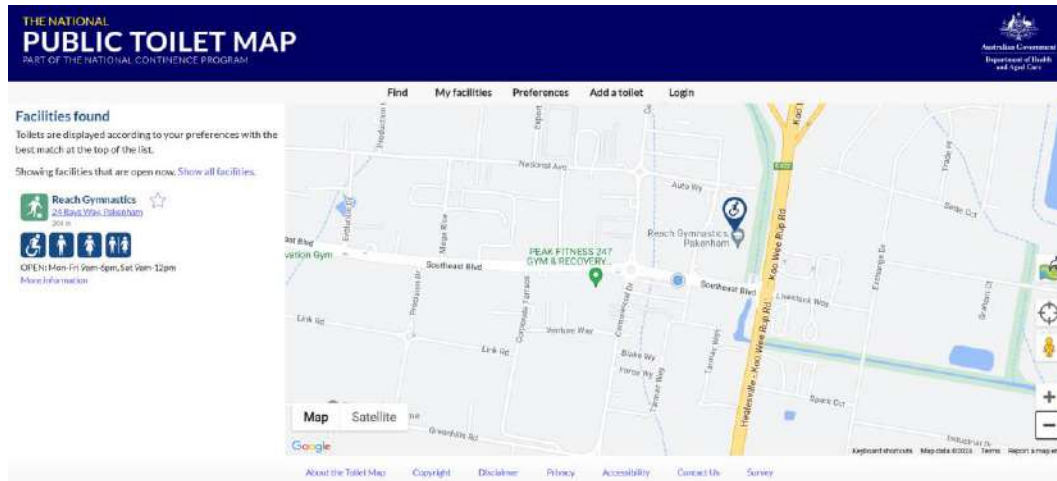


Taxi map from Safe Transport Victoria website, with Pakenham shown with arrow. This confirms that taxis exist in the area



16 For a Bottle shop, public toilets, bicycle parking, public transport and taxi access are not strictly “necessary” because there will be minimal on-premises consumption of liquor, there is no relevant bicycle parking requirement and most customers will arrive at and depart from the site by car. However, from a planning perspective it is better to have access to these facilities than not

Driving route/time to the site from nearest police station¹⁷ as identified on <https://www.police.vic.gov.au/location>



Public toilet map, with site identified with small blue dot in centre¹⁸

Social/general health impacts associated with the sale/consumption of liquor

While there may be concerns about the social/general health impacts of incrementally increasing the availability of liquor, this is not required to be considered under the current planning application. Discussing this issue, in *Tonlan Pty Ltd v Kingston CC* [2015] VCAT 277 (17 March 2015), the Victorian Civil and Administrative Tribunal made the following comments (at paras 21-22, with underlining now added):

I consider the most relevant commentary on these types of applications regarding how planning requirements are to be considered regarding the relevant clause 52.27 is The Hunt Club Commercial Pty Ltd v City of Casey CC decision by Deputy President Mark Dwyer of the Tribunal. In part of the decision that is relevant in this application he said:

“As a matter of general principle a broad concern about the social harm cause by alcohol, the accessibility of alcohol in the community generally, or the potential for the abuse or misuse of alcohol, will rarely (if any) be a relevant planning consideration in the exercise of discretion for a particular license premises under clause 52.27.

Town planning is not a panacea for all perceived social ills, nor is planning decision making a forum for addressing all issues of social or community concern. At its heart planning is about the use, development and protection of land. It has a spatial context that is primarily concerned with the fair, orderly, economic and sustainable use and development of land. Town planning does not involve itself in moral judgements nor, subject to this locational or spatial perspective in the operation of a competitive market economy in which certain goods and services are lawfully made, sold or consumed. While town planning seeks to secure a pleasant, efficient and safe working, living and recreational environment it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the health and wellbeing of a society.”

I have taken the comments in Deputy President Dwyer’s decision on board in making the assessment of this application. I am satisfied that the proposed package liquor outlet is in compliance with the relevant planning policies particularly at the state and local level and I am further satisfied that the factors required for consideration under section 60(1) of the Act have been assessed.

The need for new licensed premises or expansion of existing ones

In relation to an issue that objectors sometimes raise, the assertion that a licensed premises proposal is not “needed” because there are existing ones nearby, (leaving aside the usual lack of supporting evidence), this is contrary to the planning principle that “need” is not a relevant factor against a proposal.

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¹⁷ The licensed premises is unlikely to require significant police attendance; but if ever required it will be possible in a timely manner

¹⁸ A lack of public toilets *immediately* near a packaged liquor outlet can be actually a good thing, since a combination of public toilets (usually also with public open space) and packaged liquor outlets can result in inappropriate congregations of public drinkers. Consuming liquor in public is prohibited under the Council’s local law (Consumption of Liquor, Local Law 2022) in many public areas of Cardinia, and specifically along the section of Southeast Boulevard in Pakenham near the site

In *Tuhan v Moira SC* [2016] VCAT 235, the Tribunal said (at paras 21-22, with underlining now added)¹⁹:

*Many Tribunal decisions have considered the relevance of need. Their primary finding is that a demonstrated need for a facility or use may be a relevant factor in a planning decision but lack of a need will rarely, if ever, be a ground for refusing to grant a permit. This is consistent with long standing principles, as set out in Shell*²⁰:

When the word "need" is used in a town planning sense, it must mean community need. It is not necessary to show an element of urgent community necessity for a facility. Rather need connotes the idea that the wellbeing of a community or some part of it can be better and more conveniently served by the provision of a particular facility.

Need is a relevant consideration, but not an essential requirement.....If an applicant can show a need for a proposed use, then this factor may outweigh other considerations adverse to the use. However, a lack of need will rarely, if ever, be a ground for refusing to grant a permit.

Therefore, even though there is no express need for another licenced liquor outlet, that is also not an appropriate reason to refuse a permit.

Of particular relevance is *Tuhan*'s statement, that "a lack of need will rarely, if ever, be a ground for refusing to grant a permit" is backed up by the fact that it also states, "Many Tribunal decisions have considered the relevance of need" (ie the position on the issue of "need" in *Tuhan* is VCAT's normal position).

This is reiterated in *Endeavour Group Ltd v Bayside CC (Corrected)* [2023] VCAT 416 (17 May 2023), in which, in a decision approving a proposed Packaged Liquor Licence in Bluff Road, Black Rock, (at para 13, dot point 4), VCAT made the following statement (with underlining now added):

The residents also made several submissions about the need for a further bottle shop within this activity centre including tabling a survey of residents that was undertaken at the time of the previous proceeding. In [a previous decision for the same proposal], the Tribunal found that that neither competitive [sic] nor need were relevant matters and I adopt those findings.

In relation to packaged liquor, generally similar issues were raised by Councils and/or third parties (before being rejected in each case by VCAT) in *GAA One Pty Ltd v Mornington Peninsula SC* [2022] VCAT 103 (9 February 2022), *Liquorland (Australia) Pty Ltd v Stonnington CC* [2020] VCAT 751, *Zhang v Yarra Ranges SC* [2020] VCAT 300 and *Endeavour Drinks Group Pty Ltd v Colac Otway SC* [2023] VCAT 539 (17 May 2023).

Commercial competition between existing and proposed licensed premises

Objections are sometimes made that new licensed premises should not be allowed because they will impact the commercial viability of existing licensed premises and/or there is not enough business for everyone.

However, Section 57(2A) of the Planning and Environment Act 1987, which states, "The responsible authority may reject an objection which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector". This is consistent with the fact that Victoria statutory planning system does regulate fair and reasonable commercial competition between businesses.

Councils thus typically reject this ground of objection. By way of example, I was (indirectly) involved in an application for a proposed Packaged Liquor Licence for a proposed Bottle shop at 108 Ormond Road Elwood. According to the Report to the Port Phillip City Council Planning Committee meeting (25 May 23), 28 objections to the application were received. The Agenda (p.70) states that "Key concerns" included:

- *Oversupply of liquor outlets*
- *Negative impact to the area, including health, anti-social behaviour and vandalism*
- *Does not promote diversity in retailers*
- *Negative financial impact on existing retailers providing the same service*

19 Other examples are: in *Barkersgrove Pty Ltd v Greater Bendigo CC* [2006] VCAT 242 (21 February 2006) the Tribunal said (at para 33): "It is a long established planning principle that the lack of need for a proposal will rarely if ever be a reason for refusing the grant of a permit" and; in *Joshmie Nominees Pty v Director of Liquor Licensing (Occupational and Business Regulation)* [2009] VCAT 2188, the Tribunal said (at para 28): "... it is difficult to conclude that there is a need for another outlet. ... But ... matters of need and demand are explicitly excluded from consideration by the enabling legislation"

20 *Shell Company of Australia Ltd and Others v City of Frankston and Another* [P82/1527 8APA 126].

The last statement (and, I believe, the reason there were so many objections to start with) reflects the fact that an existing Bottle shop owner had been asking his customers to object to that of a proposed competitor.

However, the Council's Planning Department entirely rejected this line of argument, stating on p.75 of the Agenda, that, "*Matters such as financial impact on other similar businesses, perceived lack of need for a liquor outlet or lack of diversity amongst retail offerings are not valid planning considerations*" before recommending a Notice of Decision to Grant a Permit be issued.

All eight Planning Committee Councillors in attendance then carried unanimously a motion that the recommended NOD be issued.

Minors on licensed premises and proximity of licensed premises to schools etc

Another issue that objectors (and even Councils) sometime raise (either because a licensed premises may be of a category that would allow (unaccompanied) minors on the licensed premises, or its proximity to a school, recreation facility or other places where children congregate) concerns the potential in a licensed premises for the sale of liquor to minors. This is also however not a planning issue but a *licensing* one²¹.

Minors *are* allowed on licensed premises in certain circumstances (please refer to Attachment 4 of this submission). However, the sale of liquor to minors is obviously illegal and the maximum penalty for supplying liquor to a person under 18 is about \$20,000. Similar penalties also exist for "secondary supply", ie where adults buy liquor on behalf of minors. Licensed premises are also subject to a far more vigilant policing regime (by Councils, Victoria Police and Liquor Control Victoria) than most retail uses, so the possibility of this penalty being applied is no idle threat.

The issue of the proximity of a proposed licensed premises to a school has also been considered by the Victoria Civil and Administrative Tribunal in *Ruthven Secondary College v Whittlesea CC* [2010] VCAT 2034 (16 December 2010). This was an appeal against a Notice of Decision to Grant a Planning Permit for a proposed licensed Tavern (Bar)) with 182 patrons and latest closing time of 3am. The appeal, which was by nearby secondary school, largely concerned potential impacts on its students. The Tribunal considered the school's concerns but directed that a permit be issued, stating (note: I have corrected obvious typos):

The school's concerns about the public health and safety of their students

1. *Ms Money, its principal, was concerned about yet another liquor outlet in the area, with students potentially accessing the site if they leave school premises to attend vocational training. ...*
8. *...*
9. *Notwithstanding Ms Money's concerns about students accessing liquor outlets or on-premises venues, we note that under age students are not allowed on the subject premises without an adult, and those on-premises licensees are at risk of losing their valuable liquor licence for breach of underage drinking limits. Planning permits are granted on the basis that their permit conditions will be adhered to.*
10. *Further, if the student is on his or her way to vocational training, it would be an unlikely occurrence during school hours for that student to visit the subject premises with an adult.*
11. *As for drinking on the school oval by persons jumping the (low) fence after hours will packaged liquor bought from, for example, Dan Murphy's, this tavern is prohibited from selling liquor for offsite consumption, so this situation should not [be] exacerbated. ...*

While this specifically refers to an On-premises Licence, the same principles applies to *all* licences, where while unaccompanied minors can be allowed on licensed premises in certain circumstances, they can never be legally supplied with liquor. And, as VCAT stated, "Planning permits are granted on the basis that their permit conditions will be adhered to".

Summary of Cumulative Impact Assessment

The proposed sale and consumption of liquor is thus appropriate to its neighbourhood. While the proposal involves an incremental change to the licensed premises "existing conditions", given its location (Pakenham

²¹ It is covered directly by the Liquor Control Reform Act 1998

South Employment PSP Area), nature (expanded Food and drink premises-Manufacturing sales use), scale (maximum 90 patrons patrons) and trading times (11pm closing), any "cumulative impact" will be appropriate, included that it will provide additional consumer choice in accordance with the above Victorian state government Statement of Policy.

CONCLUSION

The application involves the proposed Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit.

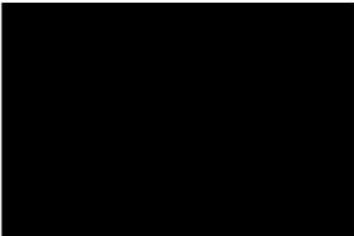
The proposed sale and consumption of liquor on and off the premises under the existing Producers Licence for the proposed extended Food and drink premises-Manufacturing sales use is appropriate given the site's Industrial 1 1 Zone and the modest nature and scale of the proposal (there will be no change to the approved trading times or patron capacity, only the proposed provision of an external trading area).

There are no apparent existing dwellings and/or other accommodation uses near the site but in any case, all amenity impacts associated with the proposed expanded sale/consumption of liquor at the existing approved licensed premises will be limited.

As well as all relevant state and regional policy, the proposal satisfies Clauses 21.04 Economic Development/ 21.04-1 Employment, 21.06 Particular uses and development/21.06-2 Community safety, 33.01 Industrial 1 Zone, 52.06 Car Parking, 52.27 Licensed Premises and 52.34 Bicycle facilities of Cardinia Planning Scheme.

It is thus a suitable response to the planning provisions and physical opportunities and constraints affecting its site, and we look forward to a favourable outcome.

Yours faithfully



Consultant Town Planner

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22 [REDACTED], consent to having my personal information (name, phone number, business name, business address, email address etc) contained in this document or any other document authored by me as part of a planning application, be made available electronically in accordance with the public availability requirements of the Planning and Environment Act 1987. I understand that if I wish to withdraw my consent at any time, I need to notify Council's Statutory Planning Unit in writing. Please note that I have also considered whether any information (including in photos) included in the application breaches anyone's privacy, and have determined that it *does not* (this includes that while photos that may contain houses, people and/or cars are often necessary for documenting my applications, I avoid closeups of number plates, faces etc and also blur these out as required).

Attachment 1: Description of different licence categories (including BYO permit)

Licence category	Description of licence category
BYO Permit	BYO permits, which authorise “liquor to be consumed, possessed or controlled on the premises” (“BYO” stands for “Bring Your Own”), are so minor in terms of amenity impacts that they are not subject to Clause 52.27. They mainly apply to restaurants and social clubs.
Full Club Licence	Full Club Licences and (Restricted Club Licences) apply to community/sporting clubs. Such licensed premises tend to be limited to members and guests only, have sport or other community activity rather than the consumption of liquor as their primary focus, family-oriented, and mainly serve liquor on sports days only. Consequently, they are not known for causing significant ongoing amenity problems.
General Licence	<p>General Licences typically apply to traditional Hotels of various patron capacities and usually closing at 11pm or 1am (this varies) for consumption of liquor on the premises and 11pm for consumption off the premises.</p> <p>General licences sometime apply to other uses, including bottle shops that also have an on-premises bar, or bars that also sell takeaway liquor, and (although, despite that the planning scheme definition of “Restaurant” not allowing the sale of packaged liquor) even some restaurants.</p>
<p>Late night (general) Licence</p> <p>Late night (on-premises) Licence</p>	<p>Late night (general) Licences typically apply to hotels, similar to ones operating under General licences but with later closing times, often 3am or 5am. While they allow the sale of liquor for consumption on or off the premises, the “late night” component usually only applies to consumption on the premises, with the sale of liquor for consumption off the premises usually stopping at 11pm (and occasionally, 12am).</p> <p>Late night (on-premises) Licence typically apply to Nightclubs or other premises providing various forms of entertainment into the early hours of the morning, or simply Bars with extensive trading hours. They do not allow liquor to be sold for consumption off the premises.</p> <p>Except for Bars, maximum patron capacities under both types of Late-night licence tend to be larger than the average for all licensed premises. Both types also tend to apply mainly within larger and/or older activity centres.</p>
Limited Licence	<p>Limited licences apply to a variety of land uses but given their “limited” nature (eg often applying to the service of liquor by delivery with food). Limited licences, which often sometimes apply to premises that also have Restaurant and café licences, rarely cause significant amenity/cumulative impact problems.</p> <div data-bbox="690 1060 1079 1354" style="text-align: center;"> </div> <p style="text-align: center;">Screenshot from VCGLR website indicating the “limited” nature of Limited licences. Because of the current Covid-19 restrictions on on-premises licensed trading there has been an increase in Limited licences allowing the serving of liquor delivered or picked up with take-away meals</p>
On-Premises Licence	On-premises Licences, which allow the sale of liquor for consumption on the premises only, apply to a variety of uses, including Restaurants, Function centres, Bars, Cinemas and (provided that they do not trade after 1am) Nightclubs. They have a variety of closing times though 11pm and 1am are common. Liquor is not sold for consumption off the premises. Bars with this licence tend to be newer.
Packaged Liquor Licence	<p>Packaged Liquor Licences, which allow the sale of packaged liquor for consumption off the premises. should be reasonably expected in an area that includes an Activity Centre (there are usually a few in each), where people go shopping, including for packaged liquor.</p> <p>This is especially so because most Packaged liquor licences relate to Bottle shops, which are prohibited in most zones other than those in activity centres. Also, because people take liquor away and consume it elsewhere, the sale of liquor for consumption off a premises with a Packaged Liquor Licence does not usually have a direct impact on the amenity of its immediate area.</p> <p>They do not allow liquor to be sold for consumption on the premises, though free “tastings” are allowed. Packaged Liquor Licences usually allow licensed trading until 11pm seven days per week, however licensees often choose to close earlier. Packaged Liquor Licences do not have formal maximum patron capacity conditions.</p>

Licence category	Description of licence category
Pre-retail Licence	Pre-retail licences authorise the licensee to supply liquor at any time on any premises to a person who holds a licence under the Liquor Control Reform Act 1998. They thus generally apply to warehouses selling wholesale liquor.
Producer's Licence	<p>Producer's licences authorise the licensee to supply liquor that is the licensee's product at any time and on any premises to a person who holds a licence under the Liquor Control Reform Act 1998 and during specified trading hours to: supply liquor that is the licensee's product for consumption on or off the licensed premises; and supply liquor that is not the licensee's product for consumption on the licensed premises. In urban areas they typically apply to breweries or distilleries, in rural ones, wineries.</p> <p>Producer's licences themselves do not have formal maximum patron capacity conditions but, (and also often controlled by permit conditions) they typically serve liquor on the premises to a maximum of 100 or less patrons.</p>
Remote Seller's Licence	A Remote Seller's licence allows the supply of liquor ordered by off-premises request (by mail, phone, internet etc, by a person not on the licensed premises when the request is made) in sealed containers, bottles or cans on the licensed premises for consumption off the licensed premises. This is a newer category of licence that replaced equivalent types of Limited Licence.
Restaurant and cafe Licence	<p>These licences apply to (typically) small restaurants or cafes selling liquor for consumption on the premises only and always subject to the following conditions:</p> <p><i>(a) the predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and</i></p> <p><i>(b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time; and</i></p> <p><i>(c) the licensee must not permit -</i></p> <p><i>(i) the live performance of any musical works; or</i></p> <p><i>(ii) the playing of any recorded musical works - on the premises at higher than background music level at any time outside ordinary trading hours.</i></p> <p>Liquor is not sold for consumption off the premises, except in limited amounts associated with takeaway/delivery food.</p> <p>Venues with Restaurant and café licences are thus archetypal "food-based licensed premises".</p> <p>Restaurant and café licences make up about 23% of total licences in Victoria. Page 4 of PPN61 says, "Venues that serve food or meals are shown to be less at risk of excessive alcohol consumption"), and food-based licensed premises usually have both moderate trading hours (generally closing at or before 11pm) and small patron capacities (usually less than 100), all of which are positive attributes in cumulative impact assessment terms.</p> <p>A high concentration of Restaurant and café licences (and which often also means that other licensed premises are also food-based licensed premises) is thus generally considered a good thing from an amenity perspective.</p>
Restricted Club Licence	See above comments re Full Club Licence

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Attachment 2: VCGLR poster containing Responsible Service of Alcohol principles

Responsible Service of Alcohol

Remember the 4 RSA principles

1. Recognise and refuse liquor service to intoxicated patrons.
2. Drunk or disorderly patrons are not allowed on premises.
3. Do not supply liquor to minors.
4. Discourage activities that may cause harm to themselves and others.

If you need to refuse service

<i>T</i> ell early	<i>C</i> larify refusal
<i>A</i> void put-downs	<i>A</i> lternatives offered
<i>K</i> eep calm	<i>R</i> eport
<i>E</i> ver courteous	<i>E</i> cho the message to regulars

Penalties apply
Know *your* responsibilities




Victorian Commission for
Gambling and Liquor Regulation

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Attachment 3: Information about the five-star licence rating system

NOVEMBER 2014



Victorian Commission for Gambling and Liquor Regulation

Liquor Licensing Fact Sheet Star rating system

The star rating system supports the regulation of liquor licensing in Victoria. This system operates in addition to the compliance history risk fee system to encourage good business practices in licensed premises.

The star rating system provides greater incentives for licensees to comply with Victoria's liquor licensing laws. Under the star rating system, responsible licensees will receive a discount on their annual liquor licence renewal fees.

What is the star rating system?

A star rating is calculated on the basis of whether a non-compliance incident has occurred in respect of the licensed premises. Licensees will receive a discount on their annual licence renewal fees where they have had two or more consecutive years without recording a non-compliance incident. This is calculated on 1 October of each year.

All new liquor licences begin at the three star level. They will then receive a star rating based on the following criteria:

- One star –** Three or more non-compliance incidents in the previous 12 months
- Two star –** One to two non-compliance incidents in the previous 12 months
- Three star –** No non-compliance incidents in the previous 12 months
- Four star –** No non-compliance incidents in the previous 24 months
- Five star –** No non-compliance incidents in the previous 36 months.

The star rating system applies to licensees (excluding sexually explicit entertainment venues) and rewards responsible licensees. Star ratings are published on Licences and Applications Online and can be accessed at www.vcglr.vic.gov.au. Licensees are not required to display their star rating at their premises.

What is a non-compliance incident?

A non-compliance incident relates to the following offences.

Offences	Section of the Liquor Control Reform Act 1998
Supply liquor to intoxicated person	108(4)(a)
Permit drunken/disorderly person on licensed premises	108(4)(b)
Supply liquor to underage person, other than as permitted (licensee/permittee offence)	119(1)(a)
Permit liquor to be supplied to underage person, other than as permitted (licensee/permittee offence)	119(1)(b)
Liquor is supplied to underage person on licensed premises, other than permitted	119(2)
Permit underage person on licensed premises, other than as permitted	120(1)

A non-compliance incident occurs when one of these offences is detected, and:

- an infringement notice for the offence has been paid in full or partially paid; or
- an infringement in respect of one of these offences has been lodged at the Infringements Court and an Enforcement Order has been issued; or
- the offence has been successfully prosecuted.

This publication avoids the use of legal language. Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation. Authorised by the Victorian Government.

49 Elizabeth Street, Richmond VIC 3121
1300 182 457 www.vcglr.vic.gov.au
contact@vcglr.vic.gov.au

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Attachment 4: Liquor Control Victoria (LCV) Fact Sheet and screenshot from Victoria Police (VicPol) website re drink spiking. This is included simply because councils sometimes “query” why onsite toilets and other ancillary areas of a licensed premises are included with the “red line” (as can be seen, this is what LCV wants; as per VicPol’s recommendation, it also allows people not to leave their drinks unattended when in the toilet, which guards against drink spiking). This is relevant to all categories of licences, including Packaged Liquor Licences, which while primarily allowing the sale of takeaway liquor, also allow free tastings onsite (this is not likely to be a major risk in many cases, but I prefer to be consistent with LCV requirements)

Plans of licensed premises

When a liquor licence or BFD permit is granted, it is for a defined area where liquor can be supplied or consumed. This is shown by a red line drawn on a plan of the premises. This plan needs to be submitted to Liquor Control Victoria (LCV) as part of the application process and must be kept up to date at all times.

The plan of the premises must accompany applications for:

- a licence or BFD permit (including an on-site licence or a BFD permit for sale for bar)
- a variation of a licence or BFD permit that involves a change in the size or perimeter of the licensed premises
- a transfer of a licence or BFD permit if the current floor layout of the premises differs from the plan held by LCV
- the relocation of a licence or BFD permit.

Intended changes to premises

If a change is made to the internal area of licensed premises (for example, by adding or removing a partition structure), the licensee should submit an updated plan of the licensed premises.

LCV requesting a plan

In addition to the above, under section 56(3)(a) of the Liquor Control Act 1998, an authorised person shall be a LCV inspector or licensee of relevant kind, at any time request information required to the operations or the management of the premises. This may include a current plan of licensed premises.

Plan format

- A plan must contain the following elements:
 - be on a suitably sized paper (minimum A4 size (graph paper is not acceptable))
 - be drawn on one side and be hand and legible
 - show the floor plan of the licensed premises
 - show the site of the red line on the matter square
 - outline in red the boundary of the proposed area to be licensed
 - if the proposed area does not follow a standard format (such as a wall), describe what is being used to separate the area
 - show clear and consistent measurements on the plan
 - include the address of the premises
 - include a compass point showing north and names of the surrounding streets
 - show basic furniture or fixtures, for example, bar and dining stools/chair area or in the case of a packaged liquor outlet, shelf areas where alcohol is displayed and the cash register is located
 - a plan should be drawn to a suitable scale so that all elements above are clearly identified. A suggested scale is 1:500 (one to five).

Restaurant and cafe licences and On-premise licences

If applying for a licence involving the supply of liquor for consumption off the licensed premises, being in a public or bar/bistro area, therefore this area does not need to be identified on the plan.

Please note that licensees must comply with relevant local planning laws.

Where a proposed licensed or authorised area includes large outdoor spaces, a separate site plan must be provided that shows:

- the site area including internal and external areas (power to a public walk)
- outline in red the proposed area that is to be licensed
- clear demarcations of how the proposed outdoor area will be delineated (for example, fences, bollards, benches, seating, lighting)

If the plan does not meet these requirements, the applicant will be required to resubmit the plan.

Storing an approved plan

A copy of the approved plan must be kept on the licensed premises and must be available for inspection on request by a member of Victoria Police or a Compliance Inspector.

Failure to keep a copy of the plan on the licensed premises or produce a copy of the plan for inspection could result in the issuing of a fine.

For more information visit www.lcv.vic.gov.au or call 1300 363 636.

Victoria Police

Home | Careers | News | Your safety | Our services | Can you help us? | Report | About | Contact | Search

Fraud and scams

- Human trafficking
- Older Victorians
- Outdoor and bush safety
- Personal safety
- Personal safety
- Drink spiking**
- Online safety
- Stalking
- Prejudice motivated crime
- Public transport safety
- Road safety
- Sexual offences and child abuse
- State security and counter-terrorism
- Staying safe at school leaver celebrations
- Victims of crime
- Water safety

Make your plans in advance

Plan where you are going and how you will get home. For example:

- tell someone where you are going
- decide on a place to meet at the end of the night
- carry the mobile phone numbers of your trusted friends
- encourage one person in the group to be the 'designated driver' for the evening

Keep track of your drinks

Sometimes people think they have been 'spiked' when really they have had more alcoholic drinks than they thought. Be aware of the number of alcohol drinks you are consuming. Drinks can be spiked through the addition of more alcohol than you have requested, for example double or triple shots or the addition of tasteless alcohol. It is important to be alert to situations where your drink could be altered without your permission:

- never accept drinks from strangers
- never leave drinks unattended, for example when you go to the dance floor, the toilet or become involved in a conversation
- if someone offers you a drink, go with them to the bar or the place where the alcohol is being served
- make sure you can see the drink being poured or opened
- avoid sharing drinks

Do not isolate yourself

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Attachment 5: Screenshot from Liquor Control Victoria website re Minors and licensed premises. This is included simply in case this issue is brought up by anyone

Anyone under the age of 18 years is considered a minor.

The legal drinking age in Victoria is 18 years. It's illegal for any person to supply alcohol to a minor on licensed premises. It's also illegal for a minor to be on licensed premises to purchase, receive or consume alcohol.

Minors and licensed premises

Minors are not permitted to drink alcohol on licensed premises under any circumstances.

Depending on the situation, a minor may be allowed on licensed premises.

A minor may be on licensed premises if they are in the company of a *responsible adult*.

A *responsible adult* is defined as a person who is 18 years or older and is:

- the minor's parent, step-parent, guardian, grandparent, or
- the minor's spouse who is over the age of 18 years, or
- a person who is acting in place of a parent and who could reasonably be expected to exercise responsible supervision of the minor – for example, a sporting coach.

An unaccompanied minor cannot be on licensed premises unless:

- there is a condition allowing them to be on the licence (for example, a junior sports club)
- it holds a restaurant and cafe licence (until 11pm)
- it holds an on-premises licence with restaurant conditions (until 11pm)

Other circumstances that permit minors on licensed premises are if the minor is:

- having a meal, or
- is a resident of the premises if accommodation is supplied, or
- employed by the licensee but not involved in the supply of alcohol, or
- completing a Liquor Control Victoria (LCV) approved training program in hospitality.

Refusing service

A licensee must not sell alcohol to a customer if they suspect the customer will give the alcohol to a minor. This is called secondary supply.

Licensee obligations	^
Licensee obligations	
Acceptable forms of identification	
Advertising and promotion	
Demerit point system	
Drink spiking	
Fees and fines	
Free water for patrons	
Intoxicated patrons	
Packaged liquor delivery reporting	
Planned inspections	
Public holiday trading restrictions	
Late night liquor trading	
Red line plan	
Signage	
Under 18 patrons	
Wholesale liquor data reporting	
Education and training	v
Liquor data	v
Get a Proof of Age card	v
About the Victorian Liquor Commission	v
Contact us	v

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Attachment 6: Government Media release, general information and maps regarding the Night Network. While the 11pm latest closing time is such that the proposal will not need to rely on the Night Network, it is relevant that a main part of the Night Network’s purpose is to *facilitate access to entertainment* (this was also the case for the government’s earlier extending of operating times for both trains and trams until after midnight the following day on Fridays and Saturdays²³).

Media Release

The Hon Jacinta Allan MP
Minister for Public Transport
Minister for Employment



Thursday, 6 August, 2015

24 HOUR PUBLIC TRANSPORT TO GET YOU *HOMESAFE*

24 hour public transport is coming to Victoria. From 1 January 2016, the Andrews Labor Government will trial all-night public transport on weekends – delivering a key election commitment.

Minister for Public Transport Jacinta Allan and Minister for Police Wade Noonan outlined details of the one-year *Homesafe* trial, which will get people home safe on public transport to the suburbs and regional areas.

During the trial, metro trains will depart from Flinders Street Station every 60 minutes on all lines except Stony Point and Flemington Racecourse.

Trams will also operate every 30 minutes on six key routes – the 19, 67, 75, 86, 96 and 109 – providing services to St Kilda, Coburg, Bundoora, Port Melbourne, Carnegie, Box Hill, Vermont South and Brunswick, as well as within the CBD.

A revamped and improved night bus network will include 20 routes, with a mix of routes operating from the city and others providing suburban connections from train stations and from suburban night-time hubs including Dandenong and Frankston.

V/Line coaches will depart from Southern Cross Station at around 2am, bound for Bendigo, Ballarat, Traralgon, and Geelong. The coaches will provide a mix of express and stopping services.

To support *Homesafe*, the Government has given Victoria Police funding for 171 extra transport security officers - 109 Protective Services Officers and 62 transit police.

The roving transit police will patrol all train lines through the night on weekends and use divisional vans to transport alleged offenders or travel quickly to where they are needed.

If successful, 24-hour weekend public transport trial will be continued and expanded where necessary.

Quotes to be attributed to Minister for Public Transport Jacinta Allan

“A world-class city deserves 24-hour public transport. It’s good for our economy, for shift workers and for people who want to get home safe after a night out.”

“People who live in the outer suburbs and regional areas shouldn’t have to miss out on Melbourne’s vibrant night life. This trial is about giving them a safe and affordable way to get home.”

Quotes to be attributed to Minister for Police Wade Noonan

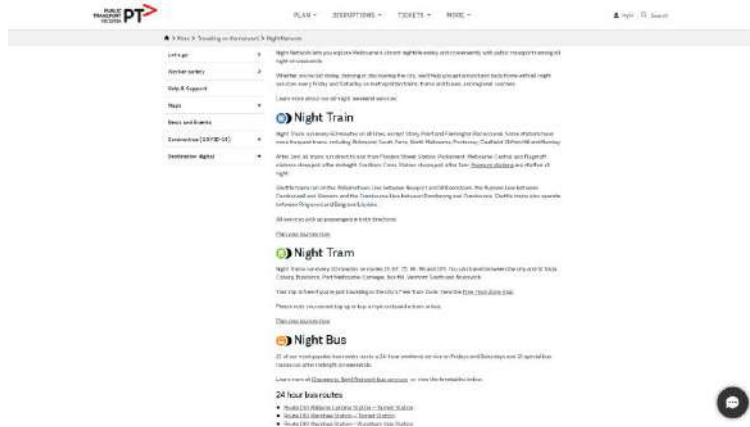
“Our PSOs and transit police will work throughout the night to help keep the travelling public safe.”

“People should be able to go out and enjoy themselves or end a late-night shift and be able to catch safe and reliable public transport home.”

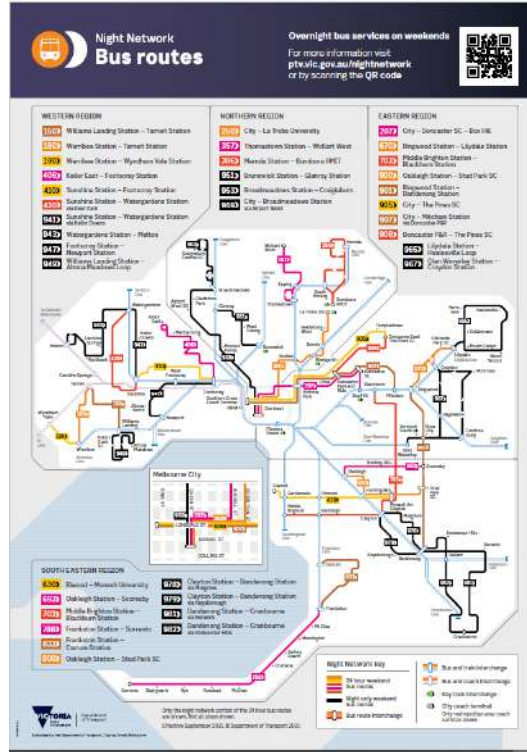
Media Contact: Sacha Fenton 0467 784 528 | sacha.fenton@minstaff.vic.gov.au

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²³ It is hard to find official information about this online, however, <https://danielbowen.com/2017/04/26/night-network-made-permanent/>, states, “In late 2006, the government extended trains and trams to run until 1am on Friday and Saturday nights, finally recognising that more people are out and about late on weekends than other nights”. Having grown up in Melbourne in the 1980s and 90s, I can confirm that all trains and trams used to stop running (from the CBD) at midnight Mon-Sat



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OWNERS CORPORATION PS815176S

and

PAKENHAM BREWING PTY LTD

LICENCE OF COMMON PROPERTY

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Our Ref: DAA:OWN951.1

100 Years of Law

Level 28, 140 William Street, Melbourne VIC 3000
t +61 3 8600 6000 | w aitken.com.au

LICENCE AGREEMENT

THIS AGREEMENT is made the day of 2024

BETWEEN

Owners Corporation PS815176S

(**"Owners Corporation"**)

AND

PAKENHAM BREWING PTY LTD

(**"Licensee"**)

RECITALS

- A. The Owners Corporation is the registered proprietor of all common property described on Plan of Subdivision PS815176S (**"Plan"**).
- B. The Licensee is the tenant of Lot 1 on the Plan by virtue of a Renewal of Lease it has entered into with the registered proprietor of Lot 1 dated 24 January 2023 on the Plan attached as Annexure "A" (**"Property"**).
- C. The Owners Corporation has agreed to grant to the Licensee a Licence for the non-exclusive use of that part of the common property on the Plan and marked in yellow on the Plan attached as Annexure "B" (**"Licensed Area"**) on the terms and conditions set out herein.
- D. On 3 September 2024 the Owners Corporation exercised its power under Section 14 of the Owners Corporations Act 2006 to grant a Licence to the Licensee (**"Licence"**) for the non-exclusive use of the Licensed Area to place tables and chairs on the Licensed Area for use as an outdoor area subject to the terms and conditions set out in this Licence and as set out in the drawings attached as Annexure "C".

AGREEMENT

1. DEFINITIONS

1.1 In this Agreement:

- (a) **"Authority"** means any governmental, statutory, municipal, public or other department, agency or body
- (b) **"Business Day"** means a day that is not a Saturday, Sunday or public holiday in Melbourne;
- (c) **"Commencement Date"** means the date of execution of this Agreement by the last party to do so;
- (d) **"Corporations Act"** means the *Corporations Act 2001* (Cth);

- (e) **“Licence Fee”** has the meaning given in clause 3.1;
- (f) **“Licensee’s Agents”** means anyone acting with the authority of or under instruction for the Licensee;
- (g) **“Owners Corporation’s Agents”** means anyone acting with the authority of or under instruction for the Owners Corporation;
- (h) **“Term”** has the meaning given in clause 2.2; and
- (i) **“Termination Date”** means the date that Licensee ceases to be the tenant of the Property.

2. TERM AND GRANT OF LICENCE

- 2.1 The Owners Corporation hereby grants to the Licensee a Licence to use the Licensed Area subject to the terms and conditions set out in this Licence.
- 2.2 This Licence will commence on the Commencement Date and end on the Termination Date (**“Term”**).

3. LICENCE FEE

- 3.1 In consideration of the grant of this Licence by the Owners Corporation, the Licensee agrees to pay to the Owners Corporation a licence fee of \$1.00 inclusive of GST and the Owners Corporation acknowledges that the Licensee has for convenience already paid to it the sum of \$1.00 representing the fee for the term of this Licence (**“Licence Fee”**).

4. ASSIGNMENT

- 4.1 The Licensee must not sub-licence, transfer and/or assign its interest in the Licensed Area.

5. LICENSEE’S OBLIGATIONS

The Licensee must:

- 5.1 not use the Licensed Area for any purpose other than to place tables and chairs on the Licensed Area for use as an outdoor area;
- 5.2 keep the Licensed Area clean and tidy and in good repair and condition;
- 5.3 not store or keep any dangerous, noxious, offensive or flammable substance on the Licensed Area;
- 5.4 promptly notify the Owners Corporation of any damage to the Licensed Area;
- 5.5 not do anything in or about the Licensed Area which is or might be or become a nuisance, annoyance or disturbance to any occupier;
- 5.6 not carry out any structural works or significantly alter any part of the Licensed Area (other than in accordance with the specifications attached as Annexure “B”) without the prior written approval of the Owners Corporation (which approval must not be withheld or delayed unreasonably);

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- 5.7 comply with all reasonable directions given by the Owners Corporation in respect of the Licensee's use of the Licensed Area;
- 5.8 comply with all laws and requirements of Authorities; and
- 5.9 indemnify and keep indemnified and hold harmless the Owners Corporation in respect of any cost, expense, liability, damage, demand, claim, action or suit (including legal costs on a full indemnity basis) suffered or incurred by the Owners Corporation as a result of, or arising out of, the Licensee's use of the Licensed Area, any act or omission of the Licensee relating to that use or any breach of this Licence by the Licensee.

6. LICENSEE'S GOODS

6.1 Removal

- (a) On the Termination Date, the Licensee must permanently remove any of its goods from the Licensed Area and make good any damage to the Licensed Area that has occurred during the Term.

6.2 Failure to Remove

- (a) If the Licensee fails to comply with clause 6.1, the Owners Corporation may:
 - (i) remove any the Licensee's goods remaining in the Licensed Area and:
 - (ii) move the goods to any location determined by the Owners Corporation and store the goods at the location; or
 - (iii) dispose of the goods in such manner as it, in its absolute discretion, deems fit.
- (b) The Licensee must reimburse the Owners Corporation for all costs and expenses incurred in respect of such removal, storage and/or disposal. The Licensee authorises all actions of the Owners Corporation referred to in this clause.

6.3 Proceeds

In the event that the Owners Corporation elects to dispose of the Licensee's goods by sale, the net proceeds of the sale will be paid to the Licensee, after deducting all costs incurred by the Owners Corporation in respect of the removal, storage, sale and accounting relating to the disposal and all other amounts owing by the Licensee to the Owners Corporation pursuant to this Licence.

6.4 No liability

The Owners Corporation will not be liable to the Licensee, or any person claiming through the Licensee, in respect of any action taken by the Owners Corporation pursuant to this clause 6 and the Licensee will indemnify, and keep indemnified, the Owners Corporation in respect of any action or claim by any person arising out of the removal, storage, sale or disposal of any goods in accordance with this clause 6, including any action by any purchaser or purported owner of such goods.

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7. OWNERS CORPORATION NOT RESPONSIBLE

The Licensee indemnifies the Owners Corporation at all times against all claims, liability, actions, demands, loss, damage, costs and expenses wholly or partly due to or arising during the Term out of:

- (a) use of the Licensed Area;
- (b) a breach of this Licence by the Licensee;
- (c) the negligence of the Licensee or the Licensee's Agents;
- (d) the Licensee's use of the Licensed Area;
- (e) an incident occurring in the Licensed Area; or
- (f) the entry into or escape from the Licensed Area of water, gas, electricity or other agency,

except to the extent to which the loss or damage is due to the negligence of the Owners Corporation or the Owners Corporation's Agents.

8. TERMINATION

8.1 By the Owners Corporation

- (a) Unless terminated earlier in accordance with clauses 8.2 or 8.3, this Licence will terminate on the "Termination Date".

8.2 By Licensee

- (a) The Licensee may terminate this Licence at any time by giving no less than 30 days written notice of termination to the Owners Corporation.

8.3 Breach

- (a) The Owners Corporation may terminate this Licence by giving written notice to the Licensee if the Licensee breach any term or condition of this Licence and fail to rectify such breach(es) within 30 days of receiving the notice.

9. NOTICES

9.1 All communications (including notices, consents, approvals, requests and demands) ("**Notices**") under or in connection with this Licence must:

- (a) be in writing;
- (b) indicate the name of the party issuing the Notice and the name of the natural person responsible for issuing the notice; and
- (c) be delivered by prepaid post, hand or by email to the address of the party detailed in this Licence or otherwise advised in writing by that party as the address for delivery of Notices.

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- 9.2 A Notice given in accordance with clause 9 is taken as having been given and received:
- (a) if hand delivered, on the day of delivery;
 - (b) if sent by prepaid mail, on the seventh Business Day after the date of posting; and
 - (c) if sent by email, when the sender receives a delivery receipt confirming delivery to the recipient's email system (but without requiring a read receipt confirming that the email has been read by the recipient),

but if the delivery or receipt is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

- 9.3 Unless varied by notice in accordance with this clause, the parties' physical addresses and email addresses are:

Party: Owners Corporation
 Attention: Facey Owners Corp
 Address: 10A E J Court, Dandenong South VIC 3175
 Email: aphrodite@faceoc.com.au

Party: Licensee
 Attention: PAKENHAM BREWING PTY LTD
 Address: 3 Smiley Way, Botanic Ridge VIC 3977

10. GENERAL

- 10.1 Each party warrants to each other party that this Licence creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.
- 10.2 This Licence may only be altered or modified in writing signed by all parties.
- 10.3 Part or all of any clause of this Licence that is illegal or unenforceable will be severed from this Licence and will not affect the continued operation of the remaining provisions of this Licence.
- 10.4 Waiver of any power or right under this Licence:
- (a) must be in writing signed by the party entitled to the benefit of that power or right; and
 - (b) is effective only to the extent set out in that written waiver.
- 10.5 This Licence may be executed in any number of counterparts and all such counterparts taken together will constitute one instrument.
- 10.6 Each party must do or cause to be done all such things necessary or desirable to give full effect to this Licence.
- 10.7 This Licence will be governed by and construed in accordance with the laws in force in the State of Victoria.

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10.8 In this Licence, unless the context requires otherwise:

- (a) headings are for convenience and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph, schedule or annexure of this Licence;
- (f) a reference to this Licence includes any schedules or annexures;
- (g) a reference to any document or agreement includes reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (h) a reference to "\$", "\$A" or "dollar" is a reference to Australian currency;
- (i) a reference to a time or date in connection with the performance of an obligation is a reference to the time or date in the State, Territory or other place where that obligation is to be performed;
- (j) a reference to a party includes its executors, administrators, successors and permitted assigns;
- (k) "include", "includes" and "including" are not words of limitation;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Licence or any part of it;
- (m) words and expressions denoting natural persons include bodies corporate, partnerships, associations, governments and governmental authorities and agencies and vice versa; and
- (n) a reference to any legislation, statutory instrument or regulation shall be construed in accordance with the Acts Interpretation Act 1901 (Cth) (or the equivalent State legislation, as applicable).

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EXECUTED as an Agreement

EXECUTED by OWNERS CORPORATION PS815176S)
in the presence of persons who declare they are Lot)
Owners of separate lots and members of the)
Owners Corporation or by a director of a corporation)
that is a Lot Owner in accordance with section 10 of)
the Owners Corporations Act 2006:)

[Redacted Signature]

Signature of Lot Owner

Name of Lot Owner (BLOCK LETTERS)

Lot No.

1

[Redacted Signature]
[Redacted Signature]
[Redacted Signature]

Signature of Lot Owner

Name of Lot Owner (BLOCK LETTERS)

Lot No.

6

EXECUTED by PAKENHAM BREWING)
PTY LTD (ABN 75 646 391 022) in)
accordance with the requirements of)
section 127 of the Corporations Act)
2001 (Cth) by:)

[Redacted Signature]

Signature of Director

Name of Director (BLOCK LETTERS)

Signature of Director/Secretary

Name of Director/Secretary (BLOCK LETTERS)

.....
.....

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Annexure "A"

Renewal of Lease

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Code 150

Renewal of Lease[®]



SCHEDULE

Date of this deed: ___ / ___ / 20Jan 24, 2023

Landlord: MYKEYAH PTY LTD atf A & N Whateley Superannuation Fund

Contact Person: [REDACTED]

Address: C/-6 Clow Street, Dandenong

Postcode: 3175

ACN: 158 144 266

ABN: 90 877 563 755

Phone: [REDACTED]

Mobile: [REDACTED]

Fax: _____

Email: [REDACTED]

Tenant: PAKENHAM BREWING PTY LTD

Contact Person: [REDACTED]

Address: [REDACTED]

Postcode: 3977

ACN: 646 391 022

ABN: 75 646 391 022

Phone: _____

Mobile: [REDACTED]

Fax: _____

Email: [REDACTED]

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Premises: 1 / 9 SOUTHEAST BOULEVARD, PAKENHAM 3810

Lease dated: 03 / 03 / 20 21

Further term: Five (5) Years

Commencement date of the further term: 03 / 03 / 20 23

Initial rent for the further term*: \$ ****Per Annum / **Per Calendar month**

*the initial rent is exclusive of GST unless 'GST inclusive' or 'GST is not payable on the rent' appears in the box:

GST exclusive

Further terms remaining after this further term ends: Three (3) Years.

Last date for exercise of option: 2nd December 2027 (02/12/2027)

Market Review Date(s): 3rd March 2028 (03/03/2028)

SPECIAL CONDITIONS SCHEDULE

Record here any Special Conditions as agreed. Number them one-after-the other, starting at 1.

1. As per original lease agreement, and subsequent Deed of Renewal dated 12th November 2022 (12/11/2022).
2. As per item 14 Security Deposit amount will be always be equivalent to two (2) months rental including GST.
3. As per item 19 of the Lease agreement, annual increase in rent is to two and a half (2.5%) percent.

Annexure "B"

Plan – Not to scale



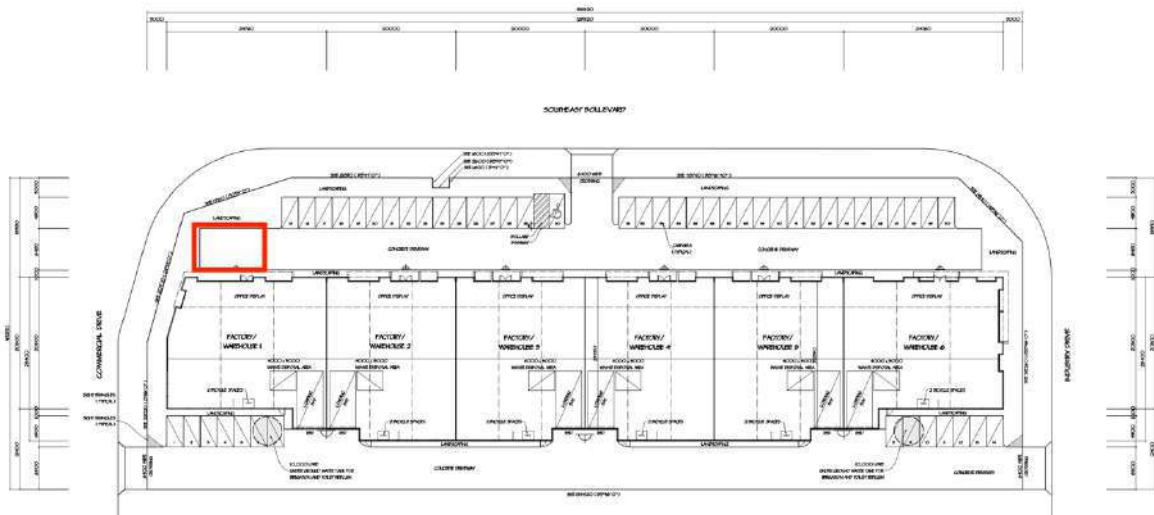
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Annexure "C"

Drawings

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Current concrete landing at front entry to 1/9 Southeast Boulevard.



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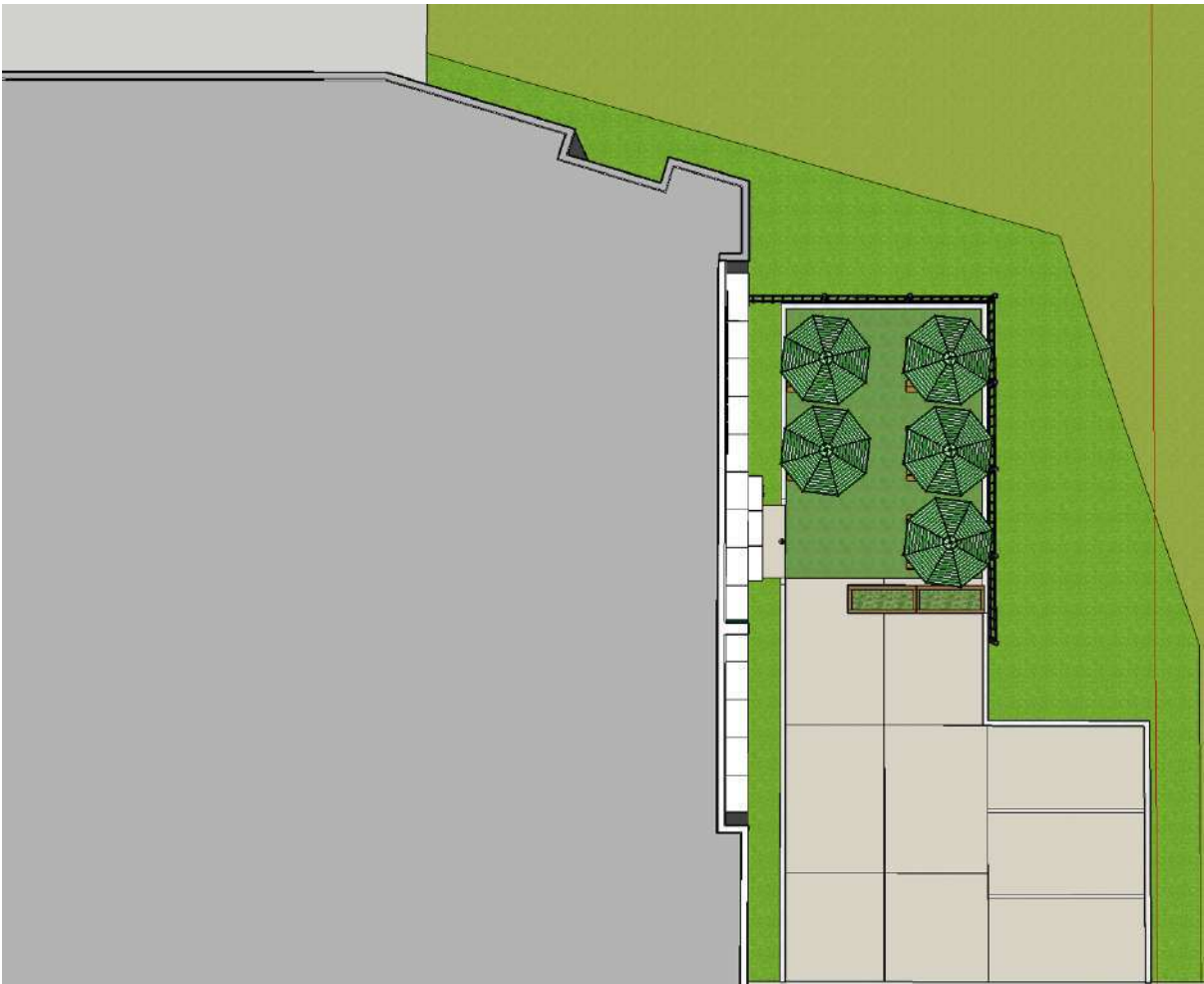
Proposed outdoor seating area.



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AREA ANALYSIS

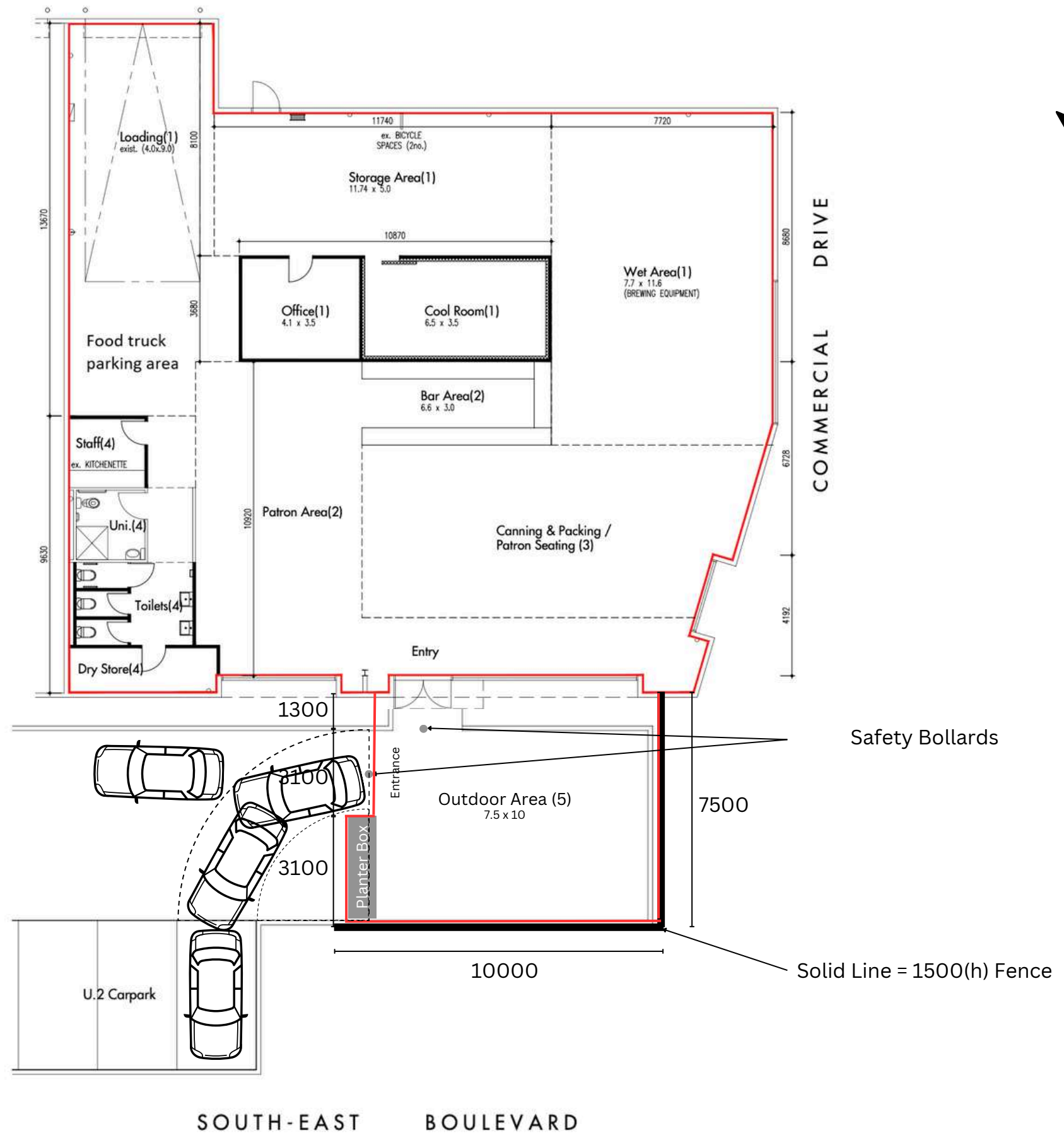
BUILDING	
• EXISTING BUILDING AREA	- 501 sq/m
• EXISTING INTERNAL FLOOR AREA	- 488 sq/m
INTERNAL USE	
1. BREWING (incl. WET AREA, OFFICE, STORAGE AREA, COOL ROOM, LOADING)	- 259 sq/m
2. LIQUOR SALE / CONSUMPTION AREA (incl. BAR, PATRON SEATING)	- 107 sq/m
3. CANNING & PACKAGING / PATRON SEATING	- 78 sq/m
4. MISCELLANEOUS AREA (incl. STAFF, AMENITIES, DRY STORE)	- 44 sq/m
5. OUTDOOR AREA	- 75 sq/m

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RED LINE PLAN

NOTES:

- LIQUOR LICENCE TO APPLY TO AREA BOUNDED BY RED LINE (LIQUOR SOLD / CONSUMED WITHIN THIS AREA ONLY)
- LIQUOR TO BE SOLD / CONSUMED WITHIN THE PREMISIS INCLUDING OUTDOOR AREA INDICATED
- Note: the Licensed Area currently includes only the internal area of the building; the proposal will add the proposed "outdoor area" shown to the Existing Licensed Area, to create one (larger) Proposed Licensed Area



REVISIONS	Revision: 31/10/2024		PROJECT PROPOSED VARIATION TO EXISTING LIQUOR LICENCE 1/9 SOUTH-EAST BOULEVARD PAKENHAM		CLIENT SMILEY BREWING		REF. No. 21096	
					DRAWING RED LINE PLAN		DRAWING No.	
							RL01	
							REV A	
							SHEET OF	

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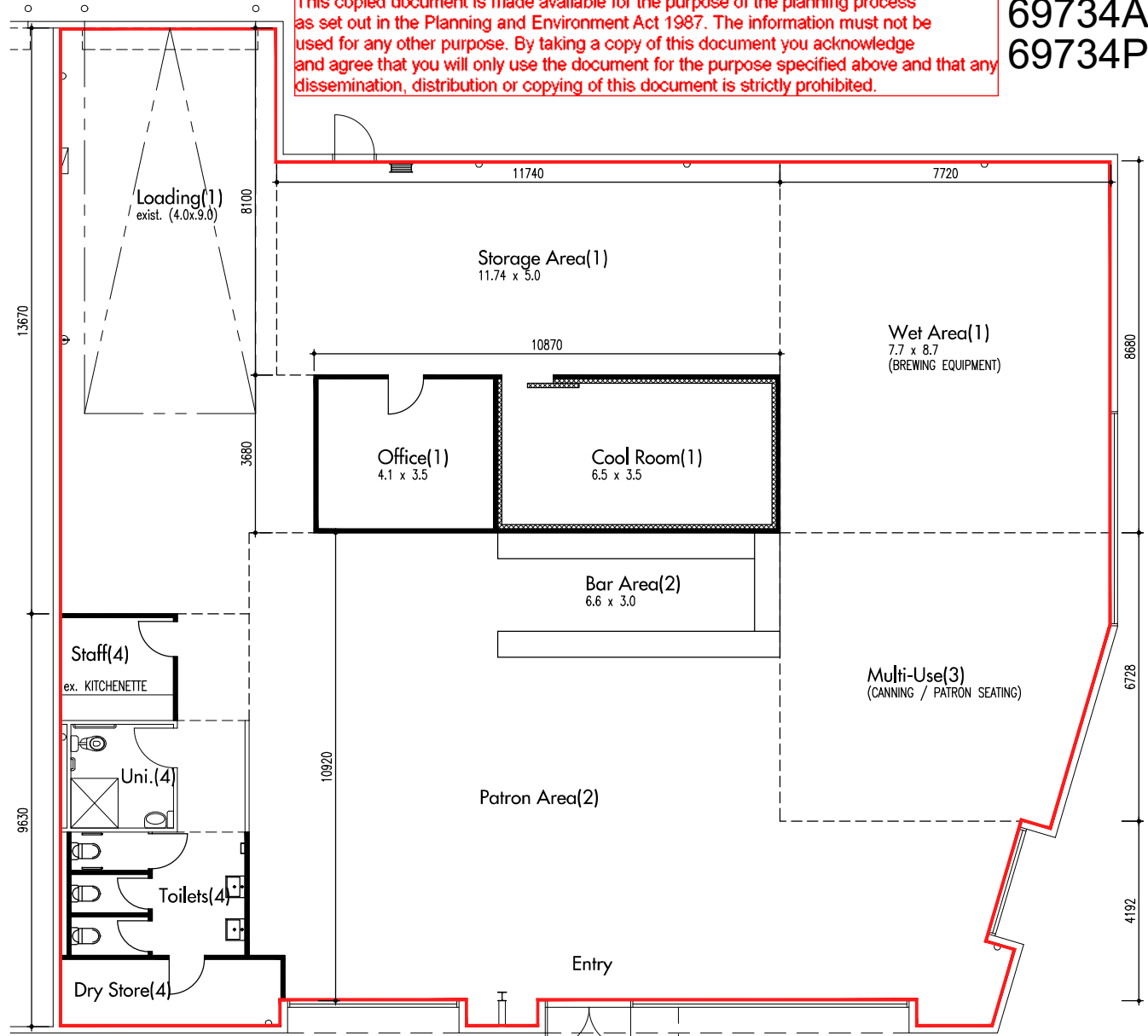
AREA ANALYSIS

BUILDING

- EXISTING BUILDING AREA - 501 sq/m
- EXISTING INTERNAL FLOOR AREA - 488 sq/m

INTERNAL USE

- BREWING (incl. WET AREA, OFFICE, STORAGE AREA, COOL ROOM, LOADING) - 237 sq/m
- LIQUOR SALE / CONSUMPTION AREA (incl. BAR, PATRON SEATING) - 159 sq/m
- MULTI-USE AREA (incl. CANNING or PATRON SEATING AS REQ') - 49 sq/m
- MISCELLANEOUS AREA (incl. STAFF, AMENITIES, DRY STORE) - 44 sq/m



COMMERCIAL DRIVE

SOUTH-EAST BOULEVARD

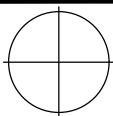
RED LINE PLAN

SCALE 1:100

NOTES:

- LIQUOR LICENCE TO APPLY TO AREA BOUNDED BY RED LINE (LIQUOR SOLD / CONSUMED WITHIN THIS AREA ONLY)
- LIQUOR TO BE SOLD / CONSUMED WITHIN PREMISES ONLY (NO EXTERNAL / OUTDOOR LICENSED AREAS PROPOSED)

REVISIONS	No.	AMENDMENT	DATE



dgdbdd

Dale Grant
Building Design & Documentation Pty Ltd
ABN : 41 097 838 786
Unit 4 / 94 Abbott Road, Hattam, N.S.W. 2523
phone: (02) 9728 8822
fax: (02) 9728 8789
email: info@dgdbdd.com.au

DESIGN	M.W.
DRAWN	M.W.
CHECKED	
APPROVED	
DATE	MAY 2021
SCALE	1:100

PROJECT	PROPOSED LIQUOR LICENCE 1/9 SOUTH-EAST BOULEVARD PAKENHAM
---------	---

CLIENT	SMILEY BREWING
DRAWING	RED LINE PLAN

REF. No.	21096
DRAWING No.	REV
RL01	
SHEET	OF

Site context plan: 1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property (marked with red peg) Proposal: Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit



Written Site context description

The site is in the Pakenham South Employment PSP Area. The site is in a predominantly industrial neighbourhood. There are no apparent residential/dwelling uses anywhere near the site (even the nearest land NOT in an Industrial zone is more than 200m from the site). The location of the residential areas nearest the site are shown in the aerial photo above. Any nearby residential use is marked with blue pegs in the photo at right (if no pegs appear, it means that nothing has been identified). Notes: residential use has been identified by observation only and there may be some not identified; each peg may also represent more than one residential use; any residential uses, including relevant doors, windows and open space areas, within 50m of the site will be specifically identified in photos either in this site context plan or the accompanying LiquorPlan letter.

Mainly unrestricted onstreet kerbside parking is available throughout the adjoining road network; near the site onstreet parking along both Southeast Boulevard and Commercial Drive is unrestricted. Public transport near the site includes trains at Pakenham Railway Station (2.5km by foot from the site). To the extent that it is relevant, the train services in this case are also in the Night Network, meaning that there is all night public transport access on Friday and Saturday. Pakenham Railway Station is a Premium Station, which means that it is staffed from first to last train and also provides public toilets. Pakenham in general is serviced by taxis. While somewhat distant, routes to/from the site and the nearest public transport and main taxi access points, are not through traditional residential areas. Being an industrial area, however, the neighbourhood has no bicycle parking, rubbish bins, street benches or public toilets, although when I visited, I also did not observe any liquor-related litter or other evidence of public liquor consumption near the site.

Please refer also to the locality and public transport maps in the submitted LiquorPlan letter, which also contains details of any existing licensed premises within 500m of the site.



Oblique aerial photo (note: from north) showing the site (identified with red peg) in context of adjoining land



The site - 1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property

Relevant public services and facilities near site. Note: the photos of Pakenham Station, the bus and the taxi were all taken over 1km from the site; however, even in situations where it is unlikely that such services and facilities would be of significant relevance to a particular proposal, it is generally better to have them than not. In this case also, the proposal relates to an existing approved permit and licensed use, for which no increase in patron capacity is proposed



Existing internal bar/patron, brewing and storage areas

Proposed external patron area next to entry



Parking and access area next to front of site

Intersection of Southeast Boulevard and Commercial Drive next to site

Typical commercial/industrial sites near site with associated business identification signage

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ePlanning

Application Summary

Portal Reference	D42419H9
Reference No	T210338 - 1

Basic Information

Cost of Works	\$0
Site Address	We 1/9 Southeast Boulevard Pakenham VIC 3810

Documents Uploaded


Date	Type	Filename
04-12-2024	Additional Document	Southeast Blvd Primary Response Letter D1 RFI Response.pdf
04-12-2024	Additional Document	Southeast Blvd Application Plan D3 RFI Response.pdf
04-12-2024	Additional Document	Southeast Blvd Owners Corp Consent Clarification Email.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	 LiquorPlan	PO BOX 200, Ballan VIC 3342	W: 0410-762-304 M: 0410-762-304 E: info@liquorplan.com.au
Submission Date	04 December 2024 - 04:14:PM		

Declaration

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



Civic Centre
20 Siding Avenue, Officer, Victoria

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

Postal Address
Cardinia Shire Council
P.O. Box 7, Pakenham VIC, 3810
Email: mail@cardinia.vic.gov.au

Monday to Friday
8.30amâ€”5pm
Phone: 1300 787 624
After Hours: 1300 787 624
Fax: 03 5941 3784



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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

[REDACTED]

Sent: Tuesday, 3 December 2024 3:01 PM
To: [REDACTED]
Subject: Fwd: FW: FW: License Agreement

[REDACTED] see below email, should do?

Regards.



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[REDACTED]
Director

mobile: +61 431 694 772
email: trent@smileybrewing.com.au

location: 1/9 Southeast Blvd, Pakenham, VIC 3810
mail: PO Box 36, Pakenham VIC, 3810

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----- Forwarded message -----

From: [REDACTED]
Date: 3 Dec 2024 at 9:08 AM +1100
To: [REDACTED]
Subject: FW: FW: License Agreement

[REDACTED]

The OC manager has replied as below in regards to your request/query

If there are any further queries, please do not hesitate to contact us.

Thank you

Kind Regards

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[REDACTED]
Portfolio Manager

M: 0488 300 133

T: 03 9701 4455

A: 10A E J Crt Dandenong South VIC 3175

From: [REDACTED]
Sent: Tuesday, December 3, 2024 9:06 AM
To: [REDACTED]
Subject: RE: FW: License Agreement

Good mornin [REDACTED]

In regards the installation of the fence I would like to advise that Owners Corp have approved the installation. The drawings were all included in the ballot and approved by the owners.

If there are any future alterations to the area that the tenant might possibly want to do, as per the lease, he will need to advise the OC first and get approval.

Kind Regards,

[REDACTED]
Senior Owners Corporation Manager



10A E J Court,
Dandenong South VIC 3175

T 03 9701 4444
faceyoc.com.au

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For all your Industrial & Commercial Owners Corporation needs




From: [Redacted]
Sent: Monday, December 2, 2024 1:53 PM
To: [Redacted]
Subject: FW: FW: License Agreement

Hi [Redacted]

Is this email below something you can help us with?

If there are any further queries, please do not hesitate to contact us.

Thank you

Kind Regards

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[REDACTED]

Portfolio Manager

M: 0488 300 133

T: 03 9701 4455

A: 10A E J Crt Dandenong South VIC 3175

From: [REDACTED]

Sent: Monday, December 2, 2024 1:20 PM

To: [REDACTED]

Subject: RE: FW: License Agreement

Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

Hi [REDACTED]

We've got an RFI back from council that we are sorting out, most of their questioning is in relation to the fence we have shown surrounding the outdoor area.

The licensing agreement is a little vague as to what is in agreement in relation to the fencing we proposed (which is included in the drawing).

In the licensing agreement, section 5.1 "Must not carry out any structural works or significantly alter any part of the licensed area (other than in accordance with the specifications attached in Annexure "B" without the prior written approval of the Owners Corporation"

Annexure "B" is just the lot plan with the highlighted area in Yellow.

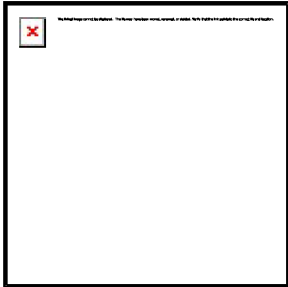
I'm thinking this should read "Annexure B & C as "C" captures specification details of the inclusions?"

Can you speak to the owners corp manager and just get us an email or letter that states that the installation of fencing has been approved by the owners corporation (which is as per what the

drawings/specification shows) - this will suffice to include in the response to council.

Give me a call if any issue?

Regards.



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Director


mobile: +61 431 694 772

email: trent@smileybrewing.com.au

location: 1/9 Southeast Blvd, Pakenham, VIC 3810

mail: PO Box 36, Pakenham VIC, 3810

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On 28 Nov 2024 at 3:28 PM +1100,  wrote:

Thanks 

Regards.



Director

mobile: +61 431 694 772

email: trent@smileybrewing.com.au

location:1/9 Southeast Blvd, Pakenham, VIC 3810
mail: PO Box 36, Pakenham VIC, 3810

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AREA ANALYSIS

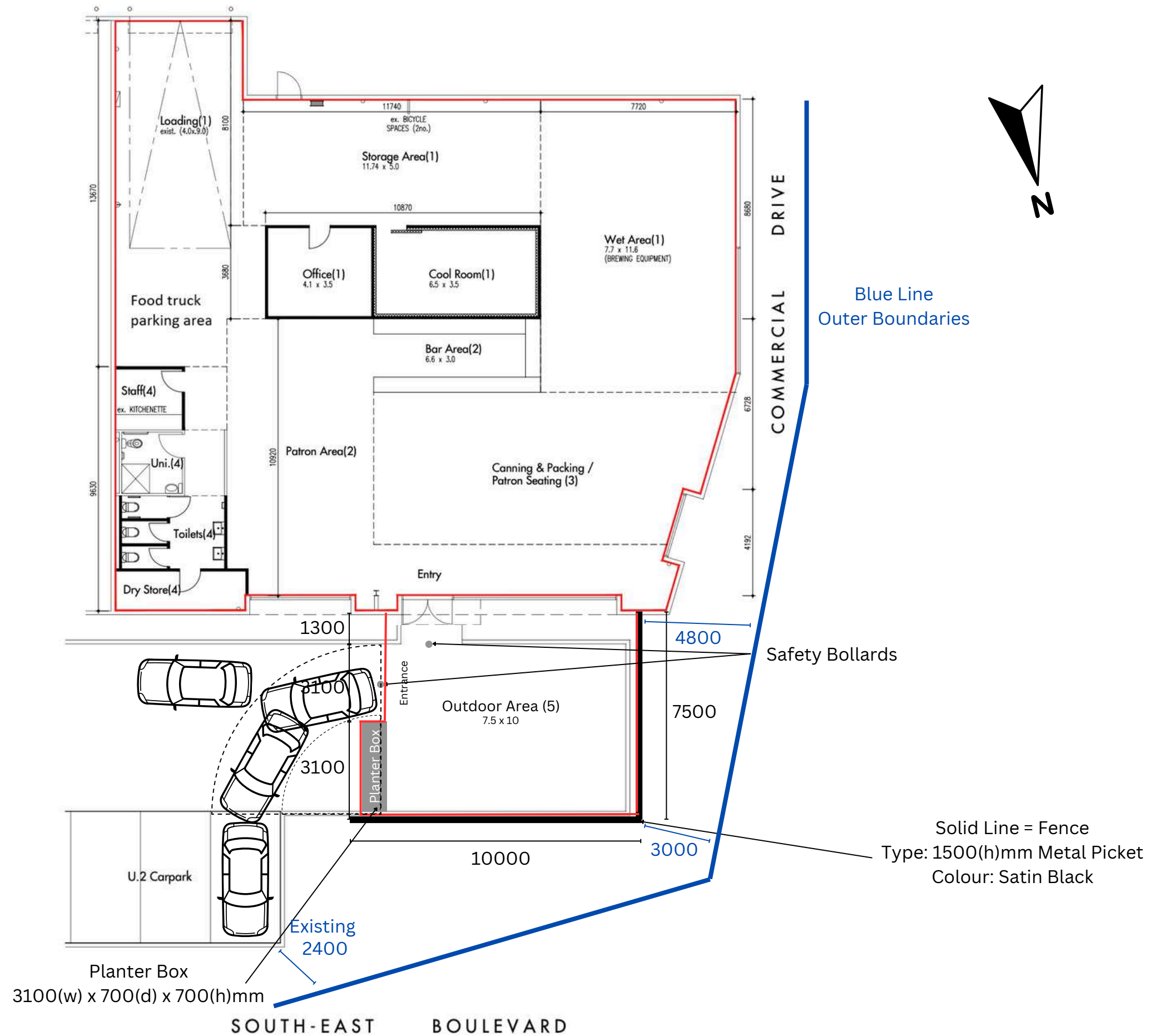
BUILDING	
• EXISTING BUILDING AREA	- 501 sq/m
• EXISTING INTERNAL FLOOR AREA	- 488 sq/m
INTERNAL USE	
1. BREWING (incl. WET AREA, OFFICE, STORAGE AREA, COOL ROOM, LOADING)	- 259 sq/m
2. LIQUOR SALE / CONSUMPTION AREA (incl. BAR, PATRON SEATING)	- 107 sq/m
3. CANNING & PACKAGING / PATRON SEATING	- 78 sq/m
4. MISCELLANEOUS AREA (incl. STAFF, AMENITIES, DRY STORE)	- 44 sq/m
5. OUTDOOR AREA	- 75 sq/m

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RED LINE PLAN

NOTES:

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- LIQUOR TO BE SOLD / CONSUMED WITHIN THE PREMISIS INCLUDING OUTDOOR AREA INDICATED
- Note: the Licensed Area currently includes only the internal area of the building; the proposal will add the proposed "outdoor area" shown to the Existing Licensed Area, to create one (larger) Proposed Licensed Area



REVISIONS	Revision: 04/12/2024		PROJECT PROPOSED VARIATION TO EXISTING LIQUOR LICENCE 1/9 SOUTH-EAST BOULEVARD PAKENHAM		CLIENT SMILEY BREWING		REF. No. 21096
					DRAWING RED LINE PLAN		DRAWING No. RL01
							REV A
							SHEET OF

LiquorPlan

The town planner specialising in permit applications for licensed premises

PO Box 200, Ballan 3342

M 0410 762 304

E applications@liquorplan.com.au W www.liquorplan.com.au

ABN: 14 242 281 164

4 December 2024

██████████
Statutory Planner
Cardinia Shire Council
PO Box 7
Pakenham 3810

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Dear ██████████

Application for Planning Permit T210338 - 1

1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property

Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit

Response to request for further information

I refer to your 29 Nov 24 letter, requesting further information for the above application. In response:

Requirement/concern/issue	Response
1. <i>Written statement identifying:</i>	
1.1 <i>Whether the proposed chairs and umbrella and other structures are fixed or movable.</i>	Table, seating, umbrellas and other structures will be movable.
1.2 <i>Whether additional paving proposed within the new 'Outdoor Area'. If so, please specify how the paving will impact the existing pit in front of subject site.</i>	No additional paving is proposed within the new 'Outdoor Area'; the drainage pit will remain free of obstruction.
1.3 <i>Written consent of SouthEast Business Park Pty Ltd for the proposed 'Outdoor Area' and proposed front and side fence.</i>	I have previously submitted (by email dated 29 Nov 24) the written consent of the relevant Owners Corporation for the proposed 'Outdoor Area' in the form of the signed lease agreement document entitled , "Southeast Boulevard Common Property Licence Agreement2". This provides consent of the Owners Corporation to the proposed Outdoor Area. In relation to the proposed front and side fence, while the lease agreement does not specifically mention fencing, it does state:

	<p>D. On 3 September 2024 the Owners Corporation exercised its power under Section 14 of the Owners Corporations Act 2006 to grant a Licence to the Licensee ("Licence") for the non-exclusive use of the Licensed Area to place tables and chairs on the Licensed Area for use as an outdoor area subject to the terms and conditions set out in this Licence and as set out in the drawings attached as Annexure "C".</p> <p>Several drawings attached as Annexure "C" clearly show fencing. This includes the one below:</p> <p>Proposed outdoor seating area.</p>  <p>As such, the above lease agreement already includes the proposed fencing around the outdoor area. However, to make this clearer, please see the attached email entitled, "Southeast Boulevard Owners Corporation Consent Clarification Email", from Aphrodite Meimaris Senior Owners Corporation Manager.</p> <p>The purpose of the above is simply to make it clearer that the Owners Corporation has provided its full consent to both the proposed 'Outdoor Area' and the proposed front and side fence.</p> <p><i>This is obviously NOT the written consent of SouthEast Business Park Pty Ltd. However such consent is NOT required in this case, as the need for it is NOT triggered by Covenant AM092458F ("the Covenant").</i></p> <p><i>This is because (as can be seen below) the need for the consent of SouthEast Business Park Pty Ltd is ONLY triggered where certain things are NOT to be done (ie constructing a fence within 3m of a road, constructing a fence of non-specified materials or constructing a fence on a non-road boundary; and storing certain items outside a building), all of which are satisfied and/or do not apply in this case).</i></p> <p>As it is not required by the Covenant (which is fully complied with without needing any further consent), I hereby request that this response be accepted in lieu of the actual written consent of SouthEast Business Park Pty Ltd.</p>
<p>1.4 How the proposed fencing complies with requirements in Covenant AM092458F.</p>	<p>Re fencing, the Covenant contains the following:</p> <p>"The Transferee with the intent of binding the owner for the time being of the land in this transfer ("the land") COVENANTS with the Transferor and each of the owners of the land in Plan of Subdivision No. 721508R (apart from the land) that the Transferee will not:</p> <p>(j) Erect or cause to be erected any front or side fence forward of the Landscape Set-back referred to below without the prior written consent of SouthEast Business Park Pty Ltd.</p>

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Landscape Set-back

Street Frontage	No Service Road Min distance (m)	Service Road
Koo Wee Rup Road	3	3
SouthEast Blvd	3	N/A
Greenhills	3	3
McGregor	3	3
All other roads	3	N/A

- (k) Erect or cause to be erected any fence constructed of a material other than coated chain or mesh, steel pickets or materials to match the walls of the Building where that fence faces the road frontage or a secondary road, without the prior written consent of SouthEast Business Park Pty Ltd.
- (l) Erect or cause to be erected any side and rear boundary fence not facing a road other than in industrial chain mesh with a minimum height of 2.3m and a maximum height of 2.5m, without the prior written consent of SouthEast Business Park Pty Ltd.

The proposed fence will NOT be within any Landscape Set-Back but will be located more than the minimum distance of 3m from either of Southeast Boulevard or Commercial Drive (please refer to the attached plan titled, "Southeast Boulevard Application Plan D3 RFI Response", "the amended plan").

This is because the outdoor trading area associated with the fence, will NOT be located in the Landscape Set-Back (the inner edge of which is at least 3m from these roads) but only in the hardstand area *behind* it (this makes sense because there was obviously a long-standard design requirement not to locate the hardstand area inside the Landscape Set-Back).

The fence will be a steel picket one (satisfying Section "(k)") and will not be on any side or rear (non-road) boundary (satisfying Section "(l)").

While it does not relate to fencing, the following section of the Covenant will also not be breached:

- (g) Suffer or store or permit goods, materials, containers or any other commodities or any tank, plant and machinery or rubbish to be stored or places outside any building erected on the land hereby transferred unless they are substantially screened from view from the road frontage and from any secondary road by a wall of at least 2.45 metres in height or by other means approved by SouthEast Business Park Pty Ltd.

This is because as the tables and chairs (picnic table-type benches) and planter box will not be "goods", "materials", "containers", "any other commodities", "tank", "plant", "machinery" or "rubbish", they are not subject to this section.

To break this down further, I have consulted the Australian Concise Oxford Dictionary, 2002 and interpreted each item *in an industrial context* (for example, the word, "plant" being used in the sense of machinery used in industrial production, rather than a member of the Plant kingdom):

- Goods. The items are not goods, which are articles of trade or personal belongings.
- Materials. The items are not materials, which are the raw ingredients of production.
- Containers. The items are not containers, which are storage vessels.
- Any other commodities. The items are not commodities, which are also materials/raw ingredients.
- Tank. The items are not tanks, which are larger storage vessels.

	<ul style="list-style-type: none"> • Plant. The items are not plant, which refers to machinery used in industrial production. • Machinery. The items are not machinery. • Rubbish. The items are not rubbish. <p>Overall, Section (g) seems to be to prevent items used or produced in Industry or Warehouse from being stored outside a building, <i>not to prevent other items being located there.</i></p> <p>It should not be interpreted too narrow; otherwise, for example car parking on the larger site, all of which is located outside a building, could not be used for car parking because cars involve machinery; or, all of the soil, vegetation etc in the Landscape Set-back could be categorised as goods or materials.</p> <p><i>As no items listed in Section (g) will be placed outside a building (only items not listed will be placed there) the need for the consent of SouthEast Business Park Pty Ltd (which also relates not to the items themselves but only to the screening of the items) under this section of the Covenant is also not triggered.</i></p> <p><i>Furthermore, what is proposed is not the random or messy storage of containers, rubbish etc outside a building but is fully in accordance with the consent of the Owners Corporation.</i></p>
<p>2. Amended plans drawn to scale and showing:</p>	
<p>2.1 Maximum height, material and colours of the proposed fencing.</p>	<p>The height of the proposed fencing was shown on the earlier plan; the amended plan also shows its material and colours.</p> <p>Note: The fence is exempt from a planning permit requirement. The reason it was shown on the plan in the first place it because it will enclose the licensed area (and thus impact – positively – the application under Clause 52.27).</p>
<p>2.2 Maximum height of the proposed planter box.</p>	<p>The amended plan now also shows the maximum height (0.7m) of the proposed planter box.</p>

I hope that the submitted information (and the application in general), will now be satisfactory. However, if this is not the case for the requested information, I hereby request that you advise me accordingly and (if less than fourteen days before the lapse date) immediately grant a fourteen-day extension from the lapse date; in relation to the application in general, I would be happy to discuss any outstanding issues.

Yours faithfully



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Consultant Town Planner¹

Enc

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¹ I, Matthew Gilbert Gorman, consent to having my personal information (name, phone number, business name, business address, email address etc) contained in this document or any other document authored by me as part of an application for a planning permit, be made available electronically in accordance with the public availability requirements of the Planning and Environment Act 1987. I understand that if I wish to withdraw my consent at any time, I need to notify Council's Statutory Planning Unit in writing

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ePlanning

Application Summary

Portal Reference	D42461X9
Reference No	T210338 - 1

Basic Information

Cost of Works	\$0
Site Address	We 1/9 Southeast Boulevard Pakenham VIC 3810

Documents Uploaded


Date	Type	Filename
17-12-2024	Additional Document	Southeast Blvd Second Primary Response Letter D3 RFI2 Response.pdf
17-12-2024	Additional Document	Southeast Blvd Swept Path Assessment D1C RFI2 Response.pdf
17-12-2024	Additional Document	Southeast Boulevard Amendment Application Form RFI2 Response.pdf
17-12-2024	Additional Document	Southeast Blvd Southeast Business Developments Pty Ltd Consent1 RFI1 Response.pdf
17-12-2024	Additional Document	Southeast Blvd Southeast Business Developments Pty Ltd Consent2 RFI1 Response.pdf
17-12-2024	Additional Document	Southeast Blvd Southeast Business Developments Pty Ltd Consent3 RFI1 Response.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	 LiquorPlan	PO BOX 200, Ballan VIC 3342	W: 0410-762-304 M: 0410-762-304 E: info@liquorplan.com.au
Submission Date	17 December 2024 - 01:52:PM		

Declaration

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



Civic Centre
20 Siding Avenue, Officer, Victoria

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



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



Civic Centre
20 Siding Avenue, Officer, Victoria

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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

SWEPT PATH ASSESSMENT REPORT

Development Address

1/9 Southeast Boulevard Pakenham

Prepared For



Director
Smiley Brewing Co.

Prepared By



Civil & Traffic Engineer
Road Safety Auditor Reg. VRSA

Document Reference

002404-Rev A

DECEMBER 17 2024

DFC Engineering

3 Andleigh Drive, Mulgrave, VIC 3170

Ph: +61 435 880 876



Contents

- 1 Introduction & Scope3
- 2 Existing Site Conditions & Layout4
- 3 Development Proposal.....5
- 4 Car Parking Assessment as per Cardinia Shire Council Planning Scheme Clause
52.06-9 Design Standard 26
 - 4.1 Design Standard 2.....6
 - 4.2 Swept Path Assessment.....7
- 5 Summary & Conclusions.....8

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1 Introduction & Scope

DFC Engineering has been engaged by the client to provide an assessment of the western most car parking space at 1/9 Southeast Boulevard in Pakenham to assess for its impact on the proposed Outdoor Area as requested by Cardinia Shire Council's Traffic Engineering Department.

The swept path assessment report reviews the following:

- The existing site layout
- The proposed sites layout with two separate drawing proposals, Drawing D3 and Drawing D4. Works.
- Swept path assessment of entry and exit into the western most car parking space abutting the Outdoor Area for both Drawing D3 and Drawing D4.
 - Appropriateness of the entry and exit from the western most car parking space adjacent to the Outdoor Area.
 - 300mm clearance and impact of vehicle movements into and out of western most car parking space when factoring in the addition of the Outdoor Area.

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2 Existing Site Conditions & Layout

The site is located at 1/9 Southeast Boulevard in Pakenham, where the Smiley Brewing Co is currently operating. The existing sites car park possesses a total of 37 on-site car parking spaces, 22 to the east of the existing crossover on Southeast Boulevard and the remaining 15 to the west. The subject car parking space for the purpose of this report is the western most parking space or the end bay to the west. Figure 2.1 shows the site location and the subject parking space highlighted.



Figure 2.1: Site Location

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3 Development Proposal

The proposed development at 1/9 Southeast Boulevard in Pakenham involves the addition of an Outdoor Area to service patrons of the Smiley Brewing Co. This report includes the assessment of two revision drawings of the proposed Outdoor Area, Drawing D3 and Drawing D4. As indicated below within Figure 3.1 Drawing D3 shows the Outdoor Area with dimensions of 7.5 metres in width and 10 metres in length within the addition of a planter box at the northeastern corner. Figure 3.2 highlights the Outdoor Area to have a width of 7.5 metres and a revised length of 9 metres with the same planter box proposed. The reduced length is to allow for further room for a reversing vehicle from the subject parking space.

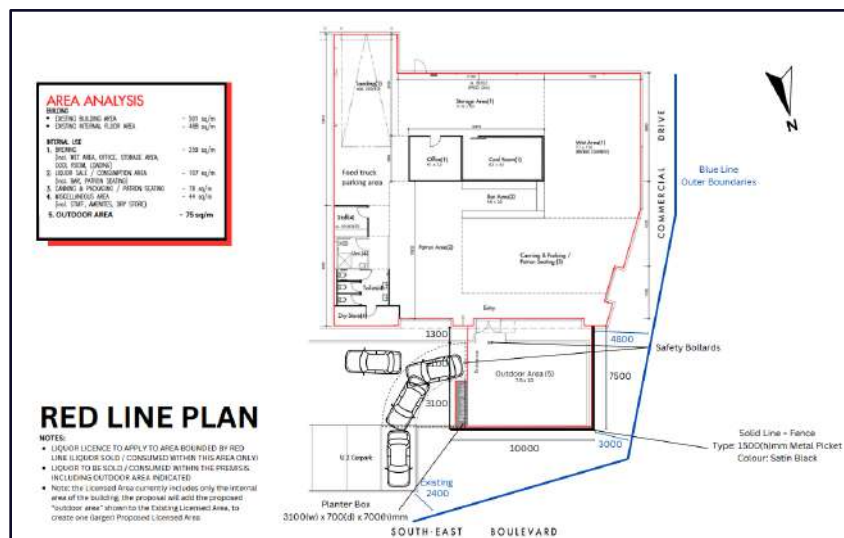


Figure 3.1: Drawing D3 Layout Plan



Figure 3.2: Drawing D4 Layout Plan

4 Car Parking Assessment as per Cardinia Shire Council Planning Scheme Clause 52.06-9 Design Standard 2

Parking requirements for new developments are set within Cardinia Shire Council's Planning Scheme Clause 52.06. The purpose of Clause 52.06 is typically to assess that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework. For the purposes of this report particular emphasis is placed on Clause 52.06-9 which relates to the design of accessways and car parking spaces.

The purpose of Clause 52.06-9 is to ensure the development has adequately designed and location of car parking and is of a high standard creating a safe environment for users and enables easy efficient use. In this case, Design Standard 2 will be applied and assessed as per Cardinia Shire Council's request.

4.1 Design Standard 2

Design Standard 2 of Clause 52.06-9 relates to the design of car parking spaces, it is noted that the proposed development does not involve the addition of new car parking spaces but this report rather analyses the movements into and out of existing car parking spaces which are already adequately serving their purpose.

Within Design Standard 2 of Clause 52.06-9 Diagram 1 it is noted that a wall, fence, column, tree, tree guard or any other structure abutting a car space must not encroach into the area marked "clearance required" within Figure 4.1 below. It is also noted that a column, tree or tree guard may project into a space if it is within the area marked "tree or column permitted".

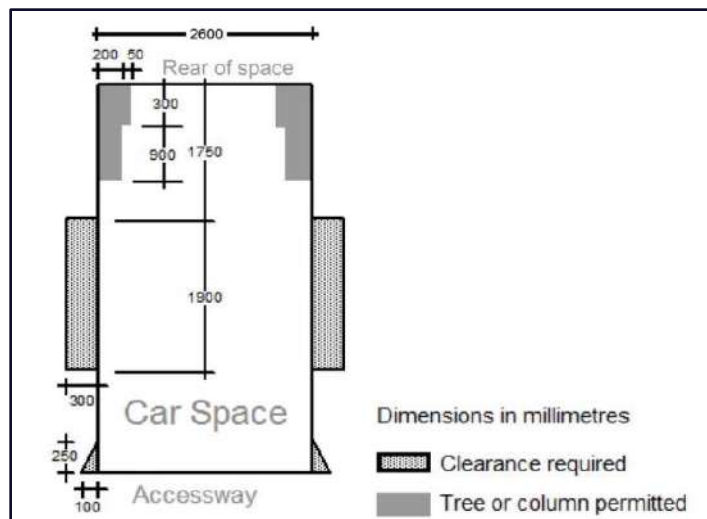


Figure 4.1: Diagram 1 Cardinia Shire Clause 52.06-9 Design Standard 2

4.2 Swept Path Assessment

Swept path diagrams have been prepared using AutoTrack showing a B99 design vehicle as per AS2890.1:2004 and Cardinia Shire Council's request. The B99 design vehicle is comparable to larger vehicles such as SUVs and Utes and this is why it has been requested by Cardinia Shire Council. The swept path diagrams prepared show the entry movements in a forward direction as well as the exit movements while reversing from the final parking bay adjacent to the proposed Outdoor Area. These swept path diagrams are presented in Appendix A for Drawing D3 and Appendix B for Drawing D4.

In preparing and assessing the swept path diagrams the following considerations have been made & should be noted:

- The car parking spaces within the car park in question are existing parking spaces which have been in operation for more than six years therefore the existing car space is satisfactorily accessible both for entry and exit as well as for 300mm clearance.
- Vehicles are expected to park right up to the end of the existing parking spaces such that the vehicle overhang or body as well as the 300mm clearance will be encroached.
- Vehicle overhang or body and 300mm clearance zone is expected to and can be allowed to encroach over the western side of the parking space as the end of the parking spaces does not possess a physical obstruction but rather open space. See Figure 4.2 below.

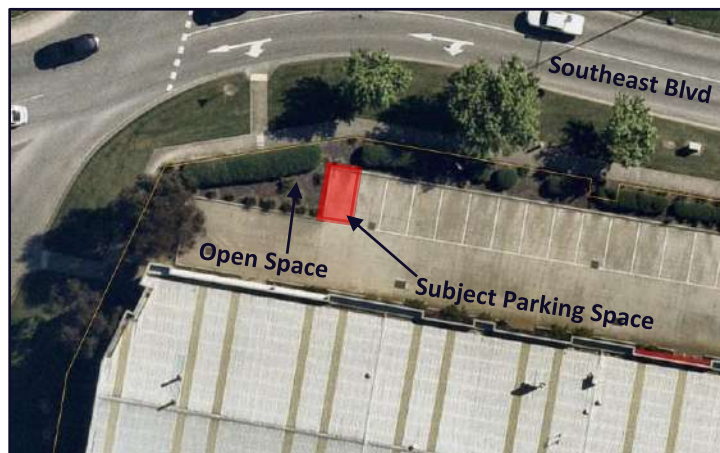


Figure 4.2: Subject Parking Space Layout

- Vehicle overhang plus 300mm clearance, it is noted that some encroachment of the 300mm clearance area from any structure is appropriate. Drivers that may feel uncomfortable with any such encroachment can perform additional correctional movements to adequately park within the subject car parking space.

5 Summary & Conclusions

The development at 1/9 Southeast Boulevard in Pakenham is proposing the addition of a new Outdoor Area to service patrons to the Smiley Brewing Co. A swept path assessment of the western most car parking space (or end space) has been conducted in accordance with the requirements of Australian Standard AS2890.1:2004 Parking facilities – Off street parking as well as the Cardinia Shire Council Planning Scheme Clause 52.06-9 Design Standard 2. As part of the analysis two drawings have been assessed, Drawing D3 and Drawing D4 as supplied by the client.

The analysis conducted within the report concludes the following;

- For both Drawing D3 and D4 the forward entry as well as the reverse movement out of the subject parking space is satisfactory to Design Standard 2 of Clause 52.06-9's 300mm clearance requirements as no wall, fence, column, tree, tree guard, parked car or any other physical structure abutting the car parking space is encroached.
- For purposes of ease of entry and exit it is preferred that Drawing D4 be applied as it allows for slightly more room in the event of driver difficulty in exiting the parking space but also as safeguard against the safety of patrons.
- Where required to either straighten up a vehicle entering the subject parking space or to exit the parking space in a reversing fashion a driver can sufficiently perform a correctional movement where necessary.
- When assessing the swept path movements for impact on the proposed Outdoor Area, forward entry movements and a reverse movement out of the space are considered to have no detrimental safety impact on either proposed Outdoor Area.
- It is not advised that the subject parking space being accessed in a reversing fashion as this will likely require encroachment into the Outdoor Area to satisfactorily perform this movement.
- It is not expected that a high degree of risk to safety will be present with the addition of the Outdoor Area as there is enough room to perform the necessary movements without encroachment but also through noting little to no speed when parking and that drivers as well as pedestrian duty of care will be commonplace with such an arrangement.

- The car parking spaces within the car park in question are existing parking spaces which have been in operation for more than six years therefore the existing car space is satisfactorily accessible both for entry and exit. The entrance to the Smiley Brewing Co is in its existing location and existing condition would serve the same scenario with little to no impact.

The diagrams confirm that both Drawings D3 and D4 show the subject car parking space can be adequately accessed in a forward's direction and exited in a reversing fashion without encroachment into the 300mm clearance zone, as per existing condition, and without detrimental safety impact on the proposed Outdoor Area. The entry movements in a reversing fashion are not considered appropriate if the intention is to keep the Outdoor Area clear as this will require encroachment into this area.

Ultimately based upon the swept path assessment conducted using plans supplied by the clients, there are no sufficient traffic grounds to warrant refusal of the application at 1/9 Southeast Boulevard in Pakenham.

DFC Engineering

****The recommendations & findings of the above report are based upon the information, requests & plans provided by the designer & the client. These should be used as only recommendations to assist in design and are not responsible for any on-site incidents or changes. Should alternative assessment be made contrary to this report then the final decisions taken are at the discretion & responsibility of the designer and client not with the contents of the report****

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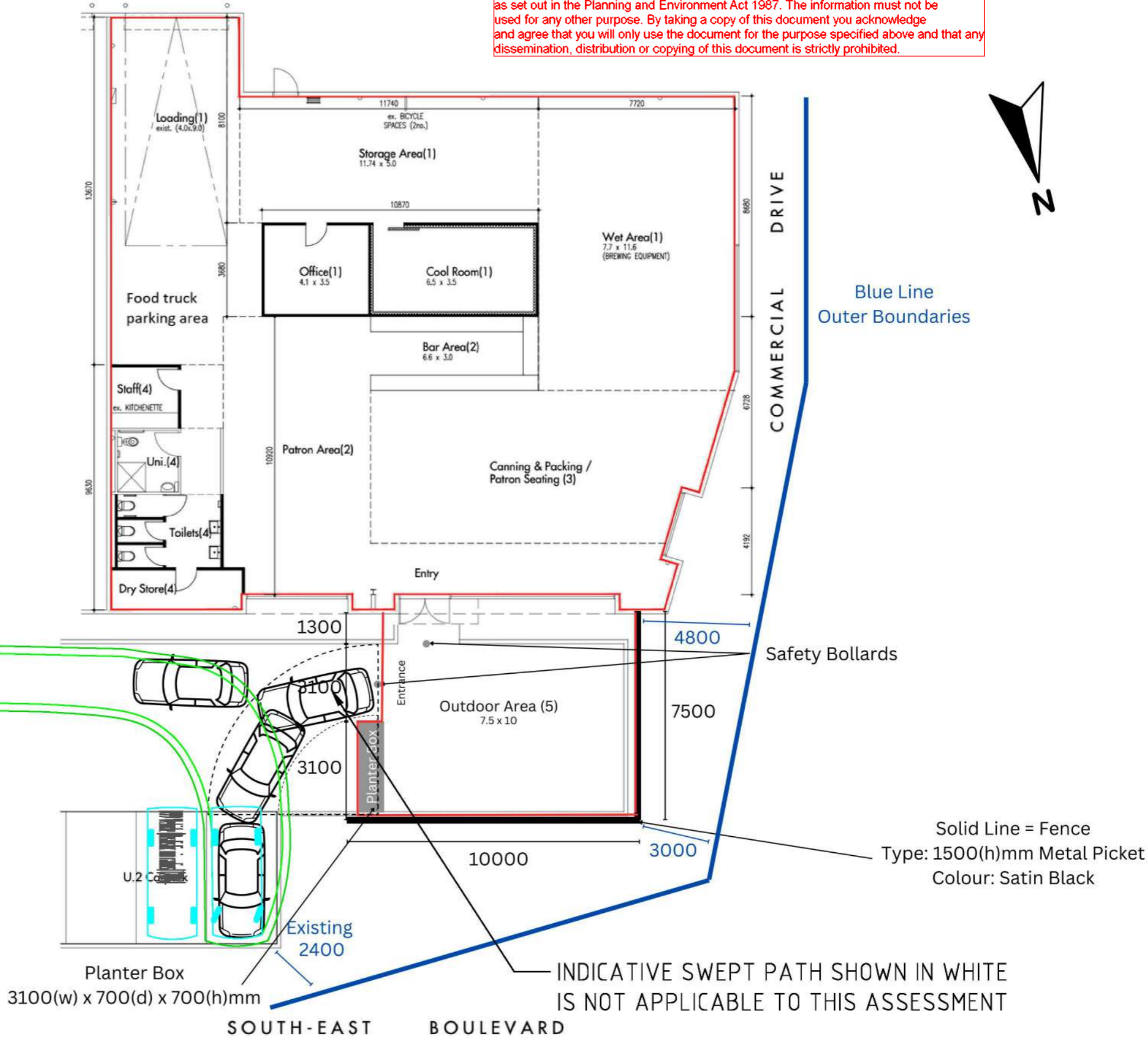
Appendix A – Swept Path Diagrams Drawing D3

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REDACTED INFORMATION



REV	DATE	DESCRIPTION
R1	24.12.16	SWEPTPATHS
R2		
R3		

LEGEND	
	Vehicle Overhang/Body
	Vehicle Overhang + 300mm Clearance

1/9 Southeast Boulevard Pakenham	
TITLE:	Entry Swept Path 1 - Dwg D3
STATUS:	DESIGN
DRAWING NO:	24.16-0001
REV:	R1
SIZE:	A3

DATE:	2024.12.16
DATE:	2024.12.16

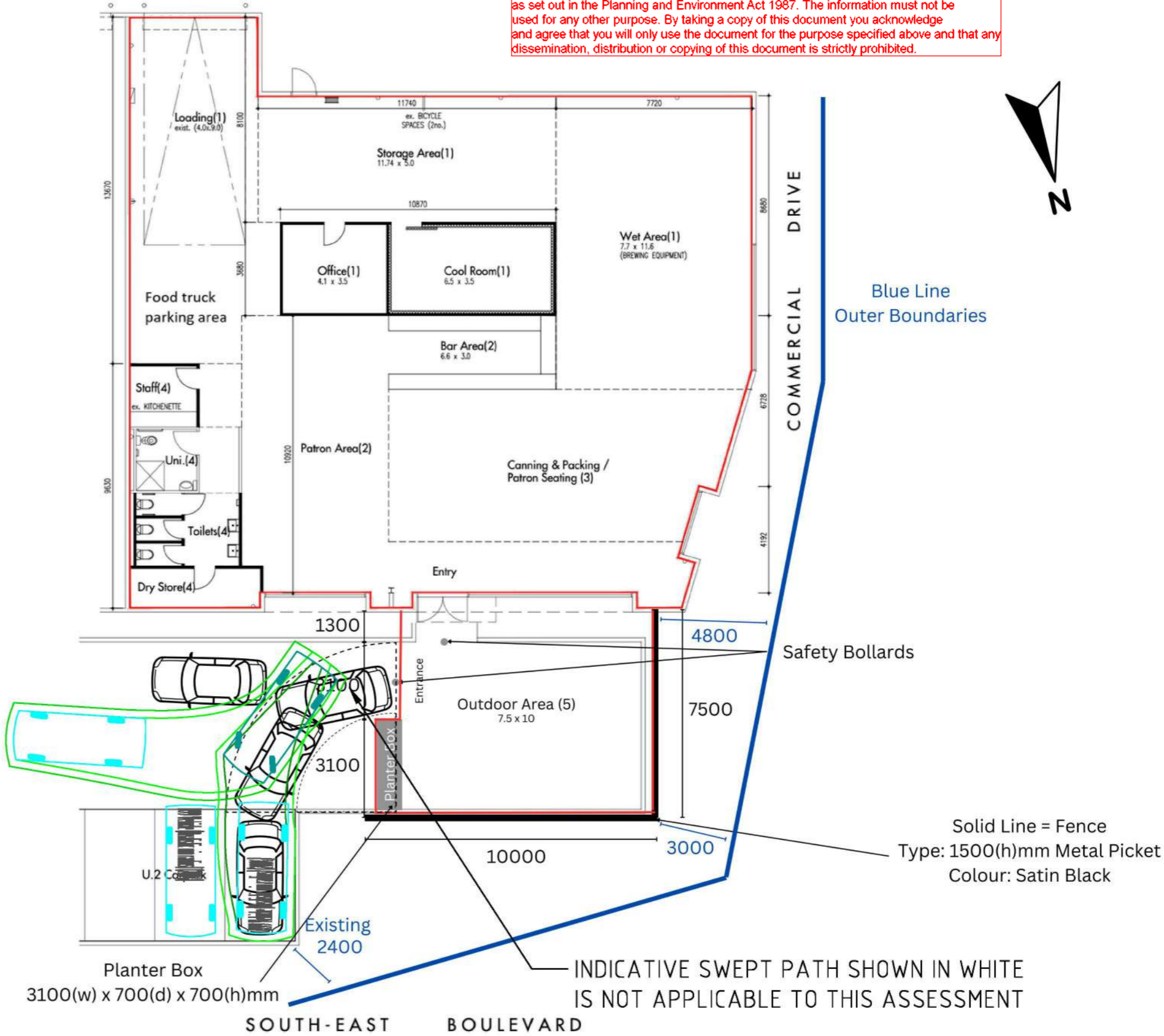
MELWAYS REF:	N/A
SCALE:	1:20
SHEET 1 OF 2	



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REDACTED INFORMATION



Solid Line = Fence
Type: 1500(h)mm Metal Picket
Colour: Satin Black

INDICATIVE SWEEP PATH SHOWN IN WHITE
IS NOT APPLICABLE TO THIS ASSESSMENT

REV	DATE	DESCRIPTION
R1	24.12.16	SWEPTPATHS
R2		
R3		

LEGEND	
	Vehicle Overhang/Body
	Vehicle Overhang + 300mm Clearance

1/9 Southeast Boulevard Pakenham	
TITLE:	Exit Swept Path 1 - Dwg D3
STATUS:	DESIGN
DRAWING NO:	24.16-0002
REV:	R1
SIZE:	A3

MELWAYS REF:	N/A
SCALE:	1:20
SHEET 2 OF 2	

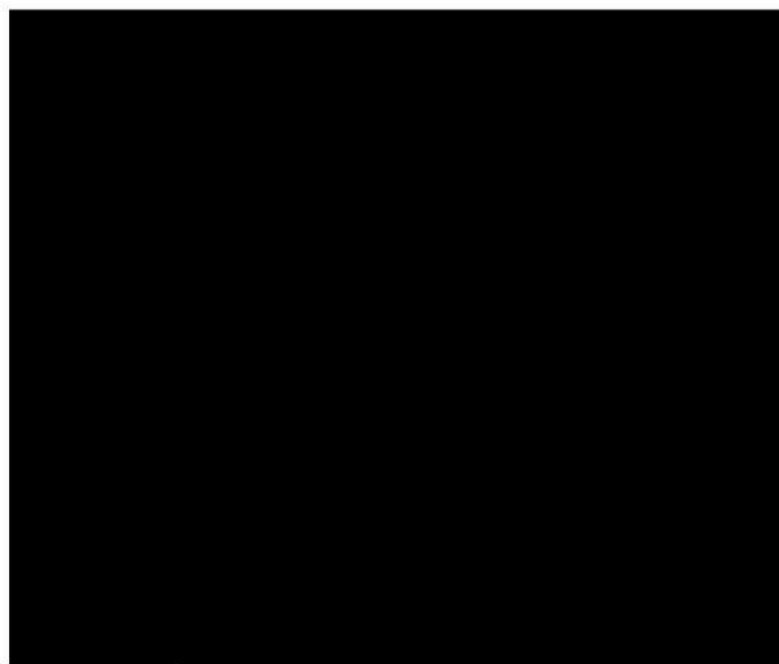




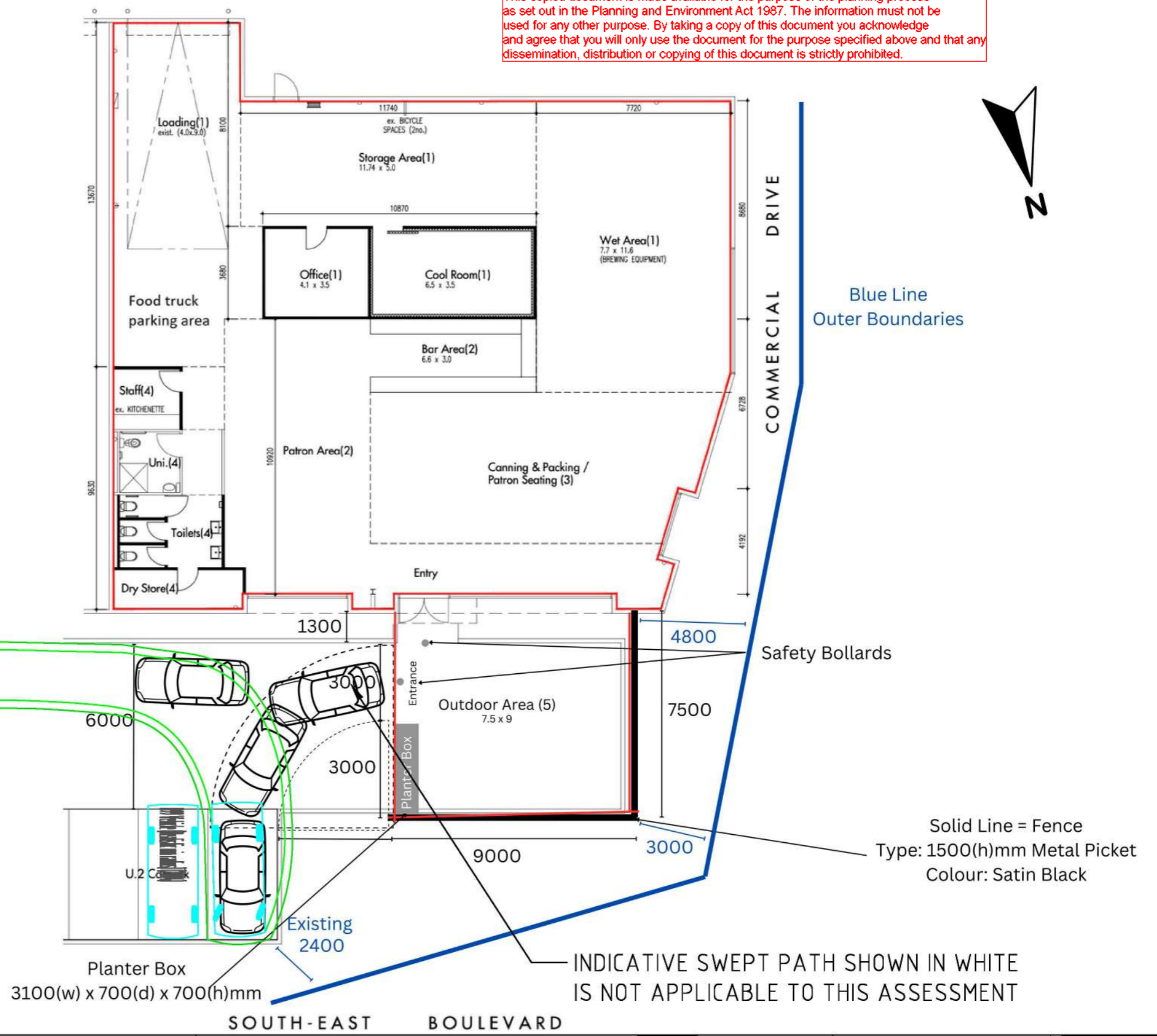
Appendix B – Swept Path Diagrams Drawing D4

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Type: 1500(h)mm Metal Picket
Colour: Satin Black

INDICATIVE SWEEP PATH SHOWN IN WHITE IS NOT APPLICABLE TO THIS ASSESSMENT

REV	DATE	DESCRIPTION
R1	24.12.16	SWEPTPATHS
R2		
R3		

LEGEND	
	Vehicle Overhang/Body
	Vehicle Overhang + 300mm Clearance

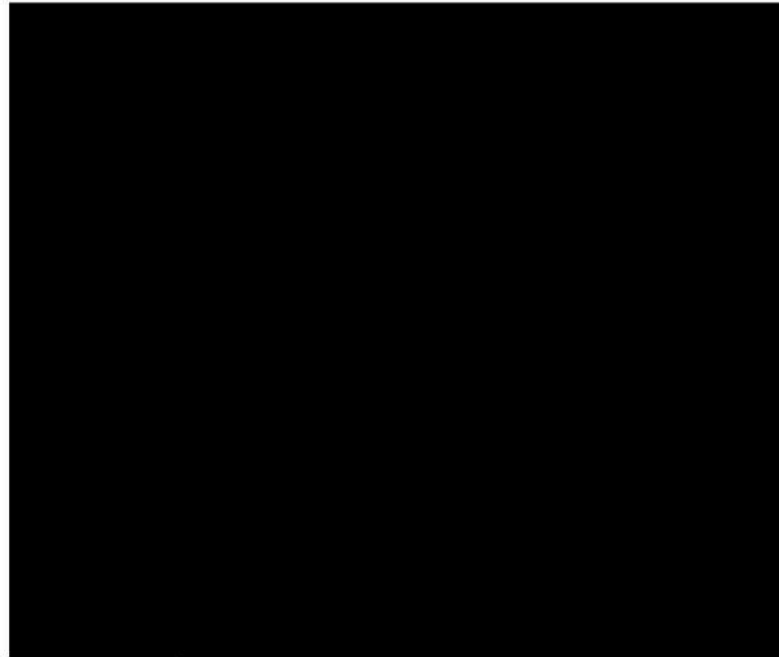
1/9 Southeast Boulevard Pakenham	
TITLE:	Entry Sweep Path 1 - Dwg D4
STATUS:	DESIGN
DRAWING NO:	24.15-0001
REV:	R1
SIZE:	A3

DATE:	2024.12.16
DATE:	2024.12.16

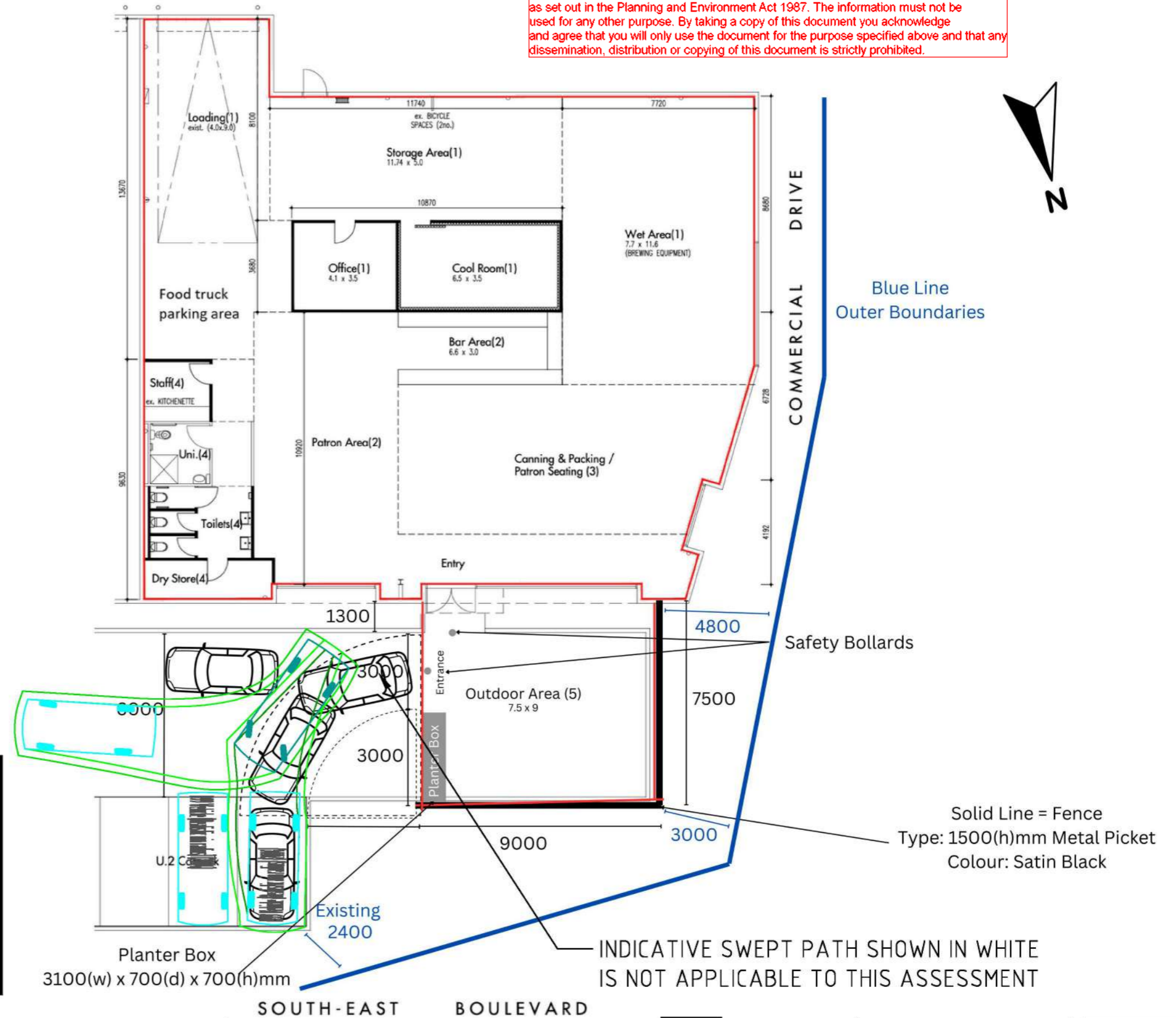
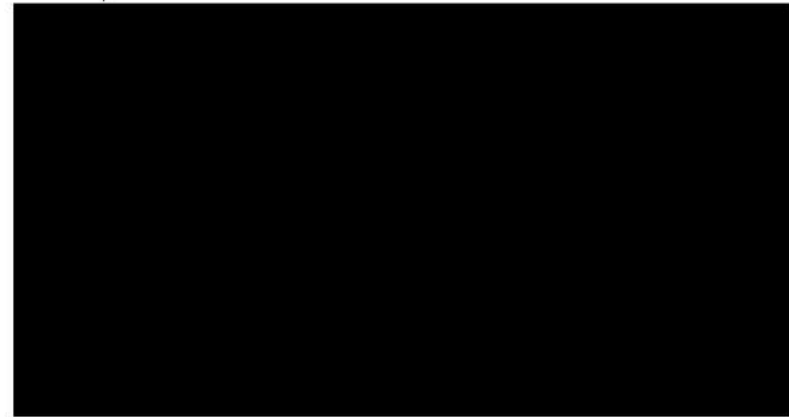
MELWAYS REF:	N/A
SCALE:	1:20
SHEET 1 OF 2	



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INDICATIVE SWEEP PATH SHOWN IN WHITE IS NOT APPLICABLE TO THIS ASSESSMENT

REV	DATE	DESCRIPTION
R1	24.12.16	SWEPTPATHS
R2		
R3		

LEGEND	
	Vehicle Overhang/Body
	Vehicle Overhang + 300mm Clearance

1/9 Southeast Boulevard Pakenham	
TITLE:	Entry Swept Path 2 - Dwg D4
STATUS:	DESIGN
DRAWING NO:	24.15-0002
REV:	R1
SIZE:	A3

DATE:	2024.12.16
DATE:	2024.12.16

MELWAYS REF:	N/A
SCALE:	1:20
SHEET 2 OF 2	



LiquorPlan

The town planner specialising in permit applications for licensed premises

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ABN: 14 242 281 164

17 December 2024

██████████
Statutory Planner
Cardinia Shire Council
PO Box 7
Pakenham 3810

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Dear ██████████

Application for Planning Permit T210338 - 1

1/9 Southeast Boulevard Pakenham 3810 (Lot 1 PS815176) and adjoining area of common property

Use of land for the sale and consumption of liquor in association with an existing Food and drink premises-Manufacturing sales use, where the area that liquor is allowed to be consumed or supplied under an existing Producer's Licence is to be increased (no change to existing approved maximum capacity, trading times or music provision), via an amendment to an existing permit

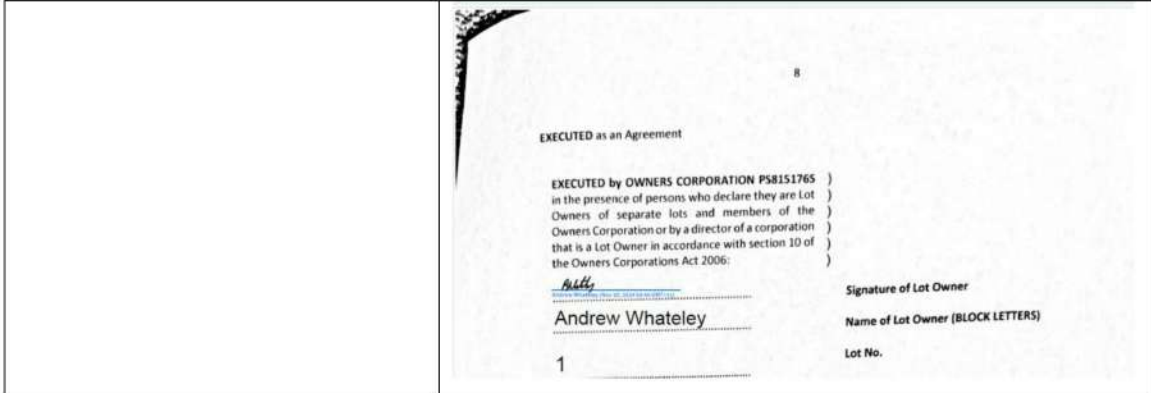
Response to request for further information

I refer to your 5 Dec 24 email, requesting further information in addition to what you requested on 29 Nov 24 for the above application. In response:

Requirement/concern/issue	Response
<p>Hi ██████████</p> <p>I have heard back from our traffic engineering department and they have requested the following information:</p> <ol style="list-style-type: none">The swept path needs to demonstrate 300mm clearance envelope and it is recommended that it is prepared by qualified traffic engineer.A B99 vehicle for the swept path, as this will cover all types of passenger vehicles including large SUVs and Utes.	<p>Please find attached a Swept Path Assessment Report by Daniel Chila, Civil & Traffic Engineer.</p> <p>Note: this is based on two layouts referred to in the Swept Path Assessment Report as Diagrams "D3" and "D4". D3 is the Application Plan that I submitted with my 4 Dec 2024 letter in response to your 29 Nov 24 RFI letter; D4 is another plan (with the eastern side of the proposed outdoor trading area moved slightly to the west) prepared by my client in case D3 was found to be inappropriate from a swept path assessment perspective.</p> <p>However, as the Swept Path Assessment Report concludes that, "both Drawings D3 and D4 show the subject car parking space can be adequately accessed in a forward's direction and exited in a reversing fashion without encroachment into the 300mm clearance zone, as per existing condition, and without detrimental safety impact on the proposed Outdoor Area", I do</p>

	not propose to include D4 in the application, which should be assessed on the basis of D3.
<p><i>Please also provide written response regarding:</i></p> <p>1. <i>Whether there is an existing or proposed separate footpath for the patrons entering or exiting the premises. Council holds concerns about the potential safety issues derived from patrons' interaction with vehicles near the proposed 'outdoor area'.</i></p>	<p>In one of my 5 Nov 24 emails to you, I wrote:</p> <p><i>Re Council's concerns about the potential safety issues derived from patrons' interaction with vehicles near the proposed 'outdoor area', the area immediately adjoining the front of 1/9 Southeast Boulevard is a "shared area", used by both cars and pedestrians. This adjoins the existing entry already used by existing patrons and staff, which will be the case regardless of the proposal.</i></p> <p><i>The proposal has been designed to address potential safety issues by: (1) separating the outdoor area from the car spaces and adjoining access, with adequate turning area; and (2) providing a safety bollard.</i></p> <p><i>It will in fact have positive safety implications.</i></p> <p><i>It will keep vehicles out, of and stop vehicles reversing into, what is now simply an open handstand area at the front of 1/9 Southeast Boulevard itself (which could be an issue if patrons were to congregate in the same area before entering or after leaving 1/9 Southeast Boulevard itself).</i></p> <p><i>Furthermore, the proposed fence will prevent people from "shortcutting" from Southeast Boulevard or Commercial Drive across the landscape setback area (which occurs at present) to the open handstand area, which will prevent any associated potential conflict between vehicles (eg a reversing truck, which did not expect there to be pedestrians in that area since it is otherwise surrounded by a garden bed) and pedestrians therein.</i></p>
<p>2. <i>An updated application form (attached) to include part of the common property into the 'Street Address' Section and 'The Proposal' Section to clearly reflect the proposal.</i></p>	Please find attached a completed amendment application form.
<p>3. <i>If you haven't already, please provide a copy of the written consent from the owner as per Section 48 of the Planning and Environment Act 1987.</i></p>	<p>In one of my 5 Nov 24 emails, I also wrote:</p> <p><i>Re the written consent from the owner as per Section 48 of the Planning and Environment Act 1987, for the common property I have provided the [licence] agreement from the owners' corporation. I have not provided the written consent of the owner of 1/9 Southeast Boulevard but now attach an email confirming that Section 48(1)(b) would be met.</i></p> <p>The email is one that was sent to the owner's agent, informing him that the application was about to be lodged.</p> <p>I note that Section 48 requires either the written consent of the landowner OR (not both) a declaration that the owner has been notified of a planning application (which has been done via the amended completed amendment application form, and is understood to have been done – though the summary of the online application does not say as much – in the online application process).</p> <p>Even if this were not the case, while it relates specifically to the common property, the submitted licence agreement includes the signature of the owner of 1/9 Southeast Boulevard, Andrew Whately (of "A & N Whateley Enterprises Pty Ltd, which is the owner listed on title). I have included the relevant detail below.</p>

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Furthermore, the “Written consent of SouthEast Business Park Pty Ltd for the proposed ‘Outdoor Area’ and proposed front and side fence”, was requested in your 29 Nov 24 RFI letter.

Note: I wrote in my 4 Dec 2024 letter that, “as it is not required by the Covenant (which is fully complied with without needing any further consent), I hereby request that this response be accepted in lieu of the actual written consent of SouthEast Business Park Pty Ltd”; but, as the consent has now been obtained, I am submitting it (in three parts) for the sake of completion.

It should be further noted that the consent is from Southeast Business Developments Pty Ltd, which I have been advised by a representative of Southeast Business Developments Pty Ltd, took over Southeast Business Park Pty Ltd.

I hope that the submitted information (and the application in general), will now be satisfactory. However, if this is not the case for the requested information, I hereby request that you advise me accordingly and (if less than fourteen days before the lapse date) immediately grant a fourteen-day extension from the lapse date; in relation to the application in general, I would be happy to discuss any outstanding issues.

Yours faithfully,



Consultant Town Planner¹

Enc

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¹ I, Matthew Gilbert Gorman, consent to having my personal information (name, phone number, business name, business address, email address etc) contained in this document or any other document authored by me as part of an application for a planning permit, be made available electronically in accordance with the public availability requirements of the Planning and Environment Act 1987. I understand that if I wish to withdraw my consent at any time, I need to notify Council’s Statutory Planning Unit in writing

SOUTHEAST BUSINESS DEVELOPMENTS PTY LTD

ATF THE TRUSTEE FOR SOUTHEAST BUSINESS DEVELOPMENTS UNIT TRUST

ABN 56 912 627 881

PO BOX 685

PAKENHAM VIC 3810

PHONE: 0419 302 067

EMAIL: KARLIE@SOUTHEASTBD.COM.AU

Monday 9th December 2024

To Whom It May Concern:

RE: Outdoor Space/Red line area/Proposed fencing

Please find this letter as confirmation that on behalf of the Southeast Business Park we support and consent for the proposed outdoor area and proposed front and side fence that is being requested by Simley Brewing, situated at 1/9 Southeast Boulevard Pakenham.

Attached are plans that have been stamped by Southeast Business Developments.
Any queries please don't hesitate to contact me.

Kind Regards



Director
Southeast Business Developments Pty Ltd
PO BOX 59
Pakenham VIC 3810
ray@wbcabinets.com.au

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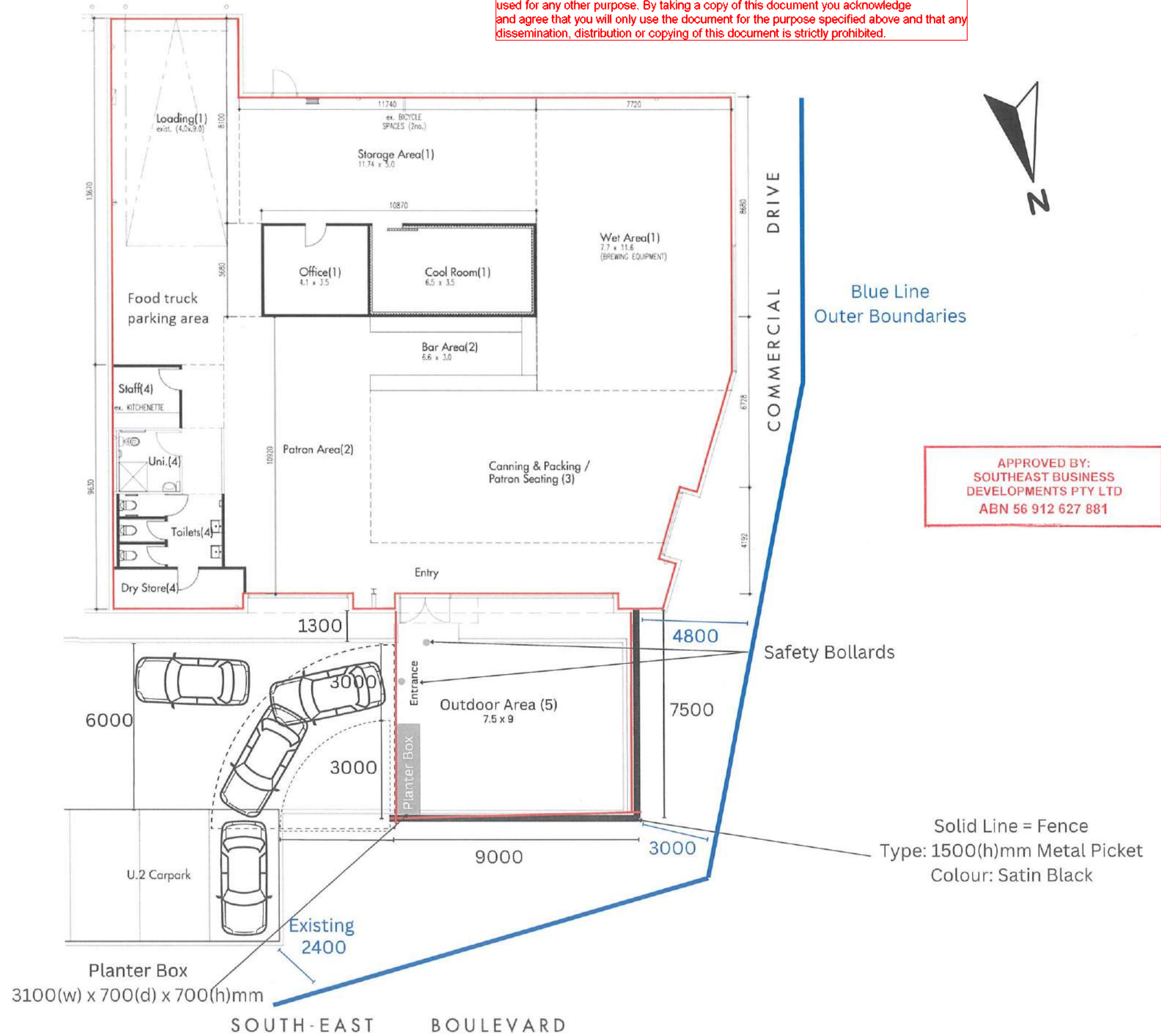
AREA ANALYSIS

BUILDING	
• EXISTING BUILDING AREA	- 501 sq/m
• EXISTING INTERNAL FLOOR AREA	- 488 sq/m
INTERNAL USE	
1. BREWING (incl. WET AREA, OFFICE, STORAGE AREA, COOL ROOM, LOADING)	- 259 sq/m
2. LIQUOR SALE / CONSUMPTION AREA (incl. BAR, PATRON SEATING)	- 107 sq/m
3. CANNING & PACKAGING / PATRON SEATING	- 78 sq/m
4. MISCELLANEOUS AREA (incl. STAFF, AMENITIES, DRY STORE)	- 44 sq/m
5. OUTDOOR AREA	- 67.5 sq/m

RED LINE PLAN

NOTES:

- LIQUOR LICENCE TO APPLY TO AREA BOUNDED BY RED LINE (LIQUOR SOLD / CONSUMED WITHIN THIS AREA ONLY)
- LIQUOR TO BE SOLD / CONSUMED WITHIN THE PREMISIS INCLUDING OUTDOOR AREA INDICATED
- Note: the Licensed Area currently includes only the internal area of the building; the proposal will add the proposed "outdoor area" shown to the Existing Licensed Area, to create one (larger) Proposed Licensed Area



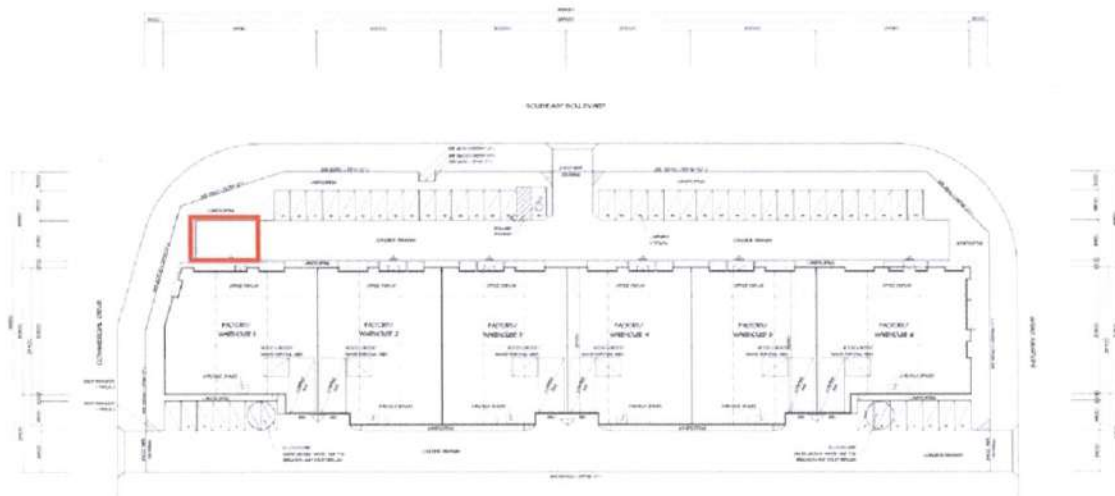
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Solid Line = Fence
Type: 1500(h)mm Metal Picket
Colour: Satin Black

REVISIONS	Revision: 04/12/2024		PROJECT	CLIENT	REF. No. 21096	
			PROPOSED VARIATION TO EXISTING LIQUOR LICENCE	SMILEY BREWING	DRAWING No.	
			1/9 SOUTH-EAST BOULEVARD		RL01	REV
			PAKENHAM	DRAWING	A	
			RED LINE PLAN	SHEET	OF	

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Current concrete landing at front entry to 1/9 Southeast Boulevard.



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Proposed outdoor seating area.



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10/11/2018
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